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**BRIEFING MEMORANDUM**

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**TO:** Steve Canavero  
Superintendent of Public Instruction

**FROM:** Patrick J. Gavin  
Executive Director

**CC:** Members, State Public Charter School Authority

**SUBJECT:** Charter School Sponsor Memo

**DATE:** January 15, 2016

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***Silver State Charter School***

In the fall of 2014, the State Public Charter School Authority (the “Authority”) received multiple reports of financial mismanagement from governing body members at two charter schools, Quest Academy and Silver State Charter School. Based on those reports and issues with the timeliness and completeness of the 2014 independent audits of both schools, Authority staff (the “Agency”) served both schools with Notices of Breach in December 2014.

During late 2014 and early 2015, the Agency contacted each of the big four accounting firms (PricewaterhouseCoopers, Ernst & Young, Deloitte, and KPMG) to assist in more detailed audit reviews of both schools. After discussions, the Agency was only able to agree to acceptable terms with Deloitte.

In early 2015, the Interim Finance Committee approved a Work Program transferring funds from the Agency’s reserve category to Professional Services to fund the proposed contract with Deloitte.

On June 9, 2015, the Board of Examiners approved the Agency’s contract with Deloitte to perform audits of Quest and Silver State. During the same month, Silver State Charter School submitted an amendment request to the Authority proposing the elimination of its middle school. That amendment request was considered at the [June 12, 2015](#) Authority meeting and was [approved](#) by the Authority. Under that amendment, the school did not admit any new 7<sup>th</sup> grade students for 2015-16 and notified families of its intent to phase out the middle school program by the summer of 2016 with the promotion or transfer of all eighth grade students.

Deloitte began its review of both schools in July 2015. The firm prepared and submitted reports on their findings and supporting documentation related to Silver State in October 2015. Those materials may be found at <https://goo.gl/A841fA>.

Due to systemic financial mismanagement at Silver State, the Authority initiated revocation proceedings in November 2015. Additionally, due to the school's history of poor graduation rates, including a zero percent graduation rate in 2015, the Agency recommended the Authority approve the issuance of a Notice of Intent to Revoke the Charter Contract of Silver State in both [February](#) and [March](#) of 2016. The Authority did not take any action on the recommendation, ultimately [voting](#) to remove it from the [agenda](#) at the March 25 meeting. Due to perceived litigation risk based on statements made by new school counsel and concern regarding potential ongoing financial issues, the Authority had previously directed staff to enter into settlement negotiations related to the financial mismanagement revocation on [March 9, 2016](#). After several months of negotiations, the Authority and Silver State agreed to a settlement that permitted ongoing operation and a renewal under the governance and oversight of a court-appointed receiver and the monitoring of a court-approved trustee to enforce the terms of the receivership appointment. The settlement agreement included clear graduation rate improvement benchmarks of 45 percent by 2017-18 and 60 percent by 2018-19. On June 28, 2016, the settlement agreement and a [joint petition](#) for appointment of a receiver was filed in Carson City District Court. The District Court [appointed](#) Joshua Kern as receiver on July 1, 2016. The initial Trustee resigned shortly thereafter and the court replaced her with Robert Cane. The court subsequently issued an order clarifying the role of the Receiver and the Trustee.

Pursuant to the charter amendment approved by the Authority in the summer of 2015, the Silver State middle school program was phased out at the end of the 2015-16 academic year. As the school voluntarily agreed to cease operation of that program via a charter amendment, the breach has already been addressed and there is no cause for issuance of a Notice of Intent pursuant to NRS 388A.330(f).

As the Department is aware, Silver State achieved the 2017-18 target early, having posted a 2015-16 graduation rate in excess of 45 percent. As the charter school is meeting its obligations pursuant to the settlement agreement, there is no cause to issue a Notice of Intent pursuant to NRS 388A.330(e).

Pursuant to these conclusions, the [draft agenda](#) for the January 27, 2017 Authority meeting includes an Agenda item based on a staff recommendation that the Authority not issue a Notice of Intent notwithstanding the performance of the middle and high school programs in 2015-16 because the school has entered into a settlement agreement, is in a negotiated, court-appointed receivership, and currently meets the conditions of both the summer 2015 charter amendment phasing out the middle school and the settlement agreement through the improvement of its graduation rate. The Authority will continue to monitor both programmatic and operational improvements and school progress towards meeting its academic targets as set forth in the settlement agreement.

### ***Beacon Academy of Nevada***

Pursuant to [NRS 388A.330](#), as amended by Section 27 of [SB509](#) of the 2015 Legislative Session, a graduation rate below 60 percent is grounds for termination of a charter, or the revocation of a written charter, or the reconstitution of the governing body of a charter school.

