

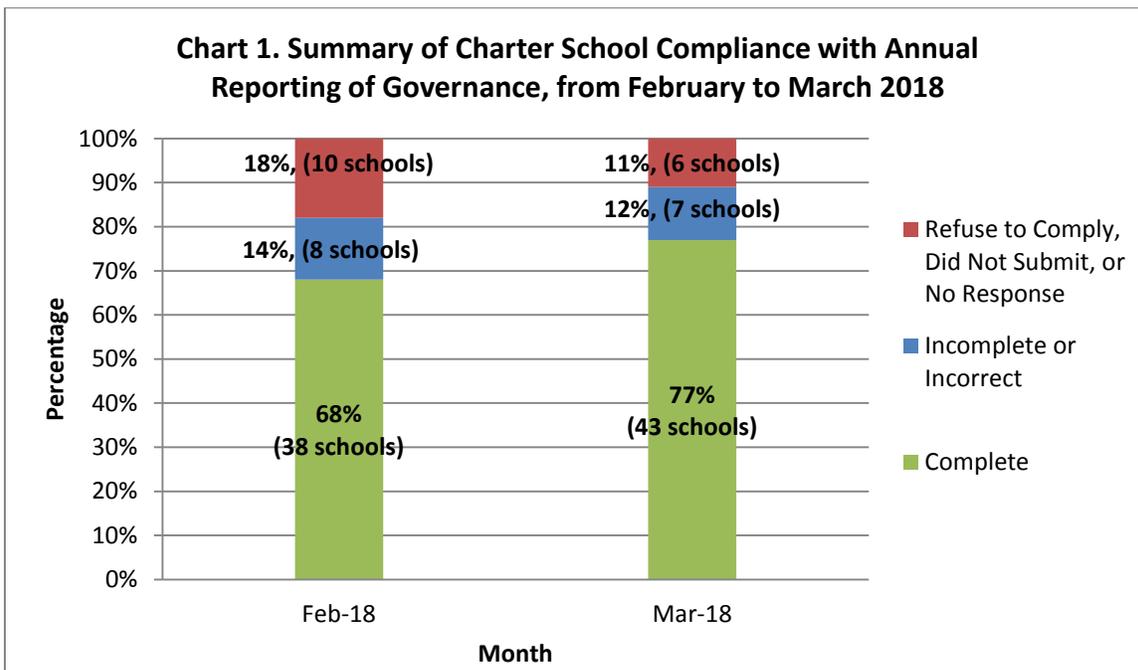
AGENDA ITEM EXECUTIVE SUMMARY

- I. Public Education Commission Meeting Date: March 16, 2018**
- II. Item Title: DISCUSSION AND POSSIBLE ACTION ON FAILURE TO COMPLY WITH ANNUAL GOVERNANCE REPORTING REQUIREMENTS**
- III. Proposed Motions:**
- IV. Executive Summary:**

CSD Director Poulos will discuss schools who have failed to comply with Annual Governance Reporting requirements.

UPDATE - Governance Reporting: Summary of Governing Board Annual Reports
As of March 9, 2018

The following report is a summary of charter school compliance with the Public Education Commission’s policy of annual reporting regarding governance changes, as established in February 2017. Fifty-six schools are represented in the report summary below in Chart 1. The figure illustrates the level of compliance with PEC reporting requirements as of the February PEC meeting and again as of March 9, 2018.



After the February 9, 2018 PEC meeting, the CSD sent letters on behalf of the PEC to ten schools that not yet fully complied with its annual governance reporting policy. The letter clearly stated that if required information was not provided in a timely manner, such schools would be added to the PEC’s March meeting agenda for consideration and potential corrective action.

School in Compliance

Since the CSD last reported on compliance with the annual governance reporting policy and letters were sent, five additional schools have come into compliance. There are now 43 schools in compliance with PEC policy with respect to annual reporting of charter board members. This number of schools represents approximately three-quarters of the state-authorized charters schools.

Annual Report Submitted – Incorrect and/or Incomplete

Since last month, there are seven (7) schools whose records are incomplete and/or incorrect and that have reached out to the CSD. The CSD continues to follow up in efforts to retrieve the required reporting and supporting documentation. Whereas some schools have been responsive others have not. To date, the following schools have not yet completed its submission and/or have not provided adequate documentation required. The following schools have not made requested corrections and/or provide the required documentation: La Academia Dolores Huerta; McCurdy Charter School; Roots and Wings Charter School; Six Directions Indigenous School; and Turquoise Trail Charter School. Both Explore

UPDATE - Governance Reporting: Summary of Governing Board Annual Reports
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Academy and The Albuquerque Sign Language Academy have recently been in communication with the CSD about taking steps to move toward compliance.

