Article 8A
Charter Schools
(Repealed by Laws 1999, ch. 281, § 25.)


Repeals. – Laws 1999, ch. 281, § 25 repeals sections, see 1998 Replacement Pamphlet. For present comparable provisions, see 22-8B-1 NMSA 1978 et seq. 22-8A-1 to 22-8A-7 NMSA 1978, as enacted by Laws 1993, ch. 227, §§ 1 to 7, relating to charter schools, effective June 18, 1999. For provisions of former

Article 8B
Charter Schools

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22-8B-1. Short title.

Sections 1 through 15 [22-8B-1 to 22-8B-15 NMSA 1978] of this act may be cited as the "1999 Charter Schools Act".

Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

22-8B-2. Definitions.

As used in the 1999 Charter Schools Act [22-8B-1 to 22-8B-15 NMSA 1978]:
A. "charter school" means a conversion school or start-up school within a school district authorized by the local school board to operate as a charter school;
B. "conversion school" means an existing public school within a school district authorized by the local school board to become a charter school;
C. "governing body" means the governing structure of a charter school as set forth in the school's charter; and
D. "start-up school" means a public school developed by one or more parents, teachers or community members authorized by the local school board of the school district in which the school is located to become a charter school.

Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.
22-8B-3. Purpose.

The 1999 Charter Schools Act [22-8B-1 to 22-8B-15 NMSA 1978] is enacted to enable individual schools to restructure their educational curriculum to encourage the use of different and innovative teaching methods that are based on reliable research and effective practices or have been replicated successfully in schools with diverse characteristics; to allow the development of different and innovative forms of measuring student learning and achievement; to address the needs of all students, including those determined to be at risk; to create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; to improve student achievement; to provide parents and students with an educational alternative to create new, innovative and more flexible ways of educating children within the public school system; to encourage parental and community involvement in the public school system; to develop and use site-based budgeting; and to hold charter schools accountable for meeting state board minimum educational standards and fiscal requirements.

History: Laws 1999, ch. 281, § 3.

Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

22-8B-4. Charter schools’ rights and responsibilities; operation.

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or need for special education services.

B. A charter school shall be administered and governed by a governing body in the manner set forth in the charter.

C. A charter school shall be responsible for its own operation, including preparation of a budget, contracting for services and personnel matters.

D. A charter school may negotiate or contract with a local school district, a university or college or any third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter.

E. In no event shall a charter school be required to pay rent for space that is deemed available, as negotiated by contract, in school district facilities; provided that the facilities can be made available at no cost to the district. All costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the district.

F. A charter school may negotiate with a local school district to provide transportation to students eligible for transportation under the provisions of the Public School Code.

G. A charter school may negotiate with a local school district for capital expenditures.

H. A charter school shall be a nonsectarian, nonreligious and non-home-based public school that operates within a public school district.

I. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

J. A charter school shall be subject to the provisions of Sections 22-1-6 and 22-2-8 NMSA 1978.

K. A charter school may acquire, pledge and dispose of property; provided that upon termination of the charter, all assets of the charter school shall revert to the local school board that authorized the charter.

L. A charter school may accept or reject any charitable give, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

M. A charter school may contract and sue and be sued. A local school board that approves a charter school shall not be liable for any acts or omissions of the charter school.

N. A charter school shall comply with all state and federal health and safety requirements applicable to public schools.

The 2000 amendment, effective March 7, 2000, deleted former Subsection B, relating to enrollment procedures at start-up charter schools, and redesignated the remaining subsections accordingly.

Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Public School Code. – See 22-1-1 NMSA 1978 and notes thereto.

A. Start-up schools and conversion schools are subject to the following enrollment procedures:
   (1) a start-up school may either enroll students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the start-up school; and
   (2) a conversion school shall give enrollment preference to students who are enrolled in the public school at the time it is converted into a charter school and to siblings of students admitted to or attending the charter school. The conversion school may either enroll all other students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the conversion school.

