

### 6.2.9.15 RENEWAL

**A.** A school seeking to renew its charter as a state charter school shall submit a renewal application to the commission in accordance with a timeline established by the commission and the act for the renewal application process.

**B.** The division will analyze each renewal application according to the criteria established by the commission and the act and shall prepare a preliminary renewal analysis. The preliminary renewal analysis shall include the division's preliminary recommendation to the commission whether to renew, renew with conditions or to not renew.

**C.** The school seeking to renew its charter as a state charter school may provide a written response to the preliminary renewal analysis within ten days of receipt. If the division agrees with the school's response, the division shall modify the final renewal analysis before submitting it to the commission and provide an updated analysis to the state charter school. If the division disagrees with the school's response in whole or in part, it shall provide reasons why it disagrees with the school's response in its final renewal analysis and include the school's response in the division's final renewal analysis submitted to the commission.

**D.** No later than thirty days prior to the renewal hearing, for each renewing school seeking to renew its charter as a state charter school, the commission shall identify in writing preliminary issues of concern, an indication of possible non-renewal identified by the commission, or requests for further information to allow the school to prepare for the renewal hearing.

**E.** The division shall submit its final renewal analysis as described in this section to the commission by no later than ten days prior to the commission hearings on the renewal applications.

**F.** Unless a non-renewal hearing is requested as set forth below, for each renewing charter the commission shall hold a renewal hearing according to an approved renewal process procedure, allow public input, and oral presentations by the division and the school. The commissioner will then be allowed to ask questions of the division and the school related to the renewal application and oral presentations prior to making a decision regarding renewal.

**G.** If the division provides a recommendation of non-renewal or if the commission has indicated to the school that it may consider non-renewal, the school may request to invoke the non-renewal hearing procedure described in Subsection J of Section 6.2.9.15 NMAC. A state charter school's request for the commission to follow the non-renewal hearing procedure, must be provided to the commission chair and division director by no later than ten days after receipt of the division's preliminary renewal analysis.

**H.** If the school seeking to renew its charter as a state charter school timely requests that the commission follow the non-renewal hearing procedure, the commission shall afford the school the following minimum process before voting on the division's recommendation for nonrenewal. The procedure for a non-renewal hearing procedure will be as follows:

(1) Upon receipt of the school's request for the commission to follow the non-renewal hearing procedure, the commission shall provide notice of the date and time of the possible non-renewal hearing no later than 10 days prior to the hearing.

(2) The division, in presenting its case for non-renewal, may rely on the grounds for non-renewal provided to the school in the record of performance, the reasons provided in the division's final renewal analysis that were previously disclosed to the school through the process contemplated under this rule, or in the written letter of concern from the commission provided to the school in Section 6.2.9.13 of this rule. The division may supplement any grounds for non-renewal set forth in the notice only if exceptional circumstances exist.

(3) The non-renewal hearing shall be conducted as follows:

(a) The party proposing non-renewal, which may be through counsel, will have one hour to present its recommendation and supporting evidence for nonrenewal to the commission. The party proposing non-renewal may present witness testimony, documentary evidence, and shall have the opportunity to question the state charter school representatives present excluding legal counsel. If the party proposing non-renewal is relying on evidence or opinions from other divisions or bureaus of the department, a representative from that division or bureau shall be requested to be at the hearing to answer questions by the division, the school and the commission. If the party proposing non-renewal intends to present written evidence from another department bureau or division, it must provide a copy of that evidence to the state charter school by no less than five days before the scheduling the hearing.

(b) After the presentation of the party proposing non-renewal, the school, through counsel if it elects to have counsel, shall have one hour to present evidence to defend its application for renewal. The school may present witness testimony, documentary evidence, and shall have the opportunity to question division representatives or other department representatives about information used to support a recommendation of nonrenewal. If the school is relying on evidence or opinions from another entity or other divisions or bureaus of the department, the division shall request that a representative from that entity, department division or bureau be at the hearing to answer questions by the state charter school, the division and the commission.

(c) Commission members may ask questions of the division, its attorney or witnesses, and the school representatives and witnesses, during the presentations which shall not be subtracted from the division's or school's time, and then, may take up to one hour after the school and division finish their presentations to ask additional questions that are related to the renewal applications and the previously identified reasons given for possible nonrenewal.

