

NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY

November 4, 2016

Nevada Department of Education
Board Room
Carson City, Nevada

And

Nevada Department of Education
2nd Floor Board Room
Las Vegas, Nevada

MINUTES OF THE MEETING

BOARD MEMBERS PRESENT:

In Las Vegas:

Adam Johnson
Jacob Snow
Nora Luna

In Carson City:

Melissa Mackedon
Jason Guinasso
Kathleen Conaboy

Teleconference:

None

BOARD MEMBERS ABSENT

Stavan Corbett

AUTHORITY STAFF PRESENT:

In Las Vegas:

Patrick Gavin, Director, State Public Charter School Authority
Brian Scroggins, Deputy Director, State Public Charter School Authority
Nya Berry, Education Program Professional, State Public Charter School Authority
Joan Jurgensen, Education Program Professional, State Public Charter School Authority

In Carson City:

Patrick Gavin, Director, State Public Charter School Authority
Tanya Osborne, Administrative Assistant III

Katie Baldwin, Management Analyst II
Danny Peltier, Management Analyst I

LEGAL STAFF PRESENT:

In Carson City:

Greg Ott, Deputy Attorney General

In Las Vegas

Robert Whitney, Deputy Attorney General

AUDIENCE IN ATTENDANCE:

In Las Vegas:

Attendance Sheet Attached

In Carson City:

Kara Hendricks

Victoria Neer

Jim Endres

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

Member Conaboy moved to have a flexible agenda. Member Snow seconded the motion. The motion carried unanimously.

Agenda Item 1 – Public Comment

Kara Hendricks, representing Nevada Virtual Academy, spoke about changes the school would like to see for R089-16P. Her comments are attached. Victoria Neer, representing Nevada Connections Academy, spoke about changes the school would like to see in R089-16P. Her comments are attached.

Agenda Item 2 – Public Hearing and Possible Adoption of Proposed Regulation R087-16. The proposed regulation, R087-16, amends NAC 386 to revise the deadlines for an application for a loan from the Account for Charter Schools, revises the dates on which the Authority must determine the balance of money in the Account, and requires that, to the extent permitted by law, the Authority may expend money obtained by a grant, gift, bequest, or donation which requires terms different than those established by the Authority in accordance with the terms of the grant, gift, bequest, or donation.

Director Gavin and the Authority Board discussed the proposed regulation. SB509, codified in NRS 388A, requires the State Public Charter School Authority to adopt regulations prescribing the deadline for submission of an application for a loan from the Account for Charter Schools and allows the Authority to adopt such other regulations as it deems necessary to carry out the provisions of law related to the Account. The SPCSA held a regulation workshop on January 8, 2016 to solicit public comment on the proposed regulation. The SPCSA sent the proposed regulation to interested stakeholders and published to the SPCSA website on October 5, 2016 for further comment from the public. The SPCSA

held public comment at the November 4, 2016 Regulation hearing where interested parties were welcome to submit testimony regarding the proposed regulations.

Member Conaboy moved for approval of R087-16P with proposed SPCSA staff changes and posted on the SPCSA website. Member Snow seconded. There was no further discussion. The motion passed unanimously.

Agenda Item 3 – Public Hearing and Possible Adoption of Proposed Regulation R088-16. The proposed regulation, R088-16, adds new language to Chapter 388A of NAC. It requires that a charter school sponsored by the State Public Charter School Authority use a unique identifier to identify itself and use a unique identified for any campus of a charter school. The regulation also provides that each such charter school shall maintain and report certain data to the State Public Charter School Authority both as aggregate data for the charter school as a whole and separately for each campus of the charter school in a format that allows for both the evaluation of each campus of the charter school and the charter school as a whole.

Director Gavin and the Authority Board discussed the proposed regulation. SB509, codified in NRS 388A, permits the State Public Charter School Authority to adopt regulations establishing requirements concerning the manner in which it reports data including, without limitation, the manner in which data must be aggregated or disaggregated in any report. The SPCSA held a regulation workshop on January 8, 2016 to solicit public comment on the proposed regulation. The SPCSA sent the proposed regulation to interested stakeholders and published to the SPCSA website on October 5, 2016 for further comment from the public. The SPCSA held public comment at the November 4, 2016 Regulation hearing where interested parties were welcome to submit testimony regarding the proposed regulations.

Member Conaboy moved for approval of R088-16P as posted on the SPCSA agenda dated September 28, 2016. Member Mackedon seconded. There was no further discussion. The motion passed unanimously.

Agenda Item 4 – Public Hearing and Possible Adoption of Proposed Regulation R089-16. The proposed regulation, R089-16, creates a new section of NAC 388A. It establishes the contents and process for the submission of an application to form a charter school to the State Public Charter School Authority; establishes the contents and process for the submission of a request to amend a written charter, or charter contract, as applicable, to the State Public Charter School Authority; establishes the contents and process for the submission of a request to renew a charter contract, as applicable, to the State Public Charter School Authority; and establishes provisions relating to the investigation and evaluation of such applications and requests by the State Public Charter School Authority.

Director Gavin and the Authority Board discussed the proposed regulation. SB509, codified in NRS 388A, requires the State Public Charter School Authority to adopt regulations prescribing the contents and process for submission to the State Public Charter School Authority of applications to form a charter school, to amend a written charter or charter contract, or to renew a charter contract; and the procedure for the investigation of and criteria to evaluate such applications. SB509 also authorizes the State Public Charter School Authority to establish different timelines and review procedures for different types of applicants and to establish an abbreviated application. The SPCSA held a regulation workshop on January 8, 2016 to solicit public

comment on the proposed regulation. The SPCSA sent the proposed regulation to interested stakeholders and published to the SPCSA website on October 5, 2016 for further comment from the public. The SPCSA held public comment at the November 4, 2016 Regulation hearing where interested parties were welcome to submit testimony regarding the proposed regulations.

Member Conaboy stated that she would be abstaining from the vote because one of the public comments submitted earlier at the meeting is a current client in her private work.

Member Mackedon moved for approval of R089-16P dated November 1, 2016 with revisions proposed by SPCSA staff and noted amendments taken at the November 4 meeting. Member Luna seconded. There was no further discussion. The vote passed unanimously. Member Conaboy abstained.

Agenda Item 5 – Public Comment

There was no public comment in Carson City and Las Vegas

Chair Johnson adjourned the meeting at: 4:46 pm

Kara B. Hendricks
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hendricksk@gtlaw.com

November 3, 2016

VIA ELECTRONIC MAIL

Mr. Adam Johnson
Chair, Nevada State Public Charter School Authority
1749 North Stewart Street
Suite 40
Carson City, NV 89706-2543
ajohnson@spesa.nv.gov

***Re: Nevada State Public Charter School Authority
Regulation Hearing
November 4, 2016***

Dear Chairman Johnson:

Please be advised that Nevada Virtual Academy (“NVVA”) intends to appear at the Regulation Hearing that is scheduled for tomorrow afternoon and will request that the adoption of Proposed Regulation R089-16 be postponed.

NVVA participated in the regulatory workshop that was held on January 8, 2016 and provided comments regarding what was proposed. However, what is now before the Nevada State Public Charter School Authority (“Authority”) for approval is substantially different than what was presented for comment in January. Additionally, despite representations at the January workshop that there would be additional discussions regarding the applicability of NRS 233B to the Authority, we have not had the ability to confer regarding the issue and no additional workshops have been held. Prior to adoption of the proposed regulation, we would request that an additional workshop be facilitated to allow for broader comment and possible revisions.

Not only does Proposed Regulation R089-16 raise new issues relating to NRS 233B that need to be fully vetted and amended prior to adoption, but NVVA has a number of other concerns regarding the scope of the proposed regulations which in some instances appears to extend beyond what was intended by the legislature and/or conflict with existing statutes. In other instances, clarifying language is needed as there is conflicting language in what was proposed. Attached to this correspondence is a red-line of Proposed Regulation R089-16 which we hope will aide further discussion. Because public comment is limited at the hearing tomorrow to 3 minutes, we will ask that this letter and NVVA’s comments regarding the Regulation be made a part of the official record.

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Mr. Adam Johnson
Chair, Nevada State Public Charter School Authority
November 3, 2016
Page 2

Should you have any questions or concerns regarding the above, please do not hesitate to contact me.

Very truly yours,



Kara B. Hendricks, Esq.

Enclosure as stated

cc: Melissa Mackedon, Vice Chair
Kathleen Conaboy, Board Member
Nora Luna, Board Member
Stavan Corbett, Board Member
Jacob Snow, Board Member
Jason Guinasso, Board Member
Gregory Ott, Deputy District Attorney
Patrick Gavin, Executive Director
Anne Mendenhall, Board President, NVVA

November 4, 2016

Patrick Gavin
Executive Director
State Public Charter School Authority
1749 N. Stewart Street
Carson City, Nevada 89706

Members of the Board of the State Public
Charter School Authority
1749 N. Stewart Street
Carson City, Nevada 89706

Re: Nevada Connections Academy (“NCA”) Comments on Proposed Regulations

Dear Director Gavin and Members of the Board,

Thank you for the opportunity to comment on the draft regulation R089-16P (the “Draft Amendment Regulation”). We appreciate that certain changes have been made to the Draft Regulation as it was previously proposed in December 2015 and respectfully request you consider further modifications.

The Draft Regulation exceeds the SPSCA’s statutory authority and violates the statutory requirements for the mandated regulations. Under NRS 388A.169 the SPSCA is required to adopt regulations that prescribe “the process” for submission of an amendment to a written charter or charter contract “and the contents of such an application.” N.R.S. 388A.168 (3). The statute does not authorize the SPSCA to expand the circumstances under which an amendment is required – especially in the manner proposed under the Draft Regulation. As an administrative agency, the SPSCA is limited to those powers specifically set forth in statute, here, NRS Chapter 388A. See *Andrews v. Nevada State Board of Cosmetology*, 467 P.2d 96 (1970). The grant of authority to an agency must be clear in the statute, otherwise, the agency lacks the power. *Id.* Several of the proposed provisions in the Draft Amendment Regulation exceed the agency’s statutory authority and, therefore, are ultra vires:

- Section 10, subsection (1)(b) requires the director’s approval for a charter school to submit external evaluations of academic data relevant to a renewal application. This is in direct conflict with the provisions of NRS 388A on renewal applications.
- Section 10, subsection (4) prohibits an application for renewal from containing “a material change from the existing charter contract.” This too violates NRS 388A on renewal applications and makes no sense given that the renewal process is contemplated (as provided in statute) as involving a collaborative dialogue between the sponsor and the charter school which may identify concerns and need for changes in operations or academics or otherwise that the agency would consider “material.” In addition, the SPSCA’s recent proposed draft charter contract states the authority shall decide what is “material” for purposes of the charter contract which places absolute power in the agency and potentially the director to attempt to prohibit a school from presenting critical information for its renewal application. This violates express provisions of NRS 388A and also deprives the school of its autonomy and ability to implement or even propose innovation.

