

Charter Schools Division clarification on the Conditions 8.18.22

	STANDARD CONDITIONS	APPLICANT TEAM'S RESPONSE in black
1	Obtain standing as an approved Board of Finance	No objection
2	Secure a facility that meets PSFA Approval	No objection
3	Complete the planning-year checklist	No objection
	School-specific CONDITIONS PROPOSED BY CSD	
1	The applicant must provide, by a date determined by the PEC, sufficient information regarding the school's foundation, Explore Learning Systems, LLC and the third-party relationships they both have with the school. Included in the information should be:	APPLICANT TEAM'S RESPONSE in black 8.17.22 CSD's justification for the concern in blue 8.18.22
	a) the Memorandum of Understanding (MOU) between the Foundation and Explore Academy Rio Rancho, which includes the responsibilities, activities, and costs associated with the agreement, and	<p>This does not need to be a condition as it is a requirement of Contract Preparation that all MOUs with a foundation are attached to the contract between the school and the PEC. At the time of the application, the foundation had not been confirmed.</p> <p><b>The school was rated as "Does Not Meet" expectations on Evidence of Partnership/Contractor Relationship and the Appendix D, Attachment of Formal Formal Agreement Documentation.</b></p> <p>During the community input hearing one of the founders of the school, who is also the head administrator of the ABQ school, who is also the founder of the Las Cruces School, a member of the Learning Systems LLC, the registered agent of the Network, and registered agent of the Explore Academy foundation (Abq), stated that they were ahead of the curve and, "We currently have a facility that's under contract at present. Also, we built into that contract some leeway. In the event that we're not approved, we can -- you know, we can back out of that contract. But upon approval, we do have investors allowing the school and its foundation to purchase the building by November and start renovations</p>

		<p><i>shortly thereafter to be ready for the opening next fall”.</i></p> <p>The PEC should know WHO the “We” in those statements actually are, and to what degree it is the same person, or people, and who may be benefiting financially.</p> <p>Why? At present, there is either a real or a potential conflict of interest with Explore-Rio Rancho founders and the Explore Learning Network, investors, and a foundation. Also, because a person may not participate in a project to use his or her position for a purpose that is – or give the appearance of being – motivated by a desire for a private financial gain for that person or for others. I think we want to be ahead of the curve in this situation and do our due diligence.</p> <p>The more we look at the schools within the network, the more potential for conflict we notice. In the July 2022 Explore GC minutes, the Head Administrator made the announcement—that he was to be married this summer to Elisha Varela, Director of Operations and Registered Agent of the LLC. Explore ABQ voted to waive the nepotism rule in this relationship and for Justin’s brother who also works for the school and the network, <a href="#">See July 12, 2022 board minutes</a>.</p>
	<p>b) the Memorandum of Understanding (MOU) between Explore Academy Rio Rancho and Explore Learning Systems, LLC, which includes the responsibilities, activities, and costs associated with the agreement,</p>	<p>If so requested by the PEC, Explore Learning Systems, LLC will provide a copy of the services agreement between the school and the company if/when one exists.</p> <p>We recommend we need the proposed service agreement sooner than later, as a condition of approval, NOT precedent.</p> <p>In fact, added to the list of required documents should have also included any agreement between the school and Explore Learning Network, the non-profit organization that identifies as a CMO in Nevada and that holds a Management Agreement with the school in Michigan, Las Vegas, and Las Cruces.</p> <p>The <a href="#">MI agreement</a> states that:</p> <p>ELS was established, among other things, to manage academies and to provide assistance and expertise, including regulatory, financial, facilities, and other advice, in connection with the organization and operation of academies. Fees are 9% of Revenues for the 2022-2023 academic year; 12% of Revenues for the 2023-2024 academic year; 12% of Revenues for the 2024-2025 academic year; 15% of Revenues for the 2025-2026 academic year; and 15% of Revenues for the 2026-2027 academic year. An additional <a href="#">start-up contract</a> @ \$66 is also being charged.</p> <p>In <a href="#">Las Cruces, the agreement</a> with ELN includes the Explore Learning System for teacher training,</p>

		<p>mentoring, staff support, curricular set up; data analysis and compliance, interfacing with the authorizer, special programs (special ed, EL, MLSS), school marketing and enrollment, business management services, operational support, facilities, facilities financing and maintenance, for a fee of \$190,000/month, it is unclear what percentage of the budget this entails.</p> <p>In Las Vegas, the agreement also with ELN (who is considered a CMO, per their board minutes) has a fee structure with similar terms as the MI school. The fee structure for years one through five will be: (i) School Year 1 (2020-2021) - 9%, (ii) School Year 2 (2021-2022) - 12%, (iii) School Year 3 (2022-2023) - 12%, (iv) School Year 4 (2023-2024)- 15%, and (v) School Year 5 (2024-2025)- 15%</p> <p>The document in the Rio Rancho application was bare bones and details of the agreement are needed in order to determine the full implications.</p>
	<p>c) full disclosure of the legal status of Explore LLC, the names, employment contracts, and contact information of the individuals who sit on the board and who are employed by Explore LLC.</p>	<p>If so requested by the PEC, the team will provide any information regarding Explore Learning Systems, LLC which is public record. However, is this requested of all schools regarding the organizations and companies that provide support services?</p> <p>Explore Learning Systems, LLC is a for-profit company who provides services for Explore Schools outside of NM and in Las Cruces. It is unclear whether or not the Albuquerque school has such an agreement. This has not been a request of all schools we authorize, because not all schools are associated with organizations that play this large a role with their schools. Furthermore, NM prohibits contracting with management companies (CMOs). Because this organization considers itself a CMO, according to the <a href="#">board agendas</a> on the Explore Las Vegas website, this condition is justified.</p>

d) full disclosure of the foundation, with the names, employment contracts and contact information of the individuals who sit on the board and who are employed by the foundation.

