

**NEVADA STATE BOARD OF EDUCATION
NEVADA STATE BOARD FOR CAREER AND TECHNICAL EDUCATION
SUBCOMMITTEE ON CHARTER SCHOOLS**

Thursday, June 17, 2010

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

And

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

MINUTES OF THE SUBCOMMITTEE ON CHARTER SCHOOLS (Video Conferenced)

BOARD MEMBERS PRESENT:

In Las Vegas:

Jan Biggerstaff, President
Willia Chaney, Member
Christopher Wallace, Alternate
Dr. Cliff Ferry, Member (Excused)
Craig Wilkinson, Alternate (Excused)

DEPARTMENT STAFF PRESENT:

In Las Vegas:

Dr. Keith Rheault, Superintendent of Public Instruction
Steve Canavero, Director of Charter Schools
Tom McCormack, Charter School Consultant

In Carson City:

Lori Johnson, Executive Assistant to Superintendent
Linda Nance, Assistant to Deputy Superintendent

LEGAL STAFF PRESENT:

In Las Vegas:

Robert Whitney, Deputy Attorney General
Dr. James E. Irvin, Senior Deputy Attorney General

In Carson City:

Thoran Towler, Deputy Attorney General

AUDIENCE IN ATTENDANCE:

In Las Vegas:

Peter Yeager, Educational Testing Service
Laura Granier, Lionel, Sawyer & Collins Attorneys
Clairin DeMartini, Provost Academy
Mike Payne, Provost Academy
Nathan Bassing, Provost Academy
Pat Quan, Edison Learning Inc.
Thom Jackson, Edison Learning
Ryan Bauman, Imagine Schools
Deb Hegna, Clark County School District
Nicole Rourke, Clark County School District
Michele Robinson, Odyssey Charter School
Carol White, Silver Sands Montessori
Bruce Congleton, Principal, Delta Academy

In Carson City:

Jim Wells, Former Deputy Superintendent of Fiscal Services
Chris MacKenzie, Attorney, Allison & MacKenzie

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

President Biggerstaff called the meeting to order at 1:00 p.m. with attendance as reflected above.

This agenda item is in the alternative. The Subcommittee will consider item A. below and may additionally consider items B. and C. below. The Subcommittee will make findings of fact and conclusions of law regarding consideration of items B. and C.

- A. The Department of Education has been informed that an Order may have been issued with language similar to the following:

ORDERED that a writ of mandate issue under the seal of this court compelling Respondent State of Nevada ex. Rel. Nevada Department of Education (the "Department") to forward the Petitioner's application to form a charter school to the State Board of Education immediately after receipt of this order.

Dr. Ed Irvin, Senior Deputy Attorney General informed the Subcommittee that Thoran Towler from the Attorney General's office was present in Carson City acting as Board counsel for the purposes of this agenda item. Dr. Irvin added that he was sitting on the dais in Las Vegas as counsel with Dr. Keith Rheault, Superintendent of Public Instruction, and the Department in this contested hearing.

Dr. Irvin explained the language in the first item is strictly a quotation from the district court document relating to the writ application (included in the Board material.) This suggests the NDE is

complying with the district court order. Two additional items are quotations from communications received as requests for agenda items. Dr. Irvin stated the first issue is what to consider as it relates to these agenda items. Per the the agenda the Subcommittee will consider item A and may additionally consider B and C. Dr. Irvin stated he provided an oath to Jan Biggerstaff, Chair of the Subcommittee on Charter Schools. Ms. Biggerstaff, as required by NRS 233.b, asked all testifiers, including Ed Irvin, Senior Deputy Attorney General, to stand and take the oath in both Las Vegas and Carson City.

