

State of New Mexico
LEGISLATIVE EDUCATION STUDY COMMITTEE

REPRESENTATIVES

Dennis J. Roch, Chair
Tomás E. Salazar
James E. Smith
Sheryl M. Williams Stapleton
Christine Trujillo
Monica Youngblood

325 Don Gaspar, Suite 200, Santa Fe, NM 87501
Phone: (505) 986-4591 Fax: (505) 986-4338

Rachel S. Gudgel
Director



SENATORS

John M. Sapien, Vice Chair
Craig W. Brandt
Gay G. Kernan
Howie C. Morales

ADVISORY

Jacob R. Candelaria
Carlos R. Cisneros
Lee S. Cotter
Daniel A. Ivey-Soto
Linda M. Lopez
Michael Padilla
John Pinto
William P. Soules
Mimi Stewart
Pat Woods

ADVISORY

Alonzo Baldonado
Jim Dines
Nora Espinoza
David M. Gallegos
Stephanie Garcia Richard
Jimmie C. Hall
D. Wonda Johnson
Timothy D. Lewis
G. Andrés Romero
Patricia Roybal Caballero
James G. Townsend

August 17, 2016

MEMORANDUM

TO: Legislative Education Study Committee

FR: Kevin Force

RE: CHARTER SCHOOL AUTHORIZER BEST PRACTICES: NATIONAL ASSOCIATION OF CHARTER SCHOOL AUTHORIZERS' AUDIT OF THE PUBLIC EDUCATION COMMISSION

In July, the National Association of Charter School Authorizers (NACSA) completed its evaluation of the Public Education Commission's (PEC) authorizing practices. The evaluation rates the PEC's procedures as both "Established" (the policies as they were intended to operate), and "Applied" (policies as they are actually carried out in practice). The review is applied to five broad areas, each with several subcategories that are rated individually before being compiled into an overall score for each category. Each category and subcategory is scored as "undeveloped," "minimally developed," "partially developed," "approaching well-developed," and "well-developed." The five broad categories reviewed in the evaluation are:

1. **"Application Decision-Making,"** the actual approval or disapproval of charter school applicants;
2. **"Performance Management Systems,"** the establishment and monitoring of charter schools' performance, in terms of their obligations to both students and public;
3. **"Performance-Based Accountability,"** decision-making to maintain high standards protecting the students' and public's interests through the application of rigorous, appropriate standards;
4. **"Autonomy,"** the consideration of whether the authorizer's charter schools are maintained in the autonomy to which they are entitled; and

5. **“Organizational Capacity,”** planning for the future to align with NACSA’s authorizing standards, using quality authorizing practices to forward its mission, and addressing identified needs or attracting desirable school programs.

Concerns cited throughout the evaluation include:

- Inconsistent application of the rubric at all levels of the approval process, and to all categories of review in the charter applications;
- Evaluation rubric that sets approval thresholds too low and includes ambiguous terms and language;
- Lack of alignment between the Charter Schools Division (CSD) recommendations and PEC decisions;
- Tension between PEC and the Public Education Department (PED) that hinders the capacity of both organizations to foster high-quality charter schools; and
- Lack of authorizing policies clearly defining the roles of all entities involved in the approval process.

Overall recommendations include:

- Mediation between PED and PEC to work through immediate issues and develop a long-term plan for resolving dysfunction between the two bodies, and clarification and codification of their respective roles;
- Better definition of academic and financial requirements for renewal;
- Revision of rubric and toolkit to establish a clear and high standard for approval; and
- Better application of the rubric to foster consistency between CSD recommendations and PEC decisions, as well as consistent decisions across charter application cycles.