- Section 10 also unlawfully interferes with the school's ability to present information the school believes is important and relevant to its renewal application – until the director decides he will recommend denial of the application.
- Section 11 states that renewal of a charter will be in the Authority's "sole discretion" – this is beyond the statutory authority and ultra vires.

In addition, Section 7, subsection (3)(f) and (3)(g) of the Draft Amendment Regulation suggest that a charter amendment is necessary to change the membership of the governing body of the charter school. There is no statutory authority to require an amendment of a charter for such a day-to-day operational situation and, indeed, suggesting such membership must be approved by the Authority or its Director is an improper assertion of control over the charter school. NRS 388A.320 sets forth the clear requirements for membership and qualifications for governing board members and provides for removal of members convicted of certain crimes. Aside from these requirements, no further regulatory approval of governing board members of a charter school is lawful or appropriate. An agency only has the power to promulgate regulations within the express authority granted by the Legislature. Accordingly, this provision is unlawful and exceeds the Authority's jurisdiction. In addition, proposing the regulation violates the Executive Director's duties under NRS 388A.196 to "[e]nsure the autonomy provided to charter schools in this State pursuant to state law and regulation is preserved." N.R.S. 388A.196(4).

Section 7, subsection (e) purports to require a charter amendment for any change to the academic program of the school. This is unreasonably and unnecessarily broad and unlawfully encroaches upon the school's autonomy. No school could possibly operate under such a requirement nor could the Authority keep up with the number of amendments this could generate. This unreasonably interferes with a school's operations and is beyond the SPSCA's statutory authority. NRS 388A.279 provides the charter amendments that require approval by the SPSCA and, while it is not an exhaustive list, it is emblematic of the materiality required before an amendment is necessary: expanding the school to offer instruction to new grade levels; increasing the enrollment in a particular grade level to more than 120%; seeking to acquire an additional facility; or consolidating operations of multiple charter schools. Requiring a charter amendment for the most minor of instructional changes which could be considered within a "change to the academic program of the school" goes beyond the statutory authority and intent. The existing regulations governing amendment track those in the statute and then provide for a determination as to materiality of an amendment and that a nonmaterial amendment does not require the sponsor's approval. NAC 386.3269. This is a lawful and reasonable regulation compliant with the statutory authority.¹ Revising or replacing the existing regulation with one that requires amendments for changes in a governing board and in any academic program is unlawful and interferes with autonomy and innovation. The Nevada Legislature's intention in creating the SPSCA was to increase school choice and encourage innovation – preserve charter school autonomy – and "foster a climate in this State in which all charter schools, regardless of sponsor, can flourish." N.R.S. 388A.150. Not only does the Draft Amendment Regulation exceed the agency's statutory authority, it violates the very purpose of the SPSCA as expressly stated by the Nevada Legislature.

¹ These existing regulations also demonstrate compliance with NRS 388A.168 to identify the procedure for investigation to consider an amendment application and the criteria for approval of such an application – the Draft Amendment Regulation omits these statutorily required details.

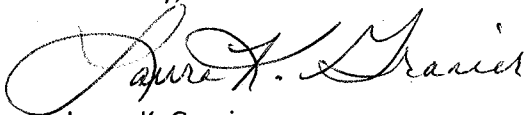
These overly broad requirements for amendments to a charter are combined with the arbitrary attempt to limit evidence and testimony a charter school may submit in support of such an amendment, according to Section 9 of the Draft Amendment Regulation. There is no statutory basis to limit the evidence an applicant can provide an agency for such a regulatory hearing and review process and, in fact, such an arbitrary and unreasonable attempt to limit such evidence to be offered to the agency is ultra vires and violates fundamental principles of due process and the Nevada Administrative Procedures Act, NRS Chapter 233B. One must also question why an agency would seek to prohibit a charter school from presenting information and evidence it believes is important for the SPSCA to hear relative to an amendment.

The Draft Amendment Regulation also fails to provide statutorily mandated details – “the procedure for the investigation” of an application for an amendment and the “criteria” that the SPSCA “will use to evaluate such applications.” N.R.S. 388A.168(4). The SPSCA is statutorily required to adopt regulations that include these details. The Draft Amendment Regulation is legally defective as it is silent on these critical elements the Legislature deemed necessary. These statutory provisions also limit the authority of the SPSCA to adopt regulations and the Draft Regulation exceeds that lawful authority.

The SPSCA also is required to develop policies and practices that describe how the sponsor will maintain oversight of its charter schools including an assessment of the needs of the charter schools sponsored by the sponsor that is prepared with input of the governing bodies of such charter schools and a description of the process of evaluation for charter schools. NRS 388A.223. We respectfully request that the SPSCA commence proceedings to gather input from the governing bodies to develop these policies.

Again, we appreciate the opportunity to work with you on these important matters and, we request an additional workshop with meaningful opportunity for stakeholder input similar to the workshops previously conducted by former SPSCA Director Canavero. We also incorporate by reference our letter submitted January 22, 2016 as certain of the concerns previously identified have not been addressed.

Sincerely,



Laura K. Granier
Partner
for
DAVIS GRAHAM & STUBBS LLP

LKG:js

November 4, 2016

Patrick Gavin
Executive Director
State Public Charter School Authority
1749 N. Stewart Street
Carson City, Nevada 89706

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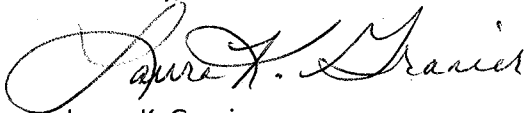
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Laura K. Granier
Partner
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DAVIS GRAHAM & STUBBS LLP

LKG:js

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November 3, 2016

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Mr. Adam Johnson
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1749 North Stewart Street
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Carson City, NV 89706-2543
ajohnson@spesa.nv.gov

***Re: Nevada State Public Charter School Authority
Regulation Hearing
November 4, 2016***

Dear Chairman Johnson:

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NVVA participated in the regulatory workshop that was held on January 8, 2016 and provided comments regarding what was proposed. However, what is now before the Nevada State Public Charter School Authority (“Authority”) for approval is substantially different than what was presented for comment in January. Additionally, despite representations at the January workshop that there would be additional discussions regarding the applicability of NRS 233B to the Authority, we have not had the ability to confer regarding the issue and no additional workshops have been held. Prior to adoption of the proposed regulation, we would request that an additional workshop be facilitated to allow for broader comment and possible revisions.

Not only does Proposed Regulation R089-16 raise new issues relating to NRS 233B that need to be fully vetted and amended prior to adoption, but NVVA has a number of other concerns regarding the scope of the proposed regulations which in some instances appears to extend beyond what was intended by the legislature and/or conflict with existing statutes. In other instances, clarifying language is needed as there is conflicting language in what was proposed. Attached to this correspondence is a red-line of Proposed Regulation R089-16 which we hope will aide further discussion. Because public comment is limited at the hearing tomorrow to 3 minutes, we will ask that this letter and NVVA’s comments regarding the Regulation be made a part of the official record.

LV 420813346v1

Mr. Adam Johnson
Chair, Nevada State Public Charter School Authority
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Very truly yours,



Kara B. Hendricks, Esq.

Enclosure as stated

cc: Melissa Mackedon, Vice Chair
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Patrick Gavin, Executive Director
Anne Mendenhall, Board President, NVVA

**PROPOSED REGULATION OF THE
STATE PUBLIC CHARTER SCHOOL AUTHORITY**

LCB File No. R089-16

September 28, 2016

EXPLANATION - Matter in *italics* is new; matter in brackets ~~(omitted material)~~ is material to be omitted.

AUTHORITY: §§1, 2 and 4-15, NRS 388A.168; §3, NRS 388A.168 and 388A.258.

A REGULATION relating to charter schools; establishing the contents and process for the submission of an application to form a charter school to the State Public Charter School Authority; establishing the contents and process for the submission of a request to amend a written charter or charter contract, as applicable, to the State Public Charter School Authority; establishing the contents and process for the submission of an application to renew a charter contract to the State Public Charter School Authority; establishing provisions relating to the investigation and evaluation of such applications and requests by the State Public Charter School Authority; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Public Charter School Authority to adopt regulations prescribing: (1) the contents and process for submission to the State Public Charter School Authority of applications to form a charter school, to amend a written charter or charter contract and to renew a charter contract; and (2) the procedure for investigation of and the criteria used to evaluate such applications. (NRS 388A.168) Existing law also authorizes the State Public Charter School Authority to establish different timelines and review procedures for different types of applicants and to establish an abbreviated application. (NRS 388A.258)

Section 3 of this regulation authorizes the Executive Director of the State Public Charter School Authority to develop an abbreviated application and invite a prospective applicant who submits an abbreviated application to submit an application to form a charter school. **Section 4** of this regulation prescribes the periods during which an application to form a charter school may be submitted to the State Public Charter School Authority. **Section 4** establishes the contents of an application to form a charter school and the process for the review of such an application by the State Public Charter School Authority. **Section 4** also establishes the criteria that the State Public Charter School Authority will consider when evaluating an application to form a charter school. **Section 6** of this regulation establishes a process for an applicant to form a charter school to request to be designated as a proven provider. If an applicant is designated as a proven provider, **section 6** provides that the applicant is exempt from the application deadlines

which would otherwise apply and may be given priority by the State Public Charter School Authority.

Section 7 of this regulation prescribes the periods during which a request to amend a written charter or charter contract, as applicable, may be submitted to the State Public Charter School Authority or the Executive Director. **Section 7** establishes the contents of a request to amend a written charter or charter contract, as applicable, and the process for review of such a request by the State Public Charter School Authority or the Executive Director, as applicable. **Section 7** also establishes the criteria that the State Public Charter School Authority or the Executive Director, as applicable, will consider when evaluating a request to amend a written charter or charter contract. **Section 9** of this regulation authorizes the State Public Charter School Authority to specify additional conditions in certain circumstances and authorizes the Executive Director to prohibit a charter school from beginning or continuing to operate as a charter school if it fails to satisfy such additional conditions. **Section 9** also requires a charter school which receives a charter contract or approval of an amendment to a written charter or charter contract, as applicable, to submit certain documents for review by the State Public Charter School Authority.

