

NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY

June 21, 2013

Department of Education
700 East Fifth Street
Board Conference Room
Carson City, Nevada

And

Department of Education
9890 South Maryland Pkwy
Second Floor Conference Room
Las Vegas, Nevada

MINUTES OF THE REGULAR MEETING
(Video Conferenced)

AUTHORITY MEMBERS PRESENT:

In Las Vegas:

Robert McCord
Marc Abelman
Elissa Wahl
Kathleen Conaboy
Melissa Mackedon
Michael Van
Nora Luna

In Carson City:

None

AUTHORITY MEMBERS ABSENT:

None

AUTHORITY STAFF PRESENT:

In Las Vegas:

Traci House, Business Process Analyst II, State Public Charter School Authority
Steve Canavero, Director, State Public Charter School Authority
Katherine Rohrer, Education Program Professional, State Public Charter School Authority

In Carson City:

Tom McCormack, Education Program Professional, State Public Charter School Authority
Angela Blair, Education Program Professional, State Public Charter School Authority
Brian Flanner, Administrative Services Officer, State Public Charter School Authority
Allyson Kellogg, Management Analyst, State Public Charter School Authority
Katie Higday, Management Analyst, State Public Charter School Authority
Danny Peltier, Administrative Assistant, State Public Charter School Authority

LEGAL STAFF PRESENT:

In Las Vegas:

Shane Chesney, Senior Deputy Attorney General

In Carson City:

None

AUDIENCE IN ATTENDANCE:

In Las Vegas:

Donna Fiery
Caroline McIntosh
Don Curry
Rick Gordon
William Buchovi
Steven Walters
Bill Thornton
Dr. Gus Hill
Ercan Aydogdu
Ryan Reeves
Richard Moreno
Ruth Parker
Heidi Arbuckle
Katie Pellegrino
Elizabeth Dixon
Susan Waters
April Taggart
Orlando Dos Santos
Danny Diamond
Kirby Okuda

In Carson City:

John Hawk
Jennifer Dukek
Rorie Fitzpatrick
Marcia Clevan

CALL TO ORDER; ROLL CALL; PLEDGE OF ALLEGIANCE; APPROVAL OF AGENDA

Chair Conaboy called the meeting to order at 2:00p.m. with attendance as reflected above.

Agenda Item 1 - Public Comment

None

Chair Conaboy called for a motion for a flexible agenda.

Member Mackedon moved for the approval a flexible agenda. Member Abelman seconded. The vote was unanimous.

Agenda Item 2 – Approval of April 16, 2013 SPCSA Board meeting minutes

Chair Conaboy said there were some grammatical edits and would submit those to Director Canavero.

Member Mackedon moved for the approval of the April 16, 2013 SPCSA meeting minutes. Member Abelman seconded. The vote was unanimous.

Agenda Item 5 – Director’s Report

Director Canavero began by discussing the Subsection 7 schools that are currently in the process of fulfilling their pre-opening requirements. Staff has been working with the Subsection 7 charter holders and a few schools already determined they would not be opening for the 2013-2014 school year. The schools that were not planning on opening were American Preparatory Academy and New America Charter School. The rest of the Subsection 7 charter holders were still planning to open in time for the 2013-2014 school years.

Director Canavero described a new staff position at the Authority for an Education Program Professional; this person will handle the Federal programs for the SPCSA. Currently Angela Blair was doing both Special Education and Federal Programs and the workload was too large for one person to handle.

Director Canavero noted that, overall, the first year of the schools using Title I funds worked well. He also said that next year the Title I program would change because some of the schools would be moving away from Targeted Assistance, which is more difficult to work with, to School-Wide dispersal. Member McCord asked if there was any information about the effects of the Sequester, and Brian Flanner explained the Nevada Department of Education was still working to fully assess possible impacts.

Director Canavero described the emergency contract used to hire a lawyer to assist in the development of the Memorandum of Understanding addressing Special Education now that the SPCSA is the Local Education Agency (LEA).

Agenda Item 6 – SPCSA FY14 Budget

Brian Flanner and Katie Higday spoke about the growth of the SPCSA as an agency. Mr. Flanner explained that on July 1, 2013 the SPCSA would completely split from the Nevada Department of Education and become its own stand-alone agency. He said there were challenges in the development and implementation of some new policies that underpin a stand-alone agency, but overall the process had been very smooth. Mr. Flanner commended Ms. Higday’s organizational skills and creative approach to problem-solving. Ms. Higday explained many of the details of the processes that had been implemented to meet the needs of the SPCSA as an agency.

Mr. Flanner explained that the SPCSA’s budget will continue to be unpredictable, because there is no previous fiscal year budget to use as a foundation. He anticipates that there will be numerous presentations to the Interim Finance Committee as the budget is adjusted. He said that the LEA status will precipitate changes in the budget, including the hiring of new staff and training for all staff on new policies and procedures.

