

Julia Hosford Barnes, P.C.

Memorandum

To: PEC
From: Julia Barnes
Re: Subcommittee structure and PEC Rules and Procedures

The PEC is considering implementing a broader use of subcommittees. Any increased use of subcommittees should be implemented within the existing structure of the PEC rule (NMAC 6.2.9) and the PEC Rules of Procedure or the existing structure should be modified. Overall, subcommittees must be appointed by the Chair and then work coming out of the subcommittee will likely need to be reviewed at two working sessions prior to being implemented

PEC Rules of Procedure: The PEC Rules of Procedure have very little regarding subcommittees. They are appointed by the Chair and members are authorized to receive per diem for attendance at the subcommittee meetings. (Section VII.A.4).

NMAC 6.2.9 The PEC follows a multi-step process for consideration of changes to procedures related to oversight and monitoring of charter schools. Changes must be considered at two working sessions of the commission in which public comment is allowed and then voted on at a public meeting. Please note that while this requirement is for procedures directly affecting charter authorizing, the PEC has been using this procedure for most of its decision making on document of all types.

The following are the rule requirements

6.2.9.8 SCHEDULE FOR STATE CHARTER SCHOOL PROCEDURE-MAKING:

A. In support of high-stakes decisions made by the commission, the commission shall create procedures related to its ministerial responsibilities of oversight and monitoring state charter schools that will be used by the commission and division consistent with their authority under the act. The commission's procedures may be modified following the procedures adopted in this rule. The commission shall post all procedures in a central location on the commission's website or in an authorizing manual available to the public on the commission's website.

B. In adopting changes to procedures, the commission shall:

(1) provide public notice to those who request notice of commission action that procedure changes are being considered by the commission pursuant to this rule;

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(2) provide written notice on commission meeting agendas of the two working sessions at which the commission will review each draft procedure and accept written and oral comments;

(3) accept public written comments up to the start of the second working session and in-person or virtual comments during the two working sessions;

(4) provide written notice on a commission meeting agenda indicating when the commission will consider adoption of each procedure; and

(5) post the adopted forms and procedures on the commission website where all procedures are located.

[6.2.9.8 NMAC - N, 7/31/2023]

6.2.9.9 PROCEDURE REVIEW:

A. The procedures of the commission are effective until amended or repealed; will only be revised as determined by the commission to be necessary, in a manner consistent with national best practices and conforming to legislative changes; will follow the schedule set forth here and are applicable prospectively.

B. Any new or revised commission procedures shall be effective as of July 1 of the following fiscal year unless the commission identifies an exceptional circumstance requiring an immediate change or implementation. If a new or revised renewal application form is approved effective as of July 1, it will be used by schools that are scheduled to submit a renewal application fourteen months or later from the effective date. Schools that will be submitting a renewal application the next September, or two months from the effective date of the new or revised renewal application form, will use the form that was in effect prior to July 1 unless otherwise agreed to between the renewing schools and the commission.

C. A new procedure or revisions to an existing procedure may be proposed by a member of the commission, or the division director on behalf of the division or another division of the department. All procedure revisions contemplated by this section shall comply with the notice and comment procedures as set forth in 6.2.9.8 NMAC.

D. This section does not apply to changes in scheduling dates, inclusion of legislative changes or the inclusion of minor changes that do not change the required provisions of the existing procedure such as corrective typographical errors or providing clarification. Such changes may be adopted by the commission at its discretion, with reasonable notice to those affected by the change(s) and posted to the website as set forth in 6.2.9.8 NMAC.

[6.2.9.9 NMAC - N, 7/31/2023]

6.2.9.10 OUT-OF-CYCLE PROCEDURE-MAKING; EXCEPTIONAL CIRCUMSTANCES:

Exceptional circumstances for implementing a procedure immediately, or with an effective date other than those described in 6.2.9.9 NMAC shall be found when needed to:

- A. protect the immediate health, welfare, or education of state charter school employees, students and others doing business at state charter schools;
- B. address new case law affecting the commission or state charter schools;
- C. address statutory changes;
- D. address changes to public education department rules; or
- E. address other exceptional or emergency circumstances as determined by the commission.

[6.2.9.10 NMAC - N, 7/18/2023]

6.2.9.7 Definitions

Y. “Procedure” or “Procedures” means directives, instructions, templates and forms, and timelines adopted by commission that are consistent with the act and the state charter schools’ contracts, and which are implemented by the division or commission pursuant to which the commission provides state charter school oversight, including:

- (1) new charter school applications;
- (2) evaluation criteria for new charter applications adopted by the commission to be applied by the division prior to making a recommendation;
- (3) implementation year checklist;
- (4) form of annual report;
- (5) form for commission acceptance of annual reports and notification to a state charter school of an annual report notice;
- (6) renewing charter school applications;
- (7) evaluation criteria for renewal charter applications adopted by the commission and applied by division prior to making a recommendation and description of the assessment of the application by the division;
- (8) charter school contract and performance framework templates consistent with the requirements of the act;
- (9) amendment and notification forms and procedures as referenced in the charter contract;
- (10) closure protocols for state charter schools;
- (11) consultation process to obtain input from state charter schools on procedures; and
- (12) such other forms and procedures adopted by the commission that are administrative in nature and that facilitate the commission’s implementation of the commission’s legal duties as defined by the act and applicable regulations.



