

Julia Hosford Barnes, P.C.

To: PEC
From: Julia Barnes
Re: Use of Data from Previous Years in New Charter Term
Date: May 17, 2024

I have been asked to research the ability to use data outside of the present charter term for assessments during the current charter term. The ability to take this type of action could be achieved in one of three ways:

1. The PEC receives some prior year data due to time delays in the reporting of the data;
2. Through negotiation with a school upon renewal or at contracting; or
3. Through authority granted in statute or rule that presently is not in place.

Relevant law. The Charter School Act requires 5-year charter terms unless a shorter term is agreed to by the parties. (NMSA 22-8B-12.A.) The charter contract has to include the “term of the contract” as part of the contract (NMSA 22-8B-9.B.(10).

NMSA 22-8B-12.D. provides: “A chartering authority shall monitor the fiscal, overall governance and student performance and legal compliance of the charter schools that it oversees, *including reviewing the data provided by the charter school to support ongoing evaluation according to the charter contract.* Every chartering authority may conduct or require oversight activities that allow the chartering authority to fulfill its responsibilities under the Charter Schools Act, including conducting appropriate inquiries and investigations; provided that the chartering authority complies with the provisions of the Charter Schools Act and the terms of the charter contract and does not unduly inhibit the autonomy granted to the charter schools that it governs.”

Status of 5th Year Review. While the school is subject to an annual report each year, the Charter Schools Division does an annual site visit for each school with the renewal site visit being incorporated into the information regarding renewal in December of the renewing. No spring 5th year site visit is presently completed for a renewing school.

Present Ability to Use 5th Year Data.

- Add a 5th Year Spring Site Visit and Annual Report. CSD could provide an annual report in the spring for renewing schools. It is unclear how this could be used in the new charter term except to issue a “Notice of Unsatisfactory Performance” that

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would mean that if the issues were not resolved, might lead to a “Notice of Uncorrected Unsatisfactory Performance” in the first annual report. (Please note that we are using this process through the Condition language at renewal as set forth below.)

- Record of Performance. Beginning with renewals in December 2023, several schools were renewed with a condition that provided “notice of unsatisfactory performance” on specific areas of concern that could result in a “Notice on Uncorrected Unsatisfactory Performance” in the first year of the charter. This effectively uses the data from the previous charter term to flag an area of concern and require immediate work on the issue(s) identified. This is effectively a use of the contract to use previous data on a case-by-case basis.

- Graduation data. Graduation data from the 5th year of a charter is included into the new charter term for high schools since graduation data is subject to a one-year time lag.

- Audit data. Audit data also looks back over a span of time with repeat audit findings. PEC has begun a practice of immediate review of released audits and places schools without adequate plans for improvement on the intervention ladder. *See* April and May 2024 PEC meetings (<https://webnew.ped.state.nm.us/bureaus/public-education-commission/meetings/2024-pec-meetings/>) in which the audit plans for numerous schools that had 5 or more audit findings were reviewed, and several schools were placed on a Financial Corrective Action plan to ensure improvement.

- Vistas. Information from the state accountability system (Vistas) is also available on each renewing school that has a one-year time lag. The first annual report on the new school will consider the Vistas data and the annual report notice from the PEC can reference an issue of concern.

Research into the use of prior term data in other states shows that the issue is very specific to the law governing those charter authorizers.

Charter Authorizer	Charter Terms	Use of Previous Data
Washington D.C. Public Charter School Board	15-year charter terms with high-stakes reviews at year 5 and 10 DC law	D.C. is able to use data throughout the term of the contract because it is laid out in the charter contract. DC does not have rule-making authority. Like the PEC, the D.C. Public Charter School Board is not able to use year 15 data due to a similar timing issue related to renewal. The impact is less since they have a 15-year charter and are able to use all 14-years in the interim review.



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