Agenda Item 7 – Legislative Update

Chair Conaboy provided a review of important legislation passed during the 2013 session:

AB 205—This bill requires a performance framework for a charter school be incorporated into the charter contract; provides oversight and review of charter school sponsors by the Department of Education; sets forth the grounds for termination of a charter contract, based on rankings earned under the state’s performance framework; and extends enrollment lottery exceptions to all charter schools, not just at-risk schools. The bill contains a trigger for automatic closure of a charter school; the law now requires that if a charter school has a one-star rating in the Nevada School Performance Framework for three consecutive years, the school will be

closed. Director Canavero clarified that the Department of Education is developing a performance framework for alternative schools, which may otherwise receive low ratings in the current star system.

SB 384 – This bill authorizes the Director of the Department of Business and Industry to issue bonds and other obligations to finance the acquisition, construction, improvement, restoration or rehabilitation of property, buildings and facilities for charter schools.

SB 443—This bill requires the Department of Education to adopt regulations prescribing: (1) the process and timeline for review of an application for authorization to sponsor charter schools; (2) the process for the Department to conduct a comprehensive review of sponsors of charter schools approved by the Department at least once every 3 years; and (3) the process for the Department to revoke the authorization of a board of trustees or a college or university to sponsor charter schools.

SB 500 – This bill creates the Task Force on K-12 Public Education Funding to recommend a plan for implementing a funding formula that takes into account the needs of, and the costs to educate, pupils based upon the individual educational needs and demographic characteristics of pupils, including, without limitation, pupils from low-income families, pupils with disabilities and pupils who have limited proficiency in the English language. The director of the Charter School Authority is a member of the task force.

SB 471—This bill became SB 3 in the 2013 special session; it transfers the responsibility to administer the Account for Charter Schools from the Department to the State Public Charter School Authority and revises the maximum total amount of a loan that may be made to a charter school.

Chair Conaboy also added that a number of new committees were formed during the legislative session and she would like to have some charter school individuals represented on those committees. She spoke with the director of the Charter School Association of Nevada to recommend that CSAN nominate individuals so the charter school voice could be heard on these committees during the interim.

Chair Conaboy thanked the board's legislative liaisons, Bob McCord and Nora Luna, for their help during the session and said that she believes that during the session, they had been able to successfully position the SPCSA as the go-to entity regarding charter school policy.

Agenda Item 13 – Discussion and development of policy related to the Director of the State Public Charter School Authority pursuant of other business as described in NRS 386.5115

Chair Conaboy asked that this item be placed on the agenda as a follow-up to the April 16, 2013 SPCSA Board meeting. Director Canavero wanted to ensure that he was consistent with NRS when participating on boards, commissions, or other entities regarding charter schools. If the board or commission was not aligned with the SPCSA then he would take furlough or leave while participating in the outside activities.

Chair Conaboy referenced the “other duties” in NRS and said that taking part in other duties was a part of the director of the SPCSA's job. She said she felt that Director Canavero did not need to take leave or furlough while participating in the outside activities. Member McCord recommend that Director Canavero follow-up with Caren Jenkins at the Nevada Ethics Commission in order to make sure that all applicable statues were being followed.

Agenda Item 10 – Discussion of the SPCSA designation as the Local Education Agency (LEA) for purposes of Special Education

Interim Superintendent Fitzpatrick and Marva Clevan, state Special Education director, spoke to the board about the Local Education Agency status the SPCSA received based on federal recommendations to DOE. Ms. Clevan said that major reason for the change was the bifurcated funding model used by the DOE. Federal suitors indicated that the state could have just one process or formula for awarding special education funds.

By designating the SPCSA as an LEA, Authority schools will be treated the same as the other school districts in the state. Superintendent Fitzpatrick also added that the SPCSA-sponsored charter schools now have access to Title I funding and with that the SPCSA had to be named as the LEA for the purpose of fund distribution.

Chair Conaboy asked how the administration of the Title I funding would function. Ms. Clevan said it would be very similar to how school districts operate, however the allocation can be different because each charter school is its own unique school which differentiates the SPCSA district from a regular school district. Superintendent Fitzpatrick added that it will be the responsibility of the SPCSA to determine the allocations for the Title I funding distribution based upon the needs of each of the charter schools eligible for the funding.

Member Wahl asked if any of the SPCSA-sponsored charter schools are operating early childhood education. Ms. Blair, SPCSA Education Program Professional, said there are some schools that have the early childhood education; however it is mostly special education students who are not yet six years old that are enrolled in kindergarten at the charter school. Ms. Clevan said that the special education funding passing through the SPCSA will create better accountability for special education expenses in the charter schools.

