

1 SENATE BILL 346

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Elizabeth "Liz" Stefanics

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE TO
12 REQUIRE ALL LOCALLY CHARTERED AND STATE-CHARTERED CHARTER
13 SCHOOLS TO ESTABLISH ELIGIBILITY AND PARTICIPATE IN THE FEDERAL
14 FREE AND REDUCED-PRICE MEAL PROGRAM.

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

17 SECTION 1. Section 22-8B-4 NMSA 1978 (being Laws 1999,
18 Chapter 281, Section 4, as amended) is amended to read:

19 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
20 OPERATION.--

21 A. A charter school shall be subject to all federal
22 and state laws and constitutional provisions prohibiting
23 discrimination on the basis of disability, physical or mental
24 handicap, serious medical condition, race, creed, color, sex,
25 gender identity, sexual orientation, spousal affiliation,

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1 national origin, religion, ancestry or need for special
2 education services.

3 B. A charter school shall be governed by a
4 governing body in the manner set forth in the charter contract;
5 provided that a governing body shall have at least five
6 members; and provided further that no member of a governing
7 body for a charter school that is initially approved on or
8 after July 1, 2005 or whose charter is renewed on or after July
9 1, 2005 shall serve on the governing body of another charter
10 school. No member of a local school board shall be a member of
11 a governing body for a charter school or employed in any
12 capacity by a locally chartered charter school located within
13 the local school board's school district during the term of
14 office for which the member was elected or appointed.

15 C. A charter school shall be responsible for:

16 (1) its own operation, including preparation
17 of a budget, subject to audits pursuant to the Audit Act; and

18 (2) contracting for services and personnel
19 matters.

20 D. A locally chartered or state-chartered charter
21 school shall determine if the school meets guidelines for
22 school-wide participation in the federal national school lunch
23 program and, if eligible, shall provide breakfast and lunch to
24 all students who choose to participate.

25 [~~D.~~] E. A charter school may contract with a school

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1 district, a university or college, the state, another political
2 subdivision of the state, the federal government or one of its
3 agencies, a tribal government or any other third party for the
4 use of a facility, its operation and maintenance and the
5 provision of any service or activity that the charter school is
6 required to perform in order to carry out the educational
7 program described in its charter contract. Facilities used by
8 a charter school shall meet the standards required pursuant to
9 Section 22-8B-4.2 NMSA 1978.

10 ~~[E-]~~ F. A conversion school chartered before July
11 1, 2007 may choose to continue using the school district
12 facilities and equipment it had been using prior to conversion,
13 subject to the provisions of Subsection ~~[F]~~ G of this section.

14 ~~[F-]~~ G. The school district in which a charter
15 school is geographically located shall provide a charter school
16 with available facilities for the school's operations unless
17 the facilities are currently used for other educational
18 purposes. An agreement for the use of school district
19 facilities by a charter school may provide for reasonable lease
20 payments; provided that the payments do not exceed the sum of
21 the lease reimbursement rate provided in Subparagraph (b) of
22 Paragraph (1) of Subsection I of Section 22-24-4 NMSA 1978 plus
23 any reimbursement for actual direct costs incurred by the
24 school district in providing the facilities; and provided
25 further that any lease payments received by a school district

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1 may be retained by the school district and shall not be
2 considered to be cash balances in any calculation pursuant to
3 Section 22-8-41 NMSA 1978. The available facilities provided
4 by a school district to a charter school shall meet all
5 occupancy standards as specified by the public school capital
6 outlay council. As used in this subsection, "other educational
7 purposes" includes health clinics, daycare centers, teacher
8 training centers, school district administration functions and
9 other ancillary services related to a school district's
10 functions and operations.

11 ~~[G.]~~ H. A locally chartered charter school may pay
12 the costs of operation and maintenance of its facilities or may
13 contract with the school district to provide facility operation
14 and maintenance services.

15 ~~[H.]~~ I. Locally chartered charter school facilities
16 are eligible for state and local capital outlay funds and shall
17 be included in the school district's five-year facilities plan.

18 ~~[I.]~~ J. A locally chartered charter school shall
19 negotiate with a school district to provide transportation to
20 students eligible for transportation under the provisions of
21 the Public School Code. The school district, in conjunction
22 with the charter school, may establish a limit for student
23 transportation to and from the charter school site not to
24 extend beyond the school district boundary.

25 ~~[J.]~~ K. A charter school shall be a nonsectarian,

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1 nonreligious and non-home-based public school.

2 ~~[K-]~~ L. Except as otherwise provided in the Public
3 School Code, a charter school shall not charge tuition or have
4 admission requirements.

5 ~~[H-]~~ M. With the approval of the chartering
6 authority, a single charter school may maintain separate
7 facilities at two or more locations within the same school
8 district; but, for purposes of calculating program units
9 pursuant to the Public School Finance Act, the separate
10 facilities shall be treated together as one school.

11 ~~[M-]~~ N. A charter school shall be subject to the
12 provisions of Section 22-2-8 NMSA 1978 and the Assessment and
13 Accountability Act.

14 ~~[N-]~~ O. Within constitutional and statutory limits,
15 a charter school may acquire and dispose of property; provided
16 that, upon termination of the charter, all assets of the
17 locally chartered charter school shall revert to the local
18 school board and all assets of the state-chartered charter
19 school shall revert to the state, except that, if all or any
20 portion of a state-chartered charter school facility is
21 financed with the proceeds of general obligation bonds issued
22 by a local school board, the facility shall revert to the local
23 school board.

24 ~~[O-]~~ P. The governing body of a charter school may
25 accept or reject any charitable gift, grant, devise or bequest;

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1 provided that no such gift, grant, devise or bequest shall be
2 accepted if subject to any condition contrary to law or to the
3 terms of the charter. The particular gift, grant, devise or
4 bequest shall be considered an asset of the charter school to
5 which it is given.

6 [P-] Q. The governing body may contract and sue and
7 be sued. A local school board shall not be liable for any acts
8 or omissions of the charter school.

9 [Q-] R. A charter school shall comply with all
10 state and federal health and safety requirements applicable to
11 public schools, including those health and safety codes
12 relating to educational building occupancy.

13 [R-] S. A charter school is a public school that may
14 contract with a school district or other party for provision of
15 financial management, food services, transportation, facilities,
16 education-related services or other services. The governing
17 body shall not contract with a for-profit entity for the
18 management of the charter school.

19 [S-] T. To enable state-chartered charter schools
20 to submit required data to the department, an accountability
21 data system shall be maintained by the department.

22 [T-] U. A charter school shall comply with all
23 applicable state and federal laws and rules related to
24 providing special education services. Charter school students
25 with disabilities and their parents retain all rights under the

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1 federal Individuals with Disabilities Education Act and its
2 implementing state and federal rules. Each charter school is
3 responsible for identifying, evaluating and offering a free
4 appropriate public education to all eligible children who are
5 accepted for enrollment in that charter school. The state-
6 chartered charter school, as a local educational agency, shall
7 assume responsibility for determining students' needs for
8 special education and related services. The division may
9 promulgate rules to implement the requirements of this
10 subsection."

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