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# NACSA AUTHORIZER EVALUATION REPORT

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## **NEW MEXICO PUBLIC EDUCATION COMMISSION**

*Authorizer*

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## EVALUATION SCOPE

This evaluation is designed to provide authorizers a reflective, formative look at its current authorizing policies and practices in relation to NACSA's *Principles & Standards for Quality Charter School Authorizing*. The evaluation process and this report serve as an opportunity for an authorizer to reflect upon the strengths of its authorizing program and determine how best to focus time and energy on areas where the program could be improved.

Consistent with NACSA's *Principles & Standards for Quality Charter School Authorizing*, this evaluation focuses on and is organized according to the following five guiding questions:

1. *Does the authorizer approve applications based on applicants' demonstrated preparation and capacity to open and operate a quality charter school?*
2. *Does the authorizer have effective systems for establishing and monitoring school performance expectations and holding schools accountable as necessary to protect student and public interests?*
3. *Does the authorizer have rigorous, appropriate standards by which it holds schools accountable for results? Are decisions made with the intent to maintain high standards and protect the students' and the public's interests?*
4. *Do schools have the autonomy to which they are entitled?*
5. *To what extent do the organizational structure and systems support quality authorizing practices and forward the authorizer's mission?*

The contents of this report are a culmination of a process involving analysis of authorizer policy and practice. NACSA gathers evidence that informs our assessment through an extensive document review, surveys, interviews, and a site visit. We explore each guiding question in detail and present the authorizer with analysis of the applicable standards and recommended actions for strengthening the future work of the authorizing office.

## RATING CATEGORIES

Authorization quality is rated in two categories:

### ESTABLISHED

Refers to the authorizer’s practices as set out “on paper” whether by policy, protocol, or other means. It also addresses the way that the authorizer communicates information about its practices to relevant stakeholders within the authorizing agency and to schools. This category rates the authorizer based on what it plans to do.


### APPLIED


Refers to the authorizer’s practices as applied. This category rates the authorizer based on what it actually does, in practice.


Within each part of the evaluation, the rating categories are defined more specifically with respect to the authorizer’s responsibilities in that area.


## RATING SYSTEM


For each category (established or applied), the authorizer receives a rating as follows:

-  Well-developed
 

Commendable in that it meets or exceeds NACSA’s *Principles & Standards*.
-  Approaching Well-developed
 

Fundamentally sound in that it contains most aspects of a well-developed practice but requires one or more material modifications to meet NACSA’s *Principles & Standards*.
-  Partially Developed
 

Incomplete in that it contains some aspects of a well-developed practice but is missing key components, is limited in its execution, or otherwise falls short of satisfying NACSA’s *Principles & Standards*.
-  Minimally Developed
 

Inadequate in that the authorizer has minimally undertaken the practice or is carrying it out in a way that falls far short of satisfying NACSA’s *Principles & Standards*.
-  Undeveloped
 

Wholly inadequate in that the authorizer has not undertaken the practice at all or is carrying it out in a way that is not recognizably connected to NACSA’s *Principles & Standards*.

## ABOUT THE AUTHORIZER

The New Mexico Public Education Commission (the PEC) is the largest of 19 authorizers in the state of New Mexico with a current portfolio of 62 operating charter schools. Charter schools in New Mexico have the option to be authorized through the school district in which they are located or apply to be authorized by the PEC. Charter schools authorized by the local school board are considered district-chartered schools, while charter schools authorized by the PEC are considered state-chartered schools.











New Mexico's charter school law was enacted in 1999 and the, then, state board of education opened its first state-chartered charter school in 2004. On July 1, 2007, the PEC was granted primary responsibility of authorizing the state-chartered schools; the commission's other responsibility is overseeing the Carl Perkins Grant. Today, the PEC authorizes two-thirds of the 99 charter schools in New Mexico and serves approximately 15,355 students. Two more charter schools were approved to open during the 2015 application cycle. During the PEC's tenure as an authorizer, seven state-chartered schools have closed.

Commission members must be residents of the district from which they are elected and each of the 10 districts elect a commissioner to serve on the PEC. The 10 elected commissioners serve for staggered terms of four years. Ultimately, the Secretary of Education has the power to override any decisions the PEC makes, including application, renewal, and closure decisions. The PEC has no annual budget. By statute, staff of the Charter Schools Division (CSD) of the Public Education Department (PED) serve as staff to the PEC. The PED has developed a strategic plan for charter schools—addressing both district-chartered and state-chartered schools. The PED presented the plan to the PEC but the PEC has not officially approved it.

Authorizing duties are handled at the staff level by the CSD. The CSD staff includes eight employees who are led by the director, Katie Poulos. The director is responsible for providing the PEC the information it needs to carry out its authorizing duties but is an employee of the PED and reports to the Secretary of Education. The CSD provides technical assistance and resources to charter schools and district authorizers, per state law. The director position has seen significant turnover with eight people holding the position since 2007.

Schools and districts under the jurisdiction of the PED must participate in the state's A-F school grading accountability system. Based on this system, 40 percent of charter schools authorized by the PEC received an A or B grade for the 2015 school year; 28 percent received a C grade; and 32 percent received a D or F grade.

## EXECUTIVE SUMMARY

RATINGS SUMMARY	ESTABLISHED	APPLIED
1. Application Decision-Making	 Partially Developed	 Partially Developed
2. Performance Management Systems	 Partially Developed	 Partially Developed
3. Performance-Based Accountability	 Partially Developed	 Minimally Developed
4. Autonomy	 Approaching Well-Developed	 Partially Developed
5. Organizational Capacity	 Minimally Developed	 Minimally Developed

## KEY COMPETENCIES

- Key recommendations from the Public Education Commission’s (PEC) first authorizer evaluation, conducted in 2010, have been implemented including development of an application toolkit.
- Representatives of both the PEC and Public Education Department (PED) are interested in supporting a thriving charter school community focused on quality and options for students, and both entities are interested in supporting the growth of high-quality charter schools.
- The PEC has worked hard to develop tools that more comprehensively evaluate school performance.

## FINDINGS

## RECOMMENDATIONS

The tension between the PEC and PED staff is so high that it undermines both entities’ capacity to make good decisions about charter schools.

Engage in intervention such as mediation to work through immediate issues; develop a long-term plan for resolving chronic dysfunctions that are proving debilitating to effective operation; and clarify authorizing roles, responsibilities, and authority.

The PEC has no authorizing policies that define the roles of each entity and that serve as a foundation for how the PEC makes critical high-stakes decisions.

Establish a set of authorizing policies that codify the roles and responsibilities of the PEC and PED, and that can serve as the foundation for how the PEC makes high-stakes decisions with support from the Charter Schools Division (CSD) of the PED, as defined in law.

At renewal, the PEC has struggled to hold schools to its established standards due to a lack of performance thresholds.

Prior to the next renewal period, define the academic and financial requirements to earn renewal; only grant renewal to schools that meet the established standard and that are in good standing with their charter.

The PEC’s application evaluation rubric sets a bar for approval that is too low and that contains ambiguous language.

Revise the application toolkit and embedded evaluation rubric to establish a clearer and higher bar for approval. Develop language to define the PEC’s threshold for approval and ensure only applications that demonstrate a high likelihood of success are approved.

## 1. APPLICATION DECISION-MAKING

*Does the authorizer approve applicants based on applicants' demonstrated preparation and capacity to open and operate a quality charter school?*

**ESTABLISHED:**  Partially Developed

**APPLIED:**  Partially Developed

### SUMMARY ASSESSMENT

The PEC's application evaluation rubric sets a bar for approval that is too low and that contains ambiguous language. The four-tiered application evaluation rubric uses subjective language rather than concrete descriptors of quality, which results in inconsistent reviews across years and discrepancies between the staff analyses/recommendations and the PEC's decisions. For example, for many questions, the difference between exceeds and meets expectations in the four-leveled rubric is determined by the amount of detail, with "adequate" being used to describe meets and "clearly" to describe exceeds. The difference between clear and adequate is not further explained in the rubric or application toolkit.

Furthermore, the rubric sets a standard for approval that allows underqualified applicants to receive a charter. For example, based only on the rubric language, a school with incomplete or partially inaccurate budgets, operations, and education plans would meet the standard for approval. Lastly, while four of the most recent six applications resulted in decision alignment between the CSD and the PEC, two applications that the CSD recommended for denial were ultimately approved by the PEC. Currently, there is not consensus between the PEC and the CSD staff about what constitutes the standard for approval.

The CSD of the PED, under the guidance of the PEC used NACSA's principles of authorizing to create its application toolkit that encompasses the elements necessary to run a well-structured application process. The toolkit includes a timeline; questions on the school's proposed educational plan, finance, and operations; an embedded rubric; questions for a capacity interview with a scoring guide; and a separate community-input hearing. The toolkit is publicly available on the website, along with previous applications, accompanied by staff recommendations, analyses, and board decisions.

### RECOMMENDATIONS

Revise the application toolkit and embedded evaluation rubric to establish a clearer and higher bar for approval. Develop language to define the PEC's threshold for approval and ensure only applications that demonstrate a high likelihood of success are approved.



For each application question, remove ambiguous language and replace such language with concrete descriptors of quality, which will improve the consistency of application evaluations and help ensure that only high-quality applications are approved.

Conduct an application review training session each year for all application review team members to ensure consistency between years and among reviewers.



## 1.1 APPLICATION MATERIALS & PROCESS

*The authorizer provides clear guidance and requirements regarding application materials and submission requirements and runs a clear and well-structured application process with realistic timelines.*

**ESTABLISHED:**  Partially Developed      **APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the PEC has partially developed policies and practices for application materials and process. While the application timeline and content are strong, the application rubric needs strengthening to ensure consistent and objective decisions. Also, the application review team lacks sufficient training and issue-area expertise. Potential applicants can access a variety of information through the PEC's website including: submission guidelines; previous charter school applications, and corresponding staff analysis and CSD recommendations; minutes from community-input hearings; and PEC final decisions. The application toolkit is comprehensive, containing: a timeline for the decision-making process; an application that embeds the approval language from the rubric for each question; questions for the in-person capacity interview conducted by PED staff; and guidance for the community-input hearing conducted by the PEC. Letters of intent are due in January and completed applications are due in June. Every applicant undergoes a capacity interview and a community-input meeting near the school's proposed location. PEC decisions are made by September, one year prior to opening.

While the application content is strong, the application rubric is insufficiently designed to ensure that evaluation teams make objective decisions. As further detailed throughout Section 1, application rubric language is ambiguous, using the words "clear, comprehensive, and cohesive" rather than concrete descriptors of quality for each question. Furthermore, for many questions, the difference between exceeds and meets expectations in the four-leveled rubric is determined by the amount of detail, with "adequate" being used to describe meets and "clearly" to describe exceeds. The difference between clear and adequate is not further explained in the rubric or application toolkit. The same lack of clarity exists between "partially" and "meets," making the rubric ineffective in providing a consistent threshold to measure application quality year over year and between review teams.

The application does not have a high bar for approval at "meets" the standard for approval. For example, responses that address *most*, but *not all*, elements of a question are often considered to meet the standard for approval, which can prove problematic when, for example, a budget that includes errors or curricula that are not fully aligned to applicable state standards are considered to meet the standard. Sections 1.2, 1.3, and 1.4 include specific examples to further illustrate this pervasive issue.

Existing applicant review teams are insufficient for providing thorough reviews of complex applications because they lack training and do not have the necessary expertise. Specifically, reviews were done by CSD staff who, while knowledgeable, are not experts in special education, English Language Learning, and finance. This can be easily rectified as PED has experts in special education, English Language Learning, and finance who could serve as part of a review team.