Beacon Academy of Nevada was approved by the State Board of Education in 2008 and was renewed by the Authority in 2014. It currently operates pursuant to a charter contract. The charter contract expires in 2020.

For each of the preceding five years, Beacon’s graduation rate has been below 60 percent.

	2011	2012	2013	2014	2015
<b>Graduation Rate</b>	16.38%	14.30%	37.61%	56.52%	52.63%
<b>Rank in State</b>	104/106	108/110	100/111	104/117	104/117
<b>Position from Bottom</b>	3 <sup>rd</sup> lowest in state	3 <sup>rd</sup> lowest in the state	12 <sup>th</sup> lowest in the state	14 <sup>th</sup> lowest in the state	14 <sup>th</sup> lowest in the state
<b>Percentile Rank</b>	3 <sup>rd</sup>	3 <sup>rd</sup>	11 <sup>th</sup>	12 <sup>th</sup>	12 <sup>th</sup>

While Beacon saw a significant increase between 2012 and 2013 in its performance relative to the rest of the state, the school has remained at the 11<sup>th</sup> or 12<sup>th</sup> percentile since then.

Based on a review of [data](#) submitted to the Agency by the school, Beacon is ineligible for the alternative state performance framework authorized under [SB460](#) of the 2015 Legislative Session, as it has a 48.48 percent unduplicated count of [eligible students](#). That unduplicated count is well below the 75 percent minimum in such categories of students set forth in statute.

Pursuant to statute, traditional public schools with graduation rates similar to Beacon are eligible for inclusion in the Achievement School District. As a charter school, this graduation rate rendered Beacon eligible for authorizer intervention, including termination of its charter contract or reconstitution of its governing body.

Based on the school’s graduation rate, the Agency recommended the Authority approve the issuance of a Notice of Intent to Terminate the Charter Contract of Beacon Academy in both [February](#) and [March](#) of 2016. The Authority did not take any action on the recommendation, ultimately [voting](#) to remove it from the agenda. Individual members of the Authority requested Agency staff to engage in discussions with the school regarding its plan for improvement and asked that the Agency report back on the progress of those discussions. The school made multiple presentations to the Authority since February 2016, including an extensive dialogue with members in [May](#) and [June](#). The most recent plan, submitted to the Agency on July 24, 2016, incorporated the school’s most recent written proposal. Based on [discussion](#) at the table during the [July 29, 2016](#) Authority meeting, school leader Tambre Tondryk proposed the following measurable graduation rate targets:

Year	2016	2016	2017
4 Year Adjusted Cohort Graduation	52%	55%	60%

Based on that proposal, staff recommended that the Authority accept those targets and require that they be memorialized in an amended charter contract. In recognition of the school’s willingness to set annual adjusted cohort graduation targets for the next three years, staff recommended that the contract provide that the Authority would not terminate the charter contract based on any failure to meet those targets, and that only reconstitution and receivership could be imposed if the targets

were not met in addition to other changes. The Authority [approved](#) the goals proposed by the school and the staff recommendation, requiring that the school and the Agency negotiate a contract acceptable to both parties. At the August 26, 2016 Authority meeting, the Authority [voted](#) to direct staff and Beacon Academy to negotiate an amended charter contract by September 19, 2016. Staff and the school did not agree to mutually agreeable terms by the deadline.

Pursuant to [NRS 388A.330](#) and [NAC 386.330](#), the Authority later directed staff to Issue a Notice of Intent to Terminate the Charter Contract of Beacon Academy based on having a graduation rate for the preceding school year that is less than 60 percent. After [discussion](#), the Authority [approved](#) the issuance of this Notice on [September 23, 2016](#) and the [Notice](#) was officially issued on September 30, 2016.

Subsequently, Agency and Beacon representatives negotiated a contract acceptable to the Authority. The contract language provides a mechanism for Beacon to transition to serve a more high need student population via an amendment to its admissions policy to exclusively serve at risk youth. This will be accompanied by revisions to the graduation rate benchmarks to provide appropriate and rigorous achievement goals for that new population. This amendment will also permit the school to eventually qualify for the alternative performance framework. This amended contract was approved by the Authority on [October 21, 2016](#). Due to the execution of this agreement and in accordance with guidance from counsel and staff recommendation, the Authority also [voted](#) to dismiss the Notice of Intent to Terminate the Charter Contract of Beacon Academy.

The Authority received the admissions policy [amendment](#) request in December 2016 and [approved](#) that amendment on December 16, 2016. Following Agency guidance, the school has also engaged with Momentum Strategy and Research to develop and propose revised academic goals which are applicable to all students enrolled under the new policy. Those goals will form the basis for a revised transitional framework which will be considered by the Authority in the first quarter of 2017.

