

AGENDA ITEM EXECUTIVE SUMMARY

I. Public Education Commission Meeting Date: April 7, 2017

II. Item Title: Discussion of PED Draft of Governing Body Rule

III. Executive Summary and Proposed Motions:

Please find attached the current draft rule for input and feedback from the PEC.

**TITLE 6            PRIMARY AND SECONDARY EDUCATION**  
**CHAPTER 80       ALTERNATIVE EDUCATION - CHARTER SCHOOLS**  
**PART 4             CHARTER SCHOOL GOVERNING BODY TRAINING REQUIREMENTS**

**6.80.5.1            ISSUING AGENCY:** Public Education Department  
[6.80.5.1 NMAC - N, 07/01/2017]

**6.80.5.2            SCOPE:** This rule shall apply to all charter schools.  
[6.80.5.2 NMAC - N, 07/01/2017]

**6.80.5.3            STATUTORY AUTHORITY:** Section 22-8B-5.1, NMSA, 1978  
[6.80.5.3 NMAC - N, 07/01/2017]

**6.80.5.4            DURATION:** Permanent  
[6.80.5.4 NMAC - N, 07/01/2017]

**6.80.5.5            EFFECTIVE DATE:** July 1, 2017 unless a later date is cited at the end of a section.  
[6.80.5.5 NMAC - N, 07/01/2017]

**6.80.5.6            OBJECTIVE:** To establish the mandatory training course requirements for all governing body members.  
[6.80.5.6 NMAC - N, 07/01/2017]

**6.80.5.7            DEFINITIONS:**

- A. "Applicant" means a source, individual or entity that has submitted an application to the Division for approval to provide Governing Body Training .
  - B. "Approved Provider" means a source, individual or entity approved by the Department to provide Governing Body Training that consists of a Designated Curriculum provided by a Designated Facilitator.
  - C. "Day" means business days.
  - D. "Department" means the Public Education Department.
  - E. "Division" means the Charter Schools Division.
  - F. "Designated Curriculum" means the curriculum that was provided in the application submitted to the Division for the purpose of receiving approval to provide training to governing bodies.
  - G. "Designated Facilitator" means the individual identified in the application submitted to the Division for the purpose of receiving approval to provide training to governing bodies.
  - H. "Governing body" means the governing body of a charter school as set forth in the school's charter.
  - H. "Governing Body Training" means the training required pursuant to Section 22-8B-5.1 NMSA 1978 to educate governing body members and ensure compliance with all applicable laws, which training may be obtained from any Approved Provider.
  - I. "Governing Body Member" means a voting member of a governing body of a charter school.
  - J. "Eligible Facilitator" means a proposed facilitator who is not disqualified for any of the reasons identified in 6.80.5.10(E)(2)(ii-iii).
- [6.80.5.7 NMAC - N, 07/01/2017]

**6.80.5.8            MANDATORY GOVERNING BODY TRAINING COURSE- NEW GOVERNING BODY MEMBERS:**

- A. Within the first fiscal year of service, each new Governing Body Member shall complete a Governing Body Training course that consists of, at a minimum, 10 hours of Governing Body Training .
- B. No new Governing Body Member may attend a Governing Body meeting and vote on any Governing Body business without first completing the seven hours of required training described below through a course provided by the Department:
  - (1) two hours of training on public official/charter school Governing Body ethics and responsibilities;
  - (2) two hours of training on charter school fiscal requirements;

- (3) one hour of training on understanding and evaluating academic data;
- (4) one hour of training on open government requirements; and
- (5) one hour of training on legal and organizational performance requirements.

C. The remaining hours required to complete the 10 hours of Governing Body Training may be completed at any time during the new Governing Body Member's first fiscal year of service and may be provided by any Approved Provider.

(1) The training may include extended time within any of the required training standards identified above based on the needs identified by the school's Governing Body.

(2) The training may include school specific onboarding if the school's administrator or Governing Body is an Approved Provider.

D. If a Governing Body Member resigns his or her term prior to the end of the first fiscal year of service, the additional hours required for that fiscal year shall be prorated based on the number of full and partial months during which the Governing Body Member served and rounded to the nearest full hour.

