

NOTICE OF PROPOSED RULEMAKING

Public Education Commission Procedural Rule regarding Policy-making, Forms and Procedure related to State-Chartered Charter Schools

Public Hearing. The New Mexico Public Education Commission (PEC) gives notice that it will conduct a public hearing on Friday, February 18, 2022 beginning at 9:15 a.m. (MDT) via Zoom and in -person in Mabry Hall, located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501. The in-person aspect of the public hearing is subject to change due to concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham’s Executive Order 2021-049, Renewing the State of Public Health Emergency Initially Declared in Executive Order 2020-004, Other Powers Invoked in That Order, and All Other Orders and Directives Contained in Executive Orders Tied to the Ongoing Public Health Emergency; or with any executive order that supersedes Executive Order 2021-049. Continuous updates on hearing changes and Zoom information will be provided on the PEC website. The purpose of the public hearing is to receive public input, discuss and take final action on the proposed new rule, **Public Education Commission Procedural Rule regarding Policy-making, Forms and Procedure related to State-Chartered Charter Schools.** At the hearing, the PEC will provide a verbal summary statement on record, take input, and review comments received and the most updated draft of the proposed rule. The PEC will then discuss and take possible action to adopt the rule on this same date.

Explanation and Summary of Purpose of Text

The PEC is undertaking a two-part process.

First, the PEC is proposing to adopt one rule. The purpose of new rule, **Public Education Commission Procedural Rule regarding Policy-making, Forms and Procedure related to State-Chartered Charter Schools**, establishes a process for reviewing and adopting the documents governing state-chartered charter schools each year as needed, in advance of the start of the school year. This will ensure that state-chartered charter schools and others contemplating requesting to be a state-chartered charter school know of, and have access to, all of the policies, forms and procedures used by the PEC as the authorizer for the upcoming school year. This rule establishes the procedure for review of all documents for the 2022-2023 school year and then a review of any identified changes, as needed, in future years. After its adoption, the PEC will follow this protocol for its review of policies, form approval and protocols.

Second, the PEC will utilize the process set forth in this one rule to look at its policies, forms and protocols. This second part of the process – to look at each specific policy, form and protocol - will take place during the spring, 2022. It will then be used for an annual review of the policies, forms and protocols as needed in each of the following years. Public comment and input will be accepted in the review of each document.

Statutory Authorization(s):

Pursuant to NMSA 22-8B-5.3, the Public Education Commission has authority to

- F. monitor, in accordance with the requirements of the Charter Schools Act and the terms of the charter contract, the performance and legal compliance of charter schools under their authority; and
- H. develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing.

The rule is intended to provide a procedure to exercise this authority.

The Public Education Commission is administratively attached to the Public Education Department, and pursuant to NMSA 9-1-7 exercises its functions independently of the department and without approval or control of the department. Pursuant to NMSA 14-4-2 A, the commission is an “agency” under the State Rules Act for the purposes of promulgating a rule.

Documents to be later reviewed using the process set forth in this rule. No technical information serves as a basis for this proposed rule. However, many of the documents that the PEC will seek to approve pursuant to this rule have already been developed, approved at public meetings of the PEC, and are being used by the PEC now.

These documents will serve as the initial drafts for the policies, forms and protocols to be adopted. These documents will each be reviewed again using the procedure set forth in the rule; however, this rule formalizes a multi-year process that has been in place for many years. The documents in their present form are posted on the PEC website. (*see e.g.* <https://webnew.ped.state.nm.us/bureaus/public-education-commission/policies-and-processes/>).

Please note that the process to review the specific state-chartered charter school policies, forms and protocols will be identified when this procedural rule is approved, including the schedule for discussion of each of these documents in spring, 2022 and the manner and timing in which comment specific to those documents may be provided.

Public Comment on the Proposed Rule. Interested parties may provide in-person comment at either of two working sessions and written comment by mail to Beverly Friedman, New Mexico Public Education Department, 300 Don Gaspar Avenue, Santa Fe, New Mexico 87501 or by electronic mail to Bev.Friedman@state.nm.us. The PEC encourages the early submission of written comments; and written comments must be received no later than 5 p.m. (MDT) on Tuesday, February 1, 2022. The written public comment period is from Monday, December 13, 2021 to Tuesday, February 1, 2022 at 5:00 p.m. (MDT). The PEC will also accept oral comments at a working session on Thursday, January 13, 2022 during which session the PEC will discuss the rule and the comments. PLEASE NOTE that the draft rule may be updated during the comment period to reflect discussions of PEC members at the working sessions and based on comments received. Please check the draft periodically to see the updates and changes.

The PEC may discuss and take action on the proposed rule on February 18, 2022.

Copies of the proposed rules may be accessed through the PEC website <https://webnew.ped.state.nm.us/bureaus/public-education-commission/> or may be obtained from Julia Barnes, attorney for the PEC, jhbnm1@gmail.com or at (505) 470-7349 during regular business hours.

Individuals with disabilities who require the above information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Beverly Friedman, New Mexico Public Education Department, 300 Don Gaspar Avenue, Santa Fe, New Mexico 87501, by electronic mail to Bev.Friedman@state.nm.us as soon as possible before the date set for the working sessions or public hearing. The PEC requires at least 10 calendar days advance notice to provide any special accommodations requested.