

(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools (40 points)

The extent to which—

- (i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;
- (ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;
- (iii) The State’s charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues; Antonio Ortiz to provide information below
- (iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools; and
- (v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

In the text box below, the State shall describe its current status in meeting the criterion. The narrative or attachments shall also include, at a minimum, the evidence listed below, and how each piece of evidence demonstrates the State’s success in meeting the criterion. The narrative and attachments may also include any additional information the State believes will be helpful to peer reviewers. For attachments included in the Appendix, note in the narrative the location where the attachments can be found.

Evidence for (F)(2)(i):

- A description of the State’s applicable laws, statutes, regulations, or other relevant legal documents.
- The number of charter schools allowed under State law and the percentage this represents of the total number of schools in

the State.

- The number and types of charter schools currently operating in the State.

Evidence for (F)(2)(ii):

- A description of the State’s approach to charter school accountability and authorization, and a description of the State’s applicable laws, statutes, regulations, or other relevant legal documents.
- For each of the last five years:
 - The number of charter school applications made in the State.
 - The number of charter school applications approved.
 - The number of charter school applications denied and reasons for the denials (academic, financial, low enrollment, other).
 - The number of charter schools closed (including charter schools that were not reauthorized to operate).

Evidence for (F)(2)(iii):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the State’s approach to charter school funding, the amount of funding passed through to charter schools per student, and how those amounts compare with traditional public school per-student funding allocations.

Evidence for (F)(2)(iv):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the statewide facilities supports provided to charter schools, if any.

Evidence for (F)(2)(v):

- A description of how the State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

Recommended maximum response length: Six pages

Section (F)(2) Ensuring Successful Conditions for High-Performing Charter Schools and Other Innovative Schools

The New Mexico’s Charter Schools Act must be viewed in the context of New Mexico’s school districts. Over 50% of New Mexico’s districts have enrollments of less than 1,000 students and a fourth of the State’s districts are under 250 students. The majority of the districts under 1,000 students must receive annual emergency supplemental funding in order to keep their schools operational. They

consistently face economies of scale working against them. Therefore, it appeared to be reasonable that school districts under 1,300 students would not have more than 10 percent of its student population in a charter school. There is no district in New Mexico that is even close to that cap. Two thirds of New Mexico's 300,000 plus students attend school in one third of the districts. While most of the charter school growth has been in urban areas, there are no size caps in place. Early on when the Charter School Act was first implemented, there was a rule that there could be no more than 15 new charters in any given year or 75 in a five year period. In the history of charter schools in New Mexico, these caps have not had to be activated. The Charter School movement is alive and well in New Mexico. We now have two authorizing entities: local boards of education and the New Mexico Public Education Commission. We currently have 88 charter schools in the State and a very active statewide professional organization, the New Mexico Coalition of Charter Schools, advocates for charter schools. The New Mexico Public Education Department for Charter Schools is headed by an Assistant Secretary for Charter Schools.

In New Mexico, charter schools are authorized under the provisions of the Charter Schools Act of 1999 (See Appendix F-2-1). From the date of enactment until July 1, 2007, all charter schools were authorized by local school districts. In 2006, the State Legislature amended the Charter Schools Act to provide for state-level authorization of charter schools as an alternative to authorization by school districts. The New Mexico Public Education Commission (NMPEC) was designated as the state's authorizing body. This legislation also created the Charter Schools Division (CSD) within the NMPED, which assumed the tasks of the former Charter Schools Bureau. The Charter Schools Division, under the leadership of an Assistant Secretary of Education for Charter Schools, was tasked with providing staff support to the Commission and for making recommendations for approval, denial, suspension and revocation of the charters of state-chartered schools. After authorization, state-chartered schools are accountable to the NMPEC for execution of their charters just as locally-chartered schools are accountable to their authorizing districts.

Under the revised law, a state-chartered school is exempt from any requirements of the school district in which it is located and it is established as its own local education agency (LEA). Consequently, a state-chartered school has greater autonomy and also greater responsibility for its programs, management, policies and accountability.

The Charter Schools Act of 2006 (22-8B NMSA 1978) was ground-breaking legislation for the state of New Mexico and was acknowledged nationally for its support of innovation and accountability. The Act allows for the establishment of initial charter schools and the renewal of existing charter schools through multiple authorizers, utilizes strong accountability for applicants and existing charter schools, provides for rigorous criteria for start-up schools and those choosing to renew their charters, and additionally, outlines processes for appealing authorizer decisions, mandated governing body training, and producing academic and fiscal management results. The Act provides for two types of authorizers, local districts and the New Mexico Public Education Commission (PEC), essentially offering 90 authorizer choices across the state. This dual-authorization also allowed the state-wide authorizer, The Public Education Commission, to create exemplary practices that can be utilized as models for other authorizers in the state and the nation (incidentally, the National Association of Charter School Authorizers (NACSA) has recognized the work that has been produced by the Commission and provided their model practices for the national charter movement). The rules and regulations written to support the Charter Schools Act, 6.80.4 NMAC, (See Appendix F-2-2) expand upon the processes to be followed by both charter schools and authorizers. The regulations more specifically articulate the expectations and responsibilities for charter applicants, existing charter schools, and those schools applying for renewal. The regulations also stipulate the academic, financial, and legal expectations for charter schools and for state-chartered schools provide criteria for qualification as a board of finance.