Chair Conaboy asked that Superintendent Fitzpatrick and Ms. Clevan walk the Authority through the changes that would be implemented now that the SPCSA would be the LEA, specifically what responsibilities would be shifted from the Nevada Department of Education to the SPCSA. The answer is that the SPCSA is now responsible to monitor the special education expenses and adherence to other special education requirements at the charter schools. In the past, the NDE would monitor the charter schools yearly. Ms. Fitzpatrick indicated that the Authority needs to determine the distribution formula for allocating Title I funds to each of the charter schools. Ms. Blair said she had already been in contact with the charter schools to begin dialogue on the special education needs of each of the charter schools, which would help in determining what the funding formula would look like.

Chair Conaboy asked Interim Superintendent Fitzpatrick what the liability of the Authority will be now that it has been designated an LEA. Superintendent Fitzpatrick suggested that the Authority develop a Memorandum of Understanding in order to properly clarify the responsibilities of both the SPCSA and the charter schools it sponsors. She said the Authority would have to determine what its liability will be as opposed to the burden that each charter school would carry in the case of a due process filing. Director Canavero indicated that the Authority executed a contract with Paul O'Neill to help with the development of such an MOU.

Member Wahl asked how the funds would be distributed; Director Canavero said that the pot of money the State draws from is fixed and the formula is uniform for all of the school districts across the state. Chair Conaboy asked about the new DSA funding formula that was discussed during the 2013 Legislative session and how it would affect the SPCSA-sponsored schools. Superintendent Fitzpatrick said that she couldn't give exact details because she said she hopes a new funding formula for the state will be developed during the interim. The SPCSA director will sit on the interim Task Force to develop the new formula that will be proposed in 2015. Chair Conaboy closed the discussion by thanking Superintendent Fitzpatrick and her staff at the Nevada Department of Education for working closely with the SPCSA during the 2013 Legislative session.

Agenda Item 8 – Review of Academic Indicators and feedback from school administrator and governing board meetings

Director Canavero began by recalling for the board the approvals of both the Organizational and Financial Performance Frameworks to be included in charter contracts. Dr. Katherine Rohrer, Education Program Professional, then explained the process undertaken in the development of the Academic Performance Framework.

She said over the course of March through May she visited and met with both the administrators and governing boards of all 16 charter schools sponsored by the Authority. Dr. Rohrer said one of the main concerns at each

of the meetings was the performance standards, how they would be determined and how they would be used to measure the school. She stressed at the meetings that the Academic Framework will attempt to capture the uniqueness of each school and take that into account when the ratings were determined. Ms. Rohrer said that the Nevada Department of Education is developing performance measures for alternative schools; the schools she met with still had reservations about whether those new measures would accurately represent their schools. The schools did not want to be standardized into one category as they felt that would take away from their unique missions.

Dr. Rohrer said there was a lot of conversation regarding the comparison measure. She said that Churchill County was unique because it is a non-zoned school district so it was difficult to compare the charter school to the pupils zoned school because anyone can choose any school in the district.

Dr. Rohrer discussed the college and career readiness standards that especially affected the high schools. She said that the issue is what tools are available to the SPCSA to track students after they have graduated college. She said while the SPCSA has access to National Clearinghouse, overall it is limited in its ability to follow students who choose not to attend college, which is a population that is targeted by some of the SPCSA-sponsored schools. She said that since the SPCSA lacks some of these tracking tools, the SPCSA decided in the Academic Framework to measure content skill readiness while at the charter school to help determine the college and career readiness of the student populations.

Approval of the State Public Charter School Authority Performance Framework for implementation in the FY14/SY2013-2014

Director Canavero said that, prior to development of the new performance frameworks; the relationship between the sponsor and the charter schools was very compliance-based. We are now emphasizing academics and operational outcomes. He said the framework is meant to be a performance-based measure for all the charter schools, while maximizing each school's autonomy.

Director Canavero said in addition to establishing performance criteria for charter schools; the Charter School Performance Framework also ensures that the Authority is accountable to charter schools. The Authority is accountable for implementing a rigorous and fair oversight process that respects the autonomy that is vital to charter school success. This mutual obligation drives the Charter School Performance Framework, which is a collaborative effort with the common mission of improving and influencing public education in Nevada by sponsoring public charter schools that prepare all students for college and career success and by modeling best practices in charter school sponsorship.

. The Authority acknowledges that charter schools need autonomy in order to develop and apply the policies and educational strategies that maximize their effectiveness. The Charter School Performance Framework balances these two considerations. The objective of the Charter School Performance Framework is to provide charter school boards and leaders with clear expectations, fact-based oversight, and timely feedback while ensuring charter school autonomy. The Performance Framework describes methods that seek the optimal balance between oversight and autonomy; the Framework is a dynamic document subject to continuous review and improvement.

