

The Public Education Commission (PEC) is created by the New Mexico Constitution. It is comprised of ten Commissioners from different districts within the state, each elected by the people of that district. The Commission is required to meet quarterly, but usually meets once every month, often for 2 days.

The Commission is charged by statute with three main tasks:

1. Helping to create a **five-year strategic plan for public schools**, including charter and vocational schools, to be revisited biennially; seeking **input from stakeholders** in public education, in order to guide policy, and sending its recommendations to the Secretary of Education and the State Legislature.

2. **Authorizing charter schools and performing annual reviews** of the schools, and taking appropriate actions when schools or their leaders including governing council or administrators are failing to meet their performance standards.

3. The Commission is also the sole guiding authority for **vocational education** in New Mexico.

STATUTORY AUTHORITY:

The Public Education Commission (PEC) is created pursuant to Art. 12, Sec. 6 of the New Mexico Constitution, and its ten commissioners are publicly elected officials. The PEC is administratively attached to the Public Education Department (PED). (1978 NMSA §9-24-9(A).) As an “administratively attached” agency, the PEC exercises its functions independently of PED, and without the approval of PED, especially for budgetary requests and decisions. (1978 NMSA §9-1-7(A)(1).) PEC submits its budgetary requests through PED. (1978 NMSA §9-1-7(A)(2).) However, PED may not make changes to the budget and must submit it without changes in the departmental budget. (1978 NMSA §9-1-7(B)(2).) PEC is staffed by the Charter School Division (CSD), which is a bureau within the PED.

BACKGROUND:

There are 97 charter schools in New Mexico, serving approximately 25,000 students . The schools are authorized by the state (the PEC) or a local authorizer (the local school board). About half of New Mexico’s Charter Schools, or 54, are authorized by the PEC.

The PED assigned the following grades to the 51 schools authorized by the PEC in 2017:

- 20% (11) received a grade of A
- 22% (12) received a grade of B
- 26% (14) received a grade of C (Anthony Charter School is now closed)
- 19% (10) received a grade of D
- 7% (4) received a grade of F (Student Athlete HQ Academy, and Cariños de los Niños have closed, and La Academia Dolores Huerta’s charter was nonrenewed in 2018. Two schools were reopened under court order after the PEC did not renew their charters)

Using the PED letter grading system, PEC charter schools have performed better than traditional public schools.

Charter schools are public schools. Both district-chartered and PEC-chartered schools are funded in the same manner as other public schools. They are eligible for federal funds, and then the state provides per-student funding through the State Equalization Guarantee.

Charter school teachers have the same requirements for certification as traditional public school teachers. Charter schools have the same three-tiered salary schedule as traditional public schools and, for teachers who have been employed at the school for three consecutive years, are subject to the New Mexico School Personnel Act.

Charter schools also have the same reporting requirements as traditional public schools, including quarterly financial reports, annual outside audits, and 40-, 60-, 80-, and 120-day student counts.

MISSION:

PEC has two primary functions. First, as authorizer of all state-chartered charter schools, it evaluates and approves new schools, and oversees the academic, operational, and financial performance of existing schools. The PEC has the authority and responsibility to approve, terminate, or renew charter schools through charter contracts. The PEC also provides training and technical support to the charter schools. (*See i.e.*, 1978 NMSA §22-8B-5.3, §22-8B-16.) Second, PEC is governing authority and administrator of vocational education, primary and secondary education strategic planning, and educational policy recommendations to PED. (1978 NMSA §§22-14-2, -3 (vocational education); 1978 NMSA §22-2-2.2 (strategic planning, policy and recommendations).)

ACADEMIC, OPERATIONAL, and FINANCIAL PERFORMANCE FRAMEWORK

Charter schools exist to provide students with choices for the best educational setting, and solve a problem: the need for alternative educational programs for the diverse communities in New Mexico in order to achieve better educational outcomes for all New Mexico students. They are laboratories of education, in which diverse methods are used to provide different instructional models for New Mexico's students. It is therefore important that these innovative programs be rigorously reviewed to see if they deliver improvements over the results of traditional public schools. If they do not, then we should set them aside with speed, rather than subjecting more students to well-intentioned but unsuccessful methods. If they succeed, rubrics in our performance framework should suggest how they did so, what they required in the way of costs, teacher training, and facilities, and whom they most benefitted, so those methods may be tried in other places where improvements are needed, or where other traditional or charter schools wish to serve their student with different learning styles.

In May, 2018 the PEC adopted practice standards, policies and procedures in response to National Association of Charter School Authorizers (NACSA) evaluation that has not been reconsidered since 2005. PEC adopted and implemented a Performance Framework for all state chartered schools that included academic, operational and financial criteria to guide review, performance management, and oversight that meets NACSA guidelines, and has placed PEC as a leader among charter school authorizers nationally.

