

## Julia Hosford Barnes, P.C.

To: PEC  
From: Julia Barnes  
Re: Transitioning School Documentation  
Date: May 17, 2024

**A school chooses its authorizer.** A school may select one authorizer every 5 years that is either a local authorizer or the PEC.

22-8B-6.

*C. A charter school applicant shall apply to either a local school board or the commission for a charter. If an application is submitted to a chartering authority, the chartering authority shall process the application. Applications for initial charters shall be submitted by June 1 to be eligible for consideration for the following fiscal year; provided that the June 1 deadline may be waived upon agreement of the applicant and the chartering authority.*

While there are deadlines and items required at various times as set forth below, there is nothing in the charter school law that addresses a compliance check of the school's operation prior to the new contract starting.

**Required policies.** Schools and districts have a variety of policies that they are required to have in place at all times. The locally authorized charter schools are subject to the local policies unless waived. So, assuming that every district has the required policies, the transitioning school is in compliance with those requirements because they operate under the local policies.

22-8B-5.

- A. The local school board may waive only locally imposed school district requirements for locally chartered charter schools.*
- B. A state-chartered charter school is exempt from school district requirements. A state-chartered charter school is responsible for developing its own written policies and procedures in accordance with this section.*

Once a school transitions to the PEC, they are exempt from school district requirements. They have to adopt their own policies, but nothing would bar them from adopting the local district policies as on July 1 and continuing to operate under those policies.

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**Timing of presentation of information.**

- a. **Discipline policies for new applications.** The statute requires that the application provide “*the employment and student discipline policies of the proposed charter school*” NMSA 22-8B-8. K. NOTE: The new school application does not seem to require these, but does reference other policies that may just be referenced in the narrative, but not attached.
- b. **PEC contract documents.** The PEC approved contract requires the following be provided by the school (arguably at the time of contracting):

	Operational Elements	Current PEC Amendments and Notifications form: <a href="https://webnew.ped.state.nm.us/bureaus/public-education-commission/policies-and-processes/amendment-request/">https://webnew.ped.state.nm.us/bureaus/public-education-commission/policies-and-processes/amendment-request/</a>	
A	Head Administrator	The Governing Body will employ a Head Administrator.	Document B.1.
B	Business Manager	The School will contract with, or employ, a licensed school business official as the term is defined in 6.63.12. NMAC.	Document B.1
C	Chief Procurement Officer	The School will have a chief procurement officer as the term is defined in §13-1-38.1 NMSA 1978.	Document B.1
D	Member information	The Governing Body will maintain a list of its current members, a copy of each member’s signed assurances as required by §22-8B-9(B)(6) NMSA 1978, and a signed Conflict of Interest Disclosure.	Document B.2, B2.a, B2.b, B2.c
E	Admissions, Lottery, and Enrollment Policies and Procedures	The School will maintain admission, lottery and enrollment policies consistent with law.	Document B.3
F.	Governance Policies	The Governing Body of the School must be governed through policies adopted by the Governing Body which shall be designated as the Governing Body’s bylaws.	Document B.4
G	Pre-Kindergarten Program	The School will notify the Commission if it has been awarded a pre-kindergarten/pre-school program grant and is operating said program, or a tuition-based preschool program operated at the School. In this notification, the School must attest that the pre-K program is funded only by allowable sources of public funds so as not to violate N.M. Const. Art. IX, §14 and	Document B.5

		that any lottery preference complies with state and federal law.	
H	Lease/Lease Purchase Arrangement	The School will provide a copy of its current lease or lease purchase arrangement to CSD.	Document B.6
I.	Foundation Membership	The School will provide information on Foundation board members and employees.	Document B.7
J.	Assurance of No Conflict of Interest	The School will identify and provide an assurance that no conflict of interest exists due to a school staff person or board member at the School who also serves on the board of, receives a benefit from, is employed by or contracts with, the Foundation or a Third-Party Contractor.	Schools to provide their own form until a form is approved by the Commission
K	Third-Party Contractor	If the School has identified a Third-Party Contractor in Section 3.8 below, the School will provide a copy of the contract or other legal agreement with the Third-Party Contractor.	Document A.6
L	Foundation	If the School has identified a Foundation below, the School will provide a copy of the contract or a memorandum of understanding with the Foundation and the School that describes the parties' relationship.	Document A.6

- c. **Board of Finance.** PEC approves the Board of Finance before it approves the contract. PED rule provides the following:

**6.80.4.16 QUALIFICATION FOR BOARD OF FINANCE DESIGNATION:**

*A. Within 90 days of approval of its charter application, the governing body of a state-chartered charter school shall file a separate application with the commission seeking approval as a board of finance. This deadline may be extended by the commission for good cause shown.*

**B. The application shall include:**

- (1) an affidavit or affidavits, signed by the personnel who will be given the responsibility of keeping the financial records of the charter school, describing the training completed, professional licensure held and degrees earned by them;*
- (2) a statement signed by every member of the governing body that the governing body agrees to consult with the department on any matter not covered by the manual of accounting and budgeting before taking any action relating to funds held as a board of finance;*
- (3) a copy of a certificate of insurance that indicates that the person who will be entrusted with handling the funds of the charter school is adequately bonded;*

*(4) a signed affidavit from each governing body member declaring that the member is not a governing body member of any other charter school and that the member was not a governing body member of another charter school that was suspended or failed to receive or maintain their board of finance designation.*

*C. Within 30 days of filing of the application to qualify as a board of finance, the commission shall issue a decision approving or denying the application. A copy of the decision will be provided to the governing body and the commission.*