

New Mexico Public Education Department Charter Schools

Introduction

New Mexico's charter school landscape is rooted in a historic commitment to providing innovative and unique schools of choice for students and families across our state. New Mexico was among the first states to pass early charter school legislation. In 1992, the legislature passed Section 22-8B NMSA 1978, referred to as the Charter School Act. However, the 1992 legislation severely limited the autonomy and growth of charter schools, and as a result, only one of the original eight charter schools remains open today. In 1999, the state amended 22-8B NMSA 1978 to allow 75 new start-up and conversion schools authorized by local school districts and gave more autonomy and authority to charter schools. In 2006, the legislature passed SB 600, which amended 22-8B NMSA 1978, to establish a statewide charter school authorizer and a Charter School Division within the Public Education Department. In 2011, new legislation further amended 22-8B NMSA 1978 to create legally-binding charter school contracts between charter schools and authorizers and the accountability measures.

Charter schools are public schools, and, like district schools, they are open enrollment schools. This means charter schools may not charge tuition, impose admission requirements, or select the students that attend. However, they differ from traditional public schools in that they are waived from the requirements of some of the laws and regulations that apply to traditional public schools and they are freed from the traditional district bureaucracy and run by their own independent governing bodies. In exchange for this flexibility, charter schools are subject to heightened accountability for their performance.

Charter schools are authorized to open by presenting a high quality charter proposal to one of the New Mexico charter school authorizers. If the application is found to be of high quality and the charter school is authorized, the school then operates under a performance contract that contains the material terms of the school's operation including the vision and mission for their school as well as performance expectations the schools are required to meet. The contract establishes the working relationship between the school and its authorizer. The school is assessed annually under three negotiated performance frameworks—an academic framework that includes the school grade, an organizational framework that looks at school compliance with laws, and a financial framework that looks at information from the school audit. A charter school that does not meet, or make substantial progress toward the performance expectations in the performance frameworks may have their contract revoked or may not be renewed at the end of the five year contract term. A contract can also be revoked for material violations of the contract terms, failure to meet generally accepted standards of fiscal management, or violations of any provision of law from which the charter school was not exempted.

Because of the flexibility they are granted, charter schools offer a broad range of educational delivery models. For example, charter schools in New Mexico offer Montessori-based learning, Career and Technical Education, Early College, Indigenous Education, Expeditionary Learning, project-based learning, art-based learning, and STEM-based learning. In addition, some charter school models are based on partnerships within the community in which they are located or industries with which they have an affiliation.

Charter schools are schools of choice. Students and their families choose to attend charter schools that fit their educational needs. Admission is based on a first come, first served basis or by lottery, if more students apply than there are spots available. Many charter schools have waiting lists for students who want to attend, but who were not selected in the lottery.

There are presently 96 charter schools in New Mexico, serving over 26,000 students, or approximately seven percent of New Mexico's public school students. These schools are authorized by either the state authorizer (the Public Education Commission—the PEC) or a local authorizer (the local school board). The PEC authorizes the largest number of charters—51, 30 are authorized by the Albuquerque Public School Board, and 15 are authorized by all other local schools boards collectively. Charter schools are publicly funded under the same funding formula as traditional public schools, less a two percent administrative fee that is used to fund the operations of the authorizer.

Suggested Shifts in Policies and Practices

The following policy recommendations are further explained in the attached policy briefs. We believe that in order to support the health and success of charter schools across New Mexico, legislative action, administrative rulemaking, and shifts in the Charter School Division's implementation practices are needed.

1. **Create a plan for Sustainable Charter School Facilities** – For the vast majority of public charter schools in New Mexico, acquiring a facility-let alone on that is designed around the schools' proposed programming- is one of the most challenging aspects of opening and operating an excellent school. And though the Public Charter Schools Law in New Mexico gives access to charters to any publicly held facilities that are not in use at the time of their charter approval; there are provisions and language in the statute that has made it possible for municipalities, school districts and other local governmental entities to obfuscate the statute and keep charters from accessing available buildings.
2. **Implementation of Yazzie Martinez mandates across all charter schools** -
3. **Strengthen existing schools** – Many charter schools are small schools and, with the recent cut in small schools funding approved by the state legislature, will experience significant cuts in their annual operational funds once the formula goes into effect. Charter schools are not being sufficiently supported and if New Mexico is going to maintain its home grown and high quality charter sector, will need to make efforts to strengthen existing public charter schools. We

recommend that the NMPED, in partnership with all charter authorizers implement evidence based practices in technical assistance, create consistency in authorizing practices across the state, and allocate Charter School Division staff to the needs of charters.