[6.80.5.8 NMAC - N, 07/01/2017]

**6.80.5.9 MANDATORY GOVERNING BODY TRAINING COURSE- CONTINUING GOVERNING BOARD MEMBERS:**

A. Unless exempted from specific hourly training requirements as laid out below, each Governing Body Member continuing to serve on a Governing Body beyond their first fiscal year of service shall annually complete a Governing Body Training course that consists of, at a minimum, 8 hours of Governing Body Training provided by Approved Providers which addresses the following standards:

- (1) one hour of training on public official/charter school Governing Body ethics and responsibilities;
- (2) three hours of training on charter school fiscal requirements pursuant to the Public School Finance Act, NMSA 1978 § 22-8-1 et seq.;
- (3) two hours of training on understanding and evaluating academic data, including state assessment data, school and teacher accountability systems data and interim and summative academic assessment data;
- (4) one hour of training on open government and public school access requirements; and
- (5) one hour of training on understanding and overseeing the organizational performance of a charter school.

B. Governing Body Members who have served on a Governing Body for more than one year may be exempted from specific hourly training requirements based on the school's academic or fiscal performance.

(1) For any school that has maintained a letter grade of B or better for the three most recent years and has received no rating below C in any area of the report card during that same time, the school's Governing Body Members shall be exempted from the requirement to complete two hours of training relating to understanding and evaluating academic data.

(2) For any school that has received an unmodified annual audit in each of the past three years with no material weaknesses, no repeat findings, no significant deficiencies, and no more than two compliance matters in any given year, the school's Governing Body Member shall be exempted from two of the three hours of required training relating to charter school fiscal requirements.

(3) In order to claim an exemption, a Governing Body Member must complete an assurance that they have met the requirements for exemption. Assurances are subject to confirmation by the Department.

C. The mandatory Governing Body Training course may be completed in one or multiple sessions during the fiscal year.

D. The mandatory Governing Body Training course may not consist of any of the same Governing Body Training that was completed by the Governing Body Member in any of the prior years of the same contract term as long as additional Governing Body Training is available.

E. Annually, the Governing Body Training should be related to specific areas of growth for individual boards or Governing Body Members based on the annual board evaluation.

F. If a Governing Body Member who is no longer in the first fiscal year of his or her service on the Governing Body resigns his or her term prior to the end of the fiscal year, the hours required for that fiscal year shall be prorated based on the number of full and partial months during which the Governing Body Member served and rounded to the nearest full hour.

[6.80.5.9 NMAC - N, 07/01/2017]

**6.80.5.10 GOVERNING BODY TRAINING REPORTING AND COMPLIANCE:**

A. Annually no later than July 31, each charter school must ensure the Division receives a record of attendance and completion for all Governing Body Members who served on the Governing Body in the prior fiscal year. The record of attendance and completion may be provided either by the charter school or by the Approved Provider that provided the Governing Body Training. Records are subject to verification by the Department.

B. Records of attendance and completion shall include:

- (1) the Governing Body Member;
- (2) the school for which the identified member serves on the Governing Body;
- (4) the Governing Body Training's Department-assigned course code.

C. Failure to timely provide evidence of completion of the required number of Governing Body Training hours for all Governing Body Members who served on the Governing Body of the school in a fiscal year shall be reported by the Division to the Authorizer. Additionally, the noncompliance may result in progressive disciplinary action by the Department or the Authorizer, which may include but is not limited to:

- (1) requiring the creation of a corrective action plan and completion of mandatory Department-provided Governing Body Training at the expense of the school;
- (2) withholding, by the Department, some of all of the charter school's funding until the school comes into compliance with the requirements when the school has failed to comply with its corrective action plan;
- (3) suspension, by the Department, of any or all of the Governing Body's authority when the school has failed to comply with its corrective action plan and funding has been withheld for at least 30 Days; and/or
- (4) revocation or non-renewal of the school's charter which prior disciplinary action has not resulted in the school coming into compliance.

[6.80.5.10 NMAC - N, 07/01/2017]

**6.80.5.11 GOVERNING BODY TRAINING PROVIDER APPROVAL**

A. No source, individual or entity may provide Governing Body Training, as defined in the Charter Schools Act, unless it is an Approved Provider providing a Designated Curriculum with a Designated Facilitator. The Approved Provider may provide, as Governing Body Training, only those Designated Curricula with the Designated Facilitators for which it has received approval from the Department. Department approvals are valid for a term of 36 months, but may be revoked at any time.

