



208-365-0985

Payette River Regional Technical Academy pr2ta.com

721 W. 12<sup>th</sup> Street Suite A  
Emmett, ID 83617

Dear Trustees:

I am responding to the areas of concern sent to us by your attorney Lyndon Nguyen on the 8<sup>th</sup> of December. As far as I can tell, it is the same 10 areas of concern that PR2TA responded to several months ago. PR2TA had a preliminary response in August. Hopefully, this response will suffice.

Let me state a couple of things. First, PR2TA is offering quality programming to students. None of the concerns have anything to do about the quality of offerings or the quality of the staff. Second, most charter schools get themselves into trouble because of financial problems. PR2TA has over \$600,000 that carried over from last year. These funds are going to be used to upgrade the facilities when the time is right.

The PR2TA board has recently meet and readdressed your concerns in a meeting held on the 2<sup>nd</sup> of April, 2018.

**Area of Concern #1:**

PR2TA is not fully complying with its Charter Document, and the original intent thereof. Specifically, the District authorized the formation of PR2TA to enhance the learning opportunities for its students. One of the "Distinguishing Features" of PR2TA, as set forth in the Charter Document (p. 24), is that "PR2TA is a **Partner**. PR2TA will work **collaboratively** with the Emmett Independent School District..." Recently, the PR2TA School Board and its administration have increased their activities to distance themselves from the District, acting and/or requesting to be separate in nearly all aspects of their operational and educational programming. This includes changing program offerings in Health Occupations without engaging in a collaborative process with the District in the planning process. Certainly, the Idaho Charter School law allows for this type of independence, but it also allows for a collaborative partnership, one closer to the original intent when PR2TA was authorized.

**Response to Area of Concern #1:**

*There are four points the PR<sup>2</sup>TA Board would like to address under the first Area of Concern.*

- 1. The PR<sup>2</sup>TA Board has been and will continue in the future to collaborate with the Emmett School Board to provide excellent educational opportunities for the students that come to PR<sup>2</sup>TA. This has always been the prime motivation of PR<sup>2</sup>TA. The Charter also says that "PR<sup>2</sup>TA [PR<sup>2</sup>TA] will work in collaboration with Emmett School District, other school districts, Universities and Colleges in Idaho, Chambers of Commerce, local businesses and industries, and home schooled students' parents to provide advanced education to all area high school age students." Our most important partner in this collaboration is the Emmett School District.*
- 2. Yes, the PR<sup>2</sup>TA Board has taken some significant actions to create separation between the Emmett School District when it comes to the operational aspects of PR<sup>2</sup>TA such as: payroll, health insurance, and other HR functions. PR<sup>2</sup>TA has done this under recommendation of the State to show a degree of operational separation. In no way, does the PR<sup>2</sup>TA Board feel that this operational separation interferes with our ability to collaborate with the Emmett School District in providing quality classes to the students that attend PR<sup>2</sup>TA. PR<sup>2</sup>TA still recognizes the need to contract certain services with the Emmett School District such as special needs.*

3. *A concern was raised about the transition from Sports Medicine to Physical Therapy. The need for this transition was raised in more than one PR<sup>2</sup>TA Board meetings when both the superintendent and principal of the Emmett High School were in attendance. It was our impression that PR<sup>2</sup>TA's intentions were expressed. It is the intention of PR<sup>2</sup>TA to follow the Idaho Division of Career Technical Education direction concerning curriculum in order to continue to qualify for funding.*
4. *A question has arisen as to what collaboration looks like when it comes to curriculum changes. The PR<sup>2</sup>TA Board would be happy to discuss this issue.*

### **Area of Concern #2:**

The Charter Document is in need of updates, correction, and revision. Specifically, since the writing of the Charter Document, state and federal educational requirements have changed. Also, there are several written statements in the Charter Document that are contradictory and contrary to Idaho law; i.e. on page 45, under Governance Structure, it states, "The Board of Directors' meetings **will follow** the open meeting laws... "; but on page 67, under Public Access, it states, "The Charter School will comply with Idaho statutes relating to public records and public meetings, as indicated in the Bylaws. PRTA is **not subject** to the provisions of the Idaho Open Meeting Law (Idaho Code 67-2340-67-2347)." As you know, Idaho Code §33- 5204(2)(d) specifically provides that charter schools are subject to the Idaho Open Meeting Law. Perhaps most importantly, and in need of immediate correction, are the areas of the Charter Document that inaccurately state that the Idaho Public Charter Commission is the authorizer, when in fact, the Board is the original and present authorizer of PRRTA's charter. On page 68 alone there are three (3) references to the authority of the Idaho Public Charter School Commission (Right to Evaluate Contract Compliance, Amending the Contract, and Termination or Non Renewal).