**I.** Attorneys may provide representation at the hearing, at each parties' sole cost and expense.

**J.** The hearing shall be recorded by a licensed stenographer and a copy of the transcript shall be presented to the parties within ten days of the hearing unless additional time can be extended without prejudice to the school's right to appeal.

**K.** The hearing and deliberations of the commission shall be conducted pursuant to the Open Meetings Act.

**L.** The commission shall vote on the state charter school's renewal in a public meeting and articulate the legal grounds and supporting evidence for its decision on the record. The commission shall serve a written decision on the state charter school's representatives within ten days of the hearing. If the commission decides to non-renew the charter contract, the decision shall include the legal basis for non-renewal with the supporting factual reasons given to support the legal violations required pursuant to Subsection K and Subsection M of Section 22-8B-12 NMSA 1978 during the public hearing.

**M.** A school may appeal to the secretary pursuant to Section 22-8B-7 NMSA 1978 and provisions of Section 6.80.4.13 NMAC.

[6.2.9.15 NMAC - N, \_\_\_\_\_]

#### **6.2.9.16 REVOCATION**

**A.** The commission may revoke the school's charter contract if legal grounds exist pursuant to provisions of the act. If immediate revocation is warranted or, if the state charter school does not provide a corrective action plan accepted by commission, or the state charter school fails to timely cure the violation as contemplated in the corrective action plan, the commission may vote to proceed with revocation.

**B.** The commission shall provide the school with a notice of intent to revoke that includes the legal basis for revocation as contemplated in the act and a date, time and place for a revocation hearing. The hearing shall be located in Santa Fe or the county in which the school is located as agreed upon between the parties. Unless an emergency revocation or suspension is identified, the hearing shall be held not more than sixty nor less than thirty days from the date of service of said notice.

**C.** The revocation hearing shall be conducted as follows:

(1) Counsel presenting the case for revocation shall have one hour to present evidence for revocation to the commission. The counsel presenting the case for revocation may present witness testimony, documentary evidence, and shall have the opportunity to question the school representatives present excluding legal counsel. If the case for revocation is based on evidence or opinions from the division or other divisions or bureaus of the department, counsel presenting the case for revocation will request that a representative from that division or bureau be at the hearing to answer questions by the school and/or its legal representative, counsel presenting the case for revocation, and the commission.

(2) After the commission's counsel's presentation, the school shall have one hour to present evidence to defend against the recommended revocation. The school may present witness testimony, documentary evidence, and shall have the opportunity to question witnesses with knowledge about evidence presented to support the recommendation, the division representative or other department representatives to defend against the revocation. If the school is relying on evidence or opinions from another entity or other divisions or bureaus of the department, the division shall request that a representative from that entity, division or bureau be at the hearing to answer questions.

(3) Commission members may ask questions of the division, the commission's counsel or witnesses, the school, its attorney and the school's witnesses during the presentations and then, may take up to one hour after the commission's counsel and the state charter school finish their presentations to ask additional questions that are related to grounds for revocation.

**D.** Attorneys may provide representation at the hearing, at each parties' sole cost and expense.

**E.** The hearing shall be recorded by a licensed stenographer and a copy of the transcript shall be presented to the parties within ten days of the hearing unless additional time can be extended without prejudice to the school's right to appeal.

**F.** The hearing and deliberations of the commission shall be conducted pursuant to the Open Meetings Act.

**G.** The commission shall vote on the state charter school's revocation in a public meeting and articulate the legal grounds and supporting evidence for its decision on the record. The commission shall serve a written decision on the state charter school's representatives within ten days of the hearing. If the commission decides to revoke the charter contract, the decision shall include the legal basis for revocation with the supporting factual reasons given to support the legal violations required pursuant to Subsection K and Subsection M of Section 22-8B-12 NMSA 1978 during the public hearing.

**H. Appeal.** A school may appeal to the secretary pursuant to Section 22-8B-7 NMSA 1978 and provisions of Section 6.80.4.14 NMAC.

[6.2.9.16 NMAC - N, \_\_\_\_\_]