Additional areas to consider action

4. **Further defining what it means to create schools of innovation and uniqueness** – The Charter School Act (22-8B NMSA 1978) enables “individual schools to structure their educational curriculum to encourage the use of different and innovative teaching methods that are based on reliable research and effective practices or have been replicated successfully in schools with diverse characteristics; to allow the development of different and innovative forms of measuring student learning and achievement; to address the needs of all students, including those determined to be at risk; to create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; to improve student achievement; to provide parents and students with an educational alternative to create new, innovative and more flexible ways of educating children within the public school system; to encourage parental and community involvement in the public school system; to develop and use site-based budgeting; and to hold charter schools accountable for meeting the department's educational standards and fiscal requirements.”
5. **Define Replication and Expansion** – charters cannot replicate across school district boundaries. The NMPED may want to determine rulemaking to define what we mean by expansion and replication. Furthermore, the department should study the rules and guidelines regarding Charter Management Organizations – for-profit and non-profit versions so that New Mexico retains its historical commitment to independent and unique charter school models.
6. **District Impact/Community Input** – Each authorizing body must include a community input hearing within the initial application process for new charter schools. Although the input hearing in a mandatory aspect of the authorizing process, it is not graded or given points for its part of the application. Furthermore, the renewal process does not include a community input section. We recommend that the NMPED explores the possibility of giving weight to the new application community input hearing practice. We recommend working with authorizers across the state to include a community input hearing for all schools that are planning to renew. We also recommend that the local school district’s analysis of a new or renewing charter should continue to be a part of the community input hearings. The school districts should have the opportunity to provide a fiscal impact report on new and renewing charter schools.
7. **Developing the department’s position on Virtual Schools** – Virtual Charter Schools historically underperform when compared with brick and mortar charters and traditional public schools. Virtual charters continue to receive the same State

Equalization Guarantee as other schools, despite a much higher student to teacher ratio and less operational costs. We recommend that the NMPED works with the legislature to limit the opening of or enact a Moratorium on new virtual charter schools.

8. **Statewide Moratorium** – NEED TO REVISIT OUR POSITION ON A MORATORIUM

**Public Education Department
Identity, Equity & Inclusion Division
Public Policy Brief, Vol. 1**

Title: Public Charter Schools Facilities Access, Renovations & Operations

Executive Summary: For the vast majority of public charter schools in New Mexico, acquiring a facility-let alone on that is designed around the schools' proposed programming- is one of the most challenging aspects of opening and operating an excellent school. And though the Public Charter Schools Law in New Mexico gives access to charters to any publicly held facilities that are not in use at the time of their charter approval; there are provisions and language in the statute that has made it possible for municipalities, school districts and other local governmental entities to obfuscate the statute and keep charters from accessing available buildings.

Context/Scope of the Problem: It is estimated that although public charter schools have existed in New Mexico for over 20 years that nearly 75%-80% of charters are still actively managing their facilities situations (i.e. moving, re-configuring, expanding, etc. trying to determine long-term facilities needs and solutions.

Current Policy: Currently, public charter schools access to facilities are governed by the Charter Rights & Responsibilities In Statute 22-8B-4 , F NMSA, 1978 which states:

The school district in which a charter school is geographically located shall provide a charter school with available facilities for the school's operations unless the facilities are currently used for other educational purposes

22-8B-4.2. Charter school facilities; standards.

A. The facilities of a charter school that is approved on or after July 1, 2005 and before July 1, 2015 shall meet educational occupancy standards required by applicable New Mexico construction codes.

B. The facilities of a charter school whose charter has been renewed at least once shall be evaluated, prioritized and eligible for grants pursuant to the Public School Capital Outlay Act [Chapter 22, Article 24 NMSA 1978] in the same manner as all other public schools in the state; provided that for charter school facilities in leased facilities, grants may be used to provide additional lease payments for leasehold improvements made by the lessor.

C. On or after July 1, 2011, a new charter school shall not open and an existing charter school shall not relocate unless the facilities of the new or relocated charter school, as measured by the New Mexico condition index, receive a condition rating equal to or better than the average condition for all New Mexico public schools for that year or the charter school demonstrates, within eighteen months of occupancy or relocation of the charter, the way in which the facilities will achieve a rating equal to or better than the average New Mexico condition index.

D. On or after July 1, 2015, a new charter school shall not open and an existing charter shall not be renewed unless the charter school:

(1) is housed in a building that is:

(a) owned by the charter school, the school district, the state, an institution of the state, another political subdivision of the state, the federal government or one of its agencies or a tribal government; or

(b) subject to a lease-purchase arrangement that has been entered into and approved pursuant to the Public School Lease Purchase Act [Chapter [22](#), Article [26A](#) NMSA 1978]; or
(2) if it is not housed in a building described in Paragraph (1) of this subsection, demonstrates that:

(a) the facility in which the charter school is housed meets the statewide adequacy standards developed pursuant to the Public School Capital Outlay Act and the owner of the facility is contractually obligated to maintain those standards at no additional cost to the charter school or the state; and

(b) either: 1) public buildings are not available or adequate for the educational program of the charter school; or 2) the owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility for the charter school.