B. The Division shall, at a minimum, accept application packages on a bi-annual basis from Applicants seeking to be Approved Providers. The Division shall publish the application and application deadlines on its website annually no later than January 1.

C. Review timeframes. The timeframes for approving or disapproving an application package are:

- (1) administrative completeness review: 25 Days;
- (2) substantive review: 75 Days; and
- (3) overall: 100 Days.

D. Administrative review. The administrative completeness review begins the Day after the Division receives an application package.

- (1) An application package to provide Governing Body Training shall be administratively complete if:
  - (a) the application package identifies a specific individual as a proposed facilitator;
  - (b) the application package contains all the required information, materials, documents, attachments, signatures, and notarizations identified in the application posted on the Division's website;
  - (c) all the application package's components are formatted as required;
  - (d) the proposed Designated Curriculum addresses at least one of the required standards identified in items Subsection B or C 3.80.5.8; and
  - (e) all templates are unmodified, completely filled out, and from the current application package.

(2) If the application package is administratively incomplete when received, the Division staff shall provide the Applicant a notice of deficiency that states the reasons the application package was found to be administratively incomplete.

(a) Upon written notice to the Applicant that the application package is administratively incomplete, the Division staff shall close the Applicant's file.

(b) If the submission deadline has not yet passed, an Applicant may correct deficiencies in an administratively incomplete application package and submit a new application package in the same application cycle.

(3) An Applicant who believes their application was erroneously designated as administratively incomplete may submit a written request for reconsideration to the Division within 10 Days of the date of notice.

(a) The request for reconsideration shall contain a clear statement indicating how the previously submitted application package fulfilled each of the requirements that were identified as having been deficient. The request for reconsideration shall not provide any new or additional information, documents, or materials.

(b) A request for reconsideration that does not address each deficiency identified in the notice or that contains new or additional information, documents, or materials shall not be considered and the Applicant shall be notified that the request was not submitted according to subsection and the Applicant's file is closed.

(4) The Division staff shall review a request for reconsideration that is submitted according to subsection (i) and provide a decision on the request for reconsideration within 10 Days of receipt.

(a) If the Division staff determines the application package was erroneously designated as administratively incomplete, the Division staff shall reopen the Applicant's file and send a written notice of administrative completeness to the Applicant. If the Division staff determines the application package was correctly designated as administratively incomplete, the Applicant's file shall remain closed.

(5) If the application package is administratively complete the Division shall send a written notice of administrative completeness to the Applicant.

(6) If the Division does not provide a notice of deficiency or administrative completeness to the Applicant within the administrative completeness review time-frame, the application package is deemed administratively complete.

E. Substantive review. The substantive review begins when an application package is determined to be administratively complete.

(1) Within the overall review timeframe, the Division shall provide the Applicant with written notice of its decision to approve or disapprove the application to provide Governing Body Training.

(2) The Department shall approve an Applicant to provide a Designated Curriculum with a Designated Facilitator if the Applicant meets the following substantive requirements:

(a) The Applicant has provided evidence that demonstrates the Designated Facilitator has knowledge, skills, and experience constituting expertise in the area of the Designated Curriculum;

(b) The Designated Facilitator proposed by the Applicant has not been a Governing Body Member, administrator, senior leader or business manager of a charter school that had its board of finance suspended or its charter revoked or non-renewed;

(c) The Designated Facilitator proposed by the Applicant has not been convicted of a crime of moral turpitude and has not had a professional license revoked and has not been subject to disciplinary action for ethical or fiscal misconduct;

(d) The Applicant has demonstrated that the proposed Designated Curriculum addresses at least one of the required standards identified in items Subsection B or C 6.80.5.8 NMAC or Subsection A 6.80.5.9 NMAC and is legally and factually accurate;

(e) The time allotted or planned for providing the training is sufficient and not excessive for the proposed content and materials provided;

(f) If the Applicant intends on charging a fee for the Governing Body Training, the fee is reasonable as compared to local and national providers of similar trainings;

(g) The proposed Designated Curriculum is designed to improve Governing Body Members' knowledge, skills, and abilities to fulfill their statutory duties, comply with all applicable laws, and ensure charter schools meet the academic performance expectations of the Department and the Authorizer;

(h) If the training is to be provided virtually, the training includes methods to verify participant engagement throughout the training time period and end the course if participate engagement is not verified. Virtual training must also include an assessment of information understanding and retention at the end of training. The assessment must be aligned to the training, shall not be passed with a score below 80%, and shall not allow multiple attempts by the participant.