### ANALYSIS | APPLIED

As applied, the PEC is partially developed in its application review process. The PEC implements its established application process with fidelity, but the threshold for application approval has varied as well as the consistency of application reviews. School leaders noted that the applicant trainings provided by the CSD and the wealth of information available on PEC's website were helpful in developing their applications but some school leaders also reported not having a clear understanding of the threshold for approval. The PEC follows the established application review timeline, which includes time for CSD staff to conduct and publish a thorough analysis prior to the community-input hearing and a well-supported staff recommendation prior to the PEC vote. However, while the staff recommendations published on the PEC website demonstrate that the applicant review team is using the established rubric to evaluate the applications, the review team evaluations lack consistency from year to year. Furthermore, for the last application cycle, applicants were held to an "exceeds expectation" threshold, which resulted in no applications receiving enough points to be recommended for approval. While this standard

of excellence is consistent with NACSA's best practice, the application rubric sets a lower threshold, as described above. This is particularly evident in the case of the SAHQ (Student Athlete Headquarters) school, which was recommended for approval in 2014 (though ultimately denied by the PEC) and recommended for denial in 2015; reviews of essentially the same application conducted in different years resulted in different staff recommendations.

## RECOMMENDATIONS

For each application question, remove ambiguous language and replace such language with concrete descriptors of quality, which will improve the consistency of application evaluations and help ensure that only high-quality applications are approved.

Revise the application toolkit and embedded evaluation rubric to establish a clear and higher bar for approval.

Conduct an application review training session each year for all application review team members to ensure consistency between years and among reviewers.

Expand application review teams to include members of PED with extensive knowledge of special education, English Language Learning, and finances.

## 1.2 EDUCATIONAL PROGRAM

*The authorizer has thorough requirements and rigorous evaluation criteria for the proposed educational program including the vision and mission statements; educational philosophy; curriculum and instruction; teaching skills and experience; calendar and daily schedule; target population and enrollment; and plans for educating students with special needs.*

**ESTABLISHED:**  Approaching Well-Developed      **APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the application's educational program section is approaching well-developed because the relevant questions are comprehensive, requiring more than superficial or check-the-box responses. The application asks each applicant to describe its proposed curriculum and how it will align to state standards, fulfill the school's mission, and further the academic learning of the school's intended population. It also requires the applicant to establish a mission statement and develop at least two mission-critical goals.

While the application contains questions about the curriculum, instructional strategies, and calendar, the guidance embedded in the rubric is limited to providing "clear, comprehensive, and cohesive" narrative without expectation of the level of concrete standards of excellence. For example, while the application requires the applicant to produce a detailed plan for its curriculum development, it does not provide concrete criteria to determine what a "detailed plan" must include and what the completed curriculum must look like. In addition, the applicant must create SMART goals to measure its educational program, but the application materials do not provide sufficient guidance as to whether these goals will ultimately be used to measure a school's success in light of the state's A-F school grading accountability system. As described in Section 1.1, the rubric allows for applicants to meet the standard of approval by responding to most, but not all, of a question, without detailing whether the most critical components are addressed. In this section, applicants must only respond to *most* of the key elements in the goals and governance sections; *mostly* align their curriculum to the common core and state standards; and the school's day and year must meet *most* of the state's requirements.

### ANALYSIS | APPLIED

As applied, the authorizer's assessment of the educational program in application reviews is partially developed. Staff conducts comprehensive and thorough reviews of proposed educational programs but these reviews lack consistency. Each review of a proposed educational program includes detailed summaries and supporting evidence of the application's strengths and weaknesses for each question. The evidence is pulled directly from the application and is tied back to the rubric criteria. However, each year, the amount of points that an applicant can earn per section varies. For example, SAHQ applied both in 2014 and in 2015. In 2014, staff recommended approval and awarded 70 percent of the possible points (76 of 108) for the education plan and in its analysis found that it met the standard of approval for its goals, alignment to standards, its graduation requirements, its instruction of English Language Learners (ELLs) and students with disabilities (SWDs). Yet the PEC denied the application. In 2015, staff recommended denial of virtually the same application but the PEC approved it. These same sections, one year later, collectively earned 44 percent of the possible points (44 of 100) and reviewers found it to not meet the standard for approval for the same sections outlined above. While the applicant revised the application's narrative between years in order to address the deficiencies highlighted in the original analysis, the substance and essential elements stayed the same. Both reviews cited evidence from the application and provided analysis. The difference was in the interpretation of the rubric and the difference between partially meets and meets among reviewers.

## RECOMMENDATIONS

Revise the rubric to set a clear standard for approval of the education plan that can be applied each year.

Provide training for CSD staff to use the rubric consistently each year and across years.

### 1.3 ORGANIZATIONAL PLAN

*The authorizer has thorough requirements and rigorous evaluation criteria for the proposed organizational plan including effective governance, and management structures and systems (including staffing); founding team members demonstrating diverse and necessary capabilities; and understanding of legal requirements related to opening and operating a charter school.*

**ESTABLISHED:**  Partially Developed

**APPLIED:**  Minimally Developed

#### ANALYSIS | ESTABLISHED

The authorizer's established expectations for the organizational plan of the application is partially developed. The application contains some, but not all, of the key components in assessing an applicant's proposed organizational plan and the evaluation rubric provides too low a threshold for approval in this area. The application contains questions about governance, the management structure, choosing and evaluating a school leader, and self-evaluating the governing board. The application promotes strong governance at the school level as each board member must attend governance training, including financial training, which is required by the state.

However, the application is insufficient in assessing whether the school leader will have the right tools in place to run a quality charter school. While the application provides opportunities for the applicant to explain its process for hiring and evaluating the school's leadership, it does not reference the qualities that the leader(s) should have, such as experience with running a not-for-profit or handling a large budget, leading a school or working in education, and experience with or passion about the school's mission and education philosophy.

In addition, the rubric sets too low a threshold for overall approval in this area. For example, an applicant could "meet" the standard and not have a plan for selection of a quality school leader, which is paramount to overseeing a successful school and should be required of all successful applicants. Additionally, the evaluation rubric is insufficient in ensuring that the school is set up for operational success, as it does not require the organizational plan to be fully supported by the budget. This allows for applicants to be approved without having the tools necessary to execute the plan. Furthermore, the staffing plan needs to only "generally appear" to align with the budget; for example, the professional development needs to be mostly supported by the budget.

#### ANALYSIS | APPLIED

As applied, the PEC is minimally developed in analyzing the application's organizational plan because schools that received low scores in this section are approved by the PEC. In 2015, both approved applicants, Six Directions Indigenous School and SAHQ Academy, received less than half of the points possible for this section of the application. Staff identified specific concerns with regard to the applicants' ability to properly finance and operate the school in their recommendations to the PEC but the PEC approved the applications despite these concerns.

### RECOMMENDATIONS

Revise the rubric to require a higher standard for hiring and evaluating the school's leader and ensuring that the budget will sustain the school's operation.

Ensure only those applicants with strong organizational plans are approved by setting and implementing an appropriate threshold for approval; ensure that both staff and board adhere to this approval in their recommendations and final decisions.

## 1.4 BUSINESS/FINANCIAL PLAN

*The authorizer has thorough requirements and rigorous evaluation criteria for the proposed business plan including financial viability of the plan demonstrated through budget projections that are aligned with the proposed educational program.*

**ESTABLISHED:**  Approaching Well-Developed

**APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

The authorizer's established expectations for the business and financial plan of the application is approaching well-developed because the application requires a comprehensive budget information and allows the authorizer to get an understanding of whether the applicant can budget appropriately. The application requires a five-year budget, a one-year budget, insurance coverage, and a master facility plan. Importantly, it also requires alignment between the education plan and the proposed budget although not the organizational plan, as referenced in Section 1.3.

However, similar to other sections of the application, the standard for approval is too low to ensure that the school will be able to run without extensive support and oversight. For example, the budgets may contain errors of any type, the five-year budget must just "appear" to support the school's mission, and the applicant must only demonstrate a "general" understanding of budgeting.

### ANALYSIS | APPLIED

As applied, the PEC is partially developed in its evaluation of a school's proposed business and financial plan, as evidenced by the review of the SAHQ application. SAHQ applied two consecutive years for a charter. In the first year, it received 44 percent (23 of 52) of the possible points for the business plan/financial framework section and the second year earned 60 percent (31 of 52). However, the opening statements of the staff analysis are strikingly different. In year one, the analysis states: the application is "generally adequate" with concerns about "capacity." In year two, the analysis states: the responses are "complete but inaccurate." Interestingly, the "inaccurate" responses received a higher overall score than the "generally adequate" ones. Meanwhile, the substance of the analysis shows different standards being applied but both uncovering important deficiencies, such as lack of a complete salary schedule, insufficient experience, and inaccurate budgeting for special education. It should be noted that in both years, this section was flagged as problematic. However, in the first year, that did not stop the applicant from being recommended for approval while in the second, that did not stop the PEC from granting approval.

In addition, the financial plan is reviewed by CSD staff, who do not have the requisite expertise. Members of the PED or other reviewers that have extensive understanding of procurement, contracting, and finance should be included as reviewers, in addition to school business managers. Financial experts will add credibility to the review and additional context for discussion.

## RECOMMENDATIONS

Include members of the PED finance bureau and/or external reviewers with financial expertise in the application review team.

Train all reviewers on consistent application of the rubric.

Revise the rubric to require applicants to *fully* align the proposed budget with the education plan and organizational plan.

## 1.5 CAPACITY

*The authorizer has thorough requirements and rigorous criteria for evaluating the applicants' capacity to implement the school plan effectively, including but not limited to a substantive in-person capacity interview with all qualified applicants.*

**ESTABLISHED:**  Partially Developed

**APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the application is partially developed in its assessment of the applicant's capacity. The PEC has developed some strong practices in assessing applicant capacity, including an in-person capacity interview and a community-input hearing, but could further strengthen its established practices in this area. While the application requires the applicant to include biographies of its founding group members and disclose conflicts of interest, the founding group does not undergo background checks, resulting in the application being ultimately insufficient in vetting founding groups who can successfully run a quality charter school.

Publishing the questions for the capacity interview, while laudable, leads to prepared answers from the applicant and limits CSD's ability to evaluate the applicant's capacity. Specifically, using a set of pre-determined questions does not allow for probing questions or specificity in questioning that is necessary to fully vet an applicant. The published questions require the applicant to speak to each section of the application without allocating more time to weaker sections or requiring the interviewee to clarify confusing responses. Lastly, as established, there is no guidance on how the PEC will conduct community-input hearings, other than that they are held in the vicinity of the proposed school to allow for authentic community engagement.

### ANALYSIS | APPLIED

As applied, the PEC is partially developed in evaluating applicant capacity. For the most recent application cycle, the capacity interview results were not incorporated in the staff analysis and recommendation. However, the PEC appropriately uses the community input hearings as a means for assessing applicant capacity. During the hearings, PEC members informally comment on the merits of the application and engage in a dialogue with the applicant and local community members. Transcripts from these hearings reflect discussions about specific aspects of an application, such as the choice of curriculum, the intended target population, or the school day and year. Commissioners cite specific sections and drill into areas of concern or ambiguity, and the applicant has an opportunity to defend their application.

## RECOMMENDATIONS

Rather than being limited by a set of pre-determined questions, structure the capacity interview so that CSD staff can focus on weak sections of the application and develop their own probing questions to more fully assess applicant capacity.

Incorporate findings from the capacity interview in the staff recommendation for approval or denial to the PEC.

Establish a more transparent set of expectations for the community-input hearing, outlining how the results will be used to evaluate the application and applicant capacity.

