

BRIAN SANDOVAL
Governor

STATE OF NEVADA

BRIAN SCROGGINS
Interim Executive Director



STATE PUBLIC CHARTER SCHOOL AUTHORITY

**1749 North Stewart Street Suite 40
Carson City, Nevada 89706-2543
(775) 687 - 9174 • Fax: (775) 687 - 9113**

BRIEFING MEMORANDUM

TO: SPCSA Board
FROM: Mark Modrcin, Director of Authorizing
Brian Scroggins, Deputy Director / Interim Executive Director
SUBJECT: Agenda Item No. 10: Nevada Virtual Academy Charter School Contract Renewal
Recommendation
DATE: November 30, 2018

Nevada Virtual Academy is currently applying for renewal of its charter school contract in regard to its middle and high school. Pursuant to the Stipulated Agreement between NVA and the SPCSA entered into in July of 2018, NVA's renewal application does not include its elementary school. Stated another way, the elementary school will not be renewed and will close at the end of the 2018 – 2019 school year.

This memorandum is divided into four sections: (1) background information related to the processes and standards under which a determination whether to grant an application for renewal of a charter contract is made; (2) a summary of Nevada Virtual Academy's current and historical academic performance; (3) information related to the previously agreed-to Stipulated Agreement between NVA and the Authority as it relates to renewal; and (4) SPCSA staff's recommendation regarding NVA's renewal application.

Also, attached to this memorandum is a chart showing NVA's historical academic performance for the middle and high school.

After a thorough review of the historical data and charter renewal application, SPCSA staff recommends that the Authority approve the charter renewal of the Nevada Virtual Academy middle school and high school for a six-year term, beginning in July 1, 2019, with certain conditions and requirements. These conditions and requirements are outlined on pages 6-8 of this memo.

1. The Process Related to Renewal Application and the Standards Under Which an Application for Renewal of a Charter Contract Will Be Granted

The first step in the renewal process is the submission by the SPCSA of a renewal report to the charter school.¹ Specifically, on or before June 30 immediately preceding the final school year prior to expiration of a charter school's charter contract, the SPCSA submits to the governing body a report regarding renewal. This document can be found within the supporting documentation for this agenda item. To date, Nevada Virtual has not provided any indication that the renewal report contained any incorrect information.

The renewal report summarizes the performance of the charter school under the terms of the charter contract, identifies and deficiencies related to performance of the charter school that might lead to non-renewal of the charter contract, sets for the requirements forth the renewal application, and identifies the criteria that the sponsor will apply in making a determination on the application for renewal. The charter school may submit a response to the renewal report. See [NRS 388A.285\(1\) and \(2\)](#).

Next, the governing body of the charter school must submit a written notice of intent to submit an application for renewal to the SPCSA 45 days prior to submitting a renewal application. See [R089-16A\(10\)\(1\)](#). NVA's notice of intent to submit its renewal application is also included in the supporting material for this Agenda Item.

In regard to the renewal application, the window to submit the actual renewal application is October 1 through October 15. See [NRS 388A.285\(3\)](#) and [R089-16A\(10\)\(1\)](#). The application for renewal must include, without limitation:

- (a) The requirements for the application identified by the sponsor in the performance report prepared by the sponsor;
- (b) A description of the academic, financial and organizational vision and plans for the charter school for the next charter term;
- (c) Any information or data that the governing body of the charter school determines supports the renewal of the charter contract in addition to the information contained in the performance report prepared by the sponsor and any response submitted by the governing body; and
- (d) A description of any improvements to the charter school already undertaken or planned.

See [NRS 388A.285\(3\)](#). Again, NVA's renewal application is included along with the supporting material for this Agenda Item.