Finally, Director Canavero explained the process that would be used. He said the Authority had studied best practices to develop the Performance Framework process. Throughout the school year, every charter school will submit scheduled documents and data that enable the Authority to assess their compliance with laws and regulations, and their progress in achieving important school milestones. The routine year round submissions are indicated in the Reporting Requirements Manual.

The Authority believes in conducting its oversight in a manner that is respectful of school autonomy and differentiated based upon charter school performance and maturity. Charter schools with a track record of compliance and performance do not need the same level of oversight as charter schools without such a track

record. The Authority's oversight plan includes the opportunity for schools during their first three years of operation, based on compliance and performance, to transition from demonstrated compliance to assumed compliance.

Every charter school will receive an Annual Review and a three year mid-term review. The reviews analyze a school's academic, financial, organizational, and mission specific performance along with information collected from the ongoing oversight processes. The mission specific indicators will be finalized at the beginning of the second school year using the first school year as the baseline. Site visits afford the SPCSA with an opportunity to appreciate a qualitative aspect of the school not directly measured in ways other than observation or personal interaction. The Authority has two types of official site visits: Mid-Term Review and Targeted. The Mid-Term Review site visit is guided by a clear purpose and rubric that complements the quantitative findings. A targeted site visit is driven by specific circumstances where the frequency and intensity of the visit will depend upon a particular circumstance.

Director Canavero discussed how the Authority Board relates to the performance frameworks that have been developed. He explained that contract renewal is a high stakes decision that the Authority has to make. Director Canavero said there are a number of indicators that need to be considered when making that decision, but up until now those indicators had not been well-defined. With the Performance Framework those indicators have been better defined and should aid the Authority when making these high-stakes decisions. He explained the performance expectations that the Authority would need to consider as the renewal decisions were presented. He said the school must be financially sustainable, organizationally sound, and meet performance requirements for academics. Director Canavero said that if the Authority approves these frameworks then the board is approving the standards to which non-renewal and revocation decisions would also be made. .

Member McCord asked what would happen if a school that was designated for multiple grade levels were to succeed in some of the grade levels, but fail in some of the other grade levels. Director Canavero said that this is an issue that is still be grappled with because the issue was not considered in the statutes. Director Canavero said more discussion will need to be held with various stakeholders to further clarify this issue when it arises.

Chair Conaboy asked for clarification as to why the organizational framework was less robust than the other two frameworks because the organizational framework measured the charter school's board success. Director Canavero said it was a choice made by staff to have the compliance portion of the framework be a checklist that is more of an ongoing compliance model as opposed to the financial and academic which is an annual compliance check. Director Canavero added that staff had hired an outside consultant to help with governance of the schools and his recommendations were going to be implemented in the frameworks to try to ensure the charter schools boards are active and engaged with the day-to-day education of the school. Member Van asked about the transition forward into the full framework model and how it would affect the charter schools. Director Canavero said that has been a concern that has been kept in mind during the development of the frameworks and the issue had been addressed with the schools.

Member McCord moved for the approval of State Public Charter School Authority Performance Framework for implementation in the FY14/SY2013-2014. Member Abelman seconded. The vote was unanimous.

Agenda Item 14 – Acknowledgement of Service

Director Canavero said three of the members of the Authority were appointed to a one-year term. At the time of the meeting, both Nora Luna and Elissa Wahl had been reappointed to the Authority. Staff was still waiting for more information on Marc Abelman's re-appointment.

Agenda Item 11 – Presentation of the charter contract consistent with statute revised by Assembly Bill 205

Director Canavero explained that with the passage of AB 205, staff worked with various parties, including the charter schools, to develop a charter contract. One of the main goals of the contract was to establish a clear relationship between the sponsor and the charter school and to define the responsibilities both parties have to one another, the state, and the students. Director Canavero said different state's models were used in the development along with input from the National Association of Charter School Authorizers. . Director Canavero clarified the contract that was being shown to the Authority would be for schools that were up for renewal and there would be some minor differences between that contract and the contract for new schools that had not opened yet. Discussion focused on various aspects of the contract including: facilities, contract terms and definitions, academic agreements, school growth and enrollment caps, change of EMO, educational strategies, and material and non-material amendments. Chair Conaboy asked if the type of amendment a school requested would determine whether it would need to be heard by the Authority or just approved by SPCSA staff. Director Canavero will research this answer.

Chair Conaboy asked Director Canavero to clarify the dispute resolution language included in the charter contract. Tom McCormack, Education Programs Professional, said the language was not from statute and was language recommended by staff. Chair Conaboy asked if the dispute resolution would be used in cases of a charter denial, revocation, or non-renewal. Deputy Attorney General Shane Chesney said this would not be used in that case, but he did see the point the chair was making. Deputy Attorney General Chesney said the dispute resolution language was a carry-over from the previous charter application and there was some room for clarification moving forward.