### **Response to Area of Concern #2:**

*The PR<sup>2</sup>TA Board of Directors agrees the PR<sup>2</sup>TA Charter is out-of-date and needs revision and updating. There are numerous relevant Idaho Code sections which have changed or did not exist when the Charter was adopted in 2009. As you may be aware, there is a statutory process for updating the Charter and it is the intent of the PR<sup>2</sup>TA Board of Directors to utilize that process. We are open to either updating the Charter immediately (we anticipate having a draft for the PR<sup>2</sup>TA June Board meeting) or waiting until the previously agreed upon 2019 timeframe.*

### **Area of Concern #3:**

PRRTA is out of educational programmatic compliance with the Charter Document in the following areas:

- a. Curriculum Development and Approval, page 37, " ... assessments **will be** conducted on an on-going basis by the Principal and the Board of Directors. The curriculum **will be** implemented and evaluated through observations of teachers and the participation of both parents and students...."
- b. Tab 4: Assessment of Student Educational Progress, page 40, "PRTA will **ensure** alignment of its curriculum with Idaho Content Standards in order to ensure success for all students in meeting the requirements of state-required standardized tests."
- c. Tab 4: Progress Measurable Student Standards, page 41, "Performance **will be assessed** on at least three levels:
  1. Student progress relative to previous performance...
  2. Attitudes and personal/academic habits...
  3. Performance will be assessed relative to district and state standards."

- d. Student Assessment, pages 41-42, "A goal for students at PRTA for three (3) consecutive years will be to meet the statewide performance standards developed by the Idaho Department of Education. Student assessment evaluation, **reported annually, will consist of:**
  - 1. A student baseline developed during the first year using testing results;
  - 2. A comparison of annual results with baseline scores to assess progress;
  - 3. Grade-level and school composite scores;
  - 4. A graph of annual results showing year-to-year change;
  - 5. A graph of school scores relative to state and national averages; and
  - 6. Sub-analysis of a variety of variables to identify areas for improvement."
- e. Audit of Programmatic Operations, page 48, "An annual educational program and financial audit **will be conducted** after the completion of each charter school year."

**Response to Area of Concern #3:**

*PR<sup>2</sup>TA recognizes that this part of the charter should refer to the "Performance Standards" that PR<sup>2</sup>TA strives to meet each year. Because these standards are dynamic, and not static, we believe they should be included in the performance part that is required by all authorizers. This will be a referencing to the term of the performance standards only in the charter.*

*The following are the areas of emphasis that addressed your concerns and how we will incorporate them into the "PR<sup>2</sup>TA Performance Standards" document:*

- a. *Curriculum Development and Approval: Career & Technical Education curriculum in Idaho is put together by the Idaho Career & Technical Education Department which has been slowly updating and implementing each of the pathways. There are State Standards that are put together by taking National Standards and implementing them into the existing State Standards. All of our career pathways align with the Idaho Career & Technical Education Department which is frequently updated. The curriculum is evaluated by the instructor(s), Superintendent/Principal of PR<sup>2</sup>TA, Board of Directors and aligned with these standards to better educate and arm the students for success.*
- b. *Assessment of Student Educational Progress: PR<sup>2</sup>TA will ensure that the alignment of our curriculum with the Idaho Career & Technical Education Departments' Content Standards are in order for the success of all students who go through their career pathways, and those programs that contain the opportunity for students to take state/national certification exams.*
- c. *Progress Measurable Student Standards: Performance will be assessed on at least three levels:*
  - i. *Student progress relative to previous performance of Idaho Career & Technical Education Standards as well as program content progression;*
  - ii. *Attitudes and personal /academic habits will be assessed throughout the courses by the content area teachers and graded;*
  - iii. *Performance will be assessed relative to National and Idaho Career & Technical Education standards aligned with national/state certification opportunities.*
- d. *Student Assessment:*
  - i. *Workplace Readiness Assessment covering all career pathways during their senior year.*
  - ii. *Technical Skills Assessment taken at the end of their senior year.*
  - iii. *Certifications if applicable.*
  - iv. *End of course assessments.*
  - v. *Student participation and engagement in Career Technical Training and PR<sup>2</sup>TA's National Career and Technical Student Organization.*
- e. *Audit of Programmatic Operations: Every career pathway course is subject to an audit by the Idaho Career & Technical Education Department once in every five years. PR<sup>2</sup>TA will audit its educational program at the end of each year to make sure it is meeting the National and State Standards for the pathway being audited. A financial audit will be conducted each year after the end of the educational*