The Performance Framework applied to all PEC charter schools under the newest charter contract sets the **academic, fiscal, and organizational** standards by which PEC-authorized public charter schools are authorized and evaluated. The Framework allows many factors to be considered when evaluating charter schools and deciding about renewals, charter changes, revocations, and technical assistance. The Framework also balances charter school autonomy with PEC oversight and intervention.

PERFORMANCE FRAMEWORK COMPARISONS

NEW MEXICO: ranked #50 in the Annie E Casey Foundation's comparison of Education system quality, and #23 in the Center for Education Reform's comparison of states with charter schools. NM had 97 charter schools as of March 2017.

NEW JERSEY: ranked #1 in the Annie E Casey Foundation's comparison of state education system quality, and #26 in the Center for Education Reform's comparison of states with charter schools. The CER in particular doesn't like NJ's lack of autonomy for charter schools. NJ has 89 charter schools as of March 2017, with almost 50,000 students. All of NJ's charter schools are authorized by the state, the sole authorizer. (See, e.g., <https://www.nj.gov/education/chartsch/PerformanceFramework.pdf>)

The New Mexico Performance Framework measures ACADEMIC achievement, FINANCIAL management, and ORGANIZATIONAL efficiency and effectiveness.

ACADEMIC PERFORMANCE:

School-specific goals are foundational to charter schools; specific goals guide them, encourage innovation and set their uniqueness in addressing student educational needs. The following elements are a summary of the items reviewed and measured to determine if a school is meeting its academic performance:

- The PEC uses the PED's A–F grading system for schools, employing each rubric of that system:
- Current Standing: percentage of students proficient in math & reading, and Measure of student growth.
- School growth, calculated in the same way as student growth, measuring against expectations based on prior performance, but at the school, rather than student level.
- Growth of the lower-performing 25% of students, and growth of the remaining 75% of students.

- Graduation rates.
- Readiness of students for college and career.
- Opportunity to Learn: basically, do teachers create an environment proven to be conducive to learning? Students and parent input is critical to this element. Attendance is included in this rubric.
- The PEC compares each school's success with a subgroup of students in the same grade and the state average success with those subgroups.
- Subgroup of higher-performing $\frac{3}{4}$ of students
- Subgroup of lowest-performing $\frac{1}{4}$ of students
- Total proficiency of subgroups
- School-Specific Goals, including additional rigorous, valid and reliable indicators (as determined by the chartering authority) proposed by a charter school to augment external evaluations of its performance. The PEC has issued guidance for how to set school-specific goals, including
 - Use a SMART goal format (Specific, Measurable, Attainable, Rigorous, and Time-bound).
 - Include metrics and measures using the following criteria: "Exceeds standards," "Meets standards," "Does not meet standards," and "Falls far below standards."
- Set goals that augment external evaluations of school performance and do not duplicate existing framework measures.
- Goals must be able to be documented and supported using objective, verifiable evidence of results.

FINANCIAL PERFORMANCE

The following elements are a summary of the items reviewed and measured to determine if a school is meeting its financial performance:

- Operating Budgets: Is the school timely submitting budget information?
- Audits: Is information timely submitted for the audit process?
- Periodic Reports: Cash and Actual Reports
- Are reports due monthly or quarterly? If monthly, why?
- Were current year reports timely submitted?
- Have expenditures and encumbrances exceeded budgetary authority?
- For each of the last four reports, was the existing cash balance plus anticipated SEG funding sufficient to cover the next month's expenditures at that time?
- Expenditures
- Were any invoices pending for 90+ days?
- Were payroll liabilities (taxes, unemployment, etc.) paid timely?
- Reimbursements: were all requests for reimbursements submitted in keeping with PED-mandated deadlines?
- Audit Reviews: is the school responsive to audit findings?
- Meals: are food service contracts managed appropriately?

- General: has the PED budget analyst issued any concerns in writing?

ORGANIZATIONAL PERFORMANCE

The following elements are a summary of the items reviewed and measured to determine if a school is meeting its organizational performance:

- Educational Plan
 - Is the school implementing the material terms of the approved charter application as defined in the Charter Contract?
 - Are they complying with applicable education requirements?
 - Are they protecting the rights of all students?
 - Are they protecting the rights of students with special needs?
 - Are they protecting the rights of English Language Learners?
 - Is the school complying with compulsory attendance laws?
 - Did the school meet specified recurrent enrollment goals?
- Business Management & Oversight
 - Is the school meeting financial reporting and compliance requirements?
 - Is it following Generally Accepted Accounting Principles?
 - Governance & Reporting
 - Is the school in compliance with governance requirements?
 - Is the school holding management accountable?
 - Employees
 - Is the school meeting teacher and staff credentialing requirements?
 - Is the school respecting employee rights?
 - Is the school completing mandatory background checks?
 - School Environment
 - Is the school complying with facilities requirements?
 - Is the school complying with health and safety requirements?
 - Is the school handling information appropriately?