## 1.6 SPECIALIAZED APPLICANT TYPES AND EXISTING OPERATORS

*The authorizer's application includes requirements that specialized applicant types (i.e. charter network applicants, virtual school applicants, or applicants planning to contract with an education service provider) provide additional relevant information. The authorizer conducts independent due diligence of existing operators' portfolio performance and requires them to provide evidence of past performance and capacity to expand.*

**ESTABLISHED:**  Undeveloped    **APPLIED:**  Undeveloped

### ANALYSIS | ESTABLISHED

As established, the application guidelines are undeveloped in evaluating specialized applicant types and existing operators because the PEC does not have any established practices for evaluating these applicant types. Most notably, the application toolkit is insufficient for identifying and vetting an experienced operator as the application does not ask for programmatic or financial outcomes of existing schools nor does it require disclosure of whether founding group members are affiliated with existing schools. The PEC has one application toolkit that does not differentiate for types of applicants (e.g., those with experience operating schools, charter management organizations, conversion schools, virtual or blended programs, or startup operators). Furthermore, while the mission and student-population questions focus on the types of students and educational program that the school will offer, there is no specific request for previous performance or mention of a due diligence process through which the PEC can review the performance of existing schools operated by or affiliated with the applicant.

In addition, while the state has a separate accountability system for designated “alternative” schools known as the supplemental accountability model (SAM) and eight alternative schools in its portfolio, the application toolkit does not provide separate questions or considerations for alternative education programs nor does the application include specific questions for blended learning schools, despite having 20 blended learning program schools in its portfolio.

### ANALYSIS | APPLIED

As applied, the PEC is undeveloped in evaluating applications from specialized applicants. The decision-making process incorporates a standard practice across all schools that does not adequately probe into an existing school operator's academic, financial, or organizational track record. The transcript from a PEC meeting discussing the applicant, Six Directions Indigenous School, which is part of the NACA network, notes that commission members had “heard” that existing affiliated schools were high performing but no actual data or other evidence was referenced or produced to warrant approval based on performance of the existing schools.

Furthermore, for schools that may be classified as SAM schools, the PEC misses an opportunity to probe this issue by not asking specific questions about whether and why a school believes it would qualify as a SAM school and how this will impact its performance when measured on the state grading system. The PEC made no distinction in its consideration and did not ask questions related to alternative state accountability or expectations, which would help in the decision-making process for such applicants.

## RECOMMENDATIONS

Include specific questions in the application toolkit for special circumstances such as:

- Applicants whose school may qualify for SAM status and why,
- Applicants proposing a blended or virtual educational model and how it will implement this model effectively,
- Applicants that operate or are affiliated with any existing or previously closed schools; in such cases, require applicants to provide information regarding the past academic and financial performance of the identified schools.

Develop a due-diligence process to examine the track record of experienced operators and incorporate this information into staff recommendations.

## 1.7 DECISION ALIGNMENT

*The authorizer makes application decisions that are informed by and align with documented evidence including the extent to which the plan satisfies approval criteria, and applicants demonstrate strong preparation and capacity to establish and operate a quality charter school.*

**ESTABLISHED:**  Partially Developed      **APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the PEC's decision alignment practices are partially developed because the PEC has not adopted any policies that set a threshold for application approval or guide the PEC's application decisions to ensure that only applications with a high likelihood of success are approved. The application evaluation rubric includes a standard for approval but, as described in earlier sections, this standard is low and is further complicated by ambiguous language included in the rubric. Despite these shortcomings, the application approval process requires the CSD to submit a recommendation, based on the rubric score and staff analysis, to the PEC. This recommendation is also posted on the PEC website prior to the final vote on the decision. In addition, through the community-input hearing, PEC members have the opportunity to vet applicants and ask additional questions. Finally the applicant is given an opportunity to respond to CSD's recommendation prior to the PEC's vote.

### ANALYSIS | APPLIED

As applied, the PEC's decision alignment is partially developed. While four of the most recent six applications resulted in decision alignment between the CSD and the PEC, two applications that the CSD recommended for denial were ultimately approved by the PEC. In all instances, some commissioners referenced staff analyses in their decisions. However, when asked about why decisions varied, some commissioners commented that the current CSD used "different criteria" when evaluating the schools and felt that they needed to conduct their own analyses to determine whether the application met the standard for approval. Some commission members were unaware that the application rubric had been approved by the PEC or that it was currently being used by the CSD.

This lack of consensus between the PEC and the CSD staff about what constitutes the standard for approval is evident in the cases in which the PEC voted against the staff recommendation. In these cases, the commissioners determined that sections noted as not meeting expectations in the staff recommendation did meet expectations, according to their interpretation of the standard for approval. Meanwhile, the publicly available rubric score shows that, according to the reviewer, only half the points in some sections were earned.

In particular, some commissioners shared their frustration with how one application had been recommended for approval by staff the year before but was ultimately denied by the PEC, only to have the applicant re-apply and then be recommended for denial. Even though the CSD and the PEC did not always align, when the PEC voted against staff recommendation, it requested that the applicant address "all of the deficiencies" outlined in the staff analysis and any additional deficiencies mentioned by PEC members, recognizing the value of CSD analysis.

## RECOMMENDATIONS

Develop and adopt an applications policy that defines the PEC's threshold for approval to ensure that only applications that demonstrate a high likelihood of success are approved.

Work with the CSD to further develop the underlying evaluation rubric and corresponding evaluation report form to ensure that the PEC and the CSD are using the same criteria to evaluate charter school applications.



## 2. PERFORMANCE MANAGEMENT SYSTEM

*Does the authorizer have effective systems for establishing and monitoring school performance expectations, and for holding schools accountable as necessary to protect student and public interests?*

**ESTABLISHED:**  Partially Developed      **APPLIED:**  Partially Developed

### SUMMARY ASSESSMENT

Progress to create a monitoring structure to address oversight in each phase of the charter cycle is still lacking and the CSD and PEC are experiencing gaps in oversight. This is despite the fact that the PEC has worked to develop tools to more comprehensively evaluate school performance.

The PED developed—and the PEC approved—a performance framework; and the CSD has been working to ensure that its oversight practices align with the new performance contract and performance framework. However, monitoring practices lack a comprehensive analysis of school performance. Site visits do include analysis of the performance framework—including reporting on mission-specific goal progress—but also focus heavily on compliance monitoring. Financial performance analysis and corresponding measures are almost completely lacking. A state-chartered charter school board is a “board of finance” which is a legal term in New Mexico that delegates powers to the charter board to manage finances independent of the PED but requires those entities’ financials to be included in the state agency’s financial reporting. The PED has access to schools’ finances and audits because charter schools are considered part of the state’s financial performance record and therefore included in the state’s financial audit. However, even with this level of access, CSD monitoring of financial performance is lacking almost completely from its processes and left to the PED finance bureau, which does not communicate or coordinate regularly with the CSD.

CSD monitoring is currently so focused on certain compliance concerns that it is missing opportunities to evaluate and influence its portfolio toward review and reflection of academic and financial performance. Since most schools have mission-specific goals, CSD must customize its performance monitoring for each school, which can be difficult to manage, especially when schools’ mission-specific goals are not measurable. A review of the completed performance framework analysis of each school with a performance contract shows that the CSD was often unable to fully assess charter schools’ performance on mission-specific goals due to a lack of data supplied by the schools.

Per state statute, the PED produces an annual report on the cumulative status of charter schools statewide. This is a great tool for authorizers and policymakers statewide but less helpful for schools, communities, and the general public because it does not report on performance by school or by authorizer (other than the PEC).

### RECOMMENDATIONS



Develop a comprehensive monitoring system—based on the performance framework—that allows the CSD to evaluate school performance; communicate school status, including notices of concern and annual progress; and prepare the PEC for high-stakes decision-making.

Develop financial performance standards and use those standards to inform ongoing monitoring and to determine intervention and renewal. Determine whether takeover of the school’s board of finance is appropriate as a mechanism for intervention.

Report on academic, financial, and operational performance by school annually to the public and make communications clear for families and schools to quickly gauge a school’s status.

## 2.1 CONTRACTING

*The authorizer executes a charter contract for each school that clearly articulates the rights and responsibilities of each party.*

**ESTABLISHED:**  Well-Developed **APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the charter contract is well-developed. The contract appropriately sets forth the charter school's academic and operational performance expectations by incorporating the PEC's performance framework. The sufficiency of the performance standards will be addressed in Section 3.

The PEC contract is appropriately separate and distinct from the charter application. The contract requires the parties to define the material academic and operational terms of the charter. Furthermore, the contract outlines the amendment process for renegotiating material terms. However, the authorizer has not established a quality standard that would guide amendment decisions related to enrollment or site expansion for schools wishing to expand programming. As a result, the PEC considers amendments without being required to take into account the school's past performance.

### ANALYSIS | APPLIED

As applied, the PEC's contract practices are partially developed. The PEC does not have an executed performance contract for each of the schools it authorizes. For the schools with performance contracts, the PEC and PED are continuously renegotiating this document, which is an inefficient use of resources and creates confusion for schools.

The PEC first issued charter contracts in 2013. As a result, schools that were authorized prior to 2013 and that have not been through the renewal process do not have performance contracts. However, about three-fourths of the charter schools authorized by the PEC now have charter contracts with a performance framework.

Contract negotiations (and renegotiations) have become a major cause for concern for charter schools and an example of a breakdown in operations between the PED and the PEC. According to the PEC, the state's charter school law requires the PEC to renegotiate the school performance targets and, at times, the school performance goals included in the charter contract *annually* rather than once per contract term. The CSD prepares schools for negotiations with the PEC by developing, with schools, performance targets and goals. Schools then take these recommendations to the PEC, which in turn renegotiates the newly proposed targets and goals with the schools. Consequently, schools are subjected to this negotiation process more than once in a term while also being subjected to a multi-stage negotiating process, first with the PED and then with the PEC. It is unclear why the PEC is renegotiating contracts midterm rather than structuring the performance framework at the outset of the contract term to include annual performance targets throughout the contract term. The law states, "Annual performance targets shall be set by each chartering authority in consultation with its charter schools and shall be designed to help each charter school meet applicable federal, state and chartering authority expectations as set forth in the charter contracts to which the authority is party" (NM Stat. 22-8B-9.1B).

## RECOMMENDATION

Set the charter school's performance expectations only upon execution of a new contract and at renewal, except in the event of extenuating circumstances.

## 2.2 SCHOOL OPENING

*The authorizer ensures that approved schools are prepared adequately for opening.*

**ESTABLISHED:**  Partially Developed      **APPLIED:**  Minimally Developed

### ANALYSIS | ESTABLISHED

The PEC's school-opening procedures are partially developed as established. The charter school planning-year checklist communicates reporting requirements for pre-operational schools but falls short of setting forth rigorous and measurable standards that allow the PEC to assess viability and readiness to open. The checklist states that schools must meet the checklist conditions and any charter approval conditions prior to "certification" by the PEC. However, the PEC lacks established practices that define the responsibilities of the PEC and CSD in ensuring schools are ready to operate.

Pre-opening requirements are minimal. For example, schools must have a confirmed site only two weeks prior to opening. As another example, the checklist requires that schools report enrollment as a percentage of the budget by March 31 but does not include a minimum percentage threshold that must be met to remain in good standing with the authorizer. Also, 10 days prior to opening, if enrollment is less than 95 percent of budgeted enrollment, the school must provide a "plan" for revising its budget. Therefore, the established standard is that the school must report its enrollment or provide a plan for adjusting its budget rather than a requirement to meet a certain enrollment percentage or submit a budget that reflects actual enrollment.

### ANALYSIS | APPLIED

As applied, the authorizer practices with regard to school openings are minimally developed because the PEC does not fully utilize its checklist or ensure that new schools are ready to open. According to data provided, five PEC-authorized schools opened in 2015. However, board meeting minutes from July and August 2015 do not include any PEC discussion about whether these schools were prepared to open. Therefore, it is not clear the extent to which the PEC decides whether pre-operational schools are ready to become operational.