*fiscal year on June 30<sup>th</sup>. A report of the financial audit will be available to the Board of Directors by our September board meeting and posted to the PR<sup>2</sup>TA's website.*

**Area of Concern #4:**

Reimbursing a school administrator for driving from home-to-work and back and reimbursing a school administrator for the cost of a meal without appropriate documentation (e.g. receipts, advance approval, etc.). A review of the minutes from the June 13, 2017 PRRTA Board meeting indicate the PRRTA Board approved both the meal and "travel" reimbursement stated above. If a public employee is paid for driving to-and-from his home, this qualifies as income and must be included as income, applying the appropriate legally required tax withholdings. In addition, unless there is an agreement or policy that would allow reimbursement to an employee for travel time to and from work, it is questionable whether such reimbursement is permissible under state or federal law.

**Response to Area of Concern #4:**

*The PR<sup>2</sup>TA Board of Directors agrees that documentation/receipts are important to have for all expenditures. A review of relevant procedures is underway with the PR<sup>2</sup>TA Board of Directors to ensure clear directions and procedures are provided to all staff members. If through this review, it is determined an additional travel procedure is needed, one will be written. In addition, PR<sup>2</sup>TA has a yearly audit of our financial records by a professional Auditing Firm and will continue to do so. A copy of PR<sup>2</sup>TA financials records from 2011 to current can be found on the PR<sup>2</sup>TA website.*

**Area of Concern #5:**

Failure to fingerprint all employees and other individuals who will have unsupervised contact with students. Idaho Code §33-130 requires criminal background checks on individuals including, but not limited to, certificated and non-certificated employees, substitute staff, individuals involved in other types of student trainings, practicums, internships, field trips, and student competitions, and on all individuals who have unsupervised contact with students in a K-12 setting. Charter schools are subject to the criminal background check requirement, as set forth in Idaho Code §33-5210. This requirement is intended to ensure the safety of the students attending PRRTA.

**Response to Areas of Concern #5:**

*The concern with fingerprinting has been corrected by PR<sup>2</sup>TA. PR<sup>2</sup>TA is now doing all its own fingerprinting through the Gem County Sheriff's Office. This keeps PR<sup>2</sup>TA records in check with immediate response from GC Sheriff's Office. Previously, PR<sup>2</sup>TA was allowing Emmett School District to do the fingerprinting.*

**Area of Concern #6:**

The PRRTA Board is violating Idaho Open Meeting Law (please reference "Idaho Meeting Law Manual," July 2015, available at: <http://www.ag.idaho.gov/publications/legalManuals/OpenMeeting.pdf>; Idaho Code §§74-201 through 74-208) in the following areas:

- a. Failure to post a change of meeting locations, for regular board meetings, within five (5) calendar days of the meeting.
- b. Meeting agenda items written in vague or general terms, lacking clarity, transparency, and specificity.
- c. Failure to state a "good faith reason" for amending or changing agenda items after the required 48 hour (regular meeting agenda posting timeline), and/or the required 24 hour (special meeting posting timeline).
- d. Deliberations and discussions among PRRTA Board members of business that may come

before the PRRTA Board outside of properly posted board meetings. This may include the use of email, texts or phone conversations whereby two or more PRRTA Board members are discussing or deliberating (as those terms are defined in the Idaho Open Meeting Law) matters that may be pending or likely to come before the PRRTA Board. The Idaho Attorney General's Open Meeting Law Manual states that "members of a public board may not use computers or texting to conduct private conversations among themselves about board business." However, this would not apply to a one-way email or text from one board member to another, when it does not result in exchange of board members' comments or responses requiring board action (*see Idaho Attorney General's Open Meeting Law Manual, p. 16*).