Decisions to renew a charter school contract or deny a renewal application are made and based upon the SPCSA's Charter School Performance Framework, and Nevada's charter school statutes and regulations related to charter school renewal. See [NRS 388A.285](#), and [R089-16A](#). As stated in the SPCSA's Charter School Performance Framework, "merit-based" charter renewal decisions will be

¹ Both charter school regulations and the Authority's Performance Framework provides for an expedited and streamlined renewal process for high-performing charter schools. Generally, charter schools qualifying for expedited renewal review are those charter schools that are consistently rated as four-and five-star schools under the NSPF and have received no notices of concern or notices of breach for academic, organizational or financial performance. See [R089-16A\(10\)\(2\)](#), and the Authority's Charter School Performance Framework, at page 7.

made “in accordance with statute and regulation and based on longitudinal information over a school’s charter term.” See Charter School Performance Framework, at 7.

The SPCSA’s Charter School Performance Framework makes clear that charter school renewal applications are based on the charter school’s academic, financial and organizational performance, and the expectation is that charter schools seeking renewal will be rated under the NSPF as a three-star school or above. See Charter School Performance Framework, at 7. Note that no factor may be given more weight than the academic performance of pupils at the charter school, and the academic performance of the charter school is the touchstone of any renewal decision. See [R089-16A\(10\)\(10\)](#).

In making its recommendation to the Authority regarding a renewal application, SPCSA staff considers the past performance of the charter school, including information contained in the application for renewal, any site visits, academic achievement of pupils, and any other information that is determined to be relevant to whether the charter contract should be renewed. See [R089-16A\(10\)\(6\)](#).

When determining whether to grant an application for renewal of a charter contract, the Authority Board considers the foregoing factors, any other information that the Authority Board determines is relevant to whether the charter contract should be renewed. The Authority Board will consider the “totality of the evidence” presented to it when making a renewal decision. See [R089-16A\(10\)\(9\)](#). Again, as stated above, no factor is to be given more weight than the academic performance of pupils at the charter school. See [R089-16A\(10\)\(10\)](#).

At its sole discretion, the Authority Board may renew a charter contract for a term of 6 years, or, alternatively, deny the renewal application. See [R089-16A\(10\)\(11\)](#)². If a charter contract is renewed, that Authority Board may include a provision for a high stakes review during the term of the renewed charter contract which may result in the termination of the renewed charter contract prior to its expiration, or renewal the charter contract and include “any additional provisions, requirements or restrictions which the State Public Charter School Authority determines are appropriate....” (Emphasis added.)

2. Analysis of Nevada Virtual Academy’s Current and Historical Academic, Financial and Organizational Performance

NVA’s middle school was rated as a two-star school under the NSPF for the 2017-2018 school year with an index score of 40; NVA’s high school was rated as a three-star school with an index score of 52, and a graduation rate for the 2016-2017 school year of 84.18 percent. The validated graduation rate for the 2018 cohort is scheduled to be released this December.

Below is a summary of NVA’s academic performance both for the term of its current charter school contract, and NVA’s original written charter entered into with Nevada’s Department of Education in 2007.

² Note that upon recommendation by SPCSA staff to deny a renewal application, or the Authority Board denying a renewal application, Nevada’s charter school regulations provide for reconsideration and other mechanisms by which the charter school may provide additional information to the SPCSA. See R089-16A(14).

A. NVA's Original Written Charter (2007-2012)

NVA originally entered into a six-year written charter in 2007 by its then-sponsor, Nevada's Department of Education.

In 2013, NVA applied for renewal of its written contract. In regard to NVA's charter school contract renewal application in 2013, SPCSA staff noted in its recommendation that NVA exhibited "persistent academy underperformance," "low continuous enrolled percentages," "low graduation rates," and "a high percentage of students transferring out before graduation." In conclusion, the SPCSA found that NVA's "academic program has not been a success."³

B. NVA's Current Charter Contract (2013-2019)

Academics

Notwithstanding the foregoing, in 2013 the Authority renewed NVA's written charter, upon certain conditions. These conditions include NVA facing a "high stakes review" during the Fall of 2015, at which time NVA was to show "substantial progress" to improve its academic performance. NVA's 2013 charter school contract included an expiration date of June 29, 2019.