B. In subsequent years of its operation, a charter school shall give enrollment preference to:
   (1) students who have been admitted to the charter school through an appropriate admission process and remain in attendance through subsequent grades; and
   (2) siblings of students already admitted to or attending the same charter school.

History: 1978 Comp., § 22-8B-4.1, enacted by Laws 2000, ch. 82, § 3.
   Emergency clauses. – Laws 2000, ch. 82, § 4 makes

22-8B-5. Charter schools; local school board authority; state board authority.

A. The local school may waive only locally imposed school district requirements.
B. The state board shall waive requirements relating to individual class load and teaching load, length of the school day, staffing patterns, subject areas and the purchase of instructional material. The state board may waive state board requirements or rules and provisions of the Public School Code pertaining to graduation requirements, evaluation standards for school personnel, school principal duties and driver education. Any waivers granted pursuant to this section shall be for the term of the charter granted.
C. A charter school shall be a public school, accredited by the state board and shall be accountable to the school district's local school board for purposes of ensuring compliance with applicable laws, rules and charter provisions.
D. No local school board shall require any employee of the school district to be employed in a charter school.
E. No local school board shall require any student residing within the geographic boundary of its district to enroll in a charter school.
F. A student who is suspended or expelled from a charter school shall be deemed to be suspended or expelled from the school district in which the student resides.

   Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14
   NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.
   Public School Code. – See 22-1-1 NMSA 1978 and notes thereto.

22-8B-6. Charter school requirements; application process; authorization.

A. The local school board shall have the authority to approve the establishment of a charter school within the local school district in which it is located.
B. A charter school applicant shall apply to a local school board for a charter. An applicant shall only submit an application in the district in which the school is located. Applications shall be submitted by October 1 to be eligible for consideration for the following school year. The October 1 deadline may be waived upon agreement of the applicant and the local school board.
C. An application for a start-up school may be made by one or more teachers, parents, or community members.
D. An application for a conversion school shall include a petition of support signed by not less than sixty-five percent of the employees in the school. Additionally, a petition in support of the charter school signed by a majority of the households whose children are enrolled in a proposed conversion school must accompany the application.
E. The local school board shall receive an review all applications for charter schools. The local school board shall not charge application fees. If the board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant.
F. The local school board shall hold at least one meeting to obtain information and community input to assist the local school board in its decision whether to grant a charter school application. The local school board shall rule on the application for a charter school in a public meeting within sixty days after receiving the application. If not ruled upon within sixty days, the charter application will be automatically reviewed by the state board in accordance with the provisions of Section 7 [22-8B-7 NMNS 1978] of the 1999 Charter Schools Act. The charter applicant and the local school board may, however, jointly waive the deadlines set forth in this section.

G. If the local school board denies a charter school application or imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to Section 7 of the 1999 Charter Schools Act.

H. If a local school board denies a charter school application, it shall state its reasons for the denial. If a local school board grants a charter, it shall send a copy of the approved charter to the department of education within fifteen days after granting the charter.


22-8B-7. Charter school application appeal; procedures.

A. The state board, upon receipt of a notice of appeal or upon its own motion, shall review decisions of any local school board concerning charter schools in accordance with the provisions of this section.

B. A charter applicant or governing body of a charter school that wishes to appeal a decision of a local school board concerning the denial, nonrenewal or revocation of a charter school or the imposition of conditions that are unacceptable to the charter school or charter school applicant shall provide the state board with a notice of appeal within thirty days after the local school board's decision. The charter school applicant or governing body of the charter school bringing the appeal shall limit the grounds of the appeal to the grounds for denial, nonrenewal or revocation specified by the local school board. The notice shall include a brief statement of the reasons the charter school applicant contends the local school board's decision was in error. The appeal and review process shall be as follows:

(1) within sixty days after receipt of the notice of appeal, the state board, at a public hearing that may be held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local school board and make its best findings. If the state board finds that the local school board's decision was contrary to the best interests of the students, school district or community, the state board shall remand the decision to the local school board with written instructions for approval of the charter. The instructions shall include specific recommendations concerning approval of the charter. The decision of the state board shall be final and not subject to appeal; and

(2) within thirty days following the remand of a decision by the state board, the local school board, at a public hearing, shall approve the charter.