**Response to Area of Concern #6:**

*The PR<sup>2</sup>TA Board of Directors believes it has been in compliance with the Idaho Open Meeting Law. Agenda preparation, content and posting has been reviewed by PR<sup>2</sup>TA Legal Counsel as well Idaho's Attorney General Statutes concerning Open Meeting Law. PR<sup>2</sup>TA is unyielding in its commitment for public meetings to be open and available for members of the public to view and participate (when appropriate).*

**Area of Concern #7:**

PRRTA is out of compliance with the Performance Certificate (August, 2014), and the original Charter Document "Accreditation," page 43, in the area of meeting or exceeding "a score of 2.5 or above on the AdvancED rubric for each standard." Specifically, PRRTA has twelve (12) Standard Indicators where its score was below a 2.5; ten (10) with a score of 2.0; and two (2) with a score of 1.0.

**Response to Area of Concern #7:**

*It is unclear where the quoted standard of meeting or exceeding "a score of 2.5 or above on the AdvancED rubric for each standard" is located. The Charter Document, the Idaho Code and the Idaho Administrative Rules do not contain the quoted language. Page 43 of the Charter Document states the following in its entirety: Payette River Technical Academy will obtain accreditation in accordance with Idaho Code 33-119. Idaho Administrative Procedures Act (TIMPA) (sic) 08.02.02.140, Accreditation, which defines the State Board of Education's accreditation requirements, will be utilized. This would include developing the following:*

- 1. A School/District Strategic Plan,*
- 2. A Continuous School Improvement Plan,*
- 3. An aligned and focused plan for the improvement of school and staff capacity (including structure, resource allocation, and teacher skill sets): to increase student achievement,*
- 4. A plan to meet state approved accreditation standards,*
- 5. Submitting reports as requested, and*
- 6. Meeting the Elements of Thoroughness.*

*PR<sup>2</sup>TA agrees that it must remain accredited to comply with both the Charter Document and Idaho law. PR<sup>2</sup>TA's accreditation was approved by AdvancED in its most recent review and PR<sup>2</sup>TA is fully prepared to pass the next accreditation review when it occurs in the coming years. Another copy of PR<sup>2</sup>TA's accreditation can be provided to the ESD Board of Trustees if needed.*

**Area of Concern #8:**

PRRTA failed to maintain its required non-profit corporation status, and was "administratively dissolved" on two separate occasions, October 5, 2010, and October 4, 2012. PRRTA's non-profit corporation status was then reinstated on November 1, 2010, and again on September 14, 2016. This placed PRRTA, and potentially the Emmett Independent School District as PRRTA's authorizer, in serious legal and financial liability.

**Response to Area of Concern #8:**

*PR<sup>2</sup>TA's failure to renew its non-profit corporation status was actually due to a clerical error by PR<sup>2</sup>TA office staff at that time and was corrected. In conversation with both the State and IRS, PR<sup>2</sup>TA is in complete compliance with the Secretary of State and IRS concerning our non-profit 501(c)(3) corporation status. Accordingly, at no time was the Emmett Independent School District as PR<sup>2</sup>TA's authorizer in any legal or financial liability.*

**Area of Concern #9:**

PRRTA is out of operational compliance with the Charter Document in the following two areas:

- a. Article IV: Committees, SECTION I. Parent-Faculty Association. (Page 14), "The Board **shall establish** or recognize an official Parent Faculty Association (PFA). Members of the committee will be elected annually by parents of students enrolled in "PRTA", and Tab 5: Governance Structure, Standing Committees and Ancillary Support Personnel, page 47.
- b. Conflict of Interest Policy, ARTICLE VI: Annual Statements: "Each director, principal officer and member of a committee with governing board delegated powers **shall annually sign a statement** that affirms such person... "and ARTICLE VII (mistitled VI): Periodic Reviews, page 22.