Section 10 of this regulation prescribes the period during which an application for renewal of a charter contract may be submitted to the State Public Charter School Authority. **Section 10** establishes the contents of an application for renewal and the process for the review of an application for renewal by the State Public Charter School Authority. **Section 10** requires the Executive Director to review each application for renewal and submit a recommendation regarding each application to the State Public Charter School Authority. **Section 10** also establishes the criteria that the State Public Charter School Authority will consider when evaluating an application for renewal and provides the various terms under which the State Public Charter School Authority may renew or deny the renewal of a charter contract.

Sections 5, 8 and 11 of this regulation require a person who submits an application to form a charter school, a request to amend a written charter or charter contract, as applicable, or an application to renew a charter contract to the State Public Charter School Authority to submit an additional version of the application or request to be shared with the public in which certain information is excluded or redacted.

Section 1. Chapter 388A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 6, inclusive, of this regulation, unless the context otherwise requires, “applicant” means a charter management organization or a committee to form a charter school which submits an application to form a charter school to the State Public Charter School Authority.*

Sec. 3. *The State Public Charter School Authority Executive Director may develop an abbreviated application process for submission by any*

prospective applicants that meets the criteria established by the State Public Charter School Authority, consistent with Chapter 388A of NRS. The Executive Director may, at his or her discretion, invite a

prospective applicant who submits such an abbreviated application to submit an application to form a charter school.

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Comment [NVVA1]: The SPCSA must set forth the criteria so that all parties are treated equally and have advance notice of the criteria for the expedited application process.

Sec. 4. *1. Except as otherwise provided in this section and section 6 of this regulation, an application to form a charter school must be submitted to the State Public Charter School Authority by an applicant on or after January 1 and on or before January 15 or on or after August 1 and on or before August 15 of each year. A prospective applicant must submit a*

written notice of intent to submit an application to form a charter school to the Executive

Director not less than 30 days before submitting the application. The Executive Director State

Public Charter School Authority may,

upon request and for good cause shown, accept an application to form a charter school at any

time. An application to form a charter school must comply with section 5 of this regulation

and be submitted on a form, which must be prescribed and published for prospective applicants

at least one year prior to the application due date, by the Executive Director State Public Charter

School Authority which must include, without

limitation:

(a) A detailed timeline for the selection review and consideration of an application to form a charter school;

(b) Any prerequisites for conferences with and training of an applicant;

(c) The statutory criteria and procedures which will be used to score review applications by staff and review panels and to conduct interviews with applicants;

(d) The statutory criteria which will be used to select approve an application to form a charter school;

including, without limitation, the minimum score necessary for an application to be eligible for selection; and

(e) The earliest date on which an applicant that is selected whose application is approved to

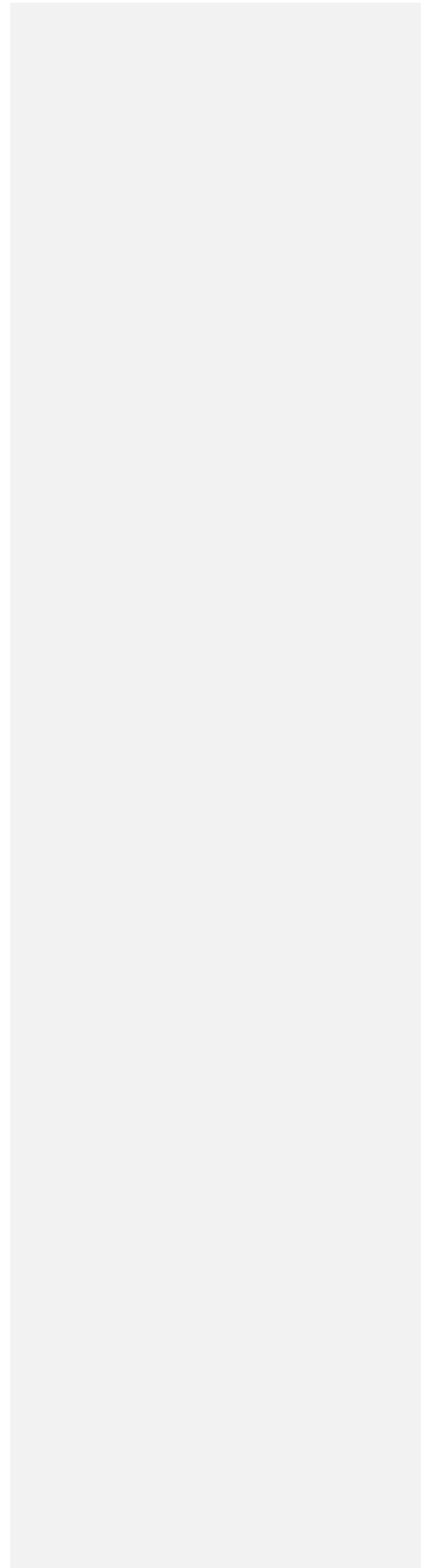
Comment [NVVA2]: Statute does not require notice of intent to submit and would create additional burdens not contemplated by law.

Comment [NVVA3]: Completing the application process is very time-consuming and applicants begin the process well over a year in advance. The forms and guidance that must be followed should be available to applicants at least one year prior to their application being submitted.

Comment [NVVA4]: The proposed rules repeatedly use the term "selection" when that term does not appear in statute. Applications are review and approved or denied. There is no "selection" which creates the impression that there is subjectivity in the process and selectivity when that is not in state law.

Comment [NVVA5]: State law does not specifically allow for a scoring rubric and instead requires that an application be reviewed to see if it meets the statutory requirements. There is no weighting of criteria or subjectivity that goes into a scoring process allowed under state law.

form a charter school may open the charter school.



2. *The State Public Charter School Authority will ~~examine-consider~~ each application submitted*

pursuant to this section at a meeting which must be held not later than sixty (60) days after receipt of the application. Notice of the meeting must be posted in accordance with Chapter 241 of NRS. The State Public Charter School Authority shall review the application in accordance with the requirements for review set forth in subsections 2 and 3 of NRS 388A.249. The State Public Charter School Authority may approve an application only if it satisfies the requirements of subsection 3 of NRS 388.249. Not later than thirty (30) days after the meeting, the State Public Charter School Authority shall provide written notice of its determination to the applicant. If the State Public Charter School Authority denies or fails to act upon an application, the denial or failure to act must be based upon a finding that the applicant failed to satisfy the requirements of subsection 3 of NRS 388A.249. The State Public Charter School Authority shall include in the written notice the reasons for the denial or the failure to act and the deficiencies in the application. The staff designated by the State Public Charter School Authority shall meet with the applicant to confer on the method to correct the identified deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application. If the State Public Charter School Authority denies an application after it has been resubmitted pursuant to this subsection, the applicant may, not more than thirty (30) days after the receipt of the written notice from the State Public Charter School Authority, appeal the final determination to the district court of the county in which the proposed charter school will be located. ~~If the State Public Charter School Authority determines that an~~

~~application is incomplete or does not satisfy the requirements of this chapter or chapter 388A of NRS, the State Public Charter School Authority will not process the application. The failure of the State Public Charter School Authority to identify or notify an applicant of a deficiency during its review of an application does not constitute a waiver of the appropriate requirement.~~

3. *An applicant may withdraw an application to form a charter school or waive the application consideration and approval timeline for selection described in the application by providing written notice to the State Public Charter School Authority.*

4. *The State Public Charter School Authority will establish an application review panel composed of employees of the State Public Charter School Authority, parents of students enrolled in a charter school, board members of charter schools in good standing, teachers from charter schools in good standing, business managers from charter schools in good standing and appropriate experts who possess knowledge and expertise with regard to the academic, financial, and organization experience of charter schools - selected by the Executive Director. After the State Public Charter School Authority staff has determined that an application is complete, the State Public Charter School Authority will:*

(a) Publish the application on its Internet website; and

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Comment [NVVA6]: This language directly conflicts with state law, which requires the Authority to notify the applicant of any deficiencies, work with the applicant to address the deficiencies, and allow for resubmission.

(b) Submit the application to the application review panel to review ~~and score the~~ application in accordance with the criteria ~~described in the application~~ for approval of an application, as set forth in subsection 3 of NRS 388A.249.

5. The members of the application review panel established pursuant to subsection 4:

(a) Shall review applications to determine whether each application meets the statutory requirements for an application;

(b) Shall, through a designated person or group of persons, conduct an interview with each applicant pursuant to an interview rubric developed in Section 4.c. to assess the qualifications of the applicant and the capacity of the applicant to open and operate a charter school and report to the State Public Charter School Authority and to provide the applicant with an opportunity to provide clarification and additional information where the review or reviewers have questions;

(c) Shall not discuss applications with any person other than the State Public Charter School Authority and its employees and other review panelists;

(~~bd~~) Shall not accept meals, entertainment, gifts or gratuities in any form from any person or organization with an interest in the results of the ~~selection-review~~ process; and

(~~ee~~) Shall immediately disclose to the State Public Charter School Authority the discovery of any past or present relationship with an applicant, including, without limitation, with any

current or prospective employee, agent, officer or director of the sponsor of the proposed charter school, any affiliated entity or any other person with an interest in the application.

6. After the application review panel ~~reviews and scores an application~~ completes each application review, the panel shall forward the application and its determination if the application meets the approval criteria of Section 3 of NRS 388A.249 to the State Public Charter School Authority ~~for review to take action on the application within the statutory timeframe for the application process. The applicant shall be provided a copy of all comments and recommendations from review panelists and Authority staff members at least fourteen (14) days prior to the meeting at which the State Public Charter School Authority is scheduled to take action.~~ The State Public Charter School Authority:

(a) Will review the determination of the review panel as to whether the review panel finds that the application meets the statutory requirements for approving an application ~~and evaluate all application materials according to the criteria established in subsection 7;~~

(b) ~~May consider the score given to the application by the application review panel and consider any comments made by the panel;~~

(c) ~~Will designate a person or a group of persons to conduct an interview with each such applicant to assess the qualifications of the applicant and the capacity of the applicant to open and operate a charter school and report to the State Public Charter School Authority; and~~

(d) ~~Will determine whether to select~~ approve the application to form a charter school based solely on documented evidence collected through the process of reviewing the application and shall not base any such decision on outside information, which is not part of the application process.