Refuse to Comply, Did Not Submit, or No Response

In February, there were 10 state-authorized charter schools that had not submitted the required annual reporting. Some of these schools never responded to any requests, others initially responded but then later refused to provide the necessary documentation to complete submissions, and still others refused to comply due to the understanding of their obligations being limited to the school charter contract or bylaws. To date, a couple of these schools have come into compliance and have completed their annual reporting requirements (School of Dreams Academy and Walatowa Charter High School) and a few schools have moved in the right direction and taking action to come into compliance (The ASL Academy and Explore Academy) and are working with the CSD.

However, there remain a handful of schools that do not respond to communication efforts, have not submitted necessary documentation despite repeated requests, and/or simply refuse to comply. Below is status report on such schools:

North Valley Academy. Since the February letter sent to the school, an Annual Report was submitted on February 22, 2018 stating the board currently has 7 members. However, the accompanying minutes submitted do not show a vote to submit that specific number. The item is listed as a discussion item wherein the school's legal counsel stated the PEC had the right to the information and advised the board submit the document. On February 26, 2018, the CSD again sent email requesting the form be resubmitted correctly. On March 6, 2018, schools that had not yet submitted required documentation were sent a reminder email and another request for correct documentation was made. To date, the school has not provided the requested documentation.

Cottonwood Classical Preparatory School. After the February letter sent to schools, there was no response. However, on March 6, 2018 schools that had not yet submitted required documentation were sent a reminder email. The next day, the school leader replied that it complies with obligations in its contract, erroneously stated that the Authorizer requires the school to violate its bylaws, and indicated that should the Authorizer attempt impose any corrective action the school would be formally responding. The email, however, failed to acknowledge that in addition to its charter contract it is also bound by its Authorizer's polices, which do not violate or contradict the school's own policies. To date, the school has not provided the requested documentation.

ACE Leadership High School. One day after the letter from the PEC was sent to the school, the CSD received email on February 13, 2018 from the school leader noting it would be on their next meeting's agenda. However, on February 22, 2018, the CSD received an email from school's legal counsel asking for clarification regarding the school's non-compliance. The school leader also sent the CSD an email with the exact same report that was previously submitted in August 2017—no corrections were made. On March 6, 2018, schools that had not yet submitted required documentation were sent a reminder email, and at that time, the school leader replied that the school's attorney would be following up. To date, the school has not provided the requested documentation.

UPDATE - Governance Reporting: Summary of Governing Board Annual Reports
As of March 9, 2018

Health Leadership High School. Since the letter sent on February 9, 2018, there has been no response from the school. However on March 1, 2018 in response to training inquiry, the CSD responded and asked for the annual report. The school leader emailed forms, but responded that the school's attorney advised her she did not need to report a specific number. On March 6, 2018, schools that had not yet submitted required documentation were sent a reminder email and another request for correct documentation was made. To date, the school has not provided the requested documentation.

Technology Leadership High School. One day after the letter from the PEC was sent to the school, the CSD received email on February 13, 2018 from the school leader stating the item would be put on the school's governing board meeting agenda for March. On March 6, 2018, schools that had not yet submitted required documentation were sent a reminder email and another request for correct documentation was made. To date, the school has not provided the requested documentation.

Academy of Trades and Technology (ATT). The school has been and remains out of compliance. After receiving the February letter, the school's governing board responded to the CSD and stated that it would be adding it to the March agenda. To date, the school has not provided the requested documentation.

Requirements to Comply with PEC Policy

According to the signed charter contracts with schools, *Article III, General Governing Principles, Section 3.01 Public Charter School*, states the following:

The School is authorized by the Authorizer to operate as a public school, but is a separate legal entity from the Authorizer. Notwithstanding its existence as a separate legal entity, **the School is subject to all applicable** state and federal laws, regulations, rules, and **policies** unless waived by the Secretary or by law **[emphasis added]**.

Furthermore, Section 9.04 Conduct oversight of the charter contract states the following:

Conduct and/or require oversight activities according to its policies and procedures to allow the Authorizer to fulfill its responsibilities under the Act, including conducting appropriate inquiries and investigations, when warranted **[emphasis added]**.

All PEC-authorized charter schools are required to abide by its Authorizer's policies and a school's annual reporting requirement does not conflict with adhering to its bylaws. The PEC requires its schools, through its annual governance reporting policy, to vote on a specific number of governing board members. However, the PEC has not required that schools establish a number that is outside of the school's contract or bylaws. Therefore, the PEC's annual governance reporting policy is not in conflict with the school's contract or bylaws. The Authorizer has the right to conduct oversight of its schools, include their governance. The reason the PEC established the policy was to clarify the reporting requirements when schools experienced vacancies. However with an ever-changing number of governing board members across several schools, it was not possible to keep updated records on a school's governing board. The problematic lack of timely reporting by many schools necessitated the

UPDATE - Governance Reporting: Summary of Governing Board Annual Reports
As of March 9, 2018

policy in the first place. All charter governing bodies are required to keep its Authorizer informed of any changes its membership as matter of effectual governance.

