

**Julia Hosford Barnes, P.C.**

**Legal Memorandum: Attorney Client Privileged**

To: PEC  
From: Julia Barnes  
Re: 2024 Legislative or Regulatory Impacts on State Charter Schools  
Date: 4/19/24

Three major law or regulatory changes were passed in 2024 that impact State Charters:

**Governing Board Changes: Senate Bill 137**

<https://nmlegis.gov/Legislation/Legislation?Chamber=S&LegType=B&LegNo=137&year=24>

This bill provides a training requirement for governing boards as follows:

New members: 10 hours of training  
Other members: 5 hours of training

In addition, governing board must webcast their meetings and retain the recordings:

*"GOVERNING BODY MEETINGS--WEBCASTING AND ARCHIVING.--Except as otherwise provided in this section, live audio and video webcasts of governing body meetings shall be accessible through the charter school's website and shall include a user interface that allows members of the public to submit written or verbal comments. A webcast shall begin as soon as practicable after the chair has called the meeting to order and shall terminate as soon as practicable after the governing body has adjourned. Recordings of the webcasts and an electronic copy of any minutes approved at the meeting shall be posted on the charter school's website within one week of the meeting's conclusion and shall be publicly available for at least three years following the date of the meeting unless the state records retention schedule provides otherwise."*

**Calendaring requirements, 6.10.5 NMAC**

<https://www.srca.nm.gov/nmac-home/nmac-titles/title-6-primary-and-secondary-education/chapter-10-public-school-administration-procedural-requirements/>

If a school reaches certain proficiency levels set by the Secretary, they will be exempt from the 180 instructional day requirement. Early college high schools are exempt without meeting any other criteria.

It is likely not possible that an authorizer could waive the 180 instructional day requirement or change the exemptions. If a charter school request action from an authorizer to modify this rule, it would have to be reviewed on a case-by-case basis. However, it is unclear what authority the

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authorizer might have except to allow virtual instruction as set forth below.

*Schools are required to provide 180 days of instruction. Early college high schools shall be exempt from the minimum 180 instructional day requirement.*

*Reading, language arts is foundational to student achievement in core subject areas; school districts and charter schools will be exempt from the minimum 180 instructional day requirement if they meet certain proficiency and growth targets in reading, language arts as determined by the secretary.*

*Remote instruction may comprise no more than four instructional days, or 32 hours per school year, and at least fifty percent of remote instruction must be synchronous remote instruction, except for:*

- (1) hardships included in Subsection I of this section; or*
- (2) optional instructional programs, charter schools in accordance with the contract between the school and its chartering authority, or schools without attendance boundaries.*

#### **Accreditation requirements, 6.19.4 NMAC**

<https://www.srca.nm.gov/nmac-home/nmac-titles/title-6-primary-and-secondary-education/chapter-19-public-school-accountability/>

This new rule requires that schools be accredited. If a non-charter school receives disapproval accreditation status, the rule indicates that the Department can take certain action, including closing a school. It is not stated what the basis for the authority of the Department to take this action is.

The rule does not all the Department to close a charter school. The matter can be referred to the authorizer for action.

*Public school districts, public schools, and educational programs of state institutions shall report information to the department pursuant to Subsection I of Section 22-2-2 NMSA 1978. The quality and content of required reports and of the educational programs represented by the reports will be evaluated by the department for approval or disapproval accreditation status. Pursuant to Subsection F of Section 22-2-2 NMSA 1978, the secretary's accreditation decision is based upon evidence of the adequacy of student outcomes and activities, organizational effectiveness, staff preparation, and other educational matters such as factors contributing to school index scores. Local school districts, charter schools, and educational programs of state institutions shall follow department guidance in submitting satisfactory reports.*

#### **6.19.4.12 CONSEQUENCES OF PUBLIC SCHOOL DISAPPROVAL ACCREDITATION STATUS:**

*A. A local school district or public school that has received disapproval accreditation status shall not operate a school-based early childhood education program, pursuant to*

*Subsection B of Section 22-8-19.1 NMSA 1978.*

*B. In addition to conferring disapproval accreditation status upon a local school district, a local school district's school or educational program of a state institution, the department may:*

*(1) require a locally developed plan to correct the organizational or programmatic deficiencies contributing to disapproval;*

*(2) direct the organizational and educational program planning of the local school district or*

*a local school district's school;*

*(3) suspend from authority and responsibility the school board, superintendent, or school principal pursuant to Section 22-2-14 NMSA 1978;*

*(4) bring action in the district court for an order of consolidation of school districts, pursuant*

*to Section 22-4-3 NMSA 1978;*

*(5) close the local school district's school; or*

*(6) execute other remedies in the public school code that may be appropriate.*

*C. In addition to conferring disapproval accreditation status upon a state-chartered or locally chartered school, the department may:*

*(1) suspend the principal from authority or responsibility pursuant to Section 22-2-14 NMSA 1978;*

*(2) notify a charter school's authorizer for purposes of the suspension, revocation, or non-renewal of the charter of a state-chartered or locally chartered school by the authorizer, as provided for in Paragraph (5) of Subsection K of Section 22-8B-12 NMSA 1978; or*

*(3) execute other remedies in the public school code that may be appropriate.*