Tom McCormack, Charter Consultant, listed his credentials as the Charter School Consultant for the Nevada Department of Education (NDE) over for the past 10 years. He stated he conducts and coordinates the review of new charter schools among other duties for the NDE. He provided an overview of applicable statute and regulations regarding the current situation and listed the following timeline of the submission and review of the Provost Charter School application:

- Consistent with NAC 386.230, a charter school application may be submitted any day of the year. The regulation identifies a September 1 deadline for application submission for a proposed school that proposes to start up the following fall.
- The Provost Academy Nevada charter school application, including a proposed contract between an EMO, Edison Learning Incorporated, and the school, was received August 31, 2009 the day before the deadline for a school proposing a fall 2010 start up.
- Pursuant to NRS 386.520 and NAC 386.195, A Committee to Form a charter school must first submit its application to the Department of Education. The Department must review the application to determine if it is complete and compliant with applicable statute and regulation.
- Pursuant to NRS 386.525, the application may be submitted to the State Board of Education's Charter School Subcommittee *only* "upon approval of the application by the Department."
- The Provost application was reviewed by a team of seven NDE and fiscal professionals, found incomplete and noncompliant in numerous areas and denied. Subsequently, the liaison for the Committee to Form the School, Clairin DeMartini, was advised of these findings and also advised that the application may be resubmitted for further consideration by the Department, in a September 30, 2010 letter.
- Pursuant to NRS 386.520, the Committee to Form the School had 30 days, until November 2, 2009, to revise the application in response to the Department's findings and resubmit it to the Department. The Department received the resubmitted application on the November 2, 2009, deadline.
- The resubmitted Provost application was reviewed by Department staff, found incomplete and noncompliant in numerous areas, and denied a second time. The liaison for the Committee to Form the School – now, Lisa Jensen, was advised of the findings and given guidance regarding resubmission of the application.
- The resubmission guidance was based on NAC 386.195. The regulation stipulates that an application may be submitted not more than once in a fiscal year. Another application for further consideration by the Department for completeness and compliance may be submitted again, however, not before July 1, 2010, the beginning of the next fiscal year.
- Because, pursuant to NAC 386.130 an application must be submitted no less than a year prior to the school's opening, the Provost application resubmitted after July 1, 2010, would be considered by the Department for a start up no earlier than fall, 2011. In a March 9, 2010 email, Liaison Lisa Jensen agreed to a possible fall, 2011 startup.
- The Committee to Form the School and the Education Management Organization (EMO) appear to be unwilling to wait until July 1, 2010 to submit the application, evidenced by their

request to be placed on a Charter Subcommittee agenda. Their request to be on the subcommittee agenda is also premature in that it disregards NRS 386.525, which *requires approval of the application by the Department prior to submission of the application to the charter School Subcommittee.*

- For the Provost application to be considered by the Charter School Subcommittee for a fall, 2010 startup, *it would have had to have been deemed complete and compliant with applicable statute and regulation by the Department* and submitted to the Charter School Subcommittee by 5 PM., December 15, 2009. The “Application Process” section of the Nevada Charter School Application and Operation Manual on the Department’s website provides all these guidelines.

Mr. McCormack discussed the following Department findings of incomplete/noncompliant items in the first submission of the application:

- Calendar
- Disabilities education
- Employing the administrator
- Governance, bylaws
- Health services
- Enrollment lottery
- Pupil records
- Truancy rules
- Distance education
- Curriculum
- Examinations
- Fees
- Person to draw orders for payment
- Budget
- Financial plan
- Contractor information

Mr. McCormack stated the Department’s findings for the resubmission of the application submitted on November 2, 2010 continue to have the following incomplete/noncompliant items:

- Disabilities education
- Enrollment lottery
- Curriculum
- Fees
- Budget
- Financial plan
- Contractor information

Mr. McCormack stated that because the EMO, Edison Learning Inc., has still failed to allow the school to control its own finances, the Department recommends EMO contract rejection.

Mr. McCormack summarized NAC 386.403 paragraph 1, which states *a proposed contract between a proposed charter school and an EMO, shall not give to the EMO direct control of financial decisions*

of the proposed Charter School. He continued with the next paragraph in the application, article 8.1(b), stipulates that Edison will provide the financial statements of the entire financial operation of the charter school. This indicates that the EMO, Edison Learning Inc., is in complete control of the school's finances.