(i) The Applicant describes a process it will use to evaluate and improve the quality of the trainings, which includes end of training evaluations completed by all attendees to evaluate:

- (i) the knowledge and skill of the facilitator;
- (ii) the quality and relevance of the information;
- (iii) what actions the attendees will take based on what they learned in the

Governing Body Training ; and

- (iv) the value of the governing training in improving the attendees'

knowledge, skills, and abilities to fulfill their statutory duties and comply with all applicable laws.

F. Upon completion of the substantive review, the Division shall provide the Applicant a notice of denial or approval.

(1) If an application package meets the substantive requirements, the Division shall provide a written notice of approval that contains:

- (a) the name of the training and facilitator;
- (b) the number of approved hours for which the training will be eligible;
- (c) the standards identified in Subsection B 6.80.5.8 that the training will fulfill, if any;
- (d) the training's Department-assigned course code; and
- (e) a copy of the approved application package.

(2) If an application package does not meet the substantive requirements, the Division shall provide a written notice of denial that contains:

- (a) a specific description of the reasons the application package did not meet the substantive requirements; and
- (b) a copy of the denied application package.

G. An Applicant that receives a notice of denial may submit a revised application package and written request for reconsideration to the Division within 10 Days of the date of notice.

(1) The request for reconsideration shall contain:

- (a) a clear statement indicating how the previously submitted application package has been revised to address the deficiencies identified in the written notice of denial; and
- (b) a revised application package with changes tracked with strikeouts, and red, underlined insertions.

(2) A request for reconsideration that does not address each deficiency identified in the notice shall not be considered and the Applicant shall be notified that the request was not submitted according to subsection and the Applicant's file is closed.

H. The Division shall review a revised application package and request for reconsideration that is submitted according to Subsection G and provide a decision on the request for reconsideration within 15 Days of receipt.

(1) If the Division determines the revised application package meets the substantive requirements, the Division shall provide a written notice of approval in accordance with Subsection F Paragraph 1 6.8.50.11.

(2) If the Division determines the revised application package does not meet the substantive requirements, the Division shall provide a written notice of final action and denial in accordance with Subsection F Paragraph 2 6.8.50.11 NMAC. The Applicant may submit a new application pursuant to any established application deadlines.

[6.80.5.11 NMAC - N, 07/01/2017]

#### **6.80.5.12 APPROVED GOVERNING BODY TRAINING REPORTING REQUIREMENTS**

A. Annually no later than July 15, each Approved Provider must submit a report to the Division on all trainings provided during the prior fiscal year and all planned or proposed dates to provide training in the upcoming year.

(1) For each training provided in the prior fiscal year, the report shall include:

- (a) the date and start and end time;
- (b) the training and facilitator name;
- (c) the training's Department-assigned course code ;
- (d) the name of each Governing Body Member attendee and the charter school on whose Governing Body they serve;
- (e) the total amount of fees charged and collected;
- (f) sign in- and sign out- sheets for all attendees;
- (g) the materials presented and agenda;

(h) for virtual trainings the score on each assessment taken and the summary of participant engagement; and

(i) a summary of the attendees' end of training evaluations.

(2) For all confirmed or proposed dates for the upcoming year, the report shall include:

(a) whether the Governing Body Training is proposed or confirmed;

(b) the date and start and end time;

(c) the training and facilitator name;

(d) the training's Department-assigned course code;

(e) the proposed location of the training;

(f) whether the training is open for general attendance by Governing Body Members or is being offered to a specific, limited audience;

(g) the cost of the training; and

(h) the process for registration if the training is open for general attendance by

Governing Body Members.

B. For any Governing Body Trainings that were not reported as proposed trainings in the July 15 report to the Division, the Approved Provider must provide written notice to the Division at least 10 Days prior to providing Governing Body Training. The notice shall include the information identified in Subsection A Paragraph 2 6.80.5.12 NMAC.

C. Each Approved Provider must provide the Division with written notice within five Days if at any time the Designated Facilitator's status as an Eligible Facilitator changes for the reasons outlined in Subsection E Paragraph 2 Subparagraph ii or iii 6.80.5.11 NMAC.