7. The State Public Charter School Authority will consider, without limitation, whether the applicant has demonstrated the capacity to:

(a) Further the purposes for the establishment of charter schools pursuant to chapter 388A of NRS;

(b) Comply with all laws and regulations affecting charter schools, including, without

limitation, laws and regulations concerning pupils with disabilities, pupils who are English language learners, pupils who are academically behind their peers and gifted pupils;

(c) ~~Meet its projections for enrollment through a demonstration of~~ Demonstrate support for the

proposed charter school in the communities from which pupils would be likely to enroll;

Comment [NVVA7]: State law only requires that a demonstration of public support be evidenced, not a requirement to meet the projection for enrollment.

(d) Develop and implement a plan for recruitment and retention consistent with the provisions of this chapter and chapter 388A of NRS;

(e) Involve parents and guardians as partners in the education of their children;

(f) Develop a proposed program which enhances options for pupils in the areas served by the proposed charter school;

(g) Develop a management structure and plan which enables the proposed charter school to ~~function at a high level of performance and which will~~ achieve the goals and mission set forth in its application charter, including, without limitation, information about the proposed staff and members of the governing body of the proposed charter school and the roles, responsibilities and manner of selection of the governing body;

Comment [NVVA8]: This is not set forth in statute

(h) Develop bylaws which govern the governing body of the proposed charter school in a manner consistent with this chapter and chapter 388A of NRS;

(i) Develop a management structure and plan which enables the governing body of the proposed charter school to oversee multiple campuses or a network of charter schools, including the roles and responsibilities of school leaders and administrators, if applicable;

(j) Assure that pupils enrolled in the proposed charter school will substantially meet the same performance standards and assessment requirements for pupils in other public schools within similar state-level accountability frameworks;

(k) Develop goals for the end of the first year and the fifth year of the charter contract for the proposed charter school to help measure the progress and success of the school in fulfilling the terms of its charter which:

(1) Supplement the indicators, metrics and measurements contained in the performance framework established equally by the State Public Charter School Authority and applicant; and

(2) Are specific to the mission of the proposed charter school, if applicable;

- (l) Effectively administer its educational programs, school operations and finances;*
- (m) Establish a process to provide to pupils, parents, guardians, the State Public Charter School Authority, other interested parties and the public all information required to be provided by state and federal laws and regulations and to provide to the State Public Charter School Authority, the Department of Education, the State Board of Education, the Governor and the Legislative Counsel Bureau such information as those entities may request;*
- (n) Develop an enrollment policy consistent with the provisions of this chapter and chapter 388A of NRS;*
- (o) Ensure the thoroughness and accuracy of the information contained in its application;*
- (p) Provide school facilities which comply with all applicable municipal building codes and other applicable laws and which are adequate to meet the program requirements of the proposed charter school;*
- (q) Develop a governing body with the capacity to effectively govern the proposed charter school and, if applicable, to effectively govern more than one campus or school; and*
- (r) Build a network of charter schools, if applicable.*

8. If an applicant, or any person who is a member of a group comprising an applicant, has a current or previous relationship with a charter school in this State, the State Public Charter School Authority ~~and the Executive Director~~ may consider all information relating to the applicant's specific role and contributions to the performance of such a charter school when ~~evaluating~~ reviewing the application of the applicant.

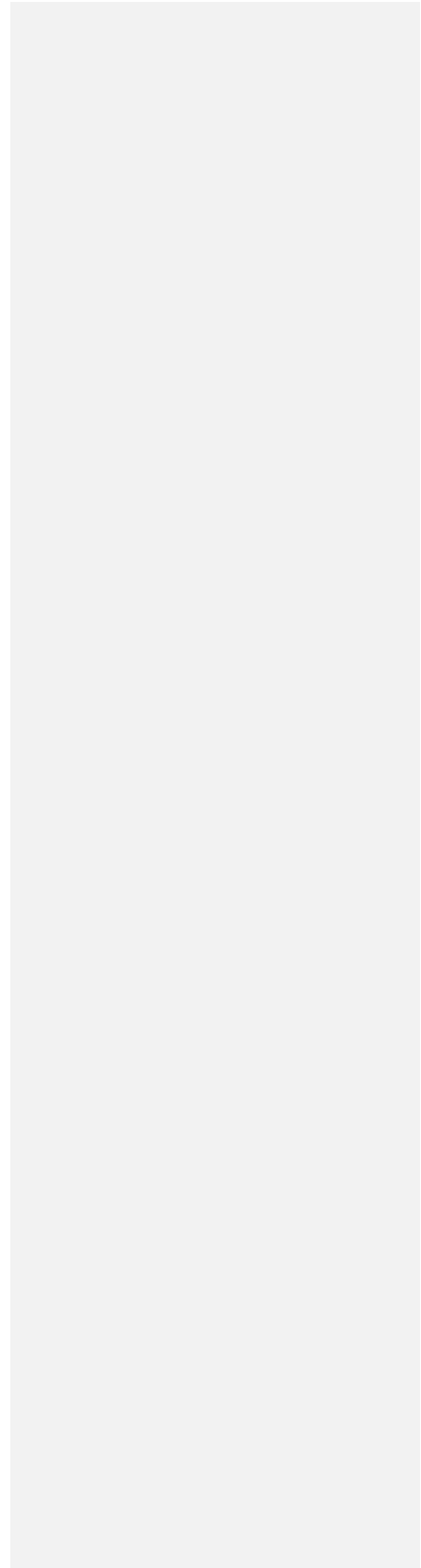
~~*9. The decision of the State Public Charter School Authority on whether to select an applicant to form a charter school is a final decision.*~~

10. If the State Public Charter School Authority ~~selects~~ approves an application to form a charter school pursuant to this section, the applicant must submit a draft of each document required

Comment [NVVA9]: This directly conflicts with state law, which allows for an appeal to district court. Language has been added up above making clear the appellate rights of applicants.

--7--

LCB Draft of Proposed Regulation R089-16



pursuant to section 9 of this regulation to the State Public Charter School Authority for review and approval before opening the charter school.

Sec. 5. *1. In addition to the application to form a charter school submitted pursuant to section 4 of this regulation, each applicant shall submit a version of the application which excludes or redacts from the application and any related material to be shared with the public:*

(a) Proprietary material.

(b) Copyrighted material.

(c) Any documents which may violate the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, by identifying potential pupils of the proposed charter school, including, without limitation, sign-in lists from public meetings relating to the charter school, photographs of current pupils if the school is currently operating, photographs of potential pupils and letters of support from potential parents or pupils of the proposed charter school.

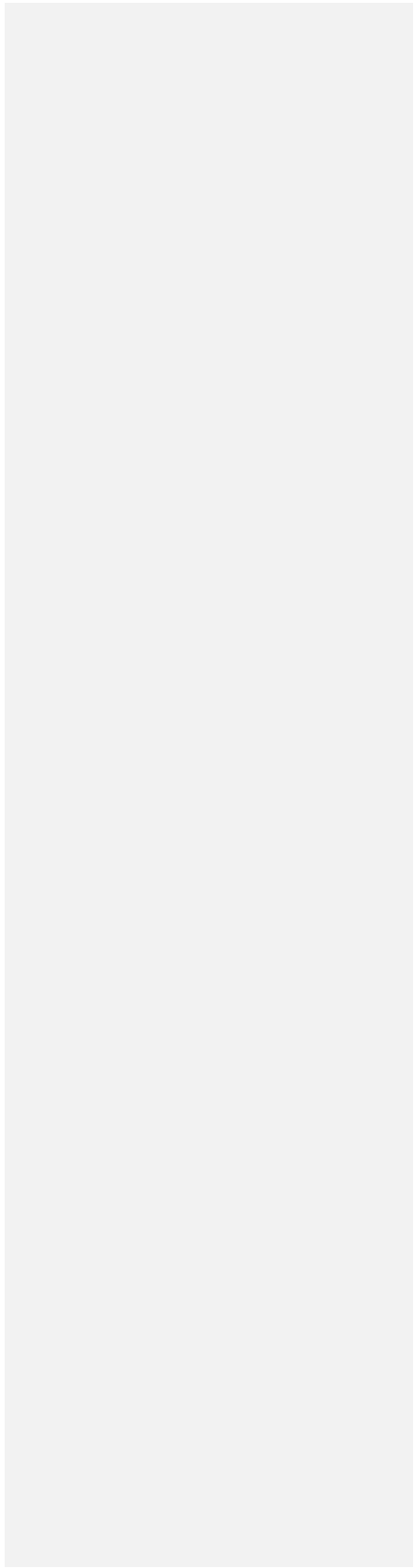
(d) Any other information or documentation which may not be released to the public in accordance with state or federal law or regulation.

2. The Executive Director may reject and require resubmission of an application submitted pursuant to subsection 1 if the Executive Director determines that publishing the application on the Internet website maintained by the State Public Charter School Authority would violate any state or federal law or regulation applicable to the State Public Charter School Authority, including, without limitation, 29 U.S.C. § 794d.

Sec. 6. ~~*1. When submitting an application to form a charter school to the State Public Charter School Authority pursuant to section 4 of this regulation, an applicant may request that the Executive Director designate the applicant as a proven provider. A request for designation as a proven provider must be submitted on a form prescribed by the Executive*~~

Comment [NVVA10]: This is not established in state law nor a power given to the ED, separate from the powers entrusted to the SPCSA. If this is meant to be an abbreviated or expedited application process, it should be set forth as such by the SPCSA, and they must make that determination.