Conclusion

At this time, the over three-quarters of the schools are now compliant. However, it should not take nearly the entire school year to achieve less than 100% compliance. While five of the six schools that have not complied will not remain state-authorized charters for many more months, it is important that the PEC make clear what its policies and procedures to the schools that it authorizes.

While the PEC wishes to remain informed at all times of the changes made to governing boards to avoid the obfuscation of revolving board membership or falling and remaining below the required minimums, it is clear that the PEC does not wish to hinder the recruitment and increase of board size. At this time the CSD recommends that the PEC review it Annual Governance Reporting Policy to address legitimate concerns about the desire to increase the size of the governing board after it had voted a specific number.

| Schools by Issue | Notes as of March 9, 2018 |
|---|--|
| Schools that Have Failed to Comply with Annual Governance Reporting Requirements | |
| ACE Leadership High School | <p>The Annual Report was received, but indicated a vote on a range of members. The school was contacted and an amended form was requested on September 12, 2017. On November 20, 2018, Ms. Stephens-Shauger was contacted again to request this information. On November 27, 2017, Ms. Stephens-Shauger replied via email, copying the school's legal counsel, stating she was complying with her charter contract and had no need to follow the PEC policy implemented in February 2017.</p> <p>The matter was discussed at the PEC's February 9, 2018 meeting. An email letter from the PEC was sent to the school on February 12, 2018 notifying it that the issue would be presented during the March 16, 2018 PEC meeting. On February 13, 2018, Ms. Stephens-Shauger noted it would be on their next meeting's agenda. However, on February 22, 2018, the CSD received an email from Ms. Abby Lewis asking for clarification regarding the school's non-compliance. Ms. Stephens-Shauger also sent the CSD an email with the exact same report that was previously submitted in August 2017; no corrections were made. On March 6, 2018, schools that had not yet submitted required documentation were sent a reminder email, and at that time, the school leader replied that the school's attorney would be following up. To date, the school has not provided the requested documentation.</p> |
| Technology Leadership High School | <p>On August 9, 2017, an email reminder was sent to all charter school leaders to submit the annual report. An email reminder was sent to charter schools that failed to submit the annual report on September 18, 2017. An email letter from the PEC was sent to the school on February 12, 2018 notifying it that the issue would be presented during the March 16, 2018 PEC meeting. On February 13, 2018, the CSD received email from the school leader stating the item would be put on the school's governing board meeting agenda for March. On March 6, 2018, schools that had not yet submitted required documentation were sent a reminder email and another request for correct documentation was made.</p> |
| Health Leadership High School | <p>On August 9, 2017, an email reminder was sent to all charter school leaders to submit the annual report. An email reminder was sent to charter schools that failed to submit the annual report on September 18, 2017. An email letter from the PEC was sent to the school on February 12, 2018 notifying it that the issue would be presented during the March 16, 2018 PEC meeting. On March 1, 2018 in response to training inquiry, the CSD responded and asked for the annual report. Ms. Lopez sent in forms, but responded that the school's attorney advised her she did not need to report a specific number. On March 6, 2018, schools that had not yet submitted required documentation were sent a reminder email and another request for correct documentation was made. To date, the school has not provided the requested documentation.</p> |

| | |
|---|--|
| <p>North Valley Academy</p> | <p>The Annual Report was received, but indicated a vote on a range of members. The school was contacted and an amended form was requested on 10/26/17. On 10/27/17, Mr. Ed Woodd replied with a response vetted by the school's legal counsel, stating they would abide by their contract and not by the PEC policy adopted in February 2017. An email letter from the PEC was sent to the school on 2/12/18 notifying it that the issue would be presented during the March 16, 2018 PEC meeting.</p> <p>The matter was discussed at the PEC's February 9, 2018 meeting. An email letter from the PEC was sent to the school on 2/12/18 notifying it that the issue would be presented during the March 16, 2018 PEC meeting. An Annual Report was submitted on February 22, 2018 stating the board currently has 7 members. Accompanying minutes do not show a vote to submit that number. The item is listed as a discussion item wherein Ms. Abby Lewis (attorney) stated the PEC had the right to the information and advised the board submit the document. On February 26, 2018, the CSD again sent email requesting the form be resubmitted correctly. On March 6, 2018, schools that had not yet submitted required documentation were sent a reminder email and another request for correct documentation was made. To date, the school has not provided the requested documentation.</p> |
| <p>Cottonwood Classical Preparatory School</p> | <p>An email reminder was sent to charter schools that did not submit the annual report on 9/18/17. Having received no reply from Sam Obenshain, the request was repeated on 10/26/17. Mr. Obenshain responded stating it would be put to a vote at the next meeting and that he would send in the documentation requested. Nothing was received. In reply to a governing board member change, a further request was repeated regarding the Annual Report on 11/27/17. On 11/28/17, Mr. Obenshain included a response regarding the annual report stating, <i>"As for the additionally burdensome reporting requirements, we will continue to operate our GC according to our by-laws and will continue to provide the PED with documentation of our membership changes."</i></p> <p>The matter was discussed at the PEC's February 9, 2018 meeting. An email letter from the PEC was sent to the school on February 12, 2018 notifying it that the issue would be presented during the March 16, 2018 PEC meeting. On March 6, 2018 schools that had not yet submitted required documentation were sent a reminder email. The next day, the school leader replied that it complies with obligations in its contract, erroneously stated that the Authorizer requires the school to violate its bylaws, and indicated that should the Authorizer attempt impose any corrective action the school would be formally responding. The email, however, failed to acknowledge that in addition to its charter contract it is also bound by its Authorizer's polices, which do not violate or contradict the school's own policies. To date, the school has not provided the requested documentation.</p> |