Article 8.3(a), Edison Learning Inc. (EMO) still wants all the school's money removed to Edison Learning's account, which would restrict any effective control by the business manager of the school and the governing body. More authority and responsibility must be retained with the school.

Article 8.3(c) still insists that "all external public funds shall be remitted to Edison Learning, Inc...within five business days" or the school will incur a penalty. This clause was one of Deputy Superintendent Jim Wells' main objections and it still has not been resolved. Edison Learning, Inc. still wants all the money, all the authority and all the control. Edison Learning, Inc. is a contractor, not the public school. The Department strenuously objects to this contract language. This contract continues to place too much authority over the school's financial operation with the EMO.

In response to a question, Mr. Towler, confirmed that Mr. Wells, and Chris McKenzie, local counsel for Provost and representing the Committee to Form were sworn in and still under oath.

Jim Wells, testified that he is currently the Executive Officer for the State Employees' Benefits Program, and was formally the Deputy Superintendent for Administrative and Fiscal Services for NDE until June 1, 2010. His role at the NDE was to oversee the charter activities of the Department and to supervise the personnel that worked in the charter school area. He confirmed his background and his responsibilities to create and manage complex budgets as well as create, revise and interpret various statutes and regulation. He reported that he supervised the charter school application process, received periodic updates on the status of the applications, was kept apprised of the determinations made in the initial reviews and kept informed of issues that arose relating to specific problems with individual applications.

He stated that in regards to Provost Academy of Nevada, he was made aware of issues relating to the proposed agreement between the applicant and Edison Learning, Inc. after the meetings between staff and the applicants in October, 2009. Mr. Wells, under oath, continued to give a detailed timeline of communications including e-mails and meetings with the Provost Academy Committee to Form, representatives from Edison Learning, Inc. and legal counsel regarding the incomplete/noncompliant items in the submission of the applications.

In response to Dr. Irvin's question if Mr. Wells had prepared a document entitled Charter School Application Review Team Member Qualifications, he replied yes. Dr. Irvin asked Mr. Wells to briefly review the document. Mr. Wells stated the document; Charter School Application Review Team Member Qualifications, is a summary of the staff who were involved in the application review process from the NDE. They included Tom McCormack, who reviewed the charter school application, Gary Horton, reviewed the EMO contract, Richard Rasmussen reviewed the distance education portions of the applications, Jane Spleen reviewed special education portions of the applications, Stephanie Hartman, reviewed curriculum and miscellaneous sections, Roger Rahming reviewed the application for facilities, Andrea McCalla, reviewed the budget and financial plans of the applicants, Donnell Barton, reviewed the safety and health portions, and Al Kenneson reviewed the enrollment and miscellaneous provisions.

Member Chaney asked why Provost Academy wanted to fast-forward the application to the Subcommittee on Charter Schools for approval in spite of the fact there are outstanding deficiencies. Dr. Irvin responded he thought the Committee to Form and/or Edison Learning, Inc. and/or both and/or parts thereof simply disagreed with the conclusions from the NDE.

Dr. Rheault summarized the Department's position and detailed the background information that was provided to the Subcommittee on Charter Schools and the State Board. Provost Academy was given an opportunity in September and November 2009 to correct the information submitted on their application. Prior to sending out the December 2, 2009 notice, Dr. Rheault said he met with department staff on all the applications received. He said he reviewed their findings and concurred with their recommendation to deny the Provost Academy application. Nevada Department of Education staff has years of combined expertise in a number of areas and he stands by the determination that was made. He said they are recommending that the Board not reconsider the application and request Provost Academy resubmit after July 1, 2010. It is the Board's prerogative to consider additional information and hear from the governing board members from Provost Academy. He said he concurs with Dr. Irvin that the plain and simple fact is that Provost Academy does not agree with the NDE findings and the determinations of the NDE staff regarding what is compliant. He added that as a Subcommittee, they could make a determination with appropriate recommendations to the State Board after all the information is heard today.