Performance Review Process.

From the PED website: “PEC seeks to establish a Performance Review and Accountability System that strikes the appropriate balance between charter school autonomy and chartering authority intervention.... Annual accountability activities are guided by state and federal compliance requirements as well as clear measures of academic progress that allow for a rigorous, state-aligned, fact-based evaluation of school performance.” See https://webnew.ped.state.nm.us/wp-content/uploads/2018/02/DRAFT-PEC-Accountability-Plan_2-6-18_RVSD.pdf

- Performance reviews are accomplished with the following components
- Submission of performance data by the charter schools
- Annual School visits, typically by the Charter School Division

- Annual performance reviews

The PEC is responsible for ensuring that the schools it authorizes perform as agreed to in their Charter Contracts. If the performance review uncovers matters of concern regarding finances, organizational integrity, and academic performance, the authorizer conveys its concerns to the schools. There is an Intervention Ladder describing an escalation of concerns and actions taken by the authorizer to assure compliance by the school. The ladder ascends as follows:

- Notice of Concern
- Notice of Breach, and
- Revocation Review

Exemplary performance by a school may result in an expedited renewal process and increased autonomy of the school. The three possible outcomes of the renewal application are as follows:

- Renewal
- Renewal with conditions
- NonRenewal

To support the implementation of the Performance Framework, the PEC also developed a series of forms and procedures to assist schools provide timely information about changes to their operational structures. The PEC also completely revised the charter school contract so that the documents was more legally sound and it was consistent for all schools. As schools come up for their 5 year renewal, if a contract is awarded, every school will be using the same contract template so that there is more consistency and fairness, and it is easier for the PEC to administer.

BUDGET ISSUES:

The PEC's work of authorizing charter schools is funded through the 2% administrative fee from the SEG for charter schools, and staffed through the Charter Schools Division.

The PEC submitted a budget request for FY 19-20 to address a problem brought to light by the State Auditor, who noted a serious concern regarding the lack of accountability and transparency in PED's spending of an estimated \$4,090,593 for charter school administrative expenses of which an estimated \$2,626,776 was for state-chartered charter schools in 2017. (Letter to Secretary-Designate Ruzkowski from State Auditor Timothy Keller, August 25, 2017.)

The PED has not provided PEC budget information for prior years, even though requested by the PEC. Therefore, the PEC is unable to compare this request to prior years. This PEC budget proposes cost savings in the expenditure of the 2% of the charter school-generated program costs which is designated for authorizer expenses. (1978 NMSA 22-8B-13). In this budget proposal, PEC meets the administrative costs associated with Commission meetings and PED-Charter School Division support staff and services, with expanded computer and IT support (1978 NMSA 22-8B-17) and ***has a \$625,567 surplus to invest in charter school program support, including professional development and Governing Board training.*** PEC will provide training

that is more specific, detailed and designed to answer relevant questions faced by the schools than that offered by PED. With the budget, PEC will not be stymied from completing its obligations when PED refuses to release funds as requested by PEC.

BUDGET SUMMARY

	2018-2019 <u>Budgeted</u>	Agency <u>Request</u>
SOURCES		
General Fund Transfers	0	839
Other Transfers*	0	1,979
SOURCES TOTAL	0	2,818
USES		
Personal Services and Employee Benefits	0	1,480
Contractual Services	0	194
Other	0	515
TOTAL USES	0	2,189
FTE		
Permanent		11
Term		2
Temporary		0.5
TOTAL FTE POSITIONS		13.5

* NMSA1978, §22-8B-13.

LEGAL CHALLENGES

The PED Secretary has, on his own motion, initiated litigation against the PEC regarding PEC's independent decision making and authorization of a new charter school. The PED has also engaged in litigation regarding two schools whose charter contract was not renewed by the PEC because of poor academic performance, which resulted in the PEC being *ordered by the PED* to allow these low performing schools to continue to operate.

AUTHORIZER ISSUES and ONGOING PEC POLICY DEVELOPMENT

The PEC will continue to develop its authorizer policies. The PEC will continue to develop definition for, and performance measures for schools that have significant at risk students. These schools are SAMS schools, which stands for Supplemental Accountability Measure schools. PEC also hopes to provide more governing board training and mentoring to new school administrators.