Analysis of schools' histories indicate inconsistent implementation of the planning-year checklist. One school's file includes a March checklist but not a final assessment that is supposed to be completed two weeks prior to opening. This school opened in 2013 and closed in 2015 due to fraudulent enrollment and other financial and operational concerns.

Turnover in the CSD has affected the pre-operational support of new schools. CSD provides training for pre-operational schools and staff have begun to add important topics such as STARS reporting and serving special populations. Feedback from school leaders regarding pre-opening support is mixed: some believe training and support has decreased while others believe it has been sufficient.

## RECOMMENDATIONS


Establish a policy that defines the PEC and PED roles in monitoring and approving pre-operational schools to open.

Implement pre-opening standards and hold schools accountable for benchmarks, including enrollment and financial viability, prior to opening.

## 2.3 ONGOING MONITORING

*The authorizer has an effective process for monitoring educational, financial, and organizational performance of the schools it authorizes.*

**ESTABLISHED:**  Partially Developed

**APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the authorizer’s monitoring practices are partially developed because the PEC lacks a comprehensive oversight monitoring structure that would effectively allow it to collect, evaluate, and report on school performance against the established framework. While the CSD has some protocols for ongoing monitoring, these protocols are focused largely on compliance and do not provide a comprehensive assessment of a school’s academic and financial performance. For example, the site-visit protocol does include limited analysis of school performance against the performance framework, including mission-specific goals, but the protocol is designed for schools in their first year of operation and focuses too heavily on student counts and instructional time requirements. CSD monitoring is currently so focused on certain compliance concerns that it is missing opportunities to evaluate schools based on academic and financial performance, and provide clear feedback to schools based on established performance expectations.

One area of particular weakness is financial monitoring. The CSD only conducts financial monitoring in instances of extreme financial distress or mismanagement. In particular, financial performance analysis and attention to the school’s budget are lacking completely from the site-visit protocol. The only reference to the budget is for verifying instructional days. A state-chartered charter school board is a “board of finance” which is a legal term in New Mexico that delegates powers to the charter board to manage finances independent of the PED but requires those entities’ financials to be included in the state agency’s financial reporting. Therefore, the PED has access to schools’ finances and audits because charter schools are considered part of the state’s financial performance record and therefore included in the state’s financial audit. However, even with this level of access, CSD monitoring of financial performance is lacking almost completely from its processes and left to the finance bureau, which does not communicate or coordinate regularly with the CSD.

The CSD does not differentiate oversight of schools that have demonstrated strong organizational performance. Furthermore, the CSD does not have a data-collection management system, other than the state’s STAR system and an electronic filing system. Therefore, the CSD uses the site visit as the means to collect and evaluate documentation, which is an inefficient practice.

### ANALYSIS | APPLIED

As applied, ongoing monitoring is partially developed. With no comprehensive oversight monitoring structure, CSD monitoring activities are at times inefficient and misdirected. The CSD lacks critical data to inform its oversight practices, in large part due to the lack of structures. The CSD is unable to fully evaluate school academic performance against the performance framework, is not fully utilizing expertise within the PED, and is continuing to revise portions of a monitoring system without first determining what elements should be included in such a system.

Because of the large number of mission-specific goals established through the performance framework for each school, the CSD must customize its performance monitoring, which can be difficult to manage, especially if schools do not develop measurable goals and if staff do not have the capacity to collect data, review outcomes, and report on school status. Completed performance framework analysis of each school with a charter contract shows that, very often, the CSD was unable to fully assess charter schools’ performance on mission-specific goals due to a lack of data supplied by the schools.

The concern over performance monitoring is further compounded by changes in oversight processes each time a new director is hired. CSD staff stated that the division lacks institutional knowledge. Staff are compelled to re-establish monitoring tools and protocols with each change in leadership. We received three separate site visit protocol examples that all appear to have been developed within a few years. The CSD is using the first-year site-

visit protocol for all schools, regardless of age, and not adjusting it for higher-performing schools or for those that serve unique populations. This lack of consistency in oversight has contributed to concerns from the charter school community over the authorizer's ability to effectively monitor charter school performance.

The CSD is missing opportunities to utilize the expertise of other bureaus within the PED in monitoring and oversight, especially for financial, special education, and ELL oversight. The CSD is beginning to engage with the special education bureau to provide training to pre-operational charter schools and assist schools in resolving concerns related to special education programming. However, this level of engagement is not established and appears to be ad hoc.

## RECOMMENDATIONS

Develop a comprehensive monitoring system based on the performance framework that allows the CSD to evaluate school performance; communicate school status, including notices of concern and annual progress; and prepare the PEC for high-stakes decision-making.

If mission-specific goals continue to be emphasized in performance reporting and high-stakes decisions, then ensure that the CSD has structures in place to effectively collect and evaluate the data.

Focus site visits on academic and financial performance and, to the extent possible, monitor compliance through assurances and submissions of required documentation.

Develop financial performance standards and use those standards to inform ongoing monitoring and to determine intervention and renewal. Determine whether takeover of the school's board of finance is appropriate as a mechanism for intervention.

When utilizing expertise in monitoring from other bureaus of the PED, streamline and coordinate oversight through the CSD or ensure expectations, performance monitoring, and notifications of any concerns are coordinated internally.

## 2.4 SCHOOL INTERVENTION/REVOCATION

*The authorizer has effective policies and practices for school intervention and revocation and conducts merit-based interventions, including revocation where appropriate, in response to clearly identified deficiencies in the school's record of educational, financial, or organizational performance.*

**ESTABLISHED:**  Minimally Developed      **APPLIED:**  Minimally Developed

### ANALYSIS | ESTABLISHED

The PEC's intervention and revocation policies are minimally developed. The PEC does not have an established intervention policy or protocol stating the conditions that may trigger intervention or the consequences for failure to remedy concerns, and the threshold for revocation is unclear. The PEC performance framework template, which is negotiated and then incorporated into all charter contracts, stipulates that a school will be required to develop an improvement plan if it receives a school grade rating of C or lower. That improvement plan must be approved by the PEC. The PEC does not provide guidance to schools on what is required in an improvement plan and does not have policies that would direct the CSD to provide technical support to schools, as appropriate. However, by requiring that an improvement plan be developed and approved by the PEC, the authorizer is potentially focusing too strongly on inputs rather than outcomes.

### ANALYSIS | APPLIED

As applied, the PEC's intervention and revocation practices are also minimally developed. Without an established intervention policy, schools not meeting performance expectations report a lack of clarity about PEC and CSD process and requirements. Further, CSD staff do not receive clear guidance as to how to monitor and oversee schools not meeting expectations. During the observed commission meeting, a lack of clarity regarding who was responsible for developing the improvement plan, the PEC's role in approving such plan, and the CSD's role in providing technical assistance to schools requiring an improvement plan led to such heated discussion that PEC members requested the PEC and CSD engage in mediation to resolve their differences. The PEC and CSD lack an aligned position on quality and expectations for improvement when performance is not satisfactory and the result of this discord has created deep divides within the charter school community and left schools without clear direction. The witnessed challenges in ongoing oversight and monitoring of a school in need of improvement demonstrates that the PEC and CSD are currently not in a position to provide quality monitoring of charter schools in need of improvement.

The PED has intervened with schools in extreme financial distress and has taken over their financial management responsibilities (i.e. suspended their board of finance status). While this is an extreme measure, it is one taken by the state and not the authorizer. However, one must question why schools taken over by the state were not placed on intervention or given a notice of concern by their authorizer and why monitoring did not identify the concerns until they were so extreme as to warrant such drastic action. As discussed further in Section 3.2, the PEC does not have established financial performance measures in its performance framework.

## RECOMMENDATIONS

Do not require that improvement plans be approved by the PEC; instead, focus intervention policies and practices on communication of concern and ongoing monitoring to determine whether the school has cured concerns or whether additional steps, including revocation, are warranted.

Short of revisiting the legal structure, engage an independent mediator to define each party's roles and responsibilities, forge a more positive work relationship, and subsequently develop corresponding policies to guide intervention and revocation decisions.

Monitor financial performance and create an intervention policy that would ensure financial performance concerns are raised and addressed, with the goal of alleviating the need for a board of finance takeover.

## 2.5 RENEWAL

*The authorizer runs a well-structured renewal process including clear requirements and communications; a meaningful opportunity for the school to present information and respond to the authorizer's findings; and prompt notification of decisions.*

**ESTABLISHED:**  Approaching Well-Developed

**APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the PEC's renewal process is approaching well-developed. While the PEC has approved a well-structured renewal process, it has not identified the academic standards for renewal. The PEC has approved a renewal application kit that clearly outlines the process for renewal including a CSD-compiled performance data analysis, a required renewal application, a renewal site visit, an amendment proposal, a recommendation by the CSD, and finally a vote by the PEC. The kit outlines the timeline for renewal and trainings for school leaders to learn about the application process. The process provides each school with the opportunity to respond to its record of performance, which is based on the performance framework. Schools may submit supplementary evidence of performance and have the opportunity to correct the record. The renewal process, as established, does not contemplate or address transfers from other authorizers, conditional renewals, or short-term renewals. Despite having a performance framework incorporated into most charter contracts, the only established academic renewal standards are those defined in statute. The law states that the PEC may non-renew a school that does not meet or "make sufficient progress toward" performance framework goals. The law allows the authorizer discretion in determining the terms for renewal but the PEC has not defined sufficient progress and, therefore, has not defined renewal standards for academic performance. As a result, schools do not know the threshold expected of them to gain approval.

### ANALYSIS | APPLIED

As applied, the PEC's renewal practices are partially developed. While the renewal process is well-executed, renewal decisions are not based solely on the school's academic, financial, and organizational track records and are ambiguous due to lack of clarity for what constitutes renewal. In practice, the PEC delegates the renewal process to the CSD, and staff communicate the renewal process to charter schools prior to the renewal year. The CSD holds information sessions at which schools have the opportunity to ask questions regarding the process. The PEC votes on renewal decisions around December, well in advance of the close of the school year.

In 2015–2016, the PEC oversaw the renewal of five PEC-authorized charter schools and renewal through transfer of two district-authorized charter schools. Transcripts from the December commission meeting reveal that the PED chose not to provide the PEC with a renewal recommendation for schools up for renewal because of concerns over transparency and clarity of the decision-making process. In more than one instance, the PED analysis outlined that schools did not meet performance expectations outlined in the charter agreement and/or schools had material violations of the charter. The PEC renewed these schools even though they did not meet performance expectations in multiple areas of review. While renewal often includes conditions, the track record of decision-making indicates that the renewal standards, and those expectations outlined in the performance contract, are not upheld as expectations to earn renewal. Because the PEC has not defined the standards for renewal, the PEC has not attempted to close a school for poor academic performance.

## RECOMMENDATIONS

Prior to the next renewal period, define, in policy, the academic requirements to earn renewal and ensure that such requirements are aligned with the established performance framework and incorporated into charter contracts.

Grant renewal only to schools that meet the performance expectations set forth in the performance framework and that are in good standing with the terms of their charter.

Base renewal decisions on a track record of success and avoid conditional renewals whenever possible.

## 2.6 CLOSURE

*Following non-renewal, revocation, or voluntary return of the charter, the authorizer has an effective plan to ensure the orderly closure of the school.*

**ESTABLISHED:**  Partially Developed

**APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the PEC's closure practices are partially developed. The PEC has a closure checklist that establishes roles and responsibilities for an orderly closure of a charter school. However, this checklist does not address student placement, arguably the most critical task to manage and execute upon closure of a charter school. It does not lay out who is responsible for ensuring students find a new school or outline enrollment options students may have with other charter or district schools.