Chair Biggerstaff asked the Committee to Form to introduce themselves and give their education background: Clairin DeMartini, teacher at Nevada State College and a licensed teacher in Nevada, Nathan Bassing, retired Clark County teacher and Mike Payne, businessperson and teacher.

Ms. DeMartini gave details about how the Committee to Form came together. Mr. Bassing explained how he came to be an advocate for Charter Schools. He described his disappointment working with NDE staff to submit and resubmit the charter applications which were denied. He asked to give Nevada kids a chance with a terrific program. Mr. Payne explained how he came to Nevada after he retired and then became a science teacher. He described his frustrations at not having enough books for his students. He stated he approached Edison Learning, Inc. because of their great plans for students. He concluded by stating the committee believed they solved the problems that were identified on the application. Clairin DeMartini explained that the reason they were here today is they do not feel they had a fair chance to bring their application to the Subcommittee. She stressed they followed directions provided by NDE staff to fill out the application, but their changes were denied.

Member Chaney asked Mr. Bassing about comments made that they were not advised of the deficiencies in the second submission of the application, and if the Department indicated what was wrong with the application. He replied they were only advised the application was still noncompliant and incomplete, and were not given specifics on how to correct the deficiencies. He said the NDE staff repeatedly advised the committee they could not tell them what to write.

The members from the Committee to Form and the Subcommittee continued further discussions regarding the changes that were made to the resubmitted application.

Chair Biggerstaff stated she understood their passion and desire to get the application approved. She said eleven schools have gone through the process successfully, some without the aid of an EMO. She added assistance is offered at the NDE and the rest is up to the Committee to Form. The decision

today is whether the application was complete and compliant as of December 2009, and it was not. In two weeks, the application can be resubmitted for a start up in 2011.

Laura Granier, local Counsel for Edison Learning, Inc., introduced Tom Jackson, Executive Vice President of Edison Learning, Inc., and Pat Quan, General Counsel for Edison Learning, Inc.

Ms. Granier stated that NRS 386.520 identifies the contents of an application for a charter school. Subsection 2 of that NRS says *the application must include all information prescribed by the Department by regulation*. She added that the detailed and lengthy requirements in statute and regulation that are enumerated are fair. However, to engage in ad hoc rule making of policies that have not been enacted or promulgated is not allowed.

Ms. Granier stated the law provides fair notice of what is expected. NRS 386.522, stipulates what must be in a charter application. NRS 386.520 subsection 3 states, *the Department shall review an application to form a charter school to determine whether it is complete*. The word compliant is absent. She continued that the rules of statutory construction are that if a statute is clear on its face, you do not look at legislative history and if the legislature intends to put a word in, they do. The use of the word ministerial was inserted by the lawyers and it has been misconstrued.

Ms. Granier explained the reason we are here today, is that we believe all the information required by statute and regulation was included in the application with the second submission. The Department has identified issues they believe are non-compliant, and we believe it is for this Subcommittee and State Board of Education in accordance with NRS 386.525 subsection 1a and 1b to make the complete and compliant determination.

Ms. Granier continued that is clearly the Department's jurisdiction to look at certain provisions that are prohibited by regulation regarding to the EMO contract. Edison Learning, Inc. as counsel to Provost Academy worked through all the issues, to assure it complied with Nevada law. The process is clear there are only two submission allowed in a fiscal year.

She said this is about a committee to form who tried to follow the rules but the process broke down and they are here today to talk to you about the substance of the application. Edison Learning, Inc. has evidence some of the deficiencies that were identified by the NDE were in the application but overlooked.

Dr. Irvin commented that Agenda Item A, is not a due process hearing. He said it is always good to listen, but there is no obligation to explain why the applicants are wrong. He respectfully disagreed to Ms. Granier's representations of the law. He said that he heard nothing today that contradicts lack of compliance with NRS 386.195 subsection 3.