Member McCord commented that the contract was stringent. Deputy Attorney General said that the contract tried to incorporate a broad framework and flexibility while not leaving the Authority open to litigation. Member Luna asked if there was an amendment clause that could cover any unique situations that may arise. Director Canavero confirmed the clause and stated that amendments could be proposed by both the sponsor and the charter school.

Agenda Item 12 – Consideration of the application for renewal submitted by Nevada Virtual Academy and recommendation to approve the Nevada Virtual Academy charter

Before the renewal consideration began, Chair Conaboy recused herself from the agenda item due to her work for K12 Inc. Member Wahl chaired the meeting in her absence.

Director Canavero presented the data for renewal of Nevada Virtual Academy, including the following:

- 2011-2012 Nevada School Performance Framework (NSPF)
 - 2 stars for both the Elementary and Middle School—Two star schools fall between the 5th and 24th percentiles of all Nevada public schools.
- Except for their opening year, the K-8 school has not made Adequate Yearly Progress (AYP).
 - 2007-2008 Adequate
 - 2008-2009 Watch
 - 2009-2010 In Need of Improvement, Year 1
 - 2010-2011 In Need of Improvement, Year 2
 - 2011-2012 In Need of Improvement, Year 3
- 2008-2009 is the only year in English language arts (ELA) that the K-8 school met the State's Annual Measurable Objective (AMO).
- Since 2008-2009, the K-8 school has consistently failed to meet the State's AMO in ELA.
- From 2008-2012, the K-8 school has consistently failed to meet the State's AMO in Math.
- For 2011-2012, the percentage of 4th-6th grade students obtaining their Adequate Growth Percentile (AGP) was 51% in reading and 36.8% in math.
 - Using the NSPF attribute tables, this places the school between the 25th and 50th percentiles in reading and between the 5th and 25th percentiles in math.

- For 2011-2012, the percentage of 7-8th grade students obtaining their AGP was 38.6% in reading and 15.4% in math.
 - The NSPF attribute tables place the school between the 25th and 50th percentiles in reading and between the 5th and 25th percentiles in math.
- For 2011-2012, in grades 4-6, the Median Growth Percentile (MGP) for both reading and math are between the 25th and 50th percentiles.
- For 2011-2012, in grades 7-8, the MGP for reading is between the 25th and 50th percentiles and for math the MGP is below the 5th percentile.
- For 2011-2012, in grades 4-6, the percentage of students identified as FRL, IEP, and/or ELL obtaining their AGP in reading was 42.7%, slightly above the 25th percentile. In math, the percentage was 25.7%, below the 5th percentile.
- For 2011-2012, in grades 7-8, the percentage of students identified as FRL, IEP, and/or ELL obtaining their AGP in reading was 32.4%, slightly below the 75th percentile. In math, the percentage was 11.6%, slightly above the 5th percentile.
- Continuous enrollment is below the state's average continuous enrollment. FY 12 percentage of students continuously enrolled was 57.70% compared to 94.5% at the state level. Nevada Virtual's continuous enrollment is also below a virtual school compilation of continuous enrollment percentage of 78.61% for FY 12.
 - Continuous enrollment for years 2008-2012 averaged 59.07%. This means that only a little over half of the student population enrolled on count day was still enrolled when testing begins in March of each school year.
- 2011-2012 Nevada School Performance Framework
 - 1 star—Schools among the lowest 5% of schools within the NSPF form the basis for a one-star rating.
- Adequate Yearly Progress
 - 2009-2010 Watch
 - 2010-2011 High Achieving-Growth
 - 2011-2012 Watch
- Growth increases from FY10 to FY11 earned the high school an AYP designation of High Achieving Growth. However, drops in proficiency rates in FY12, moved the high school back to an AYP Watch designation.
- Overall performance at the high school level is between the 25th and 50th percentile in both reading and math.
- The exception is the MGP in reading which is below the 5th percentile.
- Graduation rates for 2011 and 2012 are between the 25th and 50th percentile.
- Transfer numbers reported by the state indicate 69% of the original 2011 cohort left before graduation and 72% of the original 2012 cohort left before graduation.
- From 2009-2012, proficiency rates in both reading and math are below the State's AMO.
- The percentage of students above the State's AMO is consistently negative in both reading and math.
- Continuous enrollment is below the state's average continuous enrollment. FY12 percentage of students continuously enrolled was 48.90% compared to 94.5% at the state level. NV Virtual's continuous enrollment is also below a virtual school compilation of continuous enrollment percentage of 86.00% for FY 12.
 - Continuous enrollment for years 2009-2012 averaged 54.43%. This means that only a little over half of the student population enrolled on count day was still enrolled when testing begins in March of each school year.

Additional observations:

- With the exception of FY2011, the percentage of core classes without highly qualified teachers from 2007-2012 is higher than the percentage at the state.

