

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 978

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING FOR ADDITIONAL LOCAL SCHOOL BOARD REQUIREMENTS WHEN
DENYING AN APPLICATION OR RENEWAL OF A CHARTER FOR A CHARTER
SCHOOL; PROVIDING FOR ADDITIONAL LOCAL SCHOOL BOARD
REQUIREMENTS WHEN REVOKING THE CHARTER OF A CHARTER SCHOOL;
PROVIDING FOR ADDITIONAL STATE BOARD CHARTER SCHOOL APPEAL AND
REVIEW PROCEDURES; AMENDING THE 1999 CHARTER SCHOOLS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-8B-6 NMSA 1978 (being Laws 1999,
Chapter 281, Section 6) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS-- APPLICATION
PROCESS-- AUTHORIZATION. --

A. The local school board shall have the authority

1 to approve the establishment of a charter school within the
2 local school district in which it is located.

3 B. A charter school applicant shall apply to a
4 local school board for a charter. An applicant shall only
5 submit an application in the district in which the school is
6 located. Applications shall be submitted by October 1 to be
7 eligible for consideration for the following school year. The
8 October 1 deadline may be waived upon agreement of the
9 applicant and the local school board.

10 C. An application for a start-up school may be made
11 by one or more teachers, parents or community members.

12 D. An application for a conversion school shall
13 include a petition of support signed by not less than sixty-
14 five percent of the employees in the school. Additionally, a
15 petition in support of the charter school signed by a majority
16 of the households whose children are enrolled in a proposed
17 conversion school must accompany the application.

18 E. The local school board shall receive and review
19 all applications for charter schools. The local school board
20 shall not charge application fees. If the local school board
21 finds the charter school application is incomplete, the local
22 school board shall request the necessary information from the
23 charter applicant.

24 F. The local school board shall hold at least one
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1 meeting to obtain information and community input to assist the
 2 local school board in its decision whether to grant a charter
 3 school application. The local school board shall rule on the
 4 application for a charter school in a public meeting within
 5 sixty days after receiving the application. If not ruled upon
 6 within sixty days, the charter application will be
 7 automatically reviewed by the state board in accordance with
 8 the provisions of Section [~~7 of the 1999 Charter Schools Act~~]
 9 22-8B-7 NMSA 1978. The charter applicant and the local school
 10 board may, however, jointly waive the deadlines set forth in
 11 this section.

12 G. If the local school board denies a charter
 13 school application or imposes conditions that are unacceptable
 14 to the charter applicant, the charter applicant may appeal the
 15 decision to the state board pursuant to Section [~~7 of the 1999~~
 16 ~~Charter Schools Act~~] 22-8B-7 NMSA 1978.

17 H. If a local school board denies a charter school
 18 application, it shall state in writing its reasons for the
 19 denial and provide the applicant with the written reasons for
 20 the denial within fifteen days of the date that the local
 21 school board denied the charter school application. If a local
 22 school board grants a charter, it shall send a copy of the
 23 approved charter to the department of education within fifteen
 24 days after granting the charter. "
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1 Section 2. Section 22-8B-7 NMSA 1978 (being Laws 1999,
2 Chapter 281, Section 7) is amended to read:

3 "22-8B-7. CHARTER SCHOOL APPLICATION APPEAL--PROCEDURES. -
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5 A. The state board, upon receipt of a notice of
6 appeal or upon its own motion, shall review decisions of any
7 local school board concerning charter schools in accordance
8 with the provisions of this section.

9 B. A charter applicant or governing body of a
10 charter school that wishes to appeal a decision of a local
11 school board concerning the denial, nonrenewal or revocation of
12 a charter school or the imposition of conditions that are
13 unacceptable to the charter school or charter school applicant
14 shall provide the state board with a notice of appeal within
15 thirty days after the local school board's decision. The
16 charter school applicant or governing body of the charter
17 school bringing the appeal shall limit the grounds of the
18 appeal to the grounds for denial, nonrenewal or revocation
19 specified by the local school board. The notice shall include
20 a brief statement of the reasons the charter school applicant
21 contends the local school board's decision was in error. The
22 appeal and review process shall be as follows:

23 (1) within sixty days after receipt of the
24 notice of appeal, the state board, at a public hearing that may
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1 be held in the school district in which the proposed charter
 2 school has applied for a charter, shall review the decision of
 3 the local school board and make its findings. If the state
 4 board finds that the local school board's decision was
 5 arbitrary and capricious and contrary to the best interests of
 6 the students residing in the local school district, the school
 7 district or the community, the state board shall remand the
 8 decision to the local school board with written instructions
 9 for approval of the charter. The instructions shall include
 10 specific recommendations concerning approval of the charter.
 11 The decision of the state board shall be final and not subject
 12 to appeal; and

13 (2) within thirty days following the remand of
 14 a decision by the state board, the local school board, at a
 15 public hearing, shall approve the charter.