In September of 2013, the Authority issued NVA a Notice of Concern due to academic underperformance. The Notice of Concern noted that NVA's elementary, middle, and high school had all recently been rated as two-star schools under the Department of Education's Nevada School Performance Framework.

One year later, in December of 2014, the Authority issued NVA a Notice of Breach due to academic underperformance related to the 2013-2014 academic school year. While NVA's middle school was ranked in 2015 as a three-star school under the NSPF, NVA's elementary and high school were still rated as two-star schools.

Although the high-stakes review originally scheduled for the Fall of 2015 was ultimately postponed until 2016, NVA's high-stakes review ultimately resulted in SPCSA staff recommending to the Authority that NVA's charter school contract be terminated due to NVA's consistent academic underperformance. However, the Authority Board elected not to terminate NVA's charter school contract.

For the 2014-2015 and 2015-2016 school years, the Department of Education did not release ratings due to testing irregularities, as well as the reauthorization of ESSA and Nevada's ESSA waiver.

However, in December of 2017, the Department of Education released new ratings for the 2016-2017 academic school year. For the 2016-2017 school year, NVA's middle and high school received index scores of 61.11 (three-star) and 83.5 respectively, though the high school did not receive a star rating. For 2016 – 2017, the validated graduation rate was 84.20%.

In regard to the most recent ratings, NVA's middle school was rated as a two-star school and NVA's high school received a three-star rating for the 2017-2018 school year, with index scores of 40 and 52, respectively. NVA's validated high school graduation rate for the 2017 – 2018 school year is slated to be released next month.

³ The information contained in this section of this memorandum is based on SPCSA's staff's 2013 recommendation report related to NVA's 2013 renewal application, and various notices issued to NVA between 2013 and 2018.

As is evident, the performance of both the middle school and high school has been more in line with SPCSA expectations over the course of the current charter term. While the middle school program’s NSPF rating of two-stars is concerning, SPCSA staff recognizes that one year of subpar performance does not constitute a trend. Moreover, staff is encouraged that the high school program has shown an increase in validated graduation rates while earning a three-star rating during the most recent year. The graduation rates for the charter term are as follows:

The following academic data is available from both the current and previous charter terms:

School Year	Rating
2012	Elementary: 2 Star Middle School: 2 Star High School: 1 Star
2013	Elementary: 2 Star Middle School: 2 Star High School: 2 Star
2014	Elementary: 2 Star Middle School: 3 Star High School: 2 Star
2015	Elementary: 2 Star (frozen from 2014) Middle School: 3 (frozen from 2014) High School: 2 Star (frozen from 2014)
2016	No star rating published by State
2017	Elementary: 1 Star Middle School: 3 Star High School: N/A
2018	Elementary: 1 Star Middle School: 2 Star High School: 3 Star

Year	SPCSA Academic Programmatic Audit Findings	SPCSA Academic Intervention Ladder Status
2014	Academic Underperformance	Notice of Breach
2013	Academic Underperformance	Notice of Concern

	2012 – 2013	2013 – 2014	2014 – 2015	2015 – 2016	2016 -2017
NDE-Validated Graduation Rate*	52.29%	56.16%	63.54%	67.44%	84.20%

**Note that 2018 graduation rates are expected to be available in December 2018.*

Organizational

In its current iteration, the SPCSA Organizational Framework is a rolling evaluation of school organizational performance. Based on verified complaints and spot checks of school organizational performance, the Authority issues Notices of Concern or Notices of Breach for Organizational Performance. Schools which have not received such notices are presumed to be in Good Standing. Nevada Virtual Academy has not received a Notice of Breach or Notice of Concern related to organizational performance since the inception of the framework, and has been classified as in Good Standing within this component from 2013 – 2016 and maintained a Good Standing rating in 2017 within this component.

Financial

The SPCSA Financial Framework monitors a variety of indicators of financial health. As noted in the school’s renewal report, issued on June 29, 2018, SPCSA staff remains concerned about the overall health and viability of the school. The school was issued a Notice of Concern after the annual financial audit revealed performance deficiencies during the 2015 – 2016 school year. The school exhibited problems in multiple metrics: enrollment projections, total margin, which measures whether or not the school is living within its available resources, and cash flow.