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~~Director which must include, without limitation, a detailed description of the significant management or leadership role or responsibility of the charter management organization or committee to form a charter school at a successful school or similar program and evidence that the charter management organization or committee to form a charter school, as applicable:-~~

~~(a) Achieved academic success at the school or similar program by demonstrating success in the academic performance of pupils and the implementation of successful academic programs, including, without limitation, by submitting information showing:-~~

~~(1) Proficiency levels and growth measures on the statewide system of accountability for public schools or equivalent assessments for all pupils and for one or more targeted subgroups of pupils which are sufficient for the school to perform at the top two tiers on the statewide system of accountability for public schools or at a similar level on any successor system;-~~

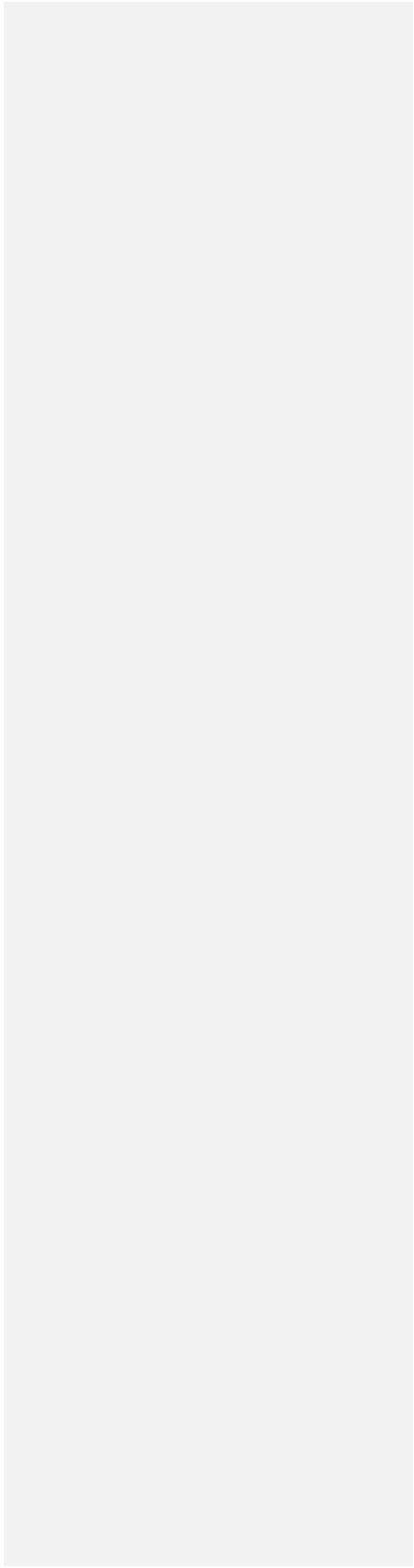
~~(2) Pupil performance on other standardized tests over a period of at least 3 years which demonstrates achievement levels for pupils and, if available, for cohorts of pupils that are similar to statewide averages in English language arts and mathematics for all pupils in this State at comparable grades; and~~

~~(3) Graduation and dropout data, if applicable;-~~

~~(b) Operated a viable organization at the school or similar program by demonstrating:-~~

~~(1) Effective governance, financial management and implementation of plans for recruitment and retention at the school or similar program;~~

~~(2) Compliance with all applicable state and federal laws and regulations by the school or similar program; and~~



~~(3) Any other information relating to the school or similar program determined to be relevant by the State Public Charter School Authority; and~~

~~(c) Has submitted an application to form a charter school which contains evidence that:~~

~~(1) The proposed charter school will serve a population of pupils which is similar to the population served by the school or similar program; and~~

~~(2) The educational programs at the proposed charter school will be similar to or represent a reasonable modification of the educational programs at the school or similar program.~~

~~2. If the Executive Director determines that an applicant has fulfilled the requirements of subsection 1, the Executive Director shall designate the applicant as a proven provider.~~

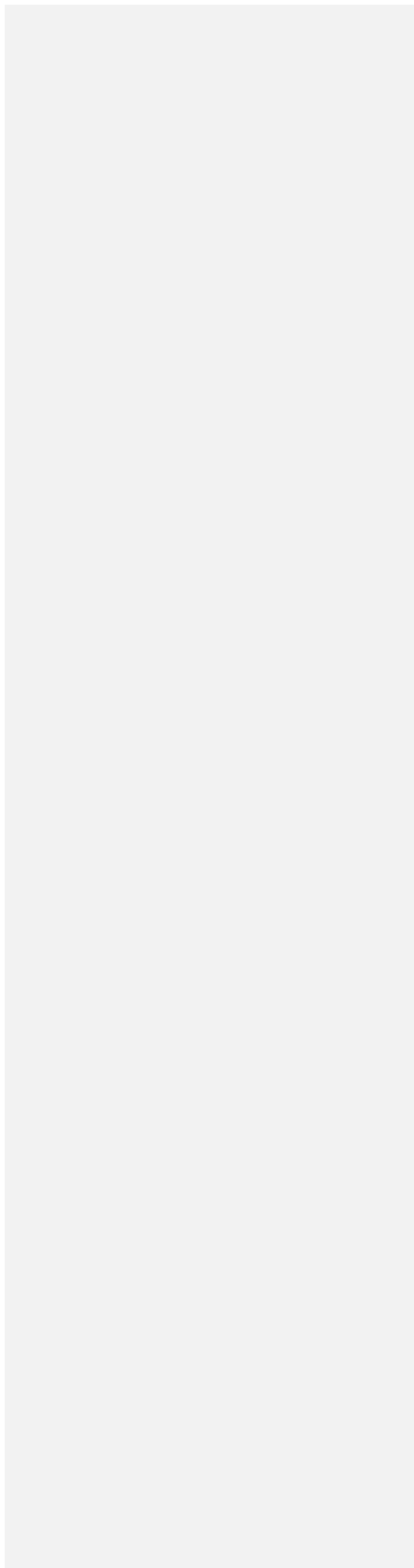
~~3. A proven provider may submit its application to form a charter school at any time. The State Public Charter School Authority may give priority to an application to form a charter school submitted by a proven provider when reviewing applications.~~

~~4. If the Executive Director believes that an applicant or potential applicant may qualify to be designated as a proven provider, the Executive Director may, in his or her discretion, invite the applicant or potential applicant to request designation as a proven provider pursuant to this section.~~

NEW FIRST
PARALLEL
SECTION

Sec. 7. 1. A charter school sponsored by the State Public Charter School Authority that wishes to amend the ~~material~~ terms of its written charter or charter contract, as applicable, pursuant to NRS 388A.276 shall submit a request to amend its written charter or charter contract, as applicable, to the State Public Charter School Authority or the Executive Director, as applicable, for approval pursuant to this section. ~~Except as otherwise provided in this section, such a request must be submitted to the State Public Charter School Authority or the~~

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~~Executive Director on or after March 1 and on or before March 15 or on or after
October 1~~

Comment [NVVA11]: State law does not require amendments to occur in a two week window. The charter school is allowed to request an amendment at any time.

~~and on or before October 15 of each year. A charter school must submit a written notice
of~~

~~intent to submit a request to amend its written charter or charter contract, as applicable, to the
State Public Charter School Authority or the Executive Director not less than 30 days before
submitting the request. The State Public Charter School Authority or the Executive Director may,
upon request and for good cause shown, accept a request to amend a written charter or charter
contract at any time.~~

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2. A request to amend the material terms of a written charter or charter contract relating to:

(a) The districts specified in the written charter or charter contract;

(b) The maximum enrollment of the charter school;

(c) The grades served by the charter school;

(d) ~~A~~ Entering a new contractual relationship with an educational management organization which

~~provides or~~ plans to provide substantially all the educational services offered by the charter school;

(e) The occupancy of a new or additional facility which the State Public Charter School Authority determines has the effect of increasing enrollment at the charter school;

(f) Relocation to a new facility which the State Public Charter School Authority determines does not have the effect of increasing enrollment at the charter school;

(g) The conversion of the charter school from a single-campus school to a multi-campus school or from a multi-campus school to a single-campus school;

(h) A consolidation of the written charter or charter contract, as applicable, for one or more charter schools;

(i) A change to the mission statement and admissions policy of the charter school which would change the population served by the charter school from all pupils to the pupils specified in paragraph (a) of subsection 3 of NRS 385A.740; or

(j) A change to the mission statement and admissions policy of the charter school which would change the population served by the school from the pupils specified in paragraph (a) of subsection 3 of NRS 385A.740 to all pupils,

· must be submitted to the State Public Charter School Authority for approval.

3. A request to amend the non-material terms of a written charter or charter contract relating to:

(a) The name of the charter school;

(b) A change to the mission statement of the charter school not described in paragraph (i) or (j) of subsection 2;

(c) The governance or leadership structure of the charter school;

(d) A change in the educational programs, curriculum models, methods of instructional delivery, including, without limitation, distance education, blended or other programs or designs for the whole charter school which is inconsistent with those specified in the written charter or charter contract, as applicable, including, without limitation:

(1) A change from a full-time virtual or cyber school model to a blended model or classroom-based instructional model;

(2) A change from a blended model to a full-time virtual or cyber school model or classroom-based instructional model; or

(3) A change from a classroom-based instructional model to a full-time virtual or cyber school model or blended model;

(e) A change to the academic program of the charter school not described in subsection 2;

(f) The bylaws of the charter school or its governing body;

(g) The membership of the governing body of the charter school;

(h) The schedule of the charter school, including, without limitation, the length of its academic year, school week or school day;

(i) The accountability plan for the charter school;

(j) The enrollment policy of the charter school and its application for admission; or

(k) The expulsion policy of the charter school,

· must be submitted to the Executive Director for approval.

4. The Executive Director may refer a request submitted to him or her pursuant to this section to the State Public Charter School Authority for approval.

5. A charter school may not implement an amendment to its written charter or charter contract, as applicable, unless the amendment has been voted on and approved by the governing body of the charter school and has been submitted to and approved by the State Public Charter School Authority or the Executive Director, as appropriate.

6. The State Public Charter School Authority will publish each request to amend a written charter or charter contract received by the State Public Charter School Authority or the Executive Director on its Internet website.

7. The State Public Charter School Authority and the Executive Director, as applicable, shall approve proposed amendments to a written charter or charter contract if the proposed amendments comply with the provisions of Chapter 388A. If the State Public Charter School Authority or Executive Director, as applicable, fails to approve or deny a request for an amendment within sixty (60) days after the date upon which the request was submitted, the proposed amendment will be deemed approved.

~~*may consider a*~~

~~*charter school's compliance with applicable local, state and federal laws and regulations and*~~

~~evidence relating to the academics, finance and organization of the charter school when determining whether to approve a request for an amendment to its written charter or charter contract, as applicable.~~

~~8. The State Public Charter School Authority will not approve a request to amend the terms of a written charter or charter contract pursuant to paragraph (g) of subsection 2 unless:-~~

~~(a) For a charter school requesting conversion from a multi-campus school to a single-campus school which has received funding from the United States Department of Education to plan or implement the charter school in the immediately preceding 5 years, the charter school agrees not to combine its campus with the campus of another charter school that has not received such funding; and~~

~~(b) For a charter school requesting conversion from a single-campus school to a multi-campus school, the charter school agrees to include provisions in its written charter or charter contract, as applicable, which:-~~

~~(1) Require each campus of the charter school to have a distinct academic leader who reports to the administrative head of the charter school and is responsible for the staff of his or her campus;-~~

~~(2) Allow pupils from one campus of the charter school to matriculate to another-campus automatically or, if there are insufficient spaces at a campus for matriculating pupils, in a manner that gives matriculating pupils priority over new pupils which may include, without limitation, by an internal lottery for matriculating pupils held before an external lottery for new pupils;-~~

~~(3) Require new pupils to apply to each campus of the charter school through a separate application and lottery process;-~~

~~(4) Identify the name, group of grade levels to be served and location of each campus;- and~~

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~~(5) Authorize the State Public Charter School Authority to reconstitute, restart or close each campus of the charter school separately based on the performance of each campus.~~

Comment [NVVA12]: This language conflicts with state law, which states that amendments to charters should be granted so long as they comply with Chapter 388A of NRS. Moreover, state law requires that if the request is denied, it must be placed in writing how the amendment would not comply with state law.

