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BRIEFING MEMORANDUM

TO: SPCSA Board
FROM: Patrick Gavin
SUBJECT: Agenda Item 3—Potential Resolution of Notice of Intent to Revoke the Written Charter of Nevada Connections Academy
DATE: November 8, 2017

Background:

The Authority issued a Notice of Intent to Revoke the Written Charter of Nevada Connections Academy (“NCA”), dated September 30, 2016; a Notice Pursuant to NRS 388A.330(1)(e), dated February 10, 2017 (the “Administrative Cases”); there are two active civil litigation cases filed in Carson City state court between NCA and the SPCSA (Case Numbers 16 OC-002941 B and 16 OC 001941 B) (the “Civil Cases”). The Administrative Cases involve the Board’s ability to take action related to NCA’s graduation rate under NRS 388A.330, and have been proceeding since the first Notice was issued. The Civil Cases involve related issues and were initiated at or around the same time as the Administrative Cases. Since the initiation of the Administrative Cases, the Board had agendized one or both of these cases for hearing on multiple occasions.

On October 20, 2017, SPCSA Staff and NCA met at a voluntary confidential settlement conference with the SPCSA Board Chair and discussed possible resolution of the both the Administrative Cases and the Civil Cases. A joint proposal was conveyed to the SPCSA Board on October 23. SPCSA Staff and NCA again met at two additional voluntarily confidential settlement conferences on Friday, November 3 and Saturday, November 4 to further discuss the resolution proposal. The product of the discussions is the Resolution Proposal that is before the SPCSA Board for consideration. Staff fully supports the Resolution Proposal and recommends Board approval.

Resolution Proposal:

As the basis for both Administrative Cases was NCA’s graduation rate falling below the statutory threshold, the primary focus of discussions was improvement of that metric, as well as imposing accountability for the school, should it fail to meet the interim benchmark graduation rate of 49% for the 2017-18 school year.

NCA proposed a number of improvements related to annual and interim reporting, tracking mobile students, providing advocates for students at risk of dropping out, professional development, academic supports and interventions. These proposals have been incorporated into the proposed charter contract as an attachment. Additionally, NCA has agreed to immediately seek the assistance of a nationally recognized turnaround specialist to assist the school in its efforts to improve its graduation rate. NCA has also agreed to immediately cap its High School Enrollment at 1,500 students, and to cap its enrollment in 11th and 12th grades at 0.¹ NCA has further agreed to reduce its High School Cap to 1,200 students should it fail to meet the interim graduation rate benchmark of 49%.

This agreement also includes a waiver of any increased funding through the ‘hold harmless’ provisions of NRS 387.1223(3), such that the reduced enrollment numbers, as opposed to the school’s higher prior year’s enrollment numbers, will be used for the appropriation of Distributive School Account money. Thus, public dollars will not be endangered by the Resolution Proposal.

Consistency With Past Practice and Strategic Plan:

The Resolution Proposal is consistent with the SPCSA Board’s desire to encourage Staff and schools to reach resolution and to implement improvement plans whenever possible. After the SPCSA Board voted to close a different charter school in early 2016, Staff was encouraged to work with that school to help it craft a solution that would give the school an opportunity for success. The SPCSA Board ultimately approved that resolution which involved the resignation of the governing body and the immediate appointment of a receiver. After the SPCSA Board voted to issue a Notice of Closure in regard to yet another charter school in 2016, but before any hearing on the Notice of Closure, Staff again worked with school to assist it in crafting a plan to give the school an opportunity for success serving a specific population of students. Similarly after the SPCSA Board issued a Notice of Closure to a third charter school in 2017, Staff worked with the school on a proposal that would allow the school to remain serving children again with the resignation of the governing body and appointment of a receiver.

Each of these schools faced closure under Nevada’s charter school statutes, but after negotiations between staff and the schools the SPCSA Board gave each school an opportunity to succeed after significant changes were implemented. In the case of two of those charter schools, governing body resignations and receiverships were agreed to. In the other case, the school agreed to shift its focus to at risk populations of students that the school believed constituted its true mission. That school is now in the process of transitioning to the Alternative Performance Framework.

The accountability provisions contained in the attached Proposed Renewal are also consistent with the Authority’s stated goal of an “Unwavering Commitment to High Quality Schools-4 & 5 Star Schools” and the sub-goal to “sanction low performing schools.”

Resolution Proposal Includes Immediate and Future Accountability Provisions

The Resolution Proposal, however, is different from the foregoing resolutions in that the Resolution Proposal does not involve a governing body change. Nor does the Resolution Proposal involve a transition to the service of an at risk population. However, the Proposed Resolution does immediately and significantly address the population of students that the NCA believes are most significantly impacting NCA’s graduation rate. It is this graduation rate that formed the basis for the Administration Cases. And unlike some of the previous charter schools that have faced revocation proceedings, NCA does not believe its mission is to serve exclusively at risk students. Instead, NCA desires to continue to serve the general population.

¹ NCA will be allowed to exceed its zero cap for existing students. So students already enrolled in grade 10 will continue to attend NCA through grade 11 and 12 so long as they do not transfer or drop out.

However, the Resolution Proposal includes real accountability. This accountability is not contingent upon the failure to meet the 2017-18 graduation rate targets, but starts immediately upon Board approval with the reduction in High School enrollment and the elimination of new transferees in 11th and 12th grades. These changes immediately address the population that was most negatively impacting NCA's graduation rate. The Resolution Proposal also includes the immediate retention of a turnaround specialist that allows the school to obtain external advice necessary to facilitate improvement. The waiver of any rights to hold harmless protections of NRS 387.1223 also protects public dollars.

The further reduction of students should the interim benchmark fail to be met also further holds the school accountable for failure to meet its self-identified targets. Additionally, the school has recognized in the proposed contract that the Department of Education graduation rate is the graduation rate whose calculation the SPCSA will use for accountability purposes and that failure to meet the benchmarks it has identified will be material factors in the consideration of any renewal.

Relief From Potential Litigation

The existing Administrative Cases and Civil Cases tax Authority resources. It is likely that any decision the Authority makes in the existing Administrative Cases will be reviewed by the state court and possibly be appealed to the Nevada Supreme Court. If this were to occur, it is possible that the resolution of the Civil and Administrative Cases would not occur for several years. These legal proceedings cost NCA time and money, and also cost the SPCSA Staff time. The immediate resolution of this matter will relieve the parties of the burdens of litigation and allow the parties to focus on their primary missions. Relief from litigation is not the primary cause for the recommendation of approval, and SPCSA Staff would not recommend approval of any resolution that it believed was inconsistent with the Board-approved Strategic Plan, past Board decisions, or the best interest of students, families or the State of Nevada. However, this is a benefit that the Board should consider.

Recommendation:

Staff recommends that the SPCSA Board approve the attached Resolution Proposal contingent upon the dismissal of both Civil Cases, while noting that immediate and future accountability, protection of public dollars, and the retention of third party turnaround specialist were important and material inclusions.