E. Without the approval of the public school facilities authority pursuant to Section [22-20-1](#) NMSA 1978, a charter school shall not enter into a lease-purchase agreement.

F. The public school capital outlay council:

(1) shall determine whether facilities of a charter school meet the educational occupancy standards pursuant to the requirements of Subsection A of this section or the requirements of Subsections B, C and D of this section, as applicable; and

(2) upon a determination that specific requirements are not appropriate or reasonable for a charter school, may grant a variance from those requirements for that charter school.

Policy Alternatives/Recommendations:

As it relates to the needs of public charter schools and facilities, the solutions will need to address the issue at a systemic level, thereby impacting existing statute(s) and PED personnel and capacity to assist and support the facilities question. Additionally, future policy alternatives and/or recommendations will need to: Need a systemic approach

- 1) Clarify the access pathways for charters to gain access to a public facility,
- 2) Clearly define the process whereby charter schools can utilize public funds to renovate a facility to meet student/program needs,
- 3) Develop an access pathway to include public land that could be available for “build to suit” enterprises, and
- 4) Define what criteria are used to determine the designation of “available” for public lands and/or buildings.

To begin supporting public charter schools around this question right away, the PED Charter School Division (CSD) should look to create a full time/permanent position within the CSD to research, recommend and act upon the aforementioned clarifications. Additionally, said position should make quarterly reports to the public charter school community about changes to rules, laws and capacities.

Consulted or Recommended Sources:

New Mexico Charter School Act, 1978.
Public School Financing Authority
New Mexico Finance Authority

*****PLACE FOR POLICY BRIEF: IMPLEMENTATION OF YAZZIE MARTINEZ ACROSS ALL CHARTER SCHOOLS*****

**Public Education Department
Identity, Equity & Inclusion Division
Public Policy Brief, Vol. 3**

Title: Strengthening Public Charter Schools

Context/Scope of the Problem: Public charter schools have served a critical role in the educational reform movement in New Mexico by providing innovative educational models that address student needs and offer options to families. Over the past several years, efforts at the NMPED have focused on increasing accountability through more rigour in the initial application and renewal processes and through more compliance-focused oversight and monitoring for schools in the pre-opening and operational years. Most charter schools are small schools and, with the recent cut in small schools funding approved by the state legislature, will experience significant cuts in their annual operational funds once the formula goes into effect. Charter schools are not being sufficiently supported and if New Mexico is going to maintain its home grown and high quality charter sector, will need to make efforts to strengthen existing public charter schools.

Current Policy: Currently, public charter schools in New Mexico have two choices in the authorizing authority: the local school board (of the district in which the school is located) or the New Mexico Public Education Commission (PEC). New Mexico allows charter schools to switch authorizer at renewal, 22-8B-12.I NMSA, 1978 states:

No later than two hundred seventy days prior to the date in which the charter expires, the governing body may submit a renewal application to the chartering authority. A charter school may apply to a different chartering authority for renewal...

Charter Authorizers across the state vary in their authorizing practices and their capacity for oversight and monitoring. As a result the quality of charter authorization and the support for charter schools is uneven. State law specifies the role of authorizer to monitor and provide technical support to charter school, but does not provide for authorizer oversight. Statute 22-8B-12.D-E, NMSA, 1978 states:

D. A chartering authority shall monitor the fiscal, overall governance and student performance and legal compliance of the charter schools that it oversees, including reviewing the data provided by the charter school to support ongoing evaluation according to the charter contract. Every chartering authority may conduct or require oversight activities that allow the chartering authority to fulfill its responsibilities under the Charter Schools Act, including conducting appropriate inquiries and investigations; provided that the chartering authority complies with the provisions of the Charter Schools Act and the terms of the charter contract and does not unduly inhibit the autonomy granted to the charter schools that it governs.

E. As part of its performance review of a charter school, a chartering authority shall visit a charter school under its authority at least once annually to provide technical assistance to the charter school and to determine the status of the charter school and the progress of the charter school toward the performance framework goals in its charter contract.

Policy Alternatives/Recommendations:

The need to support public charter schools should be addressed at a systemic level, thereby impacting existing statute(s), rules and PED personnel in order to increase capacity to assist and support a high quality charter schools sector in New Mexico. Recommendations include:

- 1) Forecast the implications of the reduced small size schools funding cuts to existing charter schools and consider options to address the gaps;
- 2) Form a work group to access charter school small size funding through an equity lens to prioritize support;
- 3) Develop quality authorizer standards, practices and frameworks (such as school monitoring visit protocols) to strengthen the capacity for authorizers to uphold the charter school bargain of accountability in exchange for autonomy; and
- 4) Consider differentiating authorizing oversight for high and low performing charter schools, tiering schools for reward/increased oversight, longer renewal periods and administrative fee shifts.