~~9. A charter school which submits a request to amend the terms of its written charter or charter contract, as applicable, which will come into effect within 18 months after the expiration of its existing written charter or charter contract may not submit anecdotal evidence or testimony related to data not reflected in the statewide system of accountability for public schools or the performance framework adopted by the State Public Charter School Authority and incorporated into the written charter or charter contract in support of its request.~~

Comment [NVVA13]: This is not in state law and would unduly restrict a school from an amendment that it is entitled to as a matter of right.

10. If the State Public Charter School Authority or Executive Director, as applicable, denies the request for an amendment, the State Public Charter School Authority or Executive Director, as applicable, shall provide written notice to the governing body of the charter school setting forth the specific reasons under Chapter 388A of the NRS for the denial. or, within 60 days after the date upon which the

request was submitted, fails to approve a request for an amendment submitted to him or her pursuant to this section, the governing body of the charter school which submitted the request may submit the request to the State Public Charter School Authority for review.

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~~11. The decision of the State Public Charter School Authority regarding whether to approve a request to amend a written charter or charter contract is a final decision.~~

Comment [NVVA14]: State law provides for a right of appeal related to agency action.

~~12. If the State Public Charter School Authority or the Executive Director, as appropriate, approves a request to amend a written charter or charter contract, the charter school must submit a draft of each document required pursuant to section 9 of this regulation to the State Public Charter School Authority for review and approval before implementing the amendment.~~

Comment [NVVA15]: All of the documents in Section 9 are related to a new school opening and what is needed prior to June 30. This does not pertain to an existing school that is seeking an amendment to the charter.

13. As used in this section:

(a) “Multi-campus school” means a charter school that operates two or more campuses, each of which has a distinct academic leader who is responsible for its staff and each of which

may serve the same group of grade levels or differing groups of grade levels, under one written charter or charter contract, as applicable.

(b) “Single-campus school” means a charter school that serves a specified group of grade levels with a single academic leader who is responsible for its staff and for the entire group of grade levels of the campus regardless of whether the educational programs of the charter school are delivered in one or more than one building.

(c) “Full-time virtual” means a public charter school that offers educational services predominantly through an on-line program

NEW FIRST
PARALLEL
SECTION

Sec. 8. 1. *In addition to the request to amend its written charter or charter contract, as applicable, submitted pursuant to section 7 of this regulation, each charter school shall submit a version of the request to amend its written charter or charter contract which excludes or redacts from the request and any related material to be shared with the public:*

(a) Proprietary material.

(b) Copyrighted material.

(c) Any documents which may violate the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, by identifying the current or potential pupils of the charter school, including, without limitation, sign-in lists from public meetings relating to the charter school, photographs of current or potential pupils and letters of support from current or potential parents or pupils of the charter school.

(d) Any other information or documentation which may not be released to the public in accordance with state or federal law or regulation.

2. *The Executive Director may reject and require resubmission of a request submitted pursuant to subsection 1 if the Executive Director determines that publishing the request on the Internet website maintained by the State Public Charter School Authority would violate*

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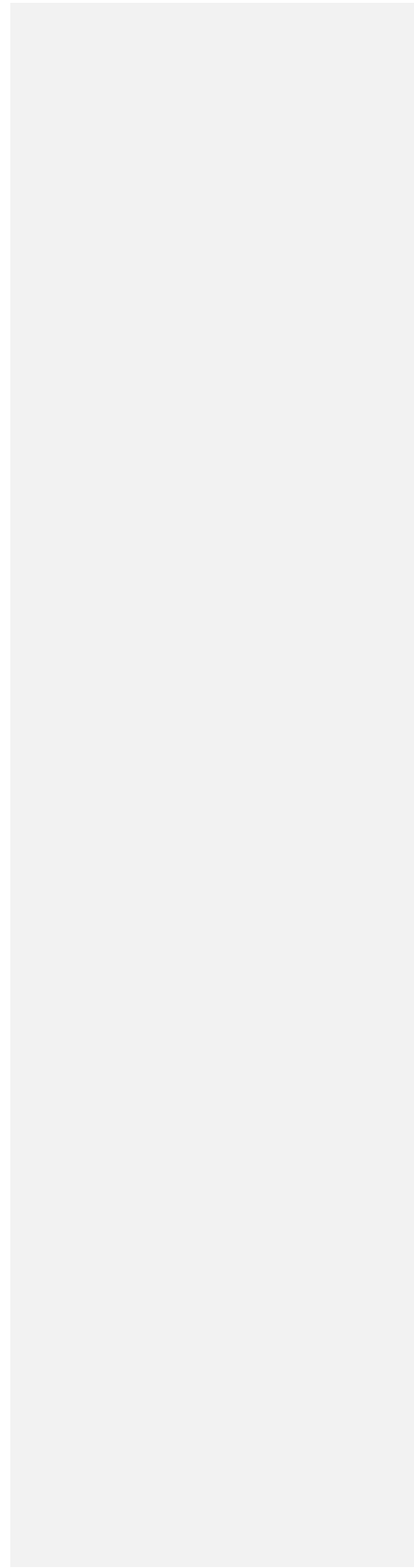
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NEW FIRST
PARALLEL
SECTION

any state or federal law or regulation applicable to the State Public Charter School Authority, including, without limitation, 29 U.S.C. § 794d.

Sec. 9. ~~*1. The State Public Charter School Authority may specify additional conditions when granting an application to form a charter school or approving a request to amend a written charter or charter contract for the purpose of occupying additional facilities. If such an applicant or charter school fails to comply with the additional conditions specified by the State Public Charter School Authority, the Executive Director may prohibit the charter school from beginning or continuing to operate as a charter school.*~~

~~*2. Upon receiving a charter contract or approval of an amendment to a written charter or charter contract, as applicable, the charter school must, on or before June 30 following receipt, submit all documents required for opening to the State Public Charter School Authority, including, without limitation:*~~

~~*(a) If the governing body of the charter school intends to procure substantially all educational services from another person or organization, the terms of the proposed management contract;*~~

~~*(b) The policies and procedures of the charter school, including, without limitation, approved bylaws, an enrollment policy and a plan for recruitment and retention of pupils;*~~

~~*(c) The criteria and procedures for the suspension and expulsion of pupils;*~~

~~*(d) Written documentation demonstrating that criminal background checks have been performed as required by state law;*~~

~~*(e) Written documentation demonstrating that any facility to be used by the charter school is approved for use as a school by the building inspector in the municipality in which the facility is located;*~~

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Comment [NVVA16]: State law is very specific on what conditions can be placed on the granting of a charter or an amendment to a charter, and this exceeds those enumerate reasons. Moreover, state law does not grant the ED the power to close schools on his own or through this path. Closure reasons are set forth in state law, and this exceeds those enumerate reasons.

(f) *Written documentation demonstrating that any facility occupied by the charter school has received a fire inspection from the appropriate fire authority;*

(g) *If explosives or flammable compounds or liquids will be used in conjunction with courses taught at the charter school, written documentation demonstrating that approval has been secured from the appropriate licensing authority in the municipality in which the facility is located; and*

(h) *Written documentation demonstrating that the charter school is in compliance with all other applicable federal and state health and safety laws and regulations, including, without limitation, evidence of compliance with any required insurance coverage.*

Sec. 10. 1. On or before June 30 immediately preceding the second to the last school year in which a charter school is authorized to operate pursuant to its charter contract, the State Public Charter School Authority shall submit to the charter school a written report summarizing the performance of the charter school and each facility that constitutes the charter school during the term of the charter contract including, without limitation:

(a) A summary of the performance of the charter school based upon the terms of the charter contract and the requirements of Chapter 388A of NRS;

(b) An identification of any deficiencies relating to the performance of the charter school which the State Public Charter School Authority has determined may result in a nonrenewal of the charter contract if the deficiencies remain uncorrected;

(c) Requirements for the application for renewal of the charter contract submitted to the State Public Charter School Authority;

(d) The criteria that the State Public Charter School Authority will apply in making a determination on the application for renewal based upon the performance framework for the charter school and the requirements of Chapter 388A of NRS. Such criteria must include, without limitation, the performance indicators, measures, and metrics included in the performance framework.

The charter school may submit a written response to the State Public Charter School Authority concerning the performance report prepared by the State Public Charter School Authority, which may include any revisions or clarifications that the charter school seeks to make to the report.

2. The governing body of a charter school sponsored by the State Public

Charter School Authority that wishes to renew its charter contract shall submit an application for renewal to the State Public Charter School Authority on a form, prescribed and published by the State Public Charter School Authority at least one year prior to the date on which the request

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~~for renewal is required by the~~

~~Executive Director.~~ Except as otherwise provided in this section, an application for renewal must be submitted to the State Public Charter School Authority on or after September 15 and on or before October 15. ~~The governing body must submit a written notice of intent to submit an application for renewal to the Executive Director not less than 30 days before submitting the application for renewal.~~ The ~~Executive Director~~ State Public Charter School Authority may, upon request and for good cause

shown, accept an application for renewal at any time. 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 State Public Charter School Authority;

(b) A summary of the academic performance of the charter school as measured against goals described in the charter application, as reported by the statewide system of accountability for public schools and any predecessor or successor accountability system and the performance framework adopted by the State Public Charter School Authority and incorporated into the charter contract or a programmatic audit

Comment [NVVA17]: State law states October 15, not October 1.

Comment [NVVA18]: State law spells out what needs to be included in the renewal, which were inadvertently left out of the proposed rules.