CATEGORY AND SUBCATEGORY RATINGS and RECOMMENDATIONS

1. Application Decision-Making Composite Scores: Established, “Partially Developed”; Applied, “Partially Developed.”

- 1.1. Application Materials and Process: Established, “Partially Developed”; Applied, “Partially Developed.”
- 1.2. Educational Program: Established, “Approaching Well-Developed”; Applied, “Well-Developed.”
- 1.3. Organizational Plan: Established, “Partially Developed”; Applied, “Minimally Developed.”
- 1.4. Business/Financial Plan: Established, “Approaching Well-Developed”; Applied, “Partially Developed.”
- 1.5. Capacity: Established, “Partially Developed”; Applied, “Partially Developed.”
- 1.6. Specialized Applicant Type and Existing Operations: Established, “Undeveloped”; Applied, “Undeveloped.”
- 1.7. Decision Alignment: Established, “Partially Developed”; Applied, Partially Developed.”

PEC application evaluation sets the bar for approval too low and includes ambiguous, sometimes subjective language, resulting in inconsistent results. There is a lack of consensus between PEC and CSD regarding what meets the standards for approval. CSD employed NACSA authorizing principles to create the application toolkit and rubric. The toolkit, previous applications, recommendations, and analyses are available on the PED website.

Recommendations include:

- Revision of the toolkit and rubric to establish a clear and high bar for approval;
- Removal ambiguous language and its replacement with clear, concrete descriptions of quality, and apply with greater fidelity;
- Conducting annual application review training sessions for team members to foster consistency of recommendations and decisions across years;
- Inclusion of team members or outside reviewers with more fiscal expertise, and revision of the rubric to require that budgets be fully aligned with both educational and operational plans; and
- Inclusion of specific questions for supplemental accountability model (SAM) schools, blended or virtual learning environments, as well as questions regarding relation of founding board members to existing schools.

2. Performance Management System Scores: Established, “Partially Developed”; Applied, “Partially Developed.”

- 2.1. Contracting: Established, “Well-Developed”; Applied, “Partially Developed.”
- 2.2. School Opening: Established, “Partially Developed”; Applied, “Minimally Developed.”
- 2.3. Ongoing Monitoring: Established, “Partially Developed”; Applied, “Partially Developed.”
- 2.4. School Intervention/Revocation: Established, “Minimally Developed”; Applied, “Minimally Developed.”
- 2.5. Renewal: Established, “Approaching Well-Developed”; Applied, “Partially Developed.”
- 2.6. Closure: Established, “Partially Developed”; Applied, “Partially Developed.”
- 2.7. Transparency: Established, “Approaching Well-Developed”; Applied, “Partially Developed.”

Oversight in each phase of the charter cycle is lacking. PED developed a performance framework, which PEC approved, but monitoring lacks a comprehensive analysis of schools’ performance. Site visits include review of performance frameworks, and mission-specific goals, but financial analysis and compliance measures are lacking. Performance targets are negotiated annually, rather than once per contract term.

Recommendations include:

- Development of a more comprehensive monitoring system, based on the performance framework, including financial performance standards to inform decisions regarding intervention and renewal;
- Reporting annually to the public on academic, financial, and operational performance of charter schools;
- Setting performance targets and expectations only upon the execution of a new contract, or at renewal, unless there are extenuating circumstances;
- Establishing, implementing, and holding schools accountable for pre-opening standards, including enrollment and financial viability;
- Monitoring financial performance and crafting an intervention policy that would help avoid the need for PED takeovers of schools' boards of finance; and
- Avoidance of conditional renewals, and making student placement, especially placement of English learners and students with disabilities, a priority of the school-closure process.

**3. Performance-Based Accountability Scores: Established, “Partially Developed”;
Applied, “Minimally Developed.”**

- 3.1. Educational Performance: Established, “Partially Developed”; Applied, “Minimally Developed.”
- 3.2. Financial Performance: Established, “Undeveloped”; Applied, “Minimally Developed.”
- 3.3. Organizational Performance: Established, “Approaching Well-Developed”; Applied, “Partially Developed.”
- 3.4. Special Student Populations: Established, “Partially Developed”; Applied, “Minimally Developed.”
- 3.5. Decision Alignment: Established, “Partially Developed”; Applied, “Minimally Developed.”

