

From: Brauer, Alan, PED <alan.brauer@ped.nm.gov>
Sent: Thursday, June 29, 2023 3:44 PM
To: Tager, Geoffrey, PED; Rodriguez, Aaron, PED; Chavez, Corina, PED; Terrazas, Denise, PED; Frostad, Gregory, PED; Force, Kevin, PED; Russell, Brigette, PED
Cc: Burt, Rebekka, PED; DistrictSeven, PEC, PED; Beck, Timothy, PED; HOSFORD BARNES, JULIA
Subject: Finalizing Rule 6.2.9.1

Dear Geoff and team,

I hope all is well with you. Our hearts are with the Secretary and his family during this very difficult time. Wishing you all the very best as you support him and continue all the work you do on behalf of our State,

I wanted to thank you for the ongoing collaboration on the rulemaking process. We believe that the rule is in a strong place. As I mentioned in my last email to the Secretary on next steps on finalizing the PEC rule 6.2.9.1 *et. seq*, I wanted to provide the thoughts of the Rule and Contract subcommittee (made up of me, Vice Chair Burt, and Commissioners Gipson and Beck) on the Matthews Fox law firm comments made on behalf of 20 state charter schools <https://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rulemaking/rule-notification/>.

We find that many of the comments of that firm are consistent with our comments provide to you in my previous email of April 28, 2023, prior to the posting of the draft rule. I would like to meet with you before July 7 to discuss what changes should be made to the rule. Please let me know a convenient time that would work for you and your team. In short, we provide the following comments:

<p>Comment 1 and 5 regarding charters with condition</p>	<p>We agree that this was an oversight in drafting and suggest the following changes be made.</p> <p>6.2.9.7 W. “Phase 1 annual report” means a draft annual report prepared by the division for each state charter school following the annual site visit that begins the documentation process of the state charter school’s performance of or compliance with (1) the charter contract terms, including any condition(s)</p> <p>6.2.9.12 ANNUAL SITE VISIT AND ANNUAL REPORT:</p> <p>A. The division will conduct an annual site visit to provide technical assistance to the state charter school, and to evaluate the school’s annual progress toward the performance framework goals and compliance with the charter contract. The division will prioritize completing the annual site visits and presentation of final annual reports for those state charter schools that have submitted a renewal application and those state charter schools that have an unresolved annual report notice showing unsatisfactory performance, a charter contract containing a condition, or a corrective action plan in place.</p> <p>B. The division’s site visit will include review of whether the state charter school is:</p> <p>(1) complying with the terms of the charter contract including any conditions</p>
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Comment 2 regarding listing the annual site visit protocol	We agree with the comments of Matthews Fox and provided the same comment on April 28, 2023. We propose to accept that change.
Comment 3 regarding “web page” to “website”	This change is fine
Comment 4 regarding additional items to the “record of performance”	We agree with the comments of Matthews Fox and provided the same comment on April 28, 2023. However, we see that you put in our alternative language in the draft rule. We prefer to strike it as the Matthews Fox firm has indicated.
Comment 6 regarding the requirements of CSD to provide an early recommendation on renewal. Change “ may ” to “ shall ”	We agree with the comments of Matthews Fox and believe that it is necessary to provide an early recommendation to school from CSD. This change both provides the schools with sufficient time to address a negative recommendation and allows the PEC to meet our duty to provide schools with adequate notice.
Comment 7	We do not agree with the comment to add this provision to the rule. We believe that tribal consultation, and the timing in a revocation or non-renewal is more nuanced than the comment provides for. The requirement is already listed in statute and in 6.80.4.
Additional technical comment	6.2.9.15 L. and 6.2.9.16 G should be changed to 14 days to both be consistent with the PED Rule 6.80.4 and to allow time between receipt of the transcript and finalizing the notice to the school to include references to the transcript.

Thanks again for all you do and be well,
Alan

Alan Brauer
Chair, Public Education Commission
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