SPCSA Financial Audit Findings

2017	Good Standing
2016	Notice of Concern
2015	Good Standing
2014	Good Standing
2013	Good Standing

3. The Stipulated Agreement

Pursuant to the Stipulated Agreement entered into between NVA and the Authority on July 9, 2018, NVA's renewal application does not include its elementary school. See Stipulated Agreement, at 2.⁴ As the Authority is well-aware, the Stipulated Agreement required NVA's elementary school to obtain an index score rating on the NSPF of at least 34 for the 2017-2018 school year. NVA's elementary school did not meet this requirement, receiving an index score of only 21 for the 2017-2018 school year.

In regard to renewal, the Stipulated Agreement also states as follows:

Any recommendation related to NVVA's middle and high school programs will be made based on the performance of those programs. However, SPCSA staff expect to recommend renewal of those programs based on those programs' historical performance, and assuming no significant changes related to those programs' performance.

See Stipulated Agreement, at 3, fn. 2

4. SPCSA Staff's Recommendation Regarding NVA's Renewal Application

Nevada Virtual Academy has shown that both the middle school and high school programs are capable of producing academic outcomes that are adequate. SPCSA staff finds the current performance of the high school program to be sufficient. Regarding the middle school, SPCSA staff remains concerned about the performance as evidenced by the recent Notice of Concern issued in September 2018 as a result of the middle school's two-star rating. SPCSA staff recognizes that one year does not constitute a trend, however, and expects that the performance of this program to improve, as outlined within the school's renewal application. Staff cannot endorse or recommend the requested student growth at both the middle school and high school level within the renewal application.

Additionally, staff does not have any organizational performance concerns. However, the Authority Board issued a financial Notice of Concern during the current charter term. Additionally, as a reminder to the Board, the school did receive a participation notice at the last SPCSA Board meeting for failing to meet the required test participation thresholds during the 2017 – 2018 school year.

SPCSA staff recommends that the Authority renew the charter for Nevada Virtual Academy's middle school and high school programs (grades 6 – 12) for a six-year term, beginning July 1, 2019, noting that the middle school will enter that contract under a Notice of Concern. SPCSA staff further recommends that any renewed charter school contract entered into between the NVA and the Authority include the terms and conditions set forth below. See [R089-16\(11\)\(c\)](#) ("The State Public Charter School Authority may ..., in its sole discretion ...[r]enew a charter contract for a term of 6 years with any additional provisions, requirements or restrictions which the State Public Charter School Authority determines are appropriate." (Emphasis added)).

These conditions are meant to ensure that the school adequately serves all students, is rewarded for high/improving performance, and faces consequences for failing to meet adequate expectations.

⁴ The Stipulated Agreement is included in the supporting material for this Agenda Item.

A. Academic and Enrollment Conditions

- a. Per the stipulated agreement mutually entered into by the NVA Board and the SPCSA, the enrollment caps for the 2019 -2020 school year will remain in effect:
 - i. Middle School:
 1. 6th grade: 260 students
 2. 7th grade: 260 students
 3. 8th grade: 260 students
 - MS TOTAL: 780 students
 - ii. High School:
 1. 9th grade: 260 students
 2. 10th grade: 260 students
 3. 11th grade: 260 students
 4. 12th grade: 230 students
 - HS TOTAL: 1010 students
 - NVA Enrollment Cap: 1790 students
- b. If the NVA middle school demonstrates three consecutive years of improvement according to the measures below beginning with the 2018 – 2019 school year, the school may increase enrollment up to 10% in the relevant grade levels the following year. Improvement will be defined as follows:
 - i. The NVA middle school program must demonstrate a 10% increase in ELA proficiency according to the SBAC for three consecutive years; and
 - ii. The NVA middle school program must demonstrate an 18% increase in Math proficiency according to the SBAC for three consecutive years.
- c. If the NVA high school maintains an adjusted index score of at least 50 points, or earns at least a three-star rating, for three consecutive years beginning with the 2018 ratings, the school may increase enrollment up to 10% in the relevant grade levels the following year. Given that the NVA high school earned an index score above 50 in 2018, NVA is currently eligible to increase their high school enrollment as early as 2021 – 2022 if they maintain this score according to the 2019 and 2020 ratings.
- d. Should the NVA high school program earn less than 50 adjusted index score points according to the Nevada School Performance Framework (NSPF), the Authority will work with the NVA Board to determine the appropriate and reasonable measures and thresholds to determine if and when the school warrants expansion.
- e. If either the NVA middle school and/or high school earns less than 50 adjusted index score points according to the Nevada School Performance Framework (NSPF) for two consecutive years, the middle school and/or high school will automatically be