**Response to Area of Concern #9:**

*PR<sup>2</sup>TA's Charter (original) will be amended to include the required Technical Action Committees (TACs) for each of PR<sup>2</sup>TA's National Career and Technical Student Organization. The following TACs are:*

- *FCCLA – Family Career and Community Leaders of America (Culinary and Family Consumer Science)*
- *FFA – Future Farmer of America (Agricultural Science)*
- *BPA – Business Professional of America (High School of Business and Business Administration)*
- *HOSA – Health Occupations Students of America (Physical Therapy Assistance)*
- *SkillsUSA (Engineering, Graphic Communication, and Automotive)*

*These organizations are specific to the pathways that PR<sup>2</sup>TA provides. Students are encouraged to join these professional organizations with student government and ability to compete not only in State, but on the National stage. PR<sup>2</sup>TA has competed and been successful in all of these areas on the local, State, and National levels. PR<sup>2</sup>TA has been Gold, Silver, and Bronze medalist at State and at National in both Engineering and Business. In addition, PR<sup>2</sup>TA's Culinary, Graphic Communications and AgSci have been State Medalists.*

*The TACs are comprised of **parents, students, community members, and industry leaders**; the bi-yearly meetings are recorded for preview by the State CTE as part of the evaluation of programs. **These TAC committees provide scholarship opportunities, mentoring, community and state service, apprenticeship, and intern opportunities.***

**Area of Concern #10:**

Unilaterally amending the PRRTA bylaws to alter the representation of the Emmett Independent School District on the PRRTA Board without following the legal process for amending a charter. The bylaws originally adopted by PRRTA, and included in PRRTA's original petition, provided that one of the members of the PRRTA Board "shall be the Superintendent of School District #221 or a designee thereof." The District has been informed that at its meeting on July 11, 2017, the PRRTA Board approved, by a vote of 4-2, a change in the bylaws that struck the quoted language above and replaced it with the following: "At least one, and no more than two, members of the board shall be duly elected members of the Board of Trustees of ESD #221."

This change in PRRTA's by-laws is troubling for several reasons. First, the bylaws are incorporated into the charter as part of the petition pursuant to Idaho Code §33-5205(7), and can only be revised following the

procedure outlined in IDAPA 08.02.04.302 (Idaho Code §33- 5206(8)). This procedure includes making a written request to the charter school's authorized chartering entity (the District) and submission of the request to the State Department of Education ("SDE"). The PRRTA Board failed to follow this procedure and instead, unilaterally amended its bylaws in violation of established procedures of the SDE. Second, the District Superintendent is an integral part of the management of the District and, in particular, oversight of the CTE programs. Whether it is Superintendent Rush in that position or someone else, the Board deems the Superintendent's presence on the PRRTA Board an important component of the collaborative relationship the District would like to preserve for the benefit of our students. Removal of the Superintendent or his designee from the PRRTA Board, in our view, moves us farther away from that collaborative relationship.

**Response to Area of Concern #10:**

*Idaho Code makes several statements that indicate that charter schools should operate independently of their authorizers:*

- *Idaho Code §33-5202. LEGISLATIVE INTENT. It is the intent of the legislature to provide opportunities for teachers, parents, students and community members to establish and maintain public charter schools which operate independently from the existing district structure but within the existing public school system,,,,(emphasis added)*
- *Idaho Code §33-5204(1). A public charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a public charter school shall be deemed public agents authorized by a public school district, the public charter school commission, or the state board of education to control the public charter school, but shall function independently of any school board of trustees in any school district in which the public charter school is located or independently of the public charter school commission, except as provided in the charter. (emphasis added)*
- *Idaho Code §33-5209C. ... Every authorized chartering entity shall have the authority to conduct or require oversight activities that enable the authorized chartering entity to fulfill its responsibilities pursuant to the provisions of this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter, adhere to the terms of the performance certificate and do not unduly inhibit the autonomy granted to public charter schools.*

*PR<sup>2</sup>TA believes it is clear from a reading of these statutes that charter schools are intended to operate independently and autonomously from their authorizers. The PR<sup>2</sup>TA Board of Directors recognizes that the ESD Board of Trustees disagrees with the process that was followed to amend the Bylaws. PR<sup>2</sup>TA sought legal opinion and help concerning this matter to legally amend the Bylaws. Despite this disagreement, the PR<sup>2</sup>TA Board of Directors feel strongly that it must preserve its autonomy and independence and at the same time preserve the cooperative and collaborative relationship that PR<sup>2</sup>TA believes exists between PR<sup>2</sup>TA and ESD. PR<sup>2</sup>TA continues to offer two (2) Board of Director's positions to be filled by two (2) ESD Board of Trustees members if ESD desires to fill those Board seats. Collaboration can still be achieved, and may be more easily achieved, if the two board operate autonomously rather than having one board having an influential role in all decisions of the other board.*