- FY 2008, 66.70% versus 15.60%
- FY 2009, 26.30% versus 12.20%
- FY 2010, 12% versus 7.90%
- FY 2012, 13.6% versus 4.30%
- However from 2007-2011, the percentage of courses without highly qualified teachers has consistently dropped.
- As a Title I School, percentage of teachers not highly qualified is a concern.

Citing the persistent academic underperformance in both reading and math; low continuous enrolled percentages; and low graduation rates coupled with a high percentage of students transferring out before graduation, the Authority Staff conclude that Nevada Virtual's academic program has not been a success.

Director Canavero then moved onto the fiscal results of the report: Nevada Virtual Academy's independent audit report annually shows that their financial statements present fairly, in all material respects, the respective financial position, the aggregate remaining fund information, and the respective changes in financial position in conformity with accounting principles generally accepted in the United States of America. The auditor's consideration of internal control over financial reporting did not identify any deficiencies in internal control considered to be material weaknesses.

Near Term Viability and Fiscal Sustainability: Based on the Financial Indicators, Nevada Virtual Academy is marginally fiscally sound in the near term as indicated by their maintenance of barely sufficient liquid assets to pay liabilities that will mature in the next year and the maintenance of adequate cash to pay over one month of operating expenses. Their fiscal sustainability outlook is guardedly positive as evidenced by their annual position of debt in an amount almost exactly equal to their assets, their annual surplus margin equal to virtually zero, balanced by their positive annual cash flow.

In each of the past four fiscal years the Nevada Virtual Academy Governing Board has approved expenditures that exceeded total revenues resulting in a deficit at the conclusion of each fiscal year. The annual "accommodation credit" issued by Nevada Virtual Academy's Educational Management Organization (i.e., K12, Inc.) to erase the annual deficit is troubling. Absent that "accommodation credit," which the EMO is not required to issue, Nevada Virtual Academy would quickly become insolvent.

Accommodation credits received to date

FY08 - \$ 360,905

FY09 - \$1,219,634

FY10 - \$ 730,574

FY11 - \$2,290,042

FY12 - \$3,362,681

Total - \$7,963,836

Concern: Fiscal Accountability

The FY13 Annual Performance Audit (APA) performed by the Authority included a follow-up on the implementation of school based systems to resolve prior (APA) findings. The Authority found Nevada Virtual non-compliant on a matter the Authority deemed to be material (i.e., significant). As evidenced by deficit spending of almost \$8 million between fiscal years 2008 and 2012, the school is not financially sound. It is the Governing Board's statutory responsibility to maintain fiduciary accountability of their organization and spend within budgeted resources. Absent the in-kind contribution of almost \$8 million by the EMO with which it contracts, Nevada Virtual Academy would cease to be a going concern and would be forced to halt operations and liquidate its assets – displacing thousands of Nevada students.

Director Canavero then reported on Nevada Virtual's Organizational compliance.

Longitudinal Analysis of the Annual Performance Audit for Nevada Virtual Academy 2007-2012: Identification of Significant and/or Repeat Findings 16, 19, 2, 25, 23, 7, 10, 28, below, are subsections of NAC 386.410.

16. If pupils with disabilities are enrolled in the charter school, a determination whether the provision of special educational services and programs to those pupils complies with the requirements set forth in chapters 388 and 395 of NRS and NAC 388.150 to 388.450, inclusive.

During the 2008-2009 Nevada Virtual Special Education Compliance monitoring, there were findings made in technical and procedural processes. During the 2009-2010 school year, Nevada Virtual was on a Corrective Action Plan (CAP). They made all necessary corrections with their IEP's and their CAP plan was completed by the end of that school year. Nevada Virtual will have their IEP's monitored by NDE in May 2013, as part of DOE's monitoring rotation cycle for the state. Nevada Virtual has had no complaint reports filed with NDE for the years 2009 – 2013. Nevada Virtual turns in all required reports on time and they are complete and compliant. Nevada Virtual has had one due process hearing with NDE in August 2011. The school prevailed on all 7 issues brought forward by the Petitioner (parents).

19. A determination whether the charter school complies with [NRS 386.590](#) regarding the employment of teachers and other educational personnel.

- Noncompliant for both 2007-2008 and 2009-2010.

As a Title I designated school, all teachers will have to be Highly Qualified or on a plan to meet the federal definition of Highly Qualified.

23. If the charter school provides instruction to pupils enrolled in kindergarten, first grade or second grade, a determination whether the charter school complies with [NRS 392.040](#) regarding the ages for enrollment in those grades.

- Noncompliant for 2009-2010 and 2011-2012.

25. A determination whether the charter school provides written notice to the parents and legal guardians of pupils enrolled in grades 9 to 12, inclusive, whether the charter school is accredited by the Commission on Schools of the Northwest Accreditation Commission.