Mr. McCormack said that regarding Ms. Granier's observation about the application contents being stated in NRS 385.520, he clarified the regulations that identify what needs to be in the charter school application are in Nevada Administrative Code, NAC 386.140, 150, 160, 170 and 180. Regarding the comment that the NDE reviews for completeness only, NAC 386.195 paragraph 1, stipulates *if an application to form a charter school is submitted to the Department for sponsorship by the State Board of Education, the Department will determine whether the application complies with applicable*

statute and is complete in accordance with the regulations of the Department. It clearly states in regulation the Department reviews for both completeness and compliance.

Ms. Granier stated that requirements were followed and it is not legal for the Department to deem applications incomplete under policies that have not been promulgated by regulation. Also, the December 15 deadline was waived for another charter school application in one instance because facts warranted it. The Committee to Form members believe that due to the time the Department had available to address their concerns, they were precluded from meaningful dialog. Ongoing dialog justifies waiver of the regulatory deadline.

Member Wallace asked what policies Ms. Granier thought the Department failed to follow.

Ms. Granier said the sweep account issue that Mr. Wells raised was part of a Non-Regulatory Guidance (NRG) that was proposed a few months ago but is not in statute. She added that some of the issues in the budget and financial plan that were identified by the Department, “such as the cost still seems too high”, are not supported by regulation.

Mr. McCormack read NAC 386.204, paragraph 4, *the State Board of Education may deny an application if the State Board determines that expenditures or flat fees included in the budget of the proposed school are in the proposed operating agreement with the contractor or education management organization are not consistent with the cost for similar services as those services are otherwise available to a public school.*

Dr. Irvin stated we do not have to prove that the recommendation is correct. The reality is exactly what is contained in the materials in the Board Agenda Packet, specifically the recommendation made by staff is that they did not comply with NAC 386.195 subsection 3.

Member Wallace asked what date was the Committee notified that the first application was not complete and non-compliant. Mr. Quan responded September 30, 2009. Chair Biggerstaff noted the application was not submitted until the day before the deadline.

Mr. Bassing said the Committee was in Carson City at the Department on October 9, 2009, and were advised by the finance staff that they were not compliant. At that time, they asked to speak to Mr. Wells but the request was denied. Arrangements were made for an appointment a week later. Dr. Paslov was able to attend along with two other members, and they complied with instructions.

Member Wallace remarked that the EMO is not the only issue that is incomplete and not compliant. Mr. Bassing responded that they were advised that was the only issue they needed to correct. Member Wallace asked about the disabilities education area on the application. Mr. Bassing responded that portion was not coded to the Nevada codes, and it was corrected. He said all other required information was included. In frustration, he said they did their best, but it was not good enough for the Department.

Ms. Granier stated that on January 22, 2010, there was a substantive meeting with the Department about the management contract in which 41 changes were identified and addressed by Mr. Wells. She added that the relevant issue is that if the Committee had the opportunity to have a discussion with Mr. Wells prior to the second submission, they would not be here today.

Mr. Quan, Edison Learning, Inc., agreed the process broke down in a couple of ways, one being the lack of the review process. There were points where the application was marked incomplete and non-compliant in the second submission that Edison Learning Inc. contends were corrected.

Mr. Quan stated they addressed that the business manager should report directly to the Board. With concern to the sweep account; he stated that Provost Nevada Academy School has an account in a Nevada bank per the Department's direction. The business manager is responsible for overseeing the payment of funds and that the funds are moved to Edison Learning, Inc. at the time of payment. Edison Learning, Inc. reports to Provost Academy when they have made payment, therefore, Edison Learning Inc., does not have control of those funds. He continued to discuss his frustrations with other points on the application that were found to be incomplete and noncompliant. He concluded by stating he believes they have demonstrated a good faith effort but the process had broken down.

Chair Biggerstaff said they have another opportunity to resubmit the application in July for opening in fall, 2011, and if there are still concerns, the Department will assist them.