D. Annually no later than July 30, the Division shall publish a list of all Governing Body Trainings that are open for general attendance by Governing Body Members on the Division's website.

(1) The listing shall include:

(a) the date and start and end time;

(b) the training and facilitator name;

(c) the training's Department-assigned course code;

(d) the location of the training;

(e) the number of approved hours for which the training will be eligible;

(f) the special hour requirements identified in 6.80.5.8(B) that the training will

fulfill, if any;

(g) the cost of the training;

(h) the process for registration; and

(i) whether the Governing Body Training is proposed or confirmed.

(2) Within five Days of receipt of notice that Governing Body Training will be provided, for which the Division did not receive notice in the annual reports, the Division shall update the listing on its website with the information identified in 6.80.5.12(C).

E. Annually no later than August 15, the Division shall publish on its website the prior year reports, described in Subsection A Paragraph 1 6.80.5.12 NMAC from each Approved Provider.

F. Failure to timely provide the reports required in Subsections A and B 6.80.5.12 NMAC may result in revocation or suspension of the Approved Provider status.

[6.80.5.12 NMAC - N, 07/01/2017]

### **6.80.5.13 SUSPENSION OR REVOCATION OF APPROVAL OF GOVERNING BODY TRAINING**

A. Any Approved Provider may have that approval suspended or revoked for the following reasons:

(1) Failure to timely provide the reporting identified in 6.80.5.12, including:

(a) annual reports, or

(b) reports of trainings that will be provided that were not identified in the annual

reports.

(2) A change in the status of the Designated Facilitator as an Eligible Facilitator as a result of any of the following:

(a) The charter school of which the Designated Facilitator is a Governing Body Member, administrator, senior leader or business manager has its board of finance suspended or its charter revoked or non-renewed;

(b) The Designated Facilitator is convicted of a crime of moral turpitude or has a professional license revoked or has been subject to disciplinary action for ethical or fiscal misconduct.

- include:
- (3) Failure to keep appropriate and accurate Governing Body Training records, which may include:
    - (a) falsifying attendance records for any Governing Body Member;
    - (b) failing to provide or collect responses to the end of training survey;
    - (c) failing to provide verification of completion or attendance; or
    - (d) failing to keep sign-in and sign-out logs.
  - (4) Providing a Governing Body Training that is not approved while identifying the training as approved, which may include:
    - (a) using a facilitator other than the Designated Facilitator;
    - (b) using a curriculum other than the Designated Curriculum;
    - (c) charging a fee in excess of the reasonable fee identified in the application; or
    - (d) providing training for a time period that is substantially shorter than the time for which the training is approved.

B. If the Division determines there is reason to suspend or revoke the Approved Provider status, the Division shall provide a written notice of contemplated revocation or suspension.

- (1) The notice shall contain:
  - (a) the course codes and names for which the revocation or suspension is being considered;
  - (b) a specific description of the reasons for the suspension or revocation;
  - (c) if the Division is proposing a suspension, the term and scope of the suspension;
  - (d) the process for responding to the notice of contemplated revocation or suspension.

(2) An Approved Provider that receives a written notice of contemplated revocation or suspension may submit a response within 10 Days of receiving the notice. The response shall contain:

- (a) a clear statement that responds to each of the reasons for the contemplated action; and
- (b) evidence or documentation to support the statement.

(3) The Division shall review a response to a notice of contemplated revocation or suspension within 15 Days of receipt.

(a) If the division determines the suspension or revocation is appropriate and justified, the division shall provide a written notice of suspension or revocation in accordance with Subsection B Paragraph 1 Subparagraphs i-iii of 6.8.50.13 NMAC.

(b) If the Division determines the suspension or revocation is not appropriate and justified, the Division shall provide a written notice that identifies:

- (i) The continued term of approval for each of the course codes and names for which the revocation or suspension was being considered; and
- (ii) The specific response and evidence that supported the finding that the suspension or revocation was not appropriate or justified.

C. If an Approved Provider is suspended or revoked, the Division shall, within five Days of the action remove that Approved Provider's trainings from the listing on its website identified in Subsection D of 6.80.5.11 NMAC. The Division shall also provide notice on its website that the Approved Provider has had its approval revoked for suspended.

[6.80.5.13 NMAC - N, 07/01/2017]