The closure checklist calls for a plan to secure and transfer records, secure public property, and manage the school's financial assets through dissolution. It also calls for communications to parents and the community immediately and, because nonrenewal decisions are typically made in December, provides the CSD and families adequate time to plan for an orderly wind down. The closure checklist does not address, specifically, placement of special need populations who, arguably, need additional support for placement and/or continued services over the summer.

### ANALYSIS | APPLIED

As applied, the PEC's management of closure wind-down is partially developed. The PEC delegates this task to the CSD but the CSD currently does not provide much support for most critical element of closure: placement of students. The CSD is currently managing the closure of three charter schools. The CSD contracts management of the wind-down process to a consultant and her main role is in monitoring the charter schools' progress on the closure checklist and supporting redistribution of assets. Wherever possible, the CSD works to redistribute assets to new schools.

The CSD does not actively support students who must find new schools to attend. The extent of the CSD's support for student placement is supporting the transfer of student records. The CSD take a passive approach to supporting student placement by fielding complaints from students struggling with placement. In one instance, a student was told by a district that their credits from the closing charter school would not be honored. The CSD helped that student work with the school district to honor those credits.

### RECOMMENDATION

Make student placement the primary focus of the closure process, including placement of students with disabilities and English Language Learners.



## 2.7 TRANSPARENCY

*The authorizer communicates to schools and the public clearly and consistently regarding expectations for and status of school performance including formal reporting on school performance and status at least annually.*

**ESTABLISHED:**  Approaching Well-Developed      **APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the PEC's transparency is approaching well-developed. The PEC has established a number of strong practices through which it communicates school performance to schools and the public, but its ability to collect certain school academic performance data is limited and it does not yet communicate financial performance data to schools and the public. Annually, the CSD completes analysis of school academic performance against its performance framework goals, which include the state A–F school grading accountability system, mission-specific goals, and compliance standards. This information is presented to the PEC for review and is made public on the PEC website. The CSD provides the analysis to each of its authorized schools and states that it discusses performance against the goals during its annual site visit, per the site-visit protocol. However, oftentimes performance against certain measures are not reported because information is not available, mainly due to lack of mission-specific goal data that the schools are supposed to provide to the CSD. Another compounding issue with transparency is the regular renegotiation of performance goals that lead to ambiguity as to what goals schools are ultimately held accountable. We discuss this issue further in Section 3.1.

Prior to renewal decisions, to the extent data is available, performance framework analysis is included in the packet of information provided to the school at the beginning of the renewal process so that the school has this information available during the site visit and can respond to the analysis in its renewal application to the authorizer. As discussed further in Section 3, the framework does not include financial performance measures. Therefore, the PEC does not transparently communicate to schools and the public regarding school financial performance.

Per state statute, the PED produces an annual report on the cumulative status of charter schools statewide. This is a great tool for authorizers and policymakers statewide but less helpful for schools, communities, and the general public because it does not report on performance by school or by authorizer (other than the PEC). As required by law, the PED annually reports on the performance of the state-authorized charter schools, as well as the performance of district-authorized schools around the state. The report provides subgroup and comparative group analyses.

### ANALYSIS | APPLIED

In practice, the PEC's transparency practices are partially developed. Performance frameworks, which were completely absent six years ago, are now referenced in communications to schools. However, transparency of expectations and oversight monitoring has been inconsistent due to the constant turnover in CSD staff, the overreliance on mission-specific goals that are not measurable, and the annual renegotiations of performance targets. When asked whether school leaders have a good understanding of performance expectations and status for renewal, a number of school leaders stated that turnover in staff and the constant renegotiation of performance targets have led to confusion about what is expected of them. One leader summed it up well: "There have been language and metric changes every year. It's challenging since clear and consistent expectations have never been conveyed over eight years given the continual turnover within the PED's CSD."

### RECOMMENDATION

Report annually on the academic, financial, and operational performance of each charter school within the PEC portfolio; develop a clear means of communicating this performance to schools and the public.

### 3. PERFORMANCE-BASED ACCOUNTABILITY

*Does the authorizer have rigorous, appropriate standards by which it holds schools accountable for results? Are decisions made with the intent to maintain high standards and protect the students' and the public's interests?*

**ESTABLISHED:**  Partially Developed

**APPLIED:**  Minimally Developed

#### SUMMARY ASSESSMENT

The PEC has struggled to hold schools to its established standards due to a lack of authorizing policies and performance thresholds that are necessary to provide a structure for performance-based accountability.

The lack of a performance threshold and roll-up methodology has led to inconsistent application of performance standards, with the cumulative record of educational performance not fully reflected in accountability decision-making. Thirty-two percent of the commission's 57 charter schools received a D or F grade on the state's A-F school grading accountability system in 2015. And while the law requires that schools meet or "make substantial progress toward the achievement of the department's standards of excellence or student performance standards identified in the charter contract" (NM Stat. 22-8B-12K(2)), the PEC has not defined substantial progress, which has resulted in little to no accountability for low academic performance. In recent renewal decisions, the PEC renewed all six schools up for renewal. In the PED's analysis of school performance, none of the six schools met academic or operational performance standards and the PED determined that analysis of the schools' financial standards could not be determined. To add to the challenge, most of the mission-specific goals in schools' performance frameworks were not reviewable by the CSD due to a lack of available data.

The PED does not have established practices for monitoring school programming for special populations and tends to operate from a reactionary position. Review of the data the PED provides to the PEC on student performance indicates that the commission is not actively overseeing charter schools' education of SWDs or ELLs.

Since the last evaluation in 2010, the PEC developed some critical tools that inform decision-making, including the performance contract and performance framework. These tools are critical in communicating expectations to the charter community and for establishing a clear balance of oversight that protects autonomy and holds schools accountable for results.

#### RECOMMENDATIONS

Prior to the next renewal period define, in policy, the academic requirements to earn renewal; grant renewal only to schools that meet the established standard and that are in good standing with their charter.

Develop a roll-up methodology to effectively assess whether schools meet the performance framework standards or "make substantial progress toward" meeting the standards.

Consider revising the performance framework to minimize mission-specific goals to those that can be measured by available data, or incorporate into the framework a rating for schools that fail to submit reliable and valid data.

When reporting on school performance against the performance framework, highlight schools' outcomes of students who are English Language Learners or have disabilities, and schools' compliance with laws pertaining to serving these populations.

### 3.1 EDUCATIONAL PERFORMANCE

*The authorizer holds schools accountable for academic performance using objective and verifiable measures, established in the charter contract or performance framework, that address, at a minimum, student achievement, student growth, and post-secondary success as the primary measures of school quality.*

**ESTABLISHED:**  Partially Developed

**APPLIED:**  Minimally Developed

#### ANALYSIS | ESTABLISHED

The PEC-approved academic performance framework is partially developed because while it is reasonably comprehensive, there is no definition of sufficient progress and no roll up of scores. The PEC has developed a performance framework and incorporated it into the charter contract. It includes academic performance expectations for all charters and is focused primarily on the state's A–F school grading accountability system, with the addition of mission-specific academic goals. The state's grading system is applicable to all schools statewide and uses a value-added model to measure student growth year-over-year.

The only measurements that would enhance analysis of charter school-specific performance would be comparison data. The PED calculates comparison information for all of the state's charter schools and reports it to the public in the PED annual report. This analysis includes measures that compare students in charter schools to students with similar initial academic performance as well as a comparison of students by demographics. These data points are not incorporated into the PEC's charter performance framework. However, it is provided to the PEC in summary analysis for high-stakes decisions. This leads to more ambiguity as to what data points are considered for renewal. The state grade does focus on and give weight to the performance of the lowest 25 percent of students in the school, giving credit for growth where it is most critical.

Furthermore, while the law requires that schools meet or “make substantial progress toward achievement of the department's standards of excellence or student performance standards identified in the charter contract” (NM Stat. 22-8B-12K(2)), the PEC has not defined substantial progress. Lastly, the performance framework lacks a methodology for rolling up performance to an overall rating and therefore does not define what constitutes meeting the standard overall. This leaves the relative “weight” of each measure subject to interpretation and adds subjectivity to the process.

#### ANALYSIS | APPLIED

As applied, the PEC's academic performance accountability is minimally developed. The lack of a performance threshold and roll-up methodology has led to inconsistent application of academic performance standards, with the cumulative record of educational performance not fully reflected in accountability decision-making. Further, the lack of a definition of “substantial progress” has resulted in little to no accountability for low academic performance. Thirty-two percent of the commission's 57 charter schools received a D or F grade on the state's A–F school grading accountability system in 2015.

Evaluating schools against the performance framework has proven challenging for the PEC because it has not determined what constitutes minimal academic performance to warrant renewal. The PEC is phasing in the framework, with about three-fourths of schools on a performance contract. The PED provides analysis of schools' performance against the framework annually to the PEC and the PEC uses the measures to evaluate schools up for renewal. For those schools up for renewal but not yet on a performance contract, the PED provides analysis of performance against the state A–F school grading accountability system and charter goals outlined in the school's original charter application.

This past renewal cycle, the PEC renewed all six schools up for renewal despite none of them meeting their charter goals or receiving an A or B state grade, the loosely defined “standard” for renewal. While the PED provided analysis of the six schools up for renewal, it did not provide renewal recommendations due to its concern that the PEC had not clearly identified a renewal standard. As a result, all schools were renewed, some with conditions and/or shorter terms, even though none met the “standard” for academic performance. Review of the commission meeting transcript where these renewals were discussed shows that conditional renewals

were made based on promises of further performance and plans for revised programming.

Finally, the PED relies heavily on school-submitted data to inform mission-specific goal attainment. Absent this data, it is difficult to assess attainment of charter goals. Analysis of the performance frameworks CSD completed for the 2015 school year show that multiple schools could not be fully evaluated due to lack of school-specific data that the schools were responsible for collecting and submitting to the CSD.

## RECOMMENDATIONS

Develop a roll-up methodology to effectively assess whether schools meet the performance framework standards or “make substantial progress toward” meeting the standards.

Prior to the next renewal period define, in policy, the academic requirements to earn renewal; grant renewal only to schools that meet the established standard and that are in good standing with their charter.

Base renewal decisions on a school’s track record of performance rather than its plans for the future.

Consider revising the performance framework to minimize mission-specific goals to those that can be measured by available data or incorporate into the framework a rating for schools that fail to submit reliable and valid data.

## 3.2 FINANCIAL PERFORMANCE

*The authorizer holds schools accountable for financial performance using appropriate near-term and sustainability measures, established in the charter contract or performance framework, as the primary indicators of a school's financial viability.*

**ESTABLISHED:**  Undeveloped      **APPLIED:**  Minimally Developed

### ANALYSIS | ESTABLISHED

As established, PEC's financial performance framework is undeveloped because the financial measures in the framework evaluate charter management of finances and not the school's financial health. The authorizer is unable to assess whether its schools are in good financial health and standing. The financial framework included in the charter contract does not include measures of financial performance but rather operational requirements for managing schools' finances. The framework lacks near-term quantitative measures of financial well being such as current ratio and lacks long-term sustainability measures such as total margin. The PEC cannot effectively evaluate charter school financial viability because its current measures focus solely on operational health. For example, the first measure of the financial framework asks "was the information required for the budget provided on time for the current year operational budget, and the previous year, if requested by the PEC or its delegatee?" A school could meet this standard if it turns in a budget on time, regardless of the budget's accuracy or alignment with the school's enrollment. In fact, the financial framework has an overwhelming focus on timely reporting, so a fiscally distressed charter school that turns in its reports on time would theoretically score well on the financial framework. The framework appropriately asks whether expenditures ever exceed the budget in certain functions. However, the actual measure that this question informs only requires that the school submit periodic reports in a timely manner (financial framework measure 3). Therefore, this underlying information is not actually incorporated into the framework analysis.