Chris MacKenzie, Attorney, Allison and MacKenzie, on behalf of the Committee to Form Provost Academy, asked if the Department made a determination of complete and compliant based on regulations, could the Subcommittee overturn that decision. If the Department makes that determination, it eliminates the discretion of the Board to determine whether the charter should be approved. He stated there must be some recourse for Provost Academy to go before the Board and provide a venue of relief.

Chair Biggerstaff said the Subcommittee has the option to go before the Board to approve or not approve and listening today could result in a different judgment. Whether the application is complete and/or not complete, they still have the discretion to recommend to the full Board, or not.

Member Wallace stated if someone wants to put an item on the State Board agenda they can look at the Boards Policy and Procedures for instruction.

Ms. Granier wanted it on the record that she has never seen anyone sworn in the way they were today. Because of the ongoing litigation, she was not jumping up and down raising objections when hearsay was being presented as testimony out of respect of the agency. She said she reserves the right, for the record, testimony given here today and admissibility in court are two separate issues if Dr. Irvin intends to use any of this hearing as evidence in court.

Member Wallace moved that the Charter Subcommittee recommend to the full Board, the State Board that they support the determination of the complete and compliant findings for the application submitted by the Committee to Form the Provost Academy Nevada charter school as stated in the Department's December 2, 2009, letter to Lisa Jensen, Liaison for the committee. The determination to be supported is: If the Committee to Form the School wishes to pursue approval of its charter school application, it may resubmit the application after June 30, 2010, for a possible 2011 startup. Member Chaney seconded the motion. The motion carried.

Overview and status of the Charter School Office including function, services, budget and fees

Dr. Rheault reported on progress of developing a Charter School Office within the Department to assist the State Board. The new office has been formed due to failed legislation that would have created a Charter School Institute. When the Charter School Institute legislation failed, the Department approached the Interim Finance Committee who gave support for a Charter School Office within the Department. A key piece was hiring a director for the office. He introduced Steve Canavero who began work as the Director on June 14, 2010.

Steve Canavero, Director of the Charter School Office, shared his background including that he was a principal of a charter school in California and worked as a Director of Accountability for a consortium of charter schools in California. He said he has been working with charter schools for most of his career and has conducted research of charter school policy for his PhD.

Mr. Canavero spoke about the Department's strong compliance framework regarding charter schools. To build upon that organization, he said there are three additional positions he would like fill as soon as they receive justification to hire: a Management Analyst, specific to the charter school office, a Consultant for Assessment, Accountability and Data, and a Consultant for Special Education. He added his plans for this office are to provide direct services such as technical services. He stated as capacity is added to the charter school office they will be able to support new applicants as well as existing schools. More services will become available to charter schools including a coordinating presence at NDE. Another project he would like to provide is present a comparison of national models of authorizers and begin to map what they currently do. He discussed the charter school budget and said he was in the process of building the work program and can begin to hire for the positions immediately upon receiving justification to hire.

Dr. Rheault added there is technically a hiring freeze on even though they have authority to hire for the positions and it is in the budget. He said that in the last 10 days the process to receive justification to hire was revised. Now a two-page justification must be filed, then it is sent to personnel and if they approve, it goes to the budget office. If the budget office approves it is then forwarded to the Governor's office. When the Governor signs off it will come back to Dr. Rheault and then he has authority to open the positions.

Review of possible revisions to regulations related to distance education charter school enrollment and attendance issues

Dr. Rheault stated this item stems from previous testimony regarding audits with the Distance Education Charter Schools in the past year, and he gave a brief history. Regulations that govern attendance and enrollment of charter schools have been in place since 2001. The current regulation requires that to be in full attendance and enrolled for a distance education, there must be a weekly meeting/communication between the student and teacher. Weekly communication was interpreted as meaning two-way communication.

The difficulty is how distance education schools could prove two-way communication was occurring and that students were making progress. With the advent of full distance education programs where students never come to a building, there needs to be a better way to verify that a student is enrolled in a distance education course. Dr. Rheault agreed to invite interested parties to a meeting and discuss

regulations that will make it more efficient and clear to verify enrollment for schools that operate distance education.