This does not need to be a condition as the name of the foundation, officers, and contact information are due to CSD as part of the Implementation Year Checklist, specifically 11-15.1 due in November. Additionally, this is covered by section 1a above. The foundation does/will not have any employees nor any employment contracts.

Explore Academy (Albuquerque) and Explore Las Cruces foundation directors may or may not overlap, or be up to date in the Secretary of State's documentation, however the physical address is the same. According to the Secretary of State, Explore ABQ:

**Registered Agent Information**

Name: **Melanie Avgerakis**  
 Geographical Location Address:  
 Physical Address: **5100 Masthead NE, Albuquerque, NM 87109**  
 Date of Appointment: **01/22/2018**

**Director Information**

Title	Name	Address
Director	Melanie Avgerakis	5100 Masthead Street NE, Albuquerque, NM 87109
Director	Daniele Knee	5100 Masthead Street NE, Albuquerque, NM 87109
Director	Justin Baiardo	5100 Masthead Street NE, Albuquerque, NM 87109

According to the Secretary of State, Explore Las Cruces

**Registered Agent Information**

Name: **Justin Baiardo**  
 Geographical Location Address:  
 Physical Address: **5100 Masthead NE, Albuquerque, NM 87109**  
 Date of Appointment: **04/23/2021**

**Director Information**

Title	Name	Address
Director	Karen Casedy	5100 Masthead NE, Albuquerque, NM 87109
Director	Brittany Pintor	5100 Masthead NE, Albuquerque, NM 87109
Director	Rafael Lovato	5100 Masthead NE, Albuquerque, NM 87109

2 The applicant must provide additional detail regarding the school's finances, including

**The school was rated as "Does Not Meet" expectations for the Financial Policies, Oversight, Compliance, Sustainability and Financial Control Procedures, and "Approaches" with other Financial indicators.**

a) the school's governing board-approved fiscal controls policies and procedures,

This does not need to be a condition as the internal control procedures are due to CSD as part of the Implementation Year Checklist, specifically 3-1.6 due in March.

Because of the concerns identified by the Review Team, PEC and CSD; this **does** need to be a

		condition prior to approval; we believe a review of these policies and procedures need to take place BEFORE approval.
	b) the names, titles and employment status of all staff contracted to provide financial services to the school and whether they hold employment with Explore Learning Systems, LLC and/or the foundation in addition to the school,	<p>If so requested by the PEC, the team will provide a list of names, titles and employment status of staff contracted to provide financial services to the school as that is reported to STARS; whether they hold additional employment with Explore Learning Systems, LLC (ELS) or any other company is irrelevant. Please note that the foundation does/will not have any employees nor any employment contracts with staff who work for ELS or Explore Academy.</p> <p>This does need to be a condition of the school prior to approval in order to determine whether there is a real conflict of interest by any individual.</p>
	c) the Finance committee membership names and contact information must be provided by a date determined by the PEC, and	<p>This does not need to be a condition as evidence of the formation of the audit and finance committees, scheduled meetings, and list of committee membership is due to CSD as part of the Implementation Year Checklist, specifically 11-15.1 due in November.</p> <p>This does need to be a condition of approval in order to determine whether there is a real conflict of interest by any individual.</p>
	d) all finance committee meetings must include an agenda and minutes and be posted to the school's website.	<p>Finance committee meetings held by the majority of state charter schools (with two board members, Head Administrator, and SBO) are not open to the public and agendas/minutes are not required. Having said that, Explore Academy - Rio Rancho's plan is for the finance committee to be a "committee of the whole". This means that the finance reports will be reviewed and discussed at the start of the monthly board meetings with all board members. As a result, the financial status of the school is discussed openly in public and is part of the agenda and minutes that are posted to the school's website.</p> <p>Although finance committee meeting agendas and minutes do not typically fall under the Open Meetings Act, we are proposing this as a condition once approved, especially if the entire board is present.</p>

<p>3 The governing body, once established, must provide an assurance that they alone will make the head administrator hiring decision, in accordance with the Charter Schools Act, including 22-8B-10 NMSA 1978 and 22-8B-4 (R) NMSA 1978.</p>	<p>This does not need to be a condition as a "written process and plan that details how the governing body will identify, recruit, and hire a prospective head administrator" is due to CSD as part of the Implementation Year Checklist, specifically 11-15.5 due in November. Explore Academy - Rio Rancho intends to have two board members on the interview committee and the recommendation of the committee will be brought to the board for approval.</p> <p>As a condition of approval, we believe an assurance is needed, prior to the November IY checklist item due date. Again, because founders/network/LLC members will be involved in the process, we must conduct due diligence to determine whether boundaries of school management have been, or plan to be crossed.</p>
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