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conducted pursuant to state law which is aligned to the current performance framework adopted by the State Public Charter School Authority;

~~(cb)~~ A summary of the organizational performance of the charter school, which includes a description of any notices of concern or notices of breach issued to the charter school for organizational performance pursuant to either the performance framework adopted by the State Public Charter School Authority and incorporated into the charter contract or a programmatic audit conducted pursuant to state law which is aligned to the current performance framework adopted by the State Public Charter School Authority;

~~(de)~~ A summary of the financial performance of the charter school, which includes a description of any notices of concern or notices of breach issued to the charter school for financial performance pursuant to either the performance framework adopted by the State Public Charter School Authority and incorporated into the charter contract or a programmatic audit conducted pursuant to state law which is aligned to the current performance framework adopted by the State Public Charter School Authority; and

~~(ed)~~ A summary of the anticipated enrollment of the charter school for the term of the renewed charter contract.

(f) 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 State Public Charter School Authority and any response submitted by the governing body regarding the performance report; and

(g) A description of any improvements to the charter school already undertaken or planned.

~~23.~~ The governing body of a charter school may request a waiver from the requirements of subsection ~~1-2~~ which may be granted by the State Public Charter School Authority for good cause shown.

~~3.- In addition to the material required to be submitted pursuant to subsection 1, the governing body of a charter school:-~~

~~(a) Shall submit any additional material or information requested by the Executive Director; and~~

~~(b) May, consistent with the approved charter application with the approval of the Executive Director, submit external evaluations of~~

~~academic data. The data included in an external evaluation must be independently audited and verified by the person performing the evaluation. The governing body shall ensure that the external evaluation and the data included in the evaluation are provided directly to the State Public Charter School Authority. If the State Public Charter School Authority cannot validate the data or replicate the calculations used to generate the external evaluation, the State Public Charter School Authority will direct the school to enter into a contract for a separate independent evaluation of the data and calculations by a vendor selected by the State Public Charter School Authority.~~

~~Executive Director.~~

~~4. An application for renewal of a charter contract shall not contain a material change from the existing charter contract. A governing body which wishes to both renew a charter contract and materially change the terms of the charter contract must first apply for renewal pursuant to this section and subsequently request to amend the charter contract pursuant to section 7 of this regulation.~~

5. The Executive Director shall notify the governing body of a charter school upon receipt of an application to renew a charter contract and may, in his or her discretion, arrange for a site visit of the charter school to be conducted, consistent with site visit procedures approved by the State Public Charter School Authority, to obtain information relevant to the application for renewal of the charter contract. If a site visit is conducted pursuant to this subsection, the Executive Director or his or her designee shall prepare a report of the site visit.

6. The Executive Director shall review each application for renewal of a charter contract consistent with Chapter 388A of NRS ~~using the performance framework adopted by the State Public Charter School Authority and incorporated into the charter contract~~ and prepare and submit to the State Public Charter School Authority and the governing body of the charter

Comment [NVVA19]: This is not set forth in state law. Statute spells out what is required, and with the performance report and the school's response, all evaluation on the school should be done prior to the application even being submitted.

Comment [NVVA20]: State law does not impose this limitation.

Comment [NVVA21]: State law sets forth the criteria for reviewing renewal requests and the school's performance under the framework is not the only factor.

school a recommendation regarding the application. When making a

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LCB Draft of Proposed Regulation R089-16

recommendation pursuant to this subsection, the Executive Director shall consider the evidence and data gathered relating to the past performance of the charter school, including, without limitation:

(a) The information contained in the application for renewal;

(b) Any information relating to the site visit and site visit report, consistent with site visit procedures approved by the State Public Charter School Authority; and

(c) The annual reporting results of the charter school, including, without limitation, those relating to the academic achievement of pupils and compliance with state, federal and local laws and regulation; and

~~(d) Any other information that the Executive Director determines is relevant to whether the charter contract should be renewed, including, without limitation, information relating to whether renewal of the charter contract should be denied to protect the interests of pupils, families and the public because of a criminal violation, fraud, the existence of an unsafe environment, organizational instability or other serious or egregious violations of law or the charter contract of the charter school.~~

7. If the Executive Director determines that he or she will recommend that the charter contract of a charter school should not be renewed, he or she shall give written notice of his or her recommendation to the governing body of the charter school and the State Public Charter School Authority. ~~The governing body of the charter school may request that the State Public Charter School Authority postpone consideration of its application for renewal of the charter contract to allow the governing body to prepare a response to the recommendation of the Executive Director. The governing body of the charter school may, within 7 calendar days after receipt of the Executive Director's notice, submit a written response to the State Public Charter School Authority, which may include supporting affidavits, exhibits, any other documentary evidence and a written legal argument.~~

Comment [NVVA22]: State law requires compliance with state, federal, and local laws and regulations so that has been added in place of this language that is broadly worded and not narrow in scope to capture the information intended.

LCB Draft of Proposed Regulation R089-16

8. *The State Public Charter School Authority will publish each application for renewal of a charter contract received by the State Public Charter School Authority pursuant to this section and each written response received pursuant to subsection 7 on its Internet website.*

9. *Between forty-five (45) and sixty (60) days after receipt of the application for renewal from the governing board of the charter school, the State Public Charter School Authority shall hold a public hearing pursuant to chapter 233B of NRS, where such hearing will include, but not be limited to, affording the charter school the opportunity to present evidence in support of renewal, call witnesses, and be represented by counsel.*

10. *When determining whether to grant an application for renewal of a charter contract, the State Public Charter School Authority will consider the totality of the evidence presented to the State Public Charter School Authority, including, without limitation:*

(a) *The information contained in the application for renewal and presented by the charter school at the public hearing;*

(b) *Any information relating to the site visit and site visit report; and*

(c) *The recommendation of the Executive Director;*

(d) *Any information in the written response of the governing body of the charter school to the recommendation of the Executive Director, if any, which the State Public Charter School Authority determines is relevant; and*

(e) *Any other information that the State Public Charter School Authority determines is relevant to whether the charter contract should be renewed, including, without limitation, information relating to whether renewal of the charter contract should be denied to protect the interests of pupils, families and the public because of a criminal violation, fraud, the existence of an unsafe environment, organizational instability or other serious or egregious violations of law or the charter contract of the charter school.*

10. *The State Public Charter School Authority, when considering an application for renewal of a charter contract pursuant to this section:*

(a) *May accept or reject, in whole or in part, the recommendation of the Executive Director; and*

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~~(b) Will not give any one factor more weight than the academic performance of pupils; and~~

~~(e) Will, on each subsequent application for renewal, give the academic performance of pupils a greater weight than that assigned to it on the first renewal.~~

11. The State Public Charter School Authority may, unless required to terminate a charter contract or restart a charter school under a new charter contract pursuant to NRS 388A.300, in its sole discretion:

(a) Renew a charter contract for a term of 6 years;

~~(b) Renew a charter contract for a term of 6 years with a provision for a high stakes review under terms prescribed by the State Public Charter School Authority which may result in the termination of the charter contract before its expiration;~~

~~(c) Renew 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, including, without limitation, the termination of a management agreement or the renegotiation of a management agreement on terms satisfactory to the State Public Charter School Authority or the Executive Director;~~

~~(d) Deny the renewal of a charter contract for the purpose of reconstituting the governing body of the charter school pursuant to NRS 388A.330 and assigning the charter contract to a charter management organization or a new governing body which may include, without limitation, the governing body of another charter school or a governing body assembled by the Executive Director;~~

~~(e) Deny the renewal of a charter contract for the purpose of restarting the charter school and issuing a new charter contract pursuant to NRS 388A.300 to a charter management organization or a new governing body, including, without limitation, the governing body of~~

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~~another charter school, which will inherit any assets of the charter school which remain following dissolution; or~~

~~(f) Deny the renewal of a charter contract for the purpose of closing the charter school.~~

12. Each charter contract renewed pursuant to this section shall contain the performance benchmarks set forth in the performance framework adopted by the State Public Charter School Authority as part of the oversight plan for the charter school.

~~13. The Executive Director may request the State Public Charter School Authority to reclassify a denial pursuant to paragraph (d), (e) or (f) of subsection 11 to a denial pursuant to a different paragraph of that subsection. The State Public Charter School Authority may reclassify such a denial if it determines that a different outcome is more practical or more beneficial to the interests of this State and the public, including, without limitation, pupils enrolled at the charter school. The State Public Charter School Authority shall;~~

~~(a) Make available to the governing board of the charter school the data used in making the renewal decision; and~~

~~(b) Post a report on the Internet website fo the State Public Charter School Authority summarizing the decision of the State Public Charter School Authority on the application for renewal and the basis for its decision.~~

14. -

If a request for renewal is denied by the State Public Charter School Authority, the charter

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school is entitled to judicial review, pursuant to chapter 233B of NRS, by filing within thirty (30) days after service of the final decision of the State Public Charter School Authority a petition in the district court in and for Carson City, in and for the county in which the charter school is located, or in and for the county where the State Public Charter School Authority took action.

~~If the Executive Director recommends that the State Public Charter School Authority grant an application for renewal of a charter contract but the State Public Charter School Authority decides to deny the application, the State Public Charter School Authority shall provide written notification to the governing body of the charter school of the decision of the State Public Charter School Authority and the reasons therefor and of the right of the governing body to request reconsideration. The governing body of the charter school may request reconsideration by, within 5 days after receipt of the written notification from the State Public Charter School Authority, notifying the Executive Director in writing that it intends to request reconsideration and, within 30 days after receipt of the written notification from the State Public Charter School Authority, submitting a written response and request for reconsideration, which may include supporting affidavits, exhibits, any other documentary~~

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~~evidence and a written legal argument, to the Executive Director for transmission to the State Public Charter School Authority. If no previous request for reconsideration has been made on an application for renewal, upon receipt of a written response and request for reconsideration, the State Public Charter School Authority may reconsider the application for renewal.~~

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~~15. The decision of the State Public Charter School Authority on whether to grant an application for renewal, unless reconsidered pursuant to subsection 14, is a final decision. The decision of the State Public Charter School Authority on reconsideration of an application for renewal pursuant to subsection 14 is a final decision.~~

Sec. 11. *1. In addition to submitting the application for renewal of a charter contract submitted-*

pursuant to section 10 of this regulation, the governing body of the charter school shall submit a version of the application for renewal which excludes or redacts from the application for renewal and any related material to be shared with the public:

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(a) Proprietary material.

(b) Copyrighted material.

(c) Any documents which may violate the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, by identifying pupils enrolled at the charter school, including, without limitation, sign-in lists from public meetings relating to the charter school, photographs of current or potential pupils and letters of support from current or potential parents or pupils of the charter school.

(d) Any other information or documentation which may not be released to the public in accordance with state or federal law or regulation.