Correspondence - ACE Leadership High School

Pelayo, Icela, PED

From: Tori Stephens-Shauger <tori@aceleadership.org>
Sent: Tuesday, March 06, 2018 3:00 PM
To: Pierce, Laurel, PED; Abby M. Lewis; daniel@inaccord.pro
Cc: SamH@jaynescorp.com; Pelayo, Icela, PED
Subject: Re: Correspondence from the PEC Regarding Annual Reporting

Hello everyone,

Our attorney will follow up.

Thank you,
Tori

Tori Stephens-Shauger
Executive Director/Principal
ACE Leadership High School
1240 Bellamah NW
Albuquerque, NM 87104
(505) 242-4733 school
(505) 573-6869 cell (preferred number)
tori@aceleadership.org
www.aceleadership.org

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On Tue, Mar 6, 2018 at 2:16 PM, Pierce, Laurel, PED <Laurel.Pierce@state.nm.us> wrote:

Hello Mr. Hatchell,

I am reaching out to you regarding your Annual Report that was originally submitted by Ms. Stephens-Shauger on August 24, 2017, because the required documentation has still not been provided. Correspondence also indicates a possible unreported change to the governing body. Furthermore, no training has been reported for Kari Juvera, who joined the board in October of 2017. These items require follow up from your school.

1. Annual Report Submission

The PEC's policy enacted in February 2017 states,

“At the first governing body meeting of each fiscal year, every state-authorized charter school must identify the number of positions on the governing body in a public vote.”

Form

The Annual Report submitted states:

Per bi-laws the board will have “no less than 5 and no more than 9 members.” Per negotiated contract “at least one position on the board will be filled by an ACE industry professional and at least one position on the board will be filled by an AGC-NM representative.”

Minutes submitted do not specify the number of board members currently seated, although the roll call lists 7. The email accompanying the minutes also included a list of 7 governing body members. Please confirm if, in fact, 7 is the number of members that have been seated for the 2017-2018 school year.

The school was contacted and an amended form requested on September 12, 2017. On November 20, 2017, Ms. Stephens-Shauger was contacted again to request this information. On November 27, 2017, Ms. Stephens-Shauger replied via email, copying her legal counsel, Ms. Lewis, and stated she was complying with her charter contract and would not be submitting an amended form. Please see the attached email. On February 13, 2018, Ms. Stephens-Shauger sent an email that the Annual Report would be placed on their next meeting's agenda. This was followed by a resubmission of the original form. The problem has still not been corrected.

Minutes

The minutes submitted as documentation list the Annual Report as an Action Item, however, the vote was recorded as “VOTE-ANNUAL BOARD REPORTING FORM FOR PEC”. As the form did not designate a specific number to be seated, the minutes failed to provide the record of the designation as per the required attachment portion of the Annual Report form:

“Submission of this form MUST be accompanied by the following:

- 1. The minutes from the Governing Body meeting which identified the number of positions on the governing body in a public vote.”*

Next Steps

1. Please clarify whether your board has seated 7 members for this school year; and
2. Please provide the minutes where the exact number of members seated for the current year was put to a public vote, and the minutes clearly indicate a voting record that demonstrates and that a singular number was approved for the school year.

Attached is a copy of the PEC policy for your reference.

2. Governing Body Membership Changes

Ms. Stephens-Shauger included of a list of the current governing board members in the body of her email on August 24th. There were seven members at the time:

- Sam Hatchell - president
- Mike Puelle - vice president
- Clark Cagle - treasurer
- Stefan Chacon - member
- Crystalin Medrano - member
- David Bower - member
- Keith Haynie – member

These are the members we currently have on record:

- Samuel Hatchell
- Bernardino Franco, Jr.
- David Bower

- Michael Puelle
- Kari Juvera

I received an email from Mr. Chacon on September 1, 2017 stating that he had rotated off the board and no longer wished to be included on any emails regarding training opportunities. On September 5, 2017, I contacted Ms. Stephens-Shauger requesting the Change Form and documentation regarding Mr. Chacon's removing from the board. Nothing was sent. On November 20th, I contacted Ms. Stephens-Shauger again regarding Mr. Chacon leaving the board, and requested the amended Annual Report form again. On November 27th, I received the email referenced above with changes to the governing board documentation..

The Change of Governing Body Membership form that was submitted on November 27, 2017, was dated November 12, 2017 and indicated Mr. Chacon left the board on September 19, 2017. There is obviously a discrepancy in the dates. The change was not timely reported, and since Mr. Chacon had already left the board by September 1st, his replacement, Mr. Franco, who joined the board on October 17th, was not seated in a timely fashion nor was it reported in a timely fashion. The Change form also indicated that Mr. Cagle had left the board on September 19th, and was replaced by Ms. Juvera. This was not timely reported either. Documentation included a Statement to Consult with PED form with only five members' signatures, indicating a five member board. Neither Ms. Medrano nor Mr. Haynie were listed and I have received no notification of any changes regarding their membership. The school's website indicates there are six members (see attached snip). If either Ms. Medrano or Mr. Haynie are still board members, they failed to sign the Statement to Consult with PED form as required. If either of them have left the board, the PEC has not been notified of the change.

Next Steps

1. Please submit a Governance Membership Contact Form that includes contact information for all currently seated board members.
2. Please submit all governing body changes that have occurred since November 27, 2017 and include the required supporting documentation.

3. Governing Body Member Training Requirements

A recent review of reported governing board training indicates Ms. Juvera has not yet attended the Governing Body Introductory Training course, or completed the 2-hour virtual course. Ms. Juvera is not eligible to vote on any action items that may be presented to the governing board, but a review of the most current minutes posted on the school's website indicates Ms. Juvera has been acting as a voting member (see attached). This is a violation of 6.80.5.8B NMAC.

Next Steps

1. Ms. Juvera must refrain from voting in governing board meetings until the Introductory Training Course has been completed.
2. Ms. Juvera must register for and attend the PED Introductory Training, Course #2017-00001, or if necessary, apply for the Introductory Training Waiver and pass the assessment with at least an 80%.

I am happy to speak with you by phone if you have further questions or concerns.

Thank you,

Laurel Pierce

Technical Assistance, Training and Support Program Coordinator

Charter Schools Division

[505-827-4527](tel:505-827-4527)

Charter School [Website](#)

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300 Don Gaspar Ave.

Santa Fe, NM 87501

www.ped.state.nm.us

From: Abby M. Lewis [<mailto:Abby@InAccord.pro>]

Sent: Thursday, February 22, 2018 4:45 PM

To: Pierce, Laurel, PED; Pelayo, Icela, PED

Cc: Stephens-Shauger, Tori; Gipson, Patricia
Subject: RE: Correspondence from the PEC Regarding Annual Reporting

Good afternoon Ms. Pierce and Ms. Pelayo,

Ms. Stephens-Shauger has provided the Charter Schools Division with these documents twice. Once on August 24, 2017 to which Ms. Pierce responded "Thank you so much for the list of your Governing Board Members. I appreciate the help." The same documentation was then requested again on November 20, 2017 and was provided on November 27, 2017. I was cc'd on the November email and made available to you should you have any questions or concerns but did not hear anything from you. Then the school received your letter dated February 9, 2018. Could you please help me understand with what it is that you are alleging they are not in compliance?

Thank you,

Abby

Abby Lewis, Esq.

InAccord, P.C.

[505-670-5970](tel:505-670-5970)



----- Forwarded message -----

From: "Pierce, Laurel, PED" <Laurel.Pierce@state.nm.us>

Date: Feb 12, 2018 2:52 PM

Subject: Correspondence from the PEC Regarding Annual Reporting

To: "Stephens-Shauger, Tori" <tori@aceleadership.org>, "SamH@jaynescorp.com" <SamH@jaynescorp.com>

Cc: "Pelayo, Icela, PED" <Icela.Pelayo@state.nm.us>

Dear Ms. Stephens-Shauger and Mr. Hatchell:

Please see the attached correspondence from the Chair of the Public Education Commission regarding your school's obligation to Report Governance Information in compliance with PEC established policies.

Thank you,

Laurel Pierce

Technical Assistance, Training and Support Program Coordinator

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Pelayo, Icela, PED

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Sent: Thursday, February 22, 2018 4:45 PM
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Abby

Abby Lewis, Esq.
InAccord, P.C.
505-670-5970



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Date: Feb 12, 2018 2:52 PM
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To: "Stephens-Shauger, Tori" <tori@aceleadership.org>, "SamH@jaynescorp.com" <SamH@jaynescorp.com>
Cc: "Pelayo, Icela, PED" <Icela.Pelayo@state.nm.us>

Dear Ms. Stephens-Shauger and Mr. Hatchell:

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Thank you,

Laurel Pierce

Technical Assistance, Training and Support Program Coordinator

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Pelayo, Icela, PED

From: Abby M. Lewis <Abby@InAccord.pro>
Sent: Thursday, February 22, 2018 4:45 PM
To: Pierce, Laurel, PED; Pelayo, Icela, PED
Cc: Stephens-Shauger, Tori; Gipson, Patricia
Subject: RE: Correspondence from the PEC Regarding Annual Reporting

Good afternoon Ms. Pierce and Ms. Pelayo,

Ms. Stephens-Shauger has provided the Charter Schools Division with these documents twice. Once on August 24, 2017 to which Ms. Pierce responded "Thank you so much for the list of your Governing Board Members. I appreciate the help." The same documentation was then requested again on November 20, 2017 and was provided on November 27, 2017. I was cc'd on the November email and made available to you should you have any questions or concerns but did not hear anything from you. Then the school received your letter dated February 9, 2018. Could you please help me understand with what it is that you are alleging they are not in compliance?

Thank you,

Abby

Abby Lewis, Esq.
InAccord, P.C.
505-670-5970



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From: "Pierce, Laurel, PED" <Laurel.Pierce@state.nm.us>
Date: Feb 12, 2018 2:52 PM
Subject: Correspondence from the PEC Regarding Annual Reporting
To: "Stephens-Shauger, Tori" <tori@aceleadership.org>, "SamH@jaynescorp.com" <SamH@jaynescorp.com>
Cc: "Pelayo, Icela, PED" <Icela.Pelayo@state.nm.us>

Dear Ms. Stephens-Shauger and Mr. Hatchell:

Please see the attached correspondence from the Chair of the Public Education Commission regarding your school's obligation to Report Governance Information in compliance with PEC established policies.

Thank you,

Laurel Pierce

Technical Assistance, Training and Support Program Coordinator

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Correspondence - Technology Leadership High School

Pelayo, Icela, PED

From: Kara Cortazzo <cortazzo@techabq.org>
Sent: Tuesday, February 13, 2018 11:49 AM
To: Pierce, Laurel, PED; albinoH6@hotmail.com
Cc: Pelayo, Icela, PED; Abby M. Lewis
Subject: Re: Correspondence from the PEC Regarding Annual Reporting

Thank you for your email. We will place this item on our March agenda as it is too late under the Open Meetings Act to change the agenda for our meeting this afternoon.

From: Pierce, Laurel, PED <Laurel.Pierce@state.nm.us>
Sent: Monday, February 12, 2018 3:23 PM
To: Kara Cortazzo; albinoH6@hotmail.com
Cc: Pelayo, Icela, PED
Subject: Correspondence from the PEC Regarding Annual Reporting

Dear Ms. Cortazzo and Mr. Hernandez:

Please see the attached correspondence from the Chair of the Public Education Commission regarding your school's obligation to Report Governance Information in compliance with PEC established policies.

Thank you,

Laurel Pierce
Technical Assistance, Training and Support Program Coordinator
Charter Schools Division
505-827-4527
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Correspondence - Health Leadership High School

Pelayo, Icela, PED

From: Pierce, Laurel, PED
Sent: Tuesday, March 06, 2018 12:14 PM
To: adriann@forwardtogether.org
Cc: Lopez, Blanca; Pelayo, Icela, PED
Subject: Annual Report Information
Attachments: Governing Board Membership Changes Policy Statement v.2.2017.pdf

Hello Ms. Barboa,

I am reaching out to you regarding your Annual Report that was submitted by Blanca Lopéz on March 1, 2018 because the required documentation has still not been provided.

The PEC's policy enacted in February 2017 states,

“At the first governing body meeting of each fiscal year, every state-authorized charter school must identify the number of positions on the governing body in a public vote.”

Form

The Annual Report submitted states:

“Section 6.02(v) of the School's contract states that: The board will have at least seven members and the terms will be overlapping to ensure continuity.

There will be a parent member of the Board.

Specific areas of expertise the school will recruit for board members may include:

- 1. Finance expertise—Experienced accountant with a background in audits and fund accounting*
- 2. Legal expertise—Experienced attorney with a New Mexico License who has expertise in corporate governance.*
- 3. Academic Performance expertise—Understands state accountability systems such as the SBA, and experience with performance assessments.*
- 4. Community Engagement expertise—Experience in working with local communities and able to communicate the vision of the school to outside stakeholders*
- 5. Strategic Planning expertise—Experienced leader who understands strategic planning and capable of facilitating planning for the board.*
- 6. Student Support expertise—Experienced in the social services realm and able to see the connection between achievement and social/emotional support for students.*
- 7. Advancement expertise—Deep understanding of the Health Sector with high-level connections to corporate leaders that can leverage ongoing resources (human and financial) for the school.*

Minutes state there are currently 7 members. Please confirm if, in fact, 7 is the number of members that have been seated for the 2017-2018 school year.

Minutes

The minutes submitted as documentation only list the Annual Report as a *Discussion Item*, not an *Action Item* as required in order to publically vote on the matter. Further, there is no record of the designation as per the required attachment portion of the Annual Report form:

“Submission of this form MUST be accompanied by the following:

1. *The minutes from the Governing Body meeting which identified the number of positions on the governing body in a public vote.”*

Next Steps

1. Please clarify whether your board has seated 7 members for this school year; and
2. Please provide the minutes where the exact number of members seated for the current year was put to a public vote, and the minutes clearly indicate a voting record that demonstrates and that a singular number was approved for the school year.

Attached is a copy of the PEC policy for your reference. I am happy to speak with you by phone if you have further questions or concerns.

Thank you,

Laurel Pierce
Technical Assistance, Training and Support Program Coordinator
Charter Schools Division
505-827-4527
Charter School Website

Driving student success in New Mexico by supporting excellent authorizing practices and charter schools that provide innovative, quality education.



300 Don Gaspar Ave.

Santa Fe, NM 87501

www.ped.state.nm.us

Correspondence - North Valley Academy

Pelayo, Icela, PED

From: Abby M. Lewis <Abby@InAccord.pro>
Sent: Thursday, February 22, 2018 4:40 PM
To: Pierce, Laurel, PED; Pelayo, Icela, PED
Cc: McConnell, Susan; 'Sarah Pina'
Subject: RE: Correspondence from the PEC Regarding Annual Reporting
Attachments: North Valley Academy_Annual Report Form.pdf; North Valley Academy_02152018 Minutes.pdf

Good afternoon Ms. Pierce and Ms. Pelayo,

Please find attached:

1. The Annual Reporting Form; and
2. Minutes from the Governing Body meeting which identify the number of people serving on the governing body.

Please note North Valley Academy's Charter Contract with the PEC at Sections 8.01(a)(vii) and 8.10(a) states that its Governing Council shall have at least 5 members. Therefore, it would be a violation of that contract for the Governing Council to vote any differently. Voting to identify the Council's number as anything other than as specified in the Contract would be a unilateral change of the Contract with the authorizer and, as a governing council, they do not have the authority to do that.

Please do not hesitate to contact me either via this email address or the phone number below with any questions or concerns.

Abby Lewis, Esq.

InAccord, P.C.

[505-670-5970](tel:505-670-5970)



----- Forwarded message -----

From: Pierce, Laurel, PED <Laurel.Pierce@state.nm.us>
Date: Mon, Feb 12, 2018 at 3:12 PM
Subject: Correspondence from the PEC Regarding Annual Reporting
To: "Woodd, Edward" <ewoodd@nvanm.org>, "McConnell, Susan" <smcconnell@nvanm.org>, "robert.taylor@friedmanrecycling.com" <robert.taylor@friedmanrecycling.com>
Cc: "Pelayo, Icela, PED" <Icela.Pelayo@state.nm.us>

Dear Mr. Woodd, Ms. McConnell, and Mr. Taylor:

Please see the attached correspondence from the Chair of the Public Education Commission regarding your school's obligation to Report Governance Information in compliance with PEC established policies.

Thank you,

Laurel Pierce

Technical Assistance, Training and Support Program Coordinator

Charter Schools Division

[505-827-4527](tel:505-827-4527)

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--

Susan McConnell

Principal

North Valley Academy Charter School
7939 4th Street NW
Los Ranchos de Albuquerque, NM 87114
 [\(505\) 998-0501 Ext. 136](tel:5059980501)

We are teachers! What's your super-power?

--

Susan McConnell

Principal

North Valley Academy Charter School
7939 4th Street NW
Los Ranchos de Albuquerque, NM 87114
(505) 998-0501 Ext. 136

We are teachers! What's your super-power?

Correspondence - Cottonwood Classical Preparatory School

Pelayo, Icela, PED

From: Sam Obenshain <sam.obenshain@cottonwoodclassical.org>
Sent: Wednesday, March 07, 2018 8:50 AM
To: Pelayo, Icela, PED
Cc: Poulos, Katie, PED; Ruskowski, Christopher, PED; sfox@matthewsfox.com
Subject: RE: Notice - On the PEC Agenda for March 16, 2018 - Governing Board Annual Reporting

Ms. Pelayo,

As I have communicated numerous times to the Charter Schools Division (however, I do not believe that those individuals are still with the division), asking the school's governing council to determine a specific number of seats that we have "chosen to seat" for the year is contrary to our processes which allow for staggered terms for our GC members so that we do not have a large turnover of membership at any one time. Asking us to determine the number of members who will be on our board at the beginning of the school was never in our contract, and by unilaterally changing the expectations in the contract constitutes a breach from the authorizer's end.

In all of my communication with the CSD, I have continued to provide the information that we agreed to provide in our contract and will continue to do so. I am hopeful that the PEC members will do the right thing and avoid potential contract disputes. The information that we have provided meets the legal requirements and our "refusal" (as it has been characterized) has nothing to do with non-compliance but with what we as an educational institution have established as a reasonable and logical practice for replacing GC members and maintaining a Council that can provide the kind of oversight that has consistently put Cottonwood Classical at the top of the state. Although you all have not provided what is required of you in the contract (see section 4 articles 4-8, and sections 1, 2, and 6), that does not come as a surprise - what does surprise me is that the PEC members do not seem to understand what their obligations are as authorizers. I am letting you know now, so you can consult with the PEC, that we are disputing the corrective action and, if action is taken to this effect at the March meeting, they will be (again) in violation of the contract. I'm sure that is not something that the PEC wants to take on. I can guarantee you that, if the PEC takes action on this issue and approves a corrective action motion for Cottonwood, we will be forced to utilize every avenue available to clear our name and identify where they have failed in their responsibilities as stewards of a binding contract.

What a shame that the taxpayers are paying for "oversight" to a form that, in our estimation, is redundant and contrary to an accepted best practice. Surely there are more important tasks that PED has to do with regard to "corrective action" then ignoring our position and holding steadfastly to a practice that is asking for us to violate our by-laws (which by the way you all have reviewed annually over the course of our term and identified no concerns).

Please know that if the PEC continues to move forward with this action, there will be a formal response from the school. It might be a good idea to go back and read the entire contract as there are numerous violations that the authorizer has committed.

Thank you,

Sam Obenshain

Executive Director
Cottonwood Classical Preparatory School
Sam.obenshain@cottonwoodclassical.org
(505) 998-1021

From: Pelayo, Icela, PED [mailto:Icela.Pelayo@state.nm.us]
Sent: Tuesday, March 6, 2018 4:27 PM
To: Pelayo, Icela, PED <Icela.Pelayo@state.nm.us>
Subject: Notice - On the PEC Agenda for March 16, 2018 - Governing Board Annual Reporting

Dear Charter Leaders and Governing Board Presidents:

Please note that your school will be included in the PEC's upcoming March meeting scheduled for March 16th, 2018 at 9:00am in Mabry Hall, 300 Don Gaspar, Santa Fe, NM.

The specific item is regarding discussion and possible action related to continued non-compliance with the PEC's annual governing board reporting requirements. According to the signed charter contracts with schools, *Article III, General Governing Principles, Section 3.01 Public Charter School*, states the following:

The School is authorized by the Authorizer to operate as a public school, but is a separate legal entity from the Authorizer. Notwithstanding its existence as a separate legal entity, *the School is subject to all applicable state and federal laws, regulations, rules, and policies unless waived by the Secretary or by law [emphasis added]*.

Furthermore, Section 9.04 regarding conducting oversight of the charter contract states the following:

Conduct and/or require oversight activities according to its policies and procedures to allow the Authorizer to fulfill its responsibilities under the Act, including conducting appropriate inquiries and investigations, when warranted [emphasis added].

Charter schools are required to abide by **all** PEC policies and its annual reporting requirement **does not** conflict with adhering to your school bylaws. To be clear, the PEC is asking you to vote on a specific number of governing board members; however, they are not asking you to establish a number that is *outside* of your school's contract or bylaws. As a result, this would not be in conflict with the school's contract or bylaws.

Once the PEC meeting agenda is posted, you can access it at: <http://webnew.ped.state.nm.us/bureaus/public-education-commission/meetingcalendarsmaterials/2018-pec-meeting-calendar/>

The forms are attached for your convenience. Please let me know if you have any questions.

Thank you,

Icela Pelayo, PhD, Deputy Director
Options for Parents and Families Division
New Mexico Public Education Department
300 Don Gaspar Avenue
Santa Fe, NM 87501
o: 505.827.6532
c: 505.695.8683
icela.pelayo@state.nm.us
<http://ped.state.nm.us/ped/index.html>

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