closed the academic year after the scores are released. This includes index scores released during 2018 and the final year of the current contract (2019), in addition to the recommended new charter term beginning on July 1, 2019. For example, if the NVA middle school does not earn at least 50 adjusted index score points according to the 2019 NSPF, the middle school would automatically close at the end of that school year (2019 – 2020), and would not be open for the 2020 – 2021 school year as it is already operating under a Notice of Concern due to failing to achieve an adjusted index score of greater than 50 points in 2018.

B. Organizational Condition

- a. The school ensures it is in compliance with Board member statutes and regulations ([NRS 388A.320](#)), including full Board membership. The school may also wish to establish committees within the Board to more adequately monitor school performance, compliance, and financial viability.

C. Monitoring and Oversight Conditions

- a. Quarterly reports for the middle school until it earns at least 50 adjusted index score points according to the NSPF and/or earns 3-star status. Should the high school dip below the 50 adjusted index score points and/or fail to earn 3-star status, quarterly updates would also be presented to the SPCSA Board;
- b. Attendance and course completion updates each quarter as applicable to the middle school and high school based on the qualifications listed in the previous condition; and
- c. Access to all student databases operated and used by the charter school, including but not limited to any Learning Management System (LMS) outside of those traditionally used to report data.

Nevada Virtual Academy projects the following enrollment through a renewed charter term, if approved, per the Stipulated agreement entered into between NVA and the Authority on July 9, 2018. The school had requested expansion in all middle school and high school grades by ten percent each year in its renewal application. However, the Stipulated Agreement does not allow for this expansion without Board approval. Moreover, staff does not recommend that this school be permitted to expand until it can be demonstrated that the school:

	2019 – 2020	2020 – 2021	2021 – 2022	2022 – 2023	2023 – 2024	2023 – 2025
Planned Total Enrollment	1790	1790	1790	1790	1790	1790
Kindergarten	-	-	-	-	-	-
1st Grade	-	-	-	-	-	-
2nd Grade	-	-	-	-	-	-
3rd Grade	-	-	-	-	-	-
4th Grade	-	-	-	-	-	-
5th Grade	-	-	-	-	-	-
6th Grade	260	260	260	260	260	260
7th Grade	260	260	260	260	260	260
8th Grade	260	260	260	260	260	260
9th Grade	260	260	260	260	260	260
10th Grade	260	260	260	260	260	260
11th Grade	260	260	260	260	260	260
12th Grade	230	230	230	230	230	230

School Demographics, 2015 – present

Year	Total Enrollment	I	A	B	C	H	M	P	IEP	ELL	FRL
15-16	2208	1.49%	4.12%	13.90%	61.88%	15.53%	1.22%	1.86%	10.96%	2.35%	54.46%
16-17	2137	1.40%	5.24%	14.41%	57.23%	19.00%	0.23%	2.48%	10.39%	1.78%	49.09%
17-18	2097	1.53%	5.53%	17.26%	48.74%	24.23%	-	2.72%	11.68%	1.48%	46.92%
18-19	1840	1.14%	5.11%	16.68%	45.76%	28.21%	-	3.10%	11.14%	4.18%	51.47%