While the school did not meet the statutory graduation rate requirement of 60 percent in 2015-16, school's 2015-16 graduation rate was consistent with the negotiated improvement plan and the current charter contract. Pursuant to these conclusions, the [draft agenda](#) for the January 27, 2017 Authority meeting includes an Agenda item based on a staff recommendation that the Authority not issue a Notice of Intent notwithstanding the performance of the high school program in 2015-16 because the charter school is meeting its obligations pursuant to the revised contract and has agreed to acceptable contractual terms with the Authority. Consequently, there is no cause to issue a Notice of Intent pursuant to NRS 388A.330(e). The Authority will continue to monitor both programmatic and operational improvements and school progress towards meeting its academic targets as set forth in the contract and will use its contractual authority to intervene in the event that the school fails to meet its contractual targets.

### ***Nevada Connections Academy***

Pursuant to [NRS 388A.330](#), as amended by Section 27 of [SB509](#) of the 2015 Legislative Session, a graduation rate below 60 percent is grounds for termination of a charter, or the revocation of a written charter, or the reconstitution of the governing body of a charter school.

Nevada Connections Academy (NCA) was approved by the State Board of Education in 2007 and was renewed by the Authority in 2013. It currently operates pursuant to a written charter. The written charter expires in 2019.

For each of the preceding five years, NCA’s graduation rate has been below 60 percent.

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Graduation Rate</b>	26.5%	36.08%	33.91%	37.19%	35.63%
<b>Rank in State</b>	99/106	98/110	100/111	110/117	110/117
<b>Position from Bottom</b>	8 <sup>th</sup> lowest in state	13 <sup>th</sup> lowest in the state	11 <sup>th</sup> lowest in the state	8 <sup>th</sup> lowest in the state	8 <sup>th</sup> lowest in the state
<b>Percentile Rank</b>	7 <sup>th</sup>	12 <sup>th</sup>	10 <sup>th</sup>	7 <sup>th</sup>	7 <sup>th</sup>

While the school saw a graduation rate increase between 2011 and 2012 in its performance relative to the rest of the state, moving from the 7<sup>th</sup> percentile to the 12<sup>th</sup>, the school declined back to the 7<sup>th</sup> percentile in both 2014 and 2015.

Based on a review of [data](#) submitted to the Agency by the school, Nevada Connections Academy is ineligible for the alternative state performance framework authorized under [SB460](#) of the 2015 Legislative Session, as it has a 23.02 percent unduplicated count of [eligible students](#). That unduplicated count is well below the 75 percent minimum in such categories of students set forth in statute. Pursuant to statute, traditional public schools with graduation rates similar to NCA are eligible for inclusion in the Achievement School District. As a charter school, this graduation rate renders NCA eligible for authorizer intervention, including termination of its charter contract or reconstitution of its governing body.

Based on the school’s graduation rate, the Agency recommended the Authority approve the issuance of a Notice of Intent to Revoke the Charter Contract of Nevada Connections Academy in both [February](#) and [March](#) of 2016. The Authority did not take any action on the recommendation, ultimately [voting](#) to remove it from the agenda. Individual members of the Authority requested Agency staff to engage in discussions with the school regarding its plan for improvement and asked that the Agency report back on the progress of those discussions. The school made multiple presentations to the Authority from February 2016 onwards, including an extensive dialogue with members in May of this year. The school presented a [plan](#) and staff raised significant concern around the lack of measurable annual performance targets. Consequently, the school was directed to propose targets for review by Agency staff.

Following the May meeting, Agency staff discussed NCA’s improvement plan with NCA staff regarding the proposed improvement plan and graduation rate targets. On Thursday, July 28, 2016, the school [proposed](#) targets to achieve the 60 percent target within three years:

Cohort Year	Measurement Date	Cohort Graduation %
<b>2015</b>	<b>December, 2015</b>	<b>37 %</b>
2016	December, 2016	45 %
2017	December, 2017	52 %
2018	December, 2018	60+%

Staff determined that these targets were consistent with the guidance set forth by the Authority in May and determined that they were SMART (specific, measurable, achievable, relevant, and time bound) goals which the Authority could use as an objective mechanism to evaluate student achievement and determine if the school should remain in the Authority portfolio.

Agency staff expressed concerns about the broad language that is included with the school's goals. The school proposed, for example, that there be an external validation of student academic record data and other characteristics to verify some of the contentions that the school has made regarding the purported unique characteristics of the student body. Staff concurred that external validation of information which is not tracked and reported by NDE is essential to ensuring that the Authority is receiving factual information. However, it was unclear how the Authority would be able to assess the relevance of such information as there is no ability to compare these data points at other schools and in other school systems. Consequently, staff urged the Authority to avoid committing to consideration of such data in making high stakes decisions regarding the school.