GREATEST LEGISLATIVE NEED

The PEC is requesting that the Legislature change the hearing appeal process. Currently all appeals of PEC decisions are made first to the Secretary of Education. The Secretary, on his or

her own motion may also review any PEC decision. (NMSA 22-8B-7) Then the Secretary can create his own procedure for reviewing any PEC decision. Then the secretary makes his order based on his finding of his requested review. This process of agency review of an independent commission's decision-making authority undermines the work of the PEC and may be unconstitutional. It also creates procedural confusion under the Administrative Procedures Act, by allowing for differing administrative decisions that may provide basis for an appeal. In several cases, it has resulted in court orders against the PEC in matters to which they were not a party, and has stifled the PEC's independent voice. The solution is to simply follow the Administrative Procedures Act, so that any appeal would be made directly from a decision by the PEC to the First Judicial District Court, without an additional, unnecessary, and confusing administrative step of further proceedings before the Secretary or his designee.

APPENDIX

MEET INNOVATIVE SCHOOLS: PEC-AUTHORIZED SCHOOLS: SUCCESSES AND INNOVATIONS

Charter schools are laboratories; their mission is to innovate. This necessarily entails some risk while experimenting to see what works. 42% of PEC schools are currently listed on the PED website as having earned A or B grades. New Mexico's challenges in providing education for its children are well-documented. In the midst of our challenges, we have some successes.

Mission Achievement and Success Charter School in Albuquerque, was chartered by the PEC and graded A by the PED for four straight years. The student body has a higher than average number of at-risk students in all categories. They have a strong emphasis on "cracking the reading code" early. The director, JoAnn Mitchell, explains that many students who were raised monolingual Spanish have mastered *speaking* English by 6th or 7th grade, but may read at a much lower level. MAS prioritizes a strong reading intervention program to remedy a lack of early training. They feed all of their students, regardless of economic status, three meals every day, paid for out of a combination of operations and federal funding. Uniforms and school supplies are free, and there is a full-time nurse on staff. Dental work and immunizations are provided for free. They are beginning a GED program for parents who wish to continue their school. MAS also places a heavy emphasis on teacher training and mentoring. Teachers are paid on average 5% more than in traditional public schools, but more demands are placed on them, e.g., longer work days, more time in training. MAS is what it looks like when a school becomes the locus of a community, the place where the state's investment in its people visibly takes place.

The Albuquerque Institute of Math and Science, a PEC-chartered A-rated school for the past 6 years. Their student body is roughly 50-50, Hispanic/Anglo, and they have a 94% graduation rate. Every student takes PISA (Program for International Student Assessment) tests, for which AIMS pays: AIMS students were generally higher than the US average – and the average of every other country whose students took the test. They are located on a UNM campus and offer

dual credit courses; students must have at least 30 hours of dual-credit courses in math and the sciences in order to graduate.

The Masters Program Charter School, located on the campus of Santa Fe Community College, is a PEC-chartered school with an A rating. It's one of three "early college" charter schools in New Mexico. Student demographics from 2016-2017 are as follows (Source: TMP School Profile Fall 2016, from their website): 49% male, 51% female; 29% white, 61% Hispanic, and 10% Asian, American Indian, African American, or mixed race. 53% receive a free or reduced-cost lunch.

The Albuquerque Sign Language Academy, a PEC-chartered B-rated SAM school, is the first State-Certified Bilingual ASL-English Program in the nation. The Academy is one of 11 recipients of the Striving Readers Comprehensive Literacy (SRCL) grant this year. It was unrated for years because of the unique student body it served. One year it was rated D, but the executive director, Raphael Martinez, maintains that is because the school's unique mission and student body did not fit well into the metrics of the Performance Framework. About half of the student body is deaf, and many have additional disabilities, but all students communicate in sign language. Many of the students were not well-served in other public schools, and so gravitated to ASL Academy. This school contradicts the misconception that some charter schools excel because their student bodies contain fewer at-risk students.

Taos Academy Charter School is a PEC-chartered school, rated A by the PED for the last 7 years. It has been ranked by US News & World Report as one of the best high schools in America for the last three years. According to Traci Filiss, the Director/Superintendent, "Taos Academy is a flexible blended learning environment providing individualized learning plans for all students through our combination of online differentiated programming and face to face live instruction. The program is mastery-based at 70%. If a student scores below the threshold they are required to attend enrichment class, extending the required school hours. Proficiency scores: 59% reading and 36% math. This supports each child's individual learning levels by differentiating the schedule to align with need. [Our program] certainly can be replicated with a change in mindset from the traditional one size fits all model of public education."

Albuquerque School of Excellence: A PED-graded A school, ASE has about 650 students. 64% of students qualify for Free/Reduced Lunch. 3% are Native American, 5% are African American, 7% are Asian, 39% are Hispanic, and 45% are White/Caucasian. ASE offers dual credit classes at CNM or UNM, so students get early college exposure. As a STEAM school, students learn about – and compete in – robotics and other technological applications. They recently made a 3D printed prosthetic hand for a Colorado student who lost four fingers in a fireworks mishap. They plan further growth after their charter renews next year.