- Noncompliant for 2008-2009 and 2009-2010.

28. A determination whether the written inventory of equipment, supplies and textbooks that is maintained by the charter school pursuant to [NAC 386.342](#) is current and accurate.

- Noncompliant for 2010-2011 and 2011-2012.

2. A determination whether the membership of the governing body of the charter school complies with [NRS 386.549](#) and [NAC 386.345](#), including, without limitation, whether:

(a) The governing body consists of the number of teachers required by [NRS 386.549](#);

(b) A majority of the members of the governing body reside in the county in which the charter school is located; and

(c) Each member of the governing body has filed an affidavit with the Department indicating that he or she:

(1) Has not been convicted of a felony or offense involving moral turpitude; and

(2) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to him or her by the Department, as required pursuant to [NRS 386.549](#).

- Noncompliant for 2008-2009, 2010-2011, and 2011-2012.

Authority Staff await Nevada Virtual's response to requests for updated submissions related to compliance reporting for the Governing Body (e.g., affidavits and resumes, and corrected Board Roster) and revisions to the school's bylaws.

7. A determination whether the charter school has complied with generally accepted standards of accounting and fiscal management.

- Noncompliant for 2010-2011 and 2011-2012

10. A determination whether the charter school complies with [NRS 386.573](#) regarding orders for payment of money.

- Noncompliant for 2011-2012.

Director Canavero then finished his report with the final recommendation:

Authority Staff believe there are two options to consider. Option 1: non-renewal of the school's written charter. Option 2: renew the written charter. Authority Staff recommend that the Authority Board consider renewal of Nevada Virtual Academy's written charter with the following provisions:

1. Make clear that this hearing serves as formal notice to Nevada Virtual Academy that the school's academic and financial performance are below the Authority's expectation;
2. The Charter Contract resulting from renewal of the charter shall include the following provisions specific to Nevada Virtual Academy;
 - a. The Governing Body must operate at all times within available revenues with no future credit accommodations from its chosen EMO; and
 - b. In consideration of the academic performance, a cap shall be placed upon Nevada Virtual's student enrollment that is equal to the lesser of the audited actuals from Count Day 2013 or the pupil count at Count Day 2014. The cap shall be a material term and condition within the Charter Contract.
3. Direct Authority Staff to conduct a high stakes review of Nevada Virtual's performance, against the Authority's expectations, and report findings and recommendations to the Authority Board that may include contract termination due to persistent underperformance or material breach of the terms and conditions of the charter contract, or a return to good standing. The review and recommendation(s) shall be presented to the Authority Board in Fall 2015, at which point Nevada Virtual must demonstrate substantial progress towards meeting the Authority's academic performance expectations.
 - a. Substantial progress will be based on the school's aggregate academic performance based on the Authority's academic indicators that will result in closing the gap between baseline (SY12/13) performance and "Adequate", as described in the performance framework within three years.

It is important to note that the presence of the high stakes review does not interfere with the Authority's ability to take action prior to Fall 2015.

Once Director Canavero was finished with the presentation the Nevada Virtual Academy's Board and Administrator were asked questions by the Authority. Don Curry, Nevada Virtual Board President, began by saying the NVVA board agrees that the results identified that had been found during the renewal process are not acceptable. He said the school had implemented some measures to remedy the poor academic results, including replacing the head of schools, better fiscal accountability, and slowing down the enrollment expansion that had been going on since the school was opened. Donna Fiery spoke about the finances of Nevada Virtual Academy, specifically the accommodation credit that was questioned by the Authority. Member McCord asked Ms. Fiery about the audit report and why it did not include the credit memo. She said this is because the liability was with K12 Inc. and not with Nevada Virtual Academy. Ms. Fiery said that K12 Inc. guarantees that the school will operate at a break-even level and that is why the credit accommodation was made. Member Wahl asked why a budget was approved that would put the school in debt each year and Ms. Fiery said the budget can change with changes in enrollment or other unexpected expenses. Member Wahl asked Mr. Flanner if other charter schools in Nevada had this type of credit accommodation and he said this situation was unique to Nevada Virtual Academy.

Representatives of Nevada Virtual Academy then presented to the Authority. Mr. Curry introduced Rick Gordon, William Buchovi, and Steven Walters as the board representatives of Nevada Virtual Academy. Mr. Curry discussed the growth that Nevada Virtual Academy had undergone over the course of its first six years in operation. He said that over the course of the six years the Nevada Virtual Academy board spent much of its time dealing with compliance issues and not enough time on academic results. Most of the time by the board was spent managing the astronomical growth of the school. He said the school also conducted an external review to give the school direction. Mr. Curry explained that the head of the school had been replaced and a new administrator, Caroline McIntosh, had been brought in to help the school turn around academically. Ms. McIntosh then spoke about the programmatic and academic improvements that the school had begun to undertake.