Finally, the PEC has not adopted any process standards for how the results will be analyzed. The framework does not roll up to a single score and this leaves the PEC to interpret individual ratings and run the risk of making inconsistent decisions based on individual ratings and circumstances.

### ANALYSIS | APPLIED

As applied, the PEC's financial performance accountability is minimally developed. In the last renewal cycle, the PEC renewed all six schools up for renewal despite the fact that the PED school performance report provided to the PEC concluded that all six of the schools' financial statuses could not be determined. Additionally, this report did note some school-specific financial concerns. For example, the analysis noted the schools up for renewal had a range of cash balances, some with negative balances. In addition, the report questioned one school's billing of special education funding and another school's reporting of enrollment 50 percent higher than actual enrollment. Four of the six schools that have closed or been revoked in recent years have closed due to financial-performance concerns. At least in part due to the lack of financial performance requirements, schools that are in extreme financial distress are not identified until viability is clearly in question. The PED takes over the financial operations of schools in extreme financial distress but even in those cases, it is clear that the intervention may be too late. Five charter schools currently have their board of finance status suspended. These schools are still operating even though they have proven unable to manage their finances effectively. In one example, a school had a cash deficit of more than \$1 million; it was not paying its payroll taxes properly; and 72 employees were given W-2s even though no more than 50 employees were confirmed, among other things.

## RECOMMENDATIONS

Develop financial performance standards, and use those standards to inform ongoing monitoring and to determine intervention and renewal decisions. Do not rely on PED intervention and board of finance suspension as a means of school financial accountability.

Develop policies for how the PEC will roll up financial performance standards to a single rating and use that rating to inform decision-making.

### 3.3 ORGANIZATIONAL PERFORMANCE

*The authorizer holds schools accountable for compliance with organizational performance requirements established in the charter contract or the performance framework, including educational program requirements; governance and reporting; financial management and oversight; and operational requirements related to students, employees, and the school environment.*

**ESTABLISHED:**  Approaching Well-Developed

**APPLIED:**  Partially Developed

#### ANALYSIS | ESTABLISHED

As established, the PEC's organizational performance standards are approaching well-developed. The charter contract includes an organizational performance framework that calls for assessment of all critical organizational aspects of the charter school and its operations, including meeting material terms of the educational program, financial management (including audit analysis), and governance, among other things. However, as mentioned in Section 3.2, measures currently in the financial framework that inform financial management should be included in the organizational framework. Similar to the academic framework, the organizational framework lacks a methodology for assessing the organizational performance of the school overall. At time of renewal, the PEC receives a report on the school's organizational performance, with a detailed description as to whether the school met the material terms of the charter.

According to school leaders and the charter community, assessment of organizational performance has been inconsistent over time. The organizational framework alone is not sufficient to set a standard against which PED staff can evaluate schools. The PED and the PEC need both guidance to apply professional judgment of what constitutes meeting the standard of individual measures and a methodology for rolling up individual measures to an overall rating.

#### ANALYSIS | APPLIED

As applied, the PEC's organizational performance accountability is partially developed. Similar to the academic performance framework, the lack of a threshold of performance and roll-up methodology has led to an inconsistent application of organizational performance standards. Of the six schools up for renewal this last round, none of the schools met the standard according to the PED's organizational performance assessment. The PEC renewed two of the schools with conditions and four without conditions. It is unclear what determined renewal with conditions versus renewal without conditions.

### RECOMMENDATIONS



Develop implementation guidance to ensure PED staff consistently evaluate schools against organizational performance standards.

Shift financial management measures to the organizational performance framework.

Develop policies for how the PEC will roll up organizational performance standards to a single rating and use that rating to inform decision-making.

### 3.4 SPECIAL STUDENT POPULATIONS

*The authorizer holds schools accountable for meeting legal and educational obligations to special student populations including, but not limited to, students with disabilities and English Language Learner students.*

**ESTABLISHED:**  Partially Developed      **APPLIED:**  Minimally Developed

#### ANALYSIS | ESTABLISHED

As established, oversight and accountability of schools serving students who are English Language Learners (ELLs) or have disabilities (SWDs) is partially developed. The organizational framework includes requirements that schools meet the educational obligations of both of these populations. Further, the academic performance framework via the A–F school grading accountability system incorporates academic performance of SWD and ELLs, holding schools accountable for the performance of students with different needs. However, without a systematic approach to renewal decision-making or intervention, it is unclear how analysis of student performance and compliance play into high-stakes decisions.

#### ANALYSIS | APPLIED

As applied, the PEC’s oversight and accountability of schools serving ELL or SWD students is minimally developed. Since the CSD does not have established practices for monitoring school programming for special student populations, it tends to operate from a reactionary position. Review of data the PED provides to the PEC on student performance indicates that the commission is not actively overseeing charter schools’ education of SWDs or ELLs.

The PED’s draft strategic plan provides evidence that the PED is working to improve monitoring of special student populations and to bring consistent training to schools. However, there is no systematic approach to oversight or intervention when concerns arise. At least one school was cited during its renewal review for inappropriately billing special education services and had to remedy those concerns as a condition of renewal. In another case, the special education bureau found alarming instances of poor IEP management, inappropriate caseloads, and uncertified instructors within a school, and has been working to ensure the school serves its students appropriately and comes into compliance with state law. The school did not receive any official notification of concern from the PED.

According to staff, historically, the PED structure has not supported cross-collaboration among the different bureaus and the CSD and, as a result, communication of concerns about charter schools and their management of services for SWD and ELL populations has not been well organized. Staff within the CSD have said that charter schools “don’t know what they don’t know” about serving students with special needs. To address this concern, the CSD has recently started engaging the other bureaus that work with special student populations to provide technical assistance and training to schools and new start-ups.



### RECOMMENDATIONS

When reporting on school performance against the performance framework, highlight schools’ outcomes of students who are English Language Learners or have disabilities, and schools’ compliance with laws pertaining to serving these populations.

Ensure that intervention policies provide a structure for evaluating and communicating concern regarding appropriate services for students with disabilities and English Language Learners.

### 3.5 DECISION ALIGNMENT

*The authorizer makes accountability decisions that are informed by and align with documented evidence and analysis of the extent to which the school satisfies performance expectations, ensuring that only charter schools that meet or exceed expectations continue to operate. (Note: this section focuses on decisions by the authorizer other than the application, which is addressed in Section 1.7.)*

**ESTABLISHED:**  Partially Developed      **APPLIED:**  Minimally Developed

#### ANALYSIS | ESTABLISHED

As established, the PEC’s decision alignment is partially developed because while it has a performance framework and is working to phase schools on to a performance contract, it has not established any policies to provide a clear threshold for what constitutes renewal, conditional renewal, and nonrenewal. The law is not helpful in providing the framing necessary to inform decision-making because it is ambiguous in defining the academic performance necessary to earn renewal (See Section 3.1 for more detail).

The PEC lacks renewal policies that would be necessary to inform high-stakes decisions. Policies that are absent include: 1) the threshold for renewal including a definition of “substantial progress toward achievement of the department’s standards of excellence or student performance standards identified in the charter contract,” 2) methodology for rolling up performance framework scores to determine overall ratings of performance in each category against the standard, 3) differentiated renewal definitions (i.e. conditional renewal policies), and 4) intervention policies that would potentially drive revocation decisions. These policies or established guiding materials would help direct PED’s analysis and presentation of recommendations and ultimately the PEC’s decision-making.

#### ANALYSIS | APPLIED

As applied, the PEC’s decision-alignment is minimally developed because the authorizer does not base decisions on a foundation of established expectations. The PED did not provide recommendations to the PEC for the last round of renewals because it did not believe the PEC had set a standard for renewal against which to judge school performance and make an informed recommendation.

The PEC has a renewal application and performance framework that helps to establish some expectations of performance but it is not clear how the individual measures are objectively calibrated to a final determination. Of the six schools up for renewal, according to the PED’s analysis, none met the academic or operational expectations. All six schools had operational concerns cited and did not meet all individual measures of academic performance. The PED chose to interpret this as not meeting the standard but did not go so far as to provide recommendations of renewal or nonrenewal to the PEC. Unfortunately, this left the PEC with a set of schools about which to make renewal decisions but with no bar against which to judge. The PEC decided to renew all six schools, some with conditions, and one with a shortened renewal period of three years. With a lack of established policy for what constitutes shortened renewal periods and even conditions of renewal, and with all schools not meeting academic and operational standards according to the PED, the decisions appeared to be made without a clear standard. To add to the confusion, the PED determined that it could not determine the financial status of these schools up for renewal but cited concerns with financial performance for some (e.g., over-reporting student enrollment, negative fund balances) or financial management (material findings in audits).

#### RECOMMENDATION

Develop renewal policies to guide recommendations and to use as a basis for high-stakes decision-making.



## 4. AUTONOMY

*Do schools have the autonomy to which they are entitled?*

**ESTABLISHED:**  Approaching Well-Developed

**APPLIED:**  Partially Developed

### SUMMARY ASSESSMENT

At times, in practice, the CSD unnecessarily restricts autonomy of schools. Oversight policies and practices need to be further developed and refined to achieve a proper balance between respecting school autonomy and conducting effective oversight to track school performance. An example of oversight practices that unnecessarily restrict school autonomy is the requirement that each school must provide a 90-day curriculum prior to opening and again each year of operation according to the CSD's site-visit protocol. It is unclear whether schools must submit this curriculum plan for every subject, only core subjects, or for one sample subject. In addition, there is no corresponding established or communicated expectation about any curriculum plan requirements.

Furthermore, while the CSD is required to provide technical assistance and training to schools per state statute, its practices in this area are not well-defined, which leaves schools struggling to understand where support ends and oversight begins. Schools complained of overly burdensome and invasive monitoring of compliance during the site visits and not much attention spent on school programs or recognition and encouragement of flexible and/or innovative practices. Lastly, the CSD reports spending less time monitoring higher-performing schools but the PEC has not established any formal differentiated oversight practices.

The PEC's charter school contract appropriately preserves charter school autonomy over their educational program and finances. Requirements are outlined in the charter contract and schools have full autonomy over the development of their budgets.

### RECOMMENDATIONS

Define, in policy, what technical assistance the CSD will provide to schools that preserves its role as authorizer but that meets its statutory requirements to provide technical assistance. Do not veer from that definition.

To achieve a proper balance between preserving charter schools' autonomy over finances and monitoring schools' financial health, incorporate financial performance measures into the performance framework and create an intervention policy that stipulates requirements to remedy concerns or increasing levels of concern including potential revocation, well before board of finance takeover would be necessary.

Develop policies for differentiating oversight for high-performing schools that will decrease schools' reporting burdens, more effectively allocate resources, and promote the replication of high-performing schools.

## 4.1 EDUCATIONAL PROGRAM

*The authorizer defines and respects school autonomy over the educational program.*

**ESTABLISHED:**  Approaching Well-Developed

**APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the PEC is approaching well-developed in respecting school autonomy over their educational programs. While the contract is appropriately outcomes-focused, PEC's monitoring practices should be further refined to address schools' autonomy over their educational programs. The charter contract defines the role of PEC as evaluating the schools' outcomes and not establishing processes. It states that the schools have the "authority and responsibility" to develop their education plans and to apply for waivers from PED (not PEC) from state-mandated requirements. The contract appropriately does not incorporate the application and outlines the "material terms of the charter." Only these areas, rather than the entire charter application, require amendments and are subject to review during annual site visits.

However, certain oversight practices place an undue burden on schools and encroach upon school autonomy. For example, each school must provide a 90-day curriculum prior to opening and again each year of operation according to the CSD's site-visit protocol but it is unclear whether schools must submit this curriculum plan for every subject, only core subjects, or for one sample subject. In addition, there are no corresponding established or communicated expectations about any curriculum plan requirements, which leaves schools vulnerable to the changing expectations of the CSD or PEC.