The NMPED considers State-chartered schools as their own Local Educational Agency (LEA) and affords these schools significant autonomy in matters of curriculum development, local governance, and budgetary decisions. The NMPED, through the Charter Schools Division, has also put in place mandatory monitoring processes that have required rigorous self-evaluation, on-site monitoring visits, and ultimate end-of-term reports that inform the renewal decisions for state-chartered charter schools

The development and application of new, high-quality state charter school standards by the Division and the Commission was accompanied by a commitment to increased technical assistance to developers and greater transparency in the authorization process. NMPED sought assistance from NACSA to develop new forms and procedures to assist charter school developers in understanding the application process and how their applications would be evaluated. After the development of these new forms and procedures, they were placed on the NMPED website and widely disseminated. These forms and procedures have become models for best practices that have been adopted by local district authorizers.

Since the creation of a dual authorizing authority, more applicants have sought authorization as a state charter through the Public Education Commission (PEC). In 2007, the PEC received 9 applications and approved 2 schools. In the same year only one application was received by a local district and that school was approved. In 2008 and 2009, no applications were received by local districts, and 27 applications were received by the PEC with 14 approved and 2 awaiting an appeal process through the Secretary of Education.

The closure of charter schools has not been significant in the state. Local authorizers have closed four charter schools during the years of 2005 through 2006. Three of those schools were closed for fiscal mismanagement and the third for failure to meet academic progress, governance issues, and financial mismanagement. In 2009, the PEC denied the renewal of a local charter that was seeking a renewal as a state charter school. The reason for non-renewal was based on academic progress.

Charter schools are funded equally as defined in statute. “The amount of funding allocated to a charter school shall be not less than ninety-eight percent of the school-generated program cost. The school district or division may withhold and use two percent of the school-generated program cost for its administrative support of a charter school.” (22-8B-13 NMSA 1978) In addition to the operational funding, the state through the Public School Capital Outlay Council has provided charter schools with lease payments funding in the amount of \$700 per MEM (per student based on prior year enrollment). Over the last five years, the State Legislature has increased the funding from approximately \$600 per MEM to the current amount of \$700. In addition to this support, a

constitutional amendment was passed two years ago that allows districts and charter schools to enter into a lease for purchase agreement.

In addition to the lease purchase assistance to schools, the New Mexico legislature amended the Public School Capital Outlay law in 2007 and again in 2009 to support charter schools receiving local bond funding:

If, in an election held after July 1, 2007, the qualified electors of a school district have voted in favor of the imposition of a property tax as provided in Section 22-26-3 NMSA 1978, the amount of tax revenue to be distributed to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the fortieth day of the prior school year is to the total such enrollment in the district; provided that, in the case of an approved charter school that had not commenced classroom instruction in the prior school year, the estimated full-time-equivalent enrollment in the first year of instruction, as shown in the approved charter school application, shall be used, subject to adjustment after the fortieth day. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school. (22-26-9 NMSA 1978)

On or after July 1, 2009, a resolution submitted to the qualified electors pursuant to Subsection A of this section shall include capital improvements funding for a locally chartered or state-chartered charter school located within the school district if the charter school timely provides the necessary information to the school district for inclusion in the resolution that identifies the capital improvements of the charter school for which the revenue proposed to be produced will be used. (22-25-3 NMSA 1978)

To summarize, in the last five years, student enrollment in charter schools has grown by leaps and bounds, from approximately 2,000 students in 25 schools in 2001 to more than 12,000 students in 74 charter schools in the 2009-2010 school year. Charter school student enrollment is close to 4% of the total number of enrolled students in New Mexico public schools. With close to 9,000 students attending 42 schools, Albuquerque has the largest number of both charter students and schools. Approximately 10% of all students in the Albuquerque School District attend a charter school. In the Santa Fe School District, 9% of all students attend one of 4 charter schools. Our charter schools enroll a slightly higher percentage of special education students (21% versus 19%) and a significantly higher percentage of students eligible for free and reduced-price lunch (62% versus 55%). More than half of New Mexico charter schools are middle or high schools, enrolling approximately 70% of all charter school students. Eighteen charter schools are established to serve students deemed “at risk for failure.”

Charter schools exist in 23 out of 89 districts (a quarter of all districts). Charter schools exist in all quadrants of the state and in all types of areas: urban, rural, and suburban. More growth has recently been seen in parts of the State south of Albuquerque, including Las Cruces and the southern-most border towns.

New Mexico enables LEAs to operate innovative, autonomous public schools other than charter schools. The decision to design and operate such schools rests with local school boards. Examples of innovative schools include magnet or special focus schools like Longfellow Elementary School in Albuquerque, which emphasizes dual language immersion in English and Spanish. Another innovative – magnet school example is Albuquerque’s New Tech High School. Examples of other alternative schools include Santa Fe Public Schools’ Project SER Academy, and the Family Schools (half public school education curriculum coupled with a half-day of education by the family) that are operated by several districts.