Ms. McIntosh said one of her main goals was to ensure all pupils enrolled in Nevada Virtual Academy would be both college and career ready. The school was also working with the Nevada System of Higher Education to develop a Memorandum of Understanding with the higher education institutes across the state. She said during the 2012-2013 school year the school was a Targeted Assistance Free and Reduced lunch school and the school has one of the highest Free and Reduced Lunch populations of any school in the state. She said the graduation rate was low at Nevada Virtual Academy because 60 percent of the 12th grade pupils who enroll at Nevada Virtual are credit deficient, which greatly affects the rate the graduation rate the school has. Ms. McIntosh said the school planned on having face-to-face meetings with families enrolling at Nevada Virtual Academy in order to fully explain the virtual environment to the student and the parents in order to determine if that model will be successful for that student. She then introduced Dr. Bill Thornton and Dr. Gus Hill who performed the external evaluation of Nevada Virtual Academy.

Dr. Hill and Dr. Thornton were hired by Nevada Virtual Academy to perform an external review of the school's curriculum and performance metrics. They started by giving an overview of the review they performed. The final report was not available but they gave highlights of the report they were going to present to Nevada Virtual Academy. They interviewed parents, teachers, students, and faculty during the course of their review. Dr. Hill said there were many positive things they found during their review including: parents' excitement for Nevada Virtual's environment, parents didn't mind that the school was designated as one star, the faculty was very engaged with the curriculum and are eager to start improving student achievement instead of growth, Nevada Virtual is moving from a school of last resort to being more selective with their enrollments, and there is movement to data-based decision making.

Dr. Thornton then explained the results of the interviews they conducted. They found that if you build the proper environment at a site then that site has the capacity to learn from its failures. He listed key observations: the new leadership at the school illustrates the desire for team learning, the organization has a vision of student achievement, professional development is now focusing on the mastering of teaching content instead of managing growth, and Nevada Virtual is moving to a systems-based teaching model that focuses on helping each student achieve. He finished by saying that if Nevada Virtual works on these observations, then the school will develop the ability to learn from their mistakes.

Member Abelman asked who funded the curriculum audit and Dr. Hill said the school had paid. Member Mackedon asked how many people were interviewed during the review and they said 12 parents, 15 faculty members and did not know exactly how many students. Member Wahl said that while no one is happy with the results of the school thus far, they were cognizant of the fact there was miscommunications during the course of the charter term. Mr. Curry agreed that the board of Nevada Virtual was not happy either with the report that had been received from the State Public Charter School Authority. He said that during the first six years the school was too focused on the growth, but that focus caused achievement to become secondary. Member Wahl and Member Van recommended that the board of Nevada Virtual Academy really follow-up on the changes they said they are making. Member Wahl said that if these changes are not made then the school would not have the chance to be renewed again in the future. Member Luna asked if there had been any changes to the composition of the board of the school. Mr. Curry said there had not been changes made to the board of Nevada Virtual Academy.

Kirby Okuda, Registrar, then explained the enrollment process for Nevada Virtual Academy at the request of Member McCord. Member Mackedon asked what happened to the old head of school. Ms. McIntosh said he had received a promotion and was now the deputy director of the western region for K12 Inc.

Ms. McIntosh gave further explanation regarding the discussion between the Authority and the Nevada Virtual Academy board. She said the curriculum audit had been recommended by SPCSA staff. She said she recognizes that the school has data problems and that would be a major concern of hers moving forward. She

said she was recommending the school hire a data analyst. Ms. McIntosh thanked the SPCSA staff for the assistance they had provided during Nevada Virtual's renewal process. Ms. McIntosh also added that she believes that it is the school's responsibility to ensure they are providing a rigorous curriculum that will challenge students and help prepare them for college or a career. She was concerned with Nevada Virtual's graduation rate recovery because of the short time period that had been allotted. She said the fiscal and organizational aspects would be much easier to fix than the academic aspects.

At the end of the discussion Member Wahl called for a motion.

Member Van moved for the approval of the application for renewal submitted by Nevada Virtual Academy with an enrollment cap of 5%. Member Abelman seconded. The vote was 4 – 2 for approval of the application for renewal, with Member Mackedon and Member McCord voting no.

Agenda Item 15 – Member Comment

None

Agenda Item 16 – Public Comment

John Hawk, Charter School Association of Nevada, spoke about the CSAN conference that had been recently held in Reno. He thanked Member Mackedon, Member Abelman, and Chair Conaboy for attending the conference. He also notified the Authority that he would be term-limited in January and would be replaced as the president of CSAN.

Member McCord moved for the adjournment. Member Van seconded. The motion carried unanimously.

The meeting adjourned at 5:22 p.m.