Furthermore, with regard to site visits, the PEC and CSD have not articulated a clear purpose and a corresponding policy to ensure that these visits do not encroach upon school autonomy over curriculum and instructional methods. Under New Mexico's charter school law, every school, regardless of performance on the PEC's performance framework or the school's attainment of mission-specific goals, must undergo an annual site visit. School leaders noted that, for the first time after multiple years of operation, they were being monitored for meeting 1080 instructional hours, despite offering competency-based, alternative education with waivers for a shortened school day.

### ANALYSIS | APPLIED

As applied, the PEC's practices in this area are partially developed because while the CSD is required to provide technical assistance and training to schools, per state statute, this has not been well-defined. Without PEC-approved policy that defines technical assistance and what to expect during site visits, schools have struggled to understand where support ends and oversight begins. School leaders said that they have a hard time preparing for visits and do not always know what to expect. This lack of clarity resulted in some schools being surprised by the level of compliance oversight and complaining to the PEC during a public-comment period of commission meetings.

The PED's approach is to offer training and technical assistance, which is in accordance with its strategic plan and the charter contract. Currently, this is done by disseminating information about relevant programs, helping schools understand why they may be lower performing, and encouraging schools to use flexibilities to innovate. In practice, schools complained of overly burdensome and invasive monitoring of compliance during the site visits and not much attention spent on school program or recognition and encouragement of flexible and/or innovative practices. Other than compliance trainings, no school mentioned receiving technical assistance to improve programming.

### RECOMMENDATION

Define, in policy, what technical assistance the CSD will provide to schools that preserves its role as authorizer but that meets its statutory requirements to provide technical assistance. Do not veer from that definition.

## 4.2 FINANCIAL MANAGEMENT AND BUSINESS OPERATIONS

*The authorizer defines and respects school autonomy over financial management and business operations.*

**ESTABLISHED:**  Approaching Well-Developed      **APPLIED:**  Partially Developed

### ANALYSIS | ESTABLISHED

As established, the PEC is approaching well-developed in respecting schools' autonomy over their financial and business operations. Schools have autonomy over developing their budgets without CSD restrictions over expenditures. CSD requires schools to undergo annual audits, conducted by PED-approved auditors, and respond to any findings. The law requires the PED provide financial oversight for schools' governing boards, placing the fiduciary responsibility on them. School governing boards must, by law, sign assurances of financial compliance, and each board must qualify as a board of finance, which includes training and certification. If a school has findings, the law and the contract require the school to enter into a corrective action plan with the authorizer that could lead to closure if not completed.

### ANALYSIS | APPLIED

As applied, the PEC is partially developed in this area. Without clearly defined financial performance expectations outlined in the charter contract or PEC policy, the PEC is limited to oversight of financial performance as defined in state statute. As a result, the PEC rarely intervenes except in cases of extreme financial mismanagement—and even then, the intervention is often through a separate PED action: takeover of the school's board of finance rights. This is a department act, however, and outside the purview of the authorizer.

### RECOMMENDATION

To achieve a proper balance between preserving charter schools' autonomy over finances and monitoring schools' financial health, incorporate financial performance measures into the performance framework and create an intervention policy that stipulates requirements to remedy concerns or increasing levels of concern including potential revocation, well before board of finance takeover would be necessary.

### 4.3 DIFFERENTIATED OVERSIGHT

*The authorizer periodically reviews compliance requirements and evaluates the potential to differentiate school oversight based on flexibility in the law, demonstrated school performance, and other considerations.*

**ESTABLISHED:**  Undeveloped      **APPLIED:**  Partially Developed

#### ANALYSIS | ESTABLISHED

The PEC is undeveloped in establishing differentiated oversight policies and practices. PEC's policies do not differentiate for high-performing schools, schools that are part of larger networks, SAM schools, or schools that seek to serve alternative populations. In addition, materials provided for school oversight, charter amendments for expansions, replications, and for charter renewals do not contemplate a differentiated system. Currently all schools, regardless of prior performance, undergo the same processes.

While the law requires the PEC to annually monitor all schools, the PEC has not developed policies and CSD has not developed monitoring tools that would allow for differentiated oversight. The law also requires that technical assistance be provided to charter schools during annual site visits but the PEC has not created policies to define how and when technical assistance will be provided and the extent to which technical assistance will be customized or differentiated to the needs of individual schools. It is important to note that some of the most recent PED-created oversight documents mention differentiated oversight. However, these have not been approved by PEC.

#### ANALYSIS | APPLIED

In practice, the PEC is partially developed in this area because it differentiates oversight of higher-performing schools, as outlined in Section 4.1. Schools with a rating of A or B on the state accountability framework receive less oversight than those earning C, D, or F. While the PEC does not have established policies for differentiating oversight and decision-making, the PEC public working session held on April 7, 2016, began discussions about differentiating oversight for schools with higher academic performance.

Compliance oversight is not differentiated for high-performing schools but rather conducted annually through site visits and includes the same compliance checklist that is used for new schools. While the checklist is limited to items that are required of all schools by law, there is no process for submitting documents electronically rather than having them audited on site each year.

### RECOMMENDATIONS

Develop policies for differentiating oversight for high-performing schools that will decrease schools' reporting burden, more effectively allocate resources, and promote the replication of high-performing schools.

Develop an online reporting process for compliance that can be completed annually but is less burdensome on schools.

## 5. ORGANIZATIONAL CAPACITY

*To what extent do the organizational structure and systems support quality authorizing practices and forward the authorizer's mission?*

**ESTABLISHED:**  Minimally Developed      **APPLIED:**  Minimally Developed

### SUMMARY ASSESSMENT

The PEC and PED do not work effectively and efficiently as a unit. The tension between the PEC and PED staff is so high that it undermines both entities' capacity to make good decisions about charter schools. The PEC has no authorizing policies that define the roles of each entity and that serve as a foundation for how the PEC makes critical decisions such as renewal, intervention, and charter school closure. The lack of such policies leads to ambiguity in roles as well as conflict. Additionally, necessary organizational policies that govern staff work, such as monitoring, contracting, and renewing charter schools, have not all been adopted by the PEC, causing misunderstandings between the PEC and PED, and confusion among school leaders. The lack of coordination between PEC and CSD has resulted in mixed messages to schools and schools having to go through processes twice—once with CSD and again with PEC—as is the case with contract negotiations.

While both entities are equally invested in improving school quality, they are not united under a common strategic plan, reporting structure, or vision of authorizing. The PEC is currently without an updated strategic plan. A revised strategic plan was created by the PED and brought to the PEC for input but the PEC refused to engage in an open discussion about a plan that it did not help create. As a result, the schools are caught between two entities that are currently unable to stand behind a unified message of school quality and accountability, which is hampering effective oversight, particularly in expanding the number of high-quality charter schools and closing low-quality schools.

However, it is difficult to discuss the organizational capacity of the PEC without discussing the limitations state law places on the PEC. The PEC has no annual budget and has no authority or opportunity to provide input on the PED's budget, which includes fees from PEC charter schools. In addition, the PEC has no staff of its own and must rely upon collaboration with the staff of the CSD to carry out its authorizing duties. Lastly, the Secretary of Education ultimately has the power to override PED high-stakes decisions.

### RECOMMENDATIONS

Engage in intervention such as mediation to work through immediate issues; develop a long-term plan for resolving chronic dysfunctions that are proving debilitating to effective operation and clarify authorizing roles, responsibilities, and authority.

Establish a set of authorizing policies that codify the roles and responsibilities of the PEC and PED, and that can serve as the foundation for how the PEC makes high-stakes decisions using the support provided by the CSD as defined in policy.

Working with a trained facilitator, identify operating principles that the PEC and PED can agree on. Using these principles, create a strategic plan that engages the PEC, PED, and charter schools where synergy among the entities can be more easily found and which identifies goals and priorities for a healthy and thriving charter school community, such as expansion of high-performing charter schools.

Provide the PEC with the ability to review and provide input on the CSD's annual draft budget.

## 5.1 STRATEGIC PLANNING

*The authorizer plans well for the future in a way that aligns with NACSA's Principles and Standards. The authorizer uses quality authorizing to forward its mission and, to the extent applicable, to address identified needs or to attract desired school program types.*

**ESTABLISHED:**  Minimally Developed      **APPLIED:**  Undeveloped

### ANALYSIS | ESTABLISHED

The PEC is minimally developed in creating a strategic plan to govern its work. It does not have a current, public, and approved strategic plan. The process of adopting a common strategic plan requires the PEC and CSD to collectively engage in creating a unified vision of quality authorizing, which currently does not exist. The plan on PEC's website, which was approved by the PEC in 2012 is outdated and the PEC has not taken steps to update or act on a strategic plan. The PED recently developed a draft strategic plan for charter schools, statewide the scope of which is broader than the PED's authorizing duties. However, despite some efforts to solicit feedback from stakeholders, the plan was developed without much meaningful engagement from the charter schools or the PEC. This draft PED-developed strategic plan was brought before the PEC for input after it was completed but the PEC did not offer input and has not placed it on a PEC agenda for approval or discussion.

Although not adopted by the PEC, the PED-developed draft strategic plan identifies performance targets for under-performing schools and prioritizes closure for academic reasons. It seeks to raise the percent of high-performing seats in New Mexico but does not include an overarching measurable goal specific to increasing high-performing seats and relies heavily on CSD-provided training and technical assistance to improve performance. While training can be helpful for schools to improve, it can also lead to the authorizer becoming a central office and pushing practices out to schools rather than respecting schools' autonomy in developing curriculum and instruction.

The PEC/CSD does not have a unified vision or policy in place to identify and attract school founders offering desired program types to interested communities. The PED-developed draft plan does not include strategies for improving quality through replication and expansion of high-performing charter schools. The current landscape does not include CMOs or networks from other states and the PED-developed draft plan does not include an initiative to attract applicants with track records of success.

### ANALYSIS | APPLIED

The PEC is undeveloped in implementing a strategic plan. As applied, the lack of a common strategic plan, agreed to by both the PEC and PED, has resulted in undeveloped leadership and strategic thinking. During the two-day visit, there was no evidence that the PEC and PED are aligned in vision or process in quality authorizing. Despite PED creating a draft strategic plan for the PEC to review, the commission has no plans to include the plan on the PEC agenda, nor are there plans for the PEC to develop its own plan. The stalemate between the PED and PEC over the draft strategic plan is at the heart of the organizational dysfunction the PEC, PED, and the schools described during the two-day site visit.

## RECOMMENDATIONS

Working with a trained facilitator, identify operating principles that the PEC and PED can agree on. Using these principles, create a strategic plan that engages the PEC, PED, and charter schools where synergy among the entities can be more easily found and which identifies goals and priorities for a healthy and thriving charter school community, such as expansion of high-performing charter schools.

Establish a set of authorizing policies that codify the roles and responsibilities of the PEC and PED, and that can serve as the foundation for how the PEC makes high-stakes decisions using the support provided by the CSD as defined in policy.

## 5.2 ORGANIZATIONAL STRUCTURE AND STAFF DEVELOPMENT

*The authorizer purposefully and economically staffs its office to effectively carry out its authorizing duties, and staff positions are clearly defined both in policy and in practice. The authorizer has systems for developing and maintaining staff to support a strong organizational culture.*

**ESTABLISHED:**  Partially Developed      **APPLIED:**  Undeveloped

### ANALYSIS | ESTABLISHED

The PEC is partially developed in organizational structure and staff development. The PEC's organizational structure is extremely limited by state statute but the CSD has the organizational capacity to implement its monitoring responsibilities. Under state law, the PEC, the authorizing body, is not provided with its own budget or staff. PED staff are assigned to help the PEC in carrying out its duties but report directly to the head of the PED. As a result, while the elected PEC is ultimately responsible for setting the vision for authorizing and opening, closing, and monitoring charter schools, the number and qualification of staff carrying out such duties is determined by the CSD director, who is hired by the PED.