16 C. The state board, on its own motion, may review a
 17 local school board's decision to grant a charter. Within sixty
 18 days after the making of a motion to review by the state board,
 19 the board, at a public hearing that may be held in the district
 20 in which the proposed charter school has applied for a charter,
 21 shall review the decision of the local school board and
 22 determine whether the decision was arbitrary and capricious or
 23 whether the establishment or operation of the proposed charter
 24 school would:

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- 1 (1) violate any federal or state laws
2 concerning civil rights;
3 (2) violate any court order;
4 (3) threaten the health and safety of students
5 within the school district; or
6 (4) violate the provisions of Section [11 of
7 the 1999 Charter Schools Act] 22-8B-11 NMSA 1978, prescribing
8 the permissible number of charter schools.

9 D. If the state board determines that the charter
10 would violate the provisions set forth in Subsection C of this
11 section, the state board shall remand the decision to the local
12 school board with instructions to deny the charter application.
13 The state board may extend the time lines established in this
14 section for good cause. The decision of the state board shall
15 be final and not subject to appeal."

16 Section 3. Section 22-8B-12 NMSA 1978 (being Laws 1999,
17 Chapter 281, Section 12) is amended to read:

18 "22-8B-12. CHARTER SCHOOLS--TERM--RENEWAL OF CHARTER--
19 GROUNDS FOR NONRENEWAL OR REVOCATION.--

20 A. A charter school may be approved for an initial
21 term of five years. A charter may be renewed for successive
22 periods of five years each. Approvals of less than five years
23 can be agreed to between the charter school and the local
24 school board.
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1 B. No later than January 1 of the year prior to the
 2 year in which the charter expires, the governing body of a
 3 charter school may submit a renewal application to the local
 4 school board. The local school board shall rule in a public
 5 hearing on the renewal application no later than March 1 of the
 6 year in which the charter expires, or on a mutually agreed
 7 date.

8 C. A charter school renewal application submitted
 9 to the local school board shall contain:

10 (1) a report on the progress of the charter
 11 school in achieving the goals, objectives, student performance
 12 standards, state board minimum educational standards and other
 13 terms of the initial approved charter application, including
 14 the accountability requirements set forth in Section 22-1-6
 15 NMSA 1978;

16 (2) a financial statement that discloses the
 17 costs of administration, instruction and other spending
 18 categories for the charter school that is understandable to the
 19 general public, that will allow comparison of costs to other
 20 schools or comparable organizations and that is in a format
 21 required by the state board;

22 (3) contents of the charter application set
 23 forth in Section [~~8 of the 1999 Charter Schools Act~~] 22-8B-8
 24 NMSA 1978;

1 (4) a petition in support of the charter
2 school renewing its charter status signed by not less than
3 sixty-five percent of the employees in the charter school; and

4 (5) a petition in support of the charter
5 school renewing its charter status signed by a majority of the
6 households whose children are enrolled in the charter school.

7 D. A charter may be revoked or not renewed by the
8 local school board if the board determines that the charter
9 school did any of the following:

10 (1) committed a material violation of any of
11 the conditions, standards or procedures set forth in the
12 charter;

13 (2) failed to meet or make substantial
14 progress toward achievement of the state board minimum
15 educational standards or student performance standards
16 identified in the charter application;

17 (3) failed to meet generally accepted
18 standards of fiscal management; or

19 (4) violated any provision of law from which
20 the charter school was not specifically exempted.

21 E. If a local school board revokes or does not
22 renew a charter, the local school board shall state in writing
23 its reasons for the revocation or nonrenewal and provide the
24 charter school with the written reasons within fifteen days of
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1 the date that the local school board revokes or does not renew
2 the charter.

3 F. A decision to revoke or not to renew a charter
4 may be appealed by the governing body of the charter school
5 pursuant to Section [~~7 of the 1999 Charter Schools Act~~] 22-8B-7
6 NMSA 1978. "

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