2. The Executive Director may reject and require resubmission of an application for renewal submitted pursuant to subsection 1 if the Executive Director determines that

publishing the application on the Internet website maintained by the State Public Charter School Authority would violate any state or federal law or regulation applicable to the State Public Charter School Authority, including, without limitation, 29 U.S.C. § 794d.

Sec. 12. Section 7 of this regulation is hereby amended to read as follows:

Comment [NVVA23]: Same recommended edits made above should be incorporate here.

Sec. 7. 1. A charter school sponsored by the State Public Charter School Authority that wishes to amend the material terms of its ~~{written charter or}~~ charter contract ~~{, as applicable,}~~ pursuant to NRS 388A.276 shall submit a request to amend its ~~{written charter or}~~ charter contract ~~{, as applicable,}~~ to the State Public Charter School Authority or the Executive Director, as applicable, for approval pursuant to this section. Except as otherwise provided in this section, such a request must be submitted to the State Public Charter School Authority or the Executive Director on or after March 1 and on or before March 15 or on or after October 1 and on or before October 15 of each year. A charter school must submit a written notice of intent to submit a request to amend its ~~{written charter or}~~ charter contract ~~{, as applicable,}~~ to the State Public Charter School Authority or the Executive Director not less than 30 days before submitting the request. The State Public Charter School Authority or the Executive Director may, upon request and for good cause shown, accept a request to amend a ~~{written charter or}~~ charter contract at any time.

2. A request to amend the terms of a ~~{written charter or}~~ charter contract relating to:

- (a) The districts specified in the ~~{written charter or}~~ charter contract;
- (b) The maximum enrollment of the charter school;
- (c) The grades served by the charter school;

(d) A contractual relationship with an educational management organization which provides or plans to provide substantially all the educational services offered by the charter school;

(e) The occupancy of a new or additional facility which the State Public Charter School Authority determines has the effect of increasing enrollment at the charter school;

(f) Relocation to a new facility which the State Public Charter School Authority determines does not have the effect of increasing enrollment at the charter school;

(g) The conversion of the charter school from a single-campus school to a multicampus school or from a multi-campus school to a single-campus school;

(h) A consolidation of the ~~written charter or~~ charter contract ~~as applicable,~~ for one or more charter schools;

(i) A change to the mission statement and admissions policy of the charter school which would change the population served by the charter school from all pupils to the pupils specified in paragraph (a) of subsection 3 of NRS 385A.740; or

(j) A change to the mission statement and admissions policy of the charter school which would change the population served by the school from the pupils specified in paragraph (a) of subsection 3 of NRS 385A.740 to all pupils,

• must be submitted to the State Public Charter School Authority for approval.

3. A request to amend the terms of a ~~written charter or~~ charter contract relating to:

(a) The name of the charter school;

(b) A change to the mission statement of the charter school not described in paragraph

(i) or (j) of subsection 2;

(c) The governance or leadership structure of the charter school;

(d) A change in the educational programs, curriculum models, methods of instructional delivery, including, without limitation, distance education, blended or other programs or designs for the whole charter school which is inconsistent with those specified in the ~~written charter or~~ charter contract, ~~as applicable,~~ including, without limitation:

(1) A change from a virtual or cyber school model to a blended model or classroombased instructional model;

(2) A change from a blended model to a virtual or cyber school model or classroombased instructional model; or

(3) A change from a classroom-based instructional model to a virtual or cyber school model or blended model;

(e) A change to the academic program of the charter school not described in subsection 2;

(f) The bylaws of the charter school or its governing body;

(g) The membership of the governing body of the charter school;

(h) The schedule of the charter school, including, without limitation, the length of its academic year, school week or school day;

(i) The accountability plan for the charter school;

(j) The enrollment policy of the charter school and its application for admission; or

(k) The expulsion policy of the charter school,

• must be submitted to the Executive Director for approval.

4. The Executive Director may refer a request submitted to him or her pursuant to this section to the State Public Charter School Authority for approval.

5. A charter school may not implement an amendment to its ~~written charter or~~ charter contract ~~as applicable,~~ unless the amendment has been voted on and approved by the governing body of the charter school and has been submitted to and approved by the State Public Charter School Authority or the Executive Director, as appropriate.

6. The State Public Charter School Authority will publish each request to amend a ~~written charter or~~ charter contract received by the State Public Charter School Authority or the Executive Director on its Internet website.

7. The State Public Charter School Authority and the Executive Director may consider a charter school's compliance with applicable local, state and federal laws and regulations and evidence relating to the academics, finance and organization of the charter school when determining whether to approve a request for an amendment to its ~~written charter or~~ charter contract. ~~as applicable.~~

8. The State Public Charter School Authority will not approve a request to amend the terms of a ~~written charter or~~ charter contract pursuant to paragraph (g) of subsection 2 unless:

(a) For a charter school requesting conversion from a multi-campus school to a single-campus school which has received funding from the United States Department of Education to plan or implement the charter school in the immediately preceding 5 years, the charter school agrees not to combine its campus with the campus of another charter school that has not received such funding; and

(b) For a charter school requesting conversion from a single-campus school to a multicampus school, the charter school agrees to include provisions in its ~~written charter or~~ charter contract ~~as applicable,~~ which:

(1) Require each campus of the charter school to have a distinct academic leader who reports to the administrative head of the charter school and is responsible for the staff of his or her campus;

(2) Allow pupils from one campus of the charter school to matriculate to another campus automatically or, if there are insufficient spaces at a campus for matriculating pupils, in a manner that gives matriculating pupils priority over new pupils which may include, without limitation, by an internal lottery for matriculating pupils held before an external lottery for new pupils;

(3) Require new pupils to apply to each campus of the charter school through a separate application and lottery process;

(4) Identify the name, group of grade levels to be served and location of each campus; and

(5) Authorize the State Public Charter School Authority to reconstitute, restart or close each campus of the charter school separately based on the performance of each campus.

9. A charter school which submits a request to amend the terms of its ~~written charter or~~ charter contract ~~[, as applicable,]~~ which will come into effect within 18 months after the expiration of its existing ~~written charter or~~ charter contract may not submit anecdotal evidence or testimony related to data not reflected in the statewide system of accountability for public schools or the performance framework adopted by the State Public Charter School Authority and incorporated into the ~~written charter or~~ charter contract in support of its request.

10. If the Executive Director denies or, within 60 days after the date upon which the request was submitted, fails to approve a request for an amendment submitted to him or her pursuant to this section, the governing body of the charter school which submitted the request may submit the request to the State Public Charter School Authority for review.

11. The decision of the State Public Charter School Authority regarding whether to approve a request to amend a ~~{written charter or}~~ charter contract is a final decision.

12. If the State Public Charter School Authority or the Executive Director, as appropriate, approves a request to amend a ~~{written charter or}~~ charter contract, the charter school must submit a draft of each document required pursuant to section 9 of this regulation to the State Public Charter School Authority for review and approval before implementing the amendment.

13. As used in this section:

(a) “Multi-campus school” means a charter school that operates two or more campuses, each of which has a distinct academic leader who is responsible for its staff and each of which may serve the same group of grade levels or differing groups of grade levels, under one ~~{written charter or}~~ charter contract . ~~{as applicable.}~~

(b) “Single-campus school” means a charter school that serves a specified group of grade levels with a single academic leader who is responsible for its staff and for the entire group of grade levels of the campus regardless of whether the educational programs of the charter school are delivered in one or more than one building.

Sec. 13. Section 8 of this regulation is hereby amended to read as follows:

Sec. 8. 1. In addition to the request to amend its ~~{written charter or}~~ charter contract ~~{as applicable.}~~ submitted pursuant to section 7 of this regulation, each charter school

Comment [NVVA24]: Same recommended edits made above should be incorporate here.

shall submit a version of the request to amend its ~~written charter or~~ charter contract which excludes or redacts from the request and any related material to be shared with the public:

(a) Proprietary material.

(b) Copyrighted material.

(c) Any documents which may violate the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, by identifying the current or potential pupils of the charter school, including, without limitation, sign-in lists from public meetings relating to the charter school, photographs of current or potential pupils and letters of support from current or potential parents or pupils of the charter school.

(d) Any other information or documentation which may not be released to the public in accordance with state or federal law or regulation.

2. The Executive Director may reject and require resubmission of a request submitted pursuant to subsection 1 if the Executive Director determines that publishing the request on the Internet website maintained by the State Public Charter School Authority would violate any state or federal law or regulation applicable to the State Public Charter School Authority, including, without limitation, 29 U.S.C. § 794d.

Sec. 14. Section 9 of this regulation is hereby amended to read as follows:

Sec. 9. 1. The State Public Charter School Authority may specify additional conditions when granting an application to form a charter school or approving a request to amend a ~~written charter or~~ charter contract for the purpose of occupying additional facilities. If such an applicant or charter school fails to comply with the additional conditions specified by the State Public Charter School Authority, the Executive Director

Comment [NVVA25]: Same recommended edits made above should be incorporate here.

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may prohibit the charter school from beginning or continuing to operate as a charter school.

2. Upon receiving a charter contract or approval of an amendment to a ~~{written charter or}~~ charter contract, ~~{as applicable,}~~ the charter school must, on or before June 30 following receipt, submit all documents required for opening to the State Public Charter School Authority, including, without limitation:

(a) If the governing body of the charter school intends to procure substantially all educational services from another person or organization, the terms of the proposed management contract;

(b) The policies and procedures of the charter school, including, without limitation, approved bylaws, an enrollment policy and a plan for recruitment and retention of pupils;

(c) The criteria and procedures for the suspension and expulsion of pupils;

(d) Written documentation demonstrating that criminal background checks have been performed as required by state law;

(e) Written documentation demonstrating that any facility to be used by the charter school is approved for use as a school by the building inspector in the municipality in which the facility is located;

(f) Written documentation demonstrating that any facility occupied by the charter school has received a fire inspection from the appropriate fire authority;

(g) If explosives or flammable compounds or liquids will be used in conjunction with courses taught at the charter school, written documentation demonstrating that approval has been secured from the appropriate licensing authority in the municipality in which the facility is located; and

(h) Written documentation demonstrating that the charter school is in compliance with all other applicable federal and state health and safety laws and regulations, including, without limitation, evidence of compliance with any required insurance coverage.

Sec. 15. 1. This section and sections 1 to 11, inclusive, of this regulation become effective upon filing with the Secretary of State.

2. Sections 12, 13 and 14 of this regulation become effective on January 1, 2020.