This situation is further exacerbated by the PEC's lack of authorizing policies that define the roles and responsibilities of PED and PEC with regard to high-stakes decisions. Without such policies, this ambiguity leads to conflicts and misunderstandings between the PEC and PED, and confusion among school leaders. Policies prepared by PED are not added to the PEC agenda and therefore not adopted by the PEC.

Amidst these challenges, the CSD is currently well-staffed to conduct charter school oversight. The director oversees three teams: charter school evaluation, charter school support, and administrative. The teams are divided by function, creating a line between evaluation and support, and prioritizing evaluation over support in terms of FTEs. The evaluation team has four positions, with one vacancy, and is responsible for the annual site visits, and renewal and new charter school recommendations. In its monitoring, the team focuses on academic, operational, and fiscal performance, as well as governance and compliance. The charter school support team has two positions, with one vacancy, and is responsible for providing technical assistance for new and established charters, including assistance around the application, planning year, and renewal requirements. The team is also designed to be the liaison between the schools and PED. Finally, the administrative team has a business operations manager and an administrative assistant who are responsible for the daily operations of CSD and its budget. Additional human resource policies such as staff evaluations and onboarding documents were not provided.

### ANALYSIS | APPLIED

As applied, the PEC's organizational structure and staff development practices are undeveloped. The tension between the PEC and PED (including CSD staff) is so high that it has made the important and urgent work of authorizing ineffective. While the PEC, CSD, and PED all are in agreement with the fundamental principles of quality charter authorizing, the dysfunction created by the fact that the CSD director reports to the PED rather than the PEC has resulted in decisions that are not in the best interest of students. One example is a strategic plan, created by PED staff, that has not been added to the PEC agenda for approval. Another example is monitoring reports created by PED staff being publicly disregarded and refuted by the PEC commissioners at a public hearing. Additionally, as noted earlier, without quality authorizing policies, the PEC leaves the PED to define its role in oversight through practice that is continually reinvented with each turnover in staff.

Furthermore, lack of communication and cooperation amongst PED bureaus results in inefficient use of resources and confusion for schools. CSD is funded to carry out charter support and oversight, and is supported by other bureaus within PED, including the special education and finance bureaus. However, CSD works in a silo, missing an opportunity to share insight and benefit from the knowledge of other bureaus. For example, CSD staff currently conducts application reviews, but such review teams could and should include PED staff with experience in school finance, special education, and English Language Learners.

Finally, of the eight CSD positions outlined above, two are vacant with no job postings. Most staff are new, with

less than one year of experience working at the office. Based on discussions, the staff had little onboarding prior to interfacing with schools and monitoring their progress. Only one staff member is explicitly responsible for communications with schools. School leaders identified lack of communication and technical assistance, and an increased focus on compliance monitoring as primary issues of concern.

## RECOMMENDATIONS

Short of revisiting the legal structure, engage an independent mediator to define each party's roles and responsibilities and forge a more positive work relationship.

Establish a set of authorizing policies that codify the roles and responsibilities of the PEC and PED, and that can serve as the foundation for how the PEC makes high-stakes decisions using the support provided by the CSD as defined in policy.

Foster greater collaboration between CSD staff and other PED bureaus to expand internal capacity and expertise.

Develop and implement onboarding and evaluation processes for CSD staff.



## 5.3 CONFLICT OF INTEREST

*The authorizer operates free from conflicts of interest.*

**ESTABLISHED:**  Partially Developed

**APPLIED:**  Well-Developed

### ANALYSIS | ESTABLISHED

As established, PEC's conflict-of-interest policies are partially developed because the conflict of interest policies applicable to the PEC do not protect against commission members or their families from working for or serving on the board of a school within the PEC's portfolio. Commission members must abide by the New Mexico Statutes Annotated (NMSA) and the Governmental Conduct Act (GCA) which establish that commission members may not benefit financially from their positions. The PEC has also adopted a "rules of order" document in February 2015 that includes a conflict-of-interest statement.

However, these laws do not prohibit schools from having close ties to commission members. Commissioners or their family members may work at or serve on boards of charter schools that they oversee. The NMSA and GCA do not prohibit a charter school employee from serving on the PEC, as discussed in a court ruling in August 2014.

### ANALYSIS | APPLIED


As applied, while at least one commissioner works directly with a school authorized by the PEC, there is no indication that the PEC does not manage conflicts of interest well and within the confines of the law, and is therefore well-developed in this area. Commissioners, as elected public officials, are held to the NMSA and GCA, and we found no evidence of commissioners violating these laws. As mentioned above, commissioners are not prohibited from working at or serving on a board of a school that the PEC oversees as long as this information is public.

### RECOMMENDATION

Adopt a conflict-of-interest policy that prohibits commissioners or their family members from serving on boards of public charter schools that they oversee.

## 5.4 ORGANIZATIONAL BUDGET

*The authorizer's budget allows for organizational effectiveness and stability. The budget is aligned with the strategic goals and supports quality authorizing practice.*

**ESTABLISHED:**  Undeveloped    **APPLIED:**  Undeveloped

### ANALYSIS | **ESTABLISHED**

The PEC is undeveloped in this area because it does not have its own budget nor does PEC have any ability to approve, monitor, and audit the CSD's budget. The CSD is part of the overall PED budget and receives up to 2 percent of the "school generated program cost." The money goes directly to the PED and the evaluation team was not provided a budget for the CSD or an accounting of how fees collected from charter schools are allocated across the bureaus that support the CSD. Without a current budget or previous budgets, there is no evidence to support that the money is spent in support of a strategic vision. The PEC also has not created policies that would provide for PEC oversight in how funds are prioritized or spent and to ensure that all eligible funding is part of the CSD budget.

### ANALYSIS | **APPLIED**

Given that the PEC does not have a budget to oversee and currently has no authority over the PED's budget for charter schools, the PEC is unable to exercise its fiduciary responsibility and is undeveloped in implementing a budget that supports organizational effectiveness. According to the minutes, at no time did PEC review or provide input into a proposed budget or an annual audit of such funds. PED retains exclusive authority over the budget and spending on charter schools. This adds to the feelings of mistrust between the PEC and PED, displayed in public meetings and discussed in multiple interviews.

## RECOMMENDATIONS

Provide the PEC with the ability to review and provide input on the CSD's annual draft budget.

Conduct an annual audit of the CSD budget; allow the PEC to review the results of this annual audit in a public meeting.

## 5.5 LEADERSHIP AND DECISION-MAKING BODY

*The authorizer leadership and decision-making body understand their roles and responsibilities; are invested in the mission, vision, and strategic plan of authorizing; and have the expertise necessary to make well-informed decisions that support the tenets of a high-quality authorizer.*

**ESTABLISHED:**  Minimally Developed      **APPLIED:**  Minimally Developed

### ANALYSIS | ESTABLISHED

As established, the PEC and PED are minimally developed in understanding their roles and responsibilities, and in having the expertise necessary to make well-informed decisions. While both PEC and CSD share a common goal of increasing the number of high-quality options for students, the PEC has not developed and adopted a strategic plan or policies to guide its work, especially around critical high-stakes decisions as discussed throughout this report. Furthermore, the PEC does not have any policies that articulate the varied roles and responsibilities of the PEC, PED, and the CSD which, as further described below, has led to an environment in which arguments between adults are overshadowing the interests of children.

With regard to established expertise, commission members are elected officials and state law does not require that they have knowledge of or experience with public charter schools prior to taking office. The PED may screen for public charter school and authorizing experience in making employment decisions and the current CSD director has authorizing experience.

### ANALYSIS | APPLIED

As applied, the PEC and PED are minimally developed in understanding their respective roles and responsibilities, and in creating an environment within the current legal constructs that can support the implementation of high-quality authorizing practices. The PEC believes that they are unable to make decisions that are independent from the interests of the PED and the Secretary of Education without control over their own budget and staff. The relationship between PEC and PED has evolved into one of constant conflict. For example, PED wanted the PEC to reverse a closure decision, so the PEC filed a lawsuit over this matter and the court sided with the PEC, noting that the PED did not have the authority to force the PEC to change its decision. However, by law, the Secretary of Education does have the right to overturn a PEC decision, which she ultimately did in this case. The relationship between the PEC and PED has further deteriorated due in part to a revolving door of CSD directors and the PED's desire to close academically low-performing schools.

The practical impact of this continued conflict between the PEC and PED is misaligned practices, inefficient use of resources, and a breakdown in communication. Some examples include the PEC re-negotiating annual goals and the CSD's implementation of site visit monitoring practices that the PEC concludes are not appropriate, such as conducting a student count to verify enrollment. While the PEC had an important discussion regarding setting a standard for academic performance and progress, no decisions about how a school would demonstrate academic progress have been made.

The current standstill between the PEC and the PED leaves schools in the middle without consistent and clear direction. The schools feel like the children of a bitter custody battle. As one school leader stated, "I don't know whose house to live in," referring to the PEC and PED. For example, one school's appearance before the PEC lasted for almost two hours because of cross-questioning between the PEC and CSD.

## RECOMMENDATION

Establish a set of authorizing policies that codify the roles and responsibilities of the PEC and PED, and that can serve as the foundation for how the PEC makes high-stakes decisions using the support provided by the CSD as defined in policy.

## SOURCES

### **Background and Organizational Capacity**

Charter School Portfolio Information  
 Charter School Law  
 Charter Office Organizational Chart  
 Staff Job Descriptions  
 Board Member Information

### **Application Decision-Making**

Model Charter School Applications  
 New Charter School Application Kit  
 Completed Application Evaluations  
 Application Recommendations  
 PEC Board Minutes

### **Monitoring Operations**

Charter School Contract  
 Contract Process Overview  
 Charter Amendment Request Form  
 Board of Finance Application  
 Planning Year Checklist  
 Governance Changes Form  
 Site Visit Protocol  
 Renewal Decision Policies  
 School Closure Form  
 Authorizer Annual Report

### **Performance-Based Accountability**

Performance Framework Template  
 Rated Performance Frameworks  
 Renewal Applications  
 Renewal Decision Policies

### **School Histories**

Charter Applications  
 Charter School Contracts  
 Renewal Applications  
 Site Visit Reports  
 Annual Reports

### **School Performance Data**

State accountability grades

## BIOGRAPHIES

Katie Piehl is a director of Authorizer Development at NACSA. Katie, formerly the director of authorizing with Volunteers of America-Minnesota and a legislative program evaluation analyst focusing on education reform issues, brings to the organization her knowledge of improving charter school and authorizer accountability through state policy reform. In her role at NACSA, Katie leads implementation of model practices for authorizers and develops comprehensive authorizer partnerships that focus on improved practice. Katie is a former teacher and holds an M.P.P. from the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota.

Naomi DeVeaux is a national expert in charter school education and the Deputy Director of the Public Charter School Board (PCSB). Since her start as an English teacher more than twenty years ago, Naomi has developed new tools and measurements, curricula, and policy initiatives that have shaped public education across the country. She has testified, presented, and written extensively on the role of charter schools in providing quality educational choices to K-12 students and their families. At DC PCSB, Naomi manages the team responsible for charter authorizing including negotiating charter agreements and holding schools accountable for meeting quality academic and non-academic standards. Before joining DC PCSB in 2012, Naomi was Deputy Director at Friends of Choice in Urban Schools (FOCUS), based in Washington, DC. Naomi earned her bachelor's degree from Reed College, a teaching credential from Chapman University, and a Master in Curriculum and Instruction from California State University, Long Beach.