He reported that they had attended a meeting on June 9, 2010 to begin the process. Six charter schools and CCSD agreed the current regulation should be updated. The use of the management systems of the distance programs needs to be clarified so that when a student logs into a course, it can be tracked at the main site and used as part of the audit and printed for every student.

Once the language is updated from the June 9, 2010, meeting, it will be sent to all the school districts and charter schools asking if it is clear and if they can meet the requirement. Dr. Rheault stated that once accepted he will bring it to the August State Board meeting for a workshop and public hearing with the goal of revised language being available when school begins in the fall.

Another issue distance education programs encountered is when a student is enrolled a day or two before count day; it takes a day or two before the students are trained and can log into the system where they will do their work. It has been a problem in the past when they have not logged into the courses yet and the auditors reject them because they have not been verified. Dr. Rheault said they would give a progress update when the count day audits are done to see if a difference was made.

Member Chaney asked if Dr. Rheault has checked with other states to see what they are doing. Dr. Rheault said yes, and making sure the student is properly enrolled and attending is important. The difference between Nevada and other states is that Nevada only has one count day in September and if they are enrolled by that count day they are good the rest of the year. Other states have average daily attendance and the attendance is monitored throughout the year for participation, which is a big difference in how states fund students.

Update and overview on EMO and CMO regulations, applications services and charges.

Dr. Rheault said this issue has been brought up in public comment at board meetings. One school was having difficulty with some of the issues with their EMO's regarding facilities and contracts. Chair Biggerstaff had asked this item be placed on the agenda to discuss recommendations with the Subcommittee on Charter Schools. Dr. Rheault said more regulations were not needed, just some revisions and clarifications.

Dr. Rheault stated EMO's can be very different. Of most interest to the Board is not the hiring of an organization to do busing or food service, but rather the educational service being provided and contracted by a charter school to provide for the students. Dr. Rheault said if there is still a concern from the Subcommittee, the concern could be raised to the Board at a future meeting then bring all the EMO regulations back and possibly revise them.

Chair Biggerstaff commented that after looking at the regulations they were given by Mr. Wells, she became concerned when an EMO charges 12 or 14 percent for management fees, charges for advertising and charges over and above for leasing. She said she would like to know exactly how much money is paid to an EMO, what services are provided and can they prove education achievement from prior experience. Of concern are charter schools unable to pay for good teachers because so much of the money that is allotted is going for services out of state. She said she would like to look at the regulations Mr. Wells provided, to see what language could be tightened up.

Dr. Rheault responded that funding to an EMO could not be limited to a set amount as some organizations provide the teachers, the curriculum and the oversight of tests and reporting. Chair Biggerstaff suggested that when orientation is held for those that want to apply to for charter schools, to encourage charters to research the EMO's.

Chair Biggerstaff said another concern is the charters make up their governing board by appointment, often under the influence of an EMO. She asked if the State board has the discretion to require that the charter boards be elected by the constituents. Dr. Rheault responded if charters had the status of a full education agency, or were considered a school district; it would make sense to have them elected. However, because they are sponsored by a school district and/or the State Board, that authority would not match. If legislation goes through for a Charter Institute or they make an 18th school district for charters, then it could be an elected governing board.

Chair Biggerstaff said according to NRS 388.030, the Board of Trustees of a school district may divide the public school. She heard concern that when a school wants to change from an elementary school to a middle school, they have to apply with an entire new application. She asked if the application could be amended. Dr. Rheault said that regulation was cleaned up, there were separate regulations that stipulated if grades were added, it became a completely new school. In Nevada, if you had 1-5 grades and added 7th and 8th grade, a full application was required at one time. He said he thinks that was corrected two or three years ago and it would now be an amendment to a charter, not a new charter.

Chair Biggerstaff asked for public comment.

The meeting was adjourned at 4:44 p.m.