Staff recommended that the Board approve these goals contingent upon the school entering into a charter contract which contains terms identical to those agreed to by Beacon Academy in their recently amended [charter contract](#). The recommendation also specified that the contact identify the approved goals and provide that the school and the Authority will use the graduation rate calculated by the Department and that both parties agree to abide by any changes in the calculation rate approved by the US Department of Education. The recommendation provided that accountability consequences shall be imposed if the school does not achieve a particular annual target. Given the school's willingness to collaborate with the Authority in setting annual performance targets, Agency staff also recommended that the Authority agree to take a charter contract termination that results in closure of the school off the table for the duration of the charter contract, provided that the contract require that the Authority could require that the school enter receivership or have its governing body reconstituted if the school does not meet an annual performance target.

In recognition of the school's willingness to set annual adjusted cohort graduation targets for the next three years, staff recommended that the contract provide that the Authority would not terminate the charter contract based on any failure to meet those targets, and that only reconstitution and receivership could be imposed if the targets were not met in addition to other changes. After extensive discussion, the Authority conditionally approved the goals set forth by Nevada Connections Academy and required that the school and the Agency negotiate a contract acceptable to both parties. At the August 26, 2016 Authority meeting, the Authority directed staff and Nevada Connections Academy to negotiate an amended charter contract by September 19, 2016.

After extensive discussions with the school and its counsel, Staff and counsel were unable to agree to mutually agreeable terms. On [September 23, 2016](#), the State Public Charter School Authority [voted](#) to direct staff to issue a Notice of Intent to Revoke the Written Charter of Nevada Connections Academy pursuant to [NRS 388A.330](#) and [NAC 386.330](#) based on having a graduation rate for the preceding school year that is less than 60 percent. This determination was made after extensive discussion, as detailed in the [transcript](#). The [Notice of Intent to Revoke the Written Charter of Nevada Connections Academy](#) was officially issued on September 30, 2016.

Following the issue of the Notice, the Agency was notified of multiple legal filings against the Authority by the school. [Copies](#) of the main set of filings and Agency responses are publicly available for Department review. As this is an ongoing legal matter, the Authority has been advised to limit its commentary regarding this matter.

As detailed in the Notice, the Authority scheduled a public hearing following the statutory cure period for its [December 16, 2016 meeting](#). As noted in [press accounts](#) and detailed in the [transcript](#) of the court reporter retained by the Agency, the Authority postponed that hearing due to an inability to accommodate the several hundred parents who turned out to provide public comment and monitor the proceedings. The Authority and the school agreed in writing to a waiver of the 90 day limitation imposed by statute due to this constraint and the Agency is actively working to identify a facility and technology solution that will comply with the Open Meeting Law under these circumstances. As this matter is still under review, the Agency cannot speculate on potential determinations made by the Authority. The Agency will keep the Department apprised of the Authority's actions in this matter.

At the present time, the [draft agenda](#) for the January 27, 2017 Authority meeting includes an Agenda item based on a staff recommendation that the Authority issue a Notice of Intent based on Nevada Connections Academy's most recent graduation rate, which is also below the statutory minimum set forth in NRS 388A.330. As no Notice has been issued at this time, the Agency cannot speculate on possible proposed cures or potential determinations made by the Authority. The Agency will keep the Department apprised of the Authority's actions in this matter.

### ***Discovery Charter School***

Pursuant to NRS 388A.330(f), a charter school sponsor has the authority to revoke a written charter or terminate the charter contract of a charter school which performs in the bottom five percent of all elementary and middle schools. Such performance may also result in the reconstitution of the governing body of a charter school.

Discovery Charter School has been identified by the Department as an elementary or middle school which performs in the bottom five percent and is thereby eligible for revocation of its written charter. This is the first year that Discovery has been ranked in the bottom five percent of elementary or middle schools. Additionally, the written charter expires this academic year and the school has been [directed](#) to submit an application for a new charter contract on February 1.

At the present time, the [draft agenda](#) for the January 27, 2017 Authority meeting includes an Agenda item based on a staff recommendation that the Authority issue a Notice of Intent pursuant to NRS 388A.330(f). If the Notice is issued, the Agency will formally notify the school via electronic and certified mail pursuant to [NAC 306.330\(1\)](#). Consistent with timelines set forth in state law, the school would then be subject to a cure period and the Authority would hold a public hearing to determine whether the cure is satisfactory and whether the deficiency merits revocation. The Agency will recommend that the Authority defer review of the application for a charter contract until such time as a determination has been reached with regard to revocation of the current written charter or other appropriate action pursuant to NRS 388A.330. As no Notice has been issued at this time, the Agency cannot speculate on possible proposed cures or potential determinations made by the Authority. The Agency will keep the Department apprised of the Authority's actions in this matter.