C. The state board, on its own motion, may review a local school board's decision to grant a charter. Within sixty days after the making of a motion to review by the state board, the board, at a public hearing that may be held in the district in which the proposed charter school has applied for a charter, shall review the decision of the local school board and determine whether the decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would:

(1) violate any federal or state laws concerning civil rights;
(2) violate any court order;
(3) threaten the health and safety of students within the school district; or
(4) violate the provisions of Section 11 [22-8B-11 NMSA 1978] of the 1999 Charter Schools Act, prescribing the permissible number of charter schools.

D. If the state board determines that the charter would violate the provisions set forth in Subsection C of this section, the state board shall remand the decision to the local school board with instructions to deny the charter application. The state board may extend the time lines established in this section for good cause. The decision of the state board shall be final and subject to appeal.


Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days

The charter school application, whether for a start-up school or a conversion school, shall be a proposed agreement between the local school board and the charter school and shall include:

A. the mission statement of the charter school;
B. the goals, objectives and student performance standards to be achieved by the charter school;
C. a description of the charter school's educational program, student performance standards and curriculum that must need or exceed the state board of education's educational standards and must be designed to enable each student to achieve those standards;
D. a description of the way a charter school's educational program will meet the individual needs of the students, including those students determined to be at risk;
E. a description of the charter school's plan for evaluating student performance, the types of assessments that will be used to measure student progress toward achievement of the state's standards and the procedures for taking corrective action in the event that student performance falls below the standards.
F. evidence that the plan for the charter school is economically sound, including a proposed budget for the term of the charter and a description of the manner in which the annual audit of the financial and administrative operations of the charter school is to be conducted;
G. evidence that the fiscal management of the charter school complies with all applicable federal and state laws and regulations relative to fiscal procedures;
H. evidence of a plan for the displacement of students, teachers and other employees who will not attend or be employed in the conversion school;
I. a description of the governing body and operation of the charter school, including how the governing body will be selected, the nature and extent of parental, professional educator and community involvement in the governance and operation of the school and the relationship between the governing body and the local school board;
J. an explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment will be addressed with affected employees and their recognized representatives, if any;
K. the employment and student discipline policies of the proposed charter school; their respective legal liability and applicable insurance coverage.
L. an agreement between the charter school and the local school board regarding their respective legal liability and applicable insurance coverage;
M. a description of how the charter school plans to meet the transportation and food service needs of its students;
N. a description of the waivers that the charter school is requesting from the local school board and the state board and the charter school's plan for addressing these waiver requests;
O. a description of the facilities the charter school plans to use; and
P. any other information reasonably required by the local school board.


Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.


A. An approved charter application shall be a contract between the charter school and the local school board.
B. The contract between the charter school and the local school board shall reflect all agreements regarding the release of the charter school form school district policies.
C. The contract between the charter school and the local school board shall reflect all requests for release of the charter school from state board rules or the Public School Code. Within ten days after the contract is approved by the local school board, any request for release from state board rules or the Public School Code shall be delivered by the local school board to the state board. If the state board grants the request, it shall notify the local school board and the charter school of its decision. If the state board denies the request, it shall notify the local school board and the charter school that the request is denied and specify the reasons for denial.
D. Upon approval of the charter by the local school board, the charter school shall be waived from the Public School Code provisions relating to individual class load and teaching load requirements, length of school day, staffing patterns, subject areas and purchase of instructional materials.
E. The charter school shall participate in the public school insurance authority.
F. Any revision or amendment to the terms of the contract may be made only with the approval of the local school board and the governing body of the charter school.

G. The charter shall include procedures agreed upon by the charter school and the local school board for the resolution of disputes between the charter school and the local school board.

H. The charter shall include procedures that shall be agreed upon by the charter school and the local school board in the event that such board determines that the charter shall be revoked pursuant to the provisions of Section 12 [22-8B-12 NMSA 1978] of the 1999 Charter Schools Act.


Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Public School Code. – See 22-1-1 NMSA 1978 and notes thereto.

22-8B-10. Charter schools; employee options; hiring and firing.

A. Notwithstanding the provisions of Section 22-5-4 NMSA 1978, a charter school shall hire its own employees. The provisions of the School Personnel Act [Chapter 22, Article 10 NMSA 1978] shall otherwise apply to such employees.

B. An employee of a conversion school who was previously an employee of the school district in which the conversion school is located shall be considered to be on a one-year leave of absence from the school district. The leave of absence shall commence on the initial date of employment for the charter school. Upon request of the employee, the one-year leave of absence shall be renewed for up to two additional one-year periods, absent good cause.

C. The time during which an employee is on a leave of absence shall be counted for longevity credit on the school district's salary schedule.

D. During the period of time that an employee is on a leave of absence from the school district and is actively employed by the charter school, the charter school shall continue the retirement or other benefits previously granted to the employee.

E. A leave of absence shall not be considered a break in service with the school district with which an employee was previously employed.

F. An employee who is on a leave of absence and actively teaching at a charter school and who submits a notice of intent to return to the school district in which the employee was employed immediately prior to employment in the charter school shall be given employment preference by the school district:
   (1) the employee's notice of intent to return is submitted to the school district within three years after ceasing employment with the school district; and
   (2) if the employee is a teacher, a position for which the teacher is certified or is qualified to become certified is available. If the employee is not a teacher, a position for which the employee is qualified is available.

G. An employee who is on leave of absence and employed by a charter school and is discharged or terminated for just cause by the charter school shall be considered discharged or terminated by the school district.


Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

22-8B-11. Charter schools; maximum number established.

A. Local school boards shall authorize the approval of both conversion and start-up charter schools within their school districts.

B. No more than fifteen start-up schools and five conversion schools may be established per year statewide. The number of charter school slots remaining in that year shall be transferred to succeeding years up to a maximum of seventy-five start-up schools and twenty-five conversion schools in any five-year period. The state board shall promptly notify the local school board of each school district when the limits set forth in this section have been reached.


Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.
22-8B-12. Charter schools; term; renewal of charter; grounds for nonrenewal or revocation.

A. A charter school may be approved for an initial term of five years. A charter may be renewed for successive periods of five years each. Approvals of less than five years can be agreed to between the charter school and the local school board.

B. No later than January 1 of the year prior to the year in which the charter expires, the governing body of a charter school may submit a renewal application to the local school board. The local school board shall rule in a public hearing on the renewal application no later than March 1 of the year in which the charter expires, or on a mutually agreed date.

C. A charter school renewal application submitted to the local school board shall contain:
   (1) a report on the progress of the charter school in achieving the goals, objectives, student performance standards, state board minimum educational standards and other terms of the initial approved charter application, including the accountability requirements set forth in Section 22-1-6 NMSA 1978;
   (2) a financial statement that discloses the costs of administration, instruction and other spending categories for the charter school that is understandable to the general public, that will allow comparison of costs to other schools or comparable organizations and that is in a format required by the state board;
   (3) contents of the charter application set forth in Section 8 [22-8B-8 NMSA 1978] of the 1999 Charter Schools Act;
   (4) a petition in support of the charter school renewing its charter status signed by not less than sixty-five percent of the employees in the charter school; and
   (5) A petition in support of the charter school renewing its charter status signed by a majority of the households whose children are enrolled in the charter school.

D. A charter may be revoked or not renewed by the local school board if the board determines that the charter school did any of the following:
   (1) committed a material violation of any of the conditions, standards or procedures set forth in the charter;
   (2) failed to meet or make substantial progress toward achievement of the state board minimum educational standards or student performance standards identified in the charter application;
   (3) failed to meet generally accepted standards of fiscal management; or
   (4) violated any provision of law from which the charter school was not specifically exempted.

E. If a local school board revokes or does not renew a charter, the local school board shall state in writing its reasons for the revocation or nