

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

THE GOVERNING COUNCIL OF
NEW MEXICO CONNECTIONS ACADEMY,
a New Mexico Public Charter School,
and NEW MEXICO CONNECTIONS ACADEMY,

Appellants,

vs.

No. D-101-CV-2018-01196

CHRISTOPHER RUSZKOWSKI, in his
official capacity as the SECRETARY OF
THE NEW MEXICO PUBLIC
EDUCATION DEPARTMENT,

Appellee.

**DECISION REVERSING THE DECISION AND ORDER
OF THE SECRETARY OF EDUCATION OF
THE NEW MEXICO PUBLIC EDUCATION DEPARTMENT**

THIS MATTER came before the Court on the Appeal of The Governing Council of New Mexico Connections Academy and New Mexico Connections Academy of the Decision and Order of the Secretary of Education of the New Mexico Public Education Department dated April 6, 2018, pursuant to Rule 1-074, NMRA; the Court having heard the arguments of counsel, reviewed the pleadings and all matters of record and being fully advised in the premises, finds the Decision and Order of the Secretary of Education of the New Mexico Public Education Department (“Secretary”) should be reversed.

Based upon the pleadings and all matters of record, this Court finds:

1. This Court has jurisdiction over the parties hereto and the subject matter hereof.
2. This review is governed by Rule 1-074, NMRA.
3. The Decision appealed from is arbitrary, capricious and is otherwise not in accordance with law.
4. The Court cannot reverse a Decision because it may disagree with the result.

Such a ruling “is arbitrary and capricious if it is unreasonable or without a rational basis, when viewed in light of the whole record.” *Id.* ¶ 17 (internal quotation marks and citation omitted). Though we must perform a whole record review, “[w]e must be careful not to substitute our own judgment for that of the agency” *Id.* Rather, “we must consider all evidence bearing on the findings, favorable or unfavorable, to determine if there is substantial evidence to support the result.” *Tom Growney Equip. Co. v. Jouett*, 2005-NMSC-015, ¶ 13, 137 N.M. 497, 113 P.3d 320 (internal quotation marks and citation omitted). “Where the testimony is conflicting, the issue on appeal is not whether there is evidence to support a contrary result, but rather whether the evidence supports the findings of the trier of fact.” *Id.* (internal quotation marks and citation omitted).

Sais v. NM Dept. of Corrections, 2012-NMSC-009, ¶16, 275 P.3d 104.

5. In resolving ambiguities in a statute or regulation which an agency is charged with administering, the Court will generally defer to the agency’s interpretation if it implicates agency expertise but not to its statutory interpretation which is reviewed as a matter of law.

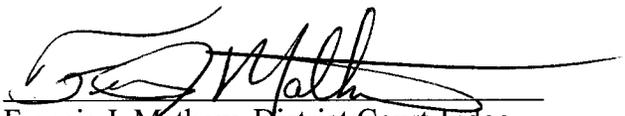
... A ruling by an administrative agency is arbitrary and capricious if it is unreasonable or without a rational basis, when viewed in light of the whole record. *Snyder Ranches, Inc. v. Oil Conservation Comm’n*, 110 N.M. 637, 639, 798 P.2d 587, 589 (1990); see *Hobbs Gas Co. v. N.M. Serv. Comm’n*, 115 N.M. 678, 680, 858 P.2d 54, 56 (1993) (stating that burden on review of administrative decision under arbitrary and capricious standard is to show that the decision is “unreasonable or unlawful.”) In making these determinations, we must remain mindful that “in resolving ambiguities in the statute or regulations which an agency is charged with administering, the Court generally will defer to the agency’s interpretation if it implicates agency expertise.” *Atlixco*, 1998–NMCA–134, ¶ 30, 125 N.M. 786, 965 P.2d 370; see *Chavez*, 1996–NMSC–070, ¶ 21, 122 N.M. 579, 929 P.2d 971. Further, “[t]raditionally, cases have uniformly held the hearing of an administrative appeal at the district court level is an appellate procedure, *not a trial de novo*.” *Groendyke Transp., Inc. v. N.M. State Corp. Comm’n*, 101 N.M. 470, 476, 684 P.2d 1135, 1141 (1984) (emphasis added). “It is not the function of the trial court to retry the case ... admit new evidence unless under an [statutory] exception ... or substitute its judgment for that of [an administrative agency].” *Id.* (internal citations omitted). However, we will not defer to the Commission’s or the district court’s statutory interpretation, as this is a matter of law that we review de novo. See *Mutz v. Mun. Boundary Comm’n*, 101 N.M. 694, 697–98, 688 P.2d 12, 15–16 (1984).

Rio Grande Chapter of the Sierra Club v. New Mexico Mining Commission, 2003-NMSC-005, ¶17, 133 N.M. 97, 61 P.3d 806.

6. The New Mexico Public Education Commission (“PEC”) violated the New Mexico Open Meeting Act in the process of its decision not to renew the Charter of New Mexico Connections Academy.
7. The PEC violated its Contract with New Mexico Connections Academy dated July 1, 2013 (“Contract”) and §22-8B-12, NMSA 1978, in the process of its decision not to renew the Charter of New Mexico Connections Academy.
8. The Secretary violated §22-8B-7, NMSA 1978, by his untimely final decision denying the renewal of the Charter of New Mexico Connections Academy.
9. The PEC and Secretary’s Decision violated the New Mexico State Rules Act, §22-8B-12, NMSA 1978 and the Contract by the use of a standard properly adopted and contrary to the express terms of the Contract.
10. The Decision is not supported by substantial evidence.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that the Decision and Order of the Secretary of Education of the New Mexico Public Education Department dated April 6, 2018, is **REVERSED**;

IT IS FURTHER ORDERED that this matter be remanded to the New Mexico Public Education Department to renew the Charter of New Mexico Connections Academy as the actions taken in the failure to renew such Charter were in violation of law.


Francis J. Mathew, District Court Judge

xc: Counsel, e-served.