PEC lacks authorizing policies and performance thresholds needed for performance-based accountability, leading to inconsistent application of performance standards and decision-making. Nearly a third of state-chartered charter schools scored ‘D’ or ‘F’ on the A-F school grading system; the law requires that schools either meet or make substantial progress toward PED’s standards of excellence, yet there is no definition of “substantial progress” to guide PEC review. Mission-specific goals are difficult to review, given the lack of necessary data, and monitoring of special populations’ progress lacks established practices. Nevertheless, since the last NACSA review, in 2010, PEC has developed better performance contracts and frameworks, helping with oversight and communication of expectations.

Recommendations include:

- Definition of academic requirements for renewal, granting it only to schools that meet standards;
- Definition of “substantial progress” for determining if schools are meeting standards;
- Inclusion of only data-driven mission-specific goals in the performance framework;
- Highlight reporting of outcomes for English learners and disabled students; and

- Development and enforcement of financial performance standards, rather than reliance on PED intervention with boards of finance.

4. Autonomy Scores: Established, “Approaching Well-Developed”; Applied, “Partially Developed.”

- 4.1. Educational Program: Established, “Approaching Well-Developed”; Applied, “Partially Developed.”
- 4.2. Financial Management and Business Operations: Established, “Approaching Well-Developed”; Applied, “Partially Developed.”
- 4.3. Differentiated Oversight: Established, “Undeveloped”; Applied, “Partially Developed.”

Some CSD practices appear to undermine charter school autonomy, such as the requirement that each school submit a 90-day curriculum prior to opening and every year thereafter. Areas of CSD technical assistance to schools are ill-defined, confusing the point at which support becomes oversight. Some charter schools have reported to NACSA that after years of operation, they are being monitored for meeting instructional hour requirements, despite having waivers for a shorter school day. (It should be noted that statutory waivers for charter schools regarding the length of school day do not relieve them of their statutory obligation to offer minimal instructional hours.) CSD reports less monitoring and oversight of high-performing schools, but PEC has not established differentiated oversight protocols, either for school performance, SAM schools, or schools serving alternative populations.

Recommendations include:

- Defining what assistance from CSD can preserve its oversight role but meet statutory requirements for technical assistance;
- Development of differentiated oversight for high-performing schools that decreases their reporting burdens and more effectively allocate resources;
- Development of financial performance measures that require increasing levels of intervention before taking over a charter school’s board of finance becomes necessary; and
- Development of a less intrusive and burdensome online reporting process, to be completed annually by schools.

5. Organizational Capacity Scores: Established, “Minimally Developed”; Applied, “Minimally Developed.”

- 5.1. Strategic Planning: Established, “Minimally Developed”; Applied, “Undeveloped.”
- 5.2. Organizational Structure and Staff Development: Established, “Partially Developed”; Applied, Undeveloped.”
- 5.3. Conflict of Interest: Established, “Partially Developed”; Applied, “Well-Developed.”
- 5.4. Organizational Budget: Established, “Undeveloped”; Applied, “Undeveloped.”
- 5.5. Leadership and Decision-Making Body: Established, “Minimally Developed”; Applied, “Minimally Developed.”

PEC and PED do not work effectively as a unit; tensions between the two are so high, they undermine the performance of both entities regarding authorization and oversight of charter schools. This lack of cohesion has resulted in confusion for charter schools as they navigate the authorization, oversight, and renewal processes. State law offers PEC no independent budget, nor does it afford PEC any input into PED's budget, which includes the statutory set-aside to assist authorizers in their oversight and assistance of charter schools. PEC lacks staff, and collaboration with CSD is hampered by the division's competing responsibilities to both PEC and PED. PEC lacks a current, approved, publicly available strategic plan. Finally, while conflict of interest policies do not prevent commissioners or family members from working for or serving on the board of a school the PEC has authorized, there is no evidence to suggest that PEC does not manage conflicts of interest legally and well.

Recommendations include:

- Mediation between PEC and PED to work through immediate issues, and development of a long-term plan for resolving chronic and longstanding dysfunction;
- Codification of roles and responsibilities of PEC and PED;
- Foster greater cooperation between CSD staff and other PED bureaus to expand capacity and expertise and increase efficiency; and
- Formal adoption of a conflict-of-interest policy prohibiting commissioners and family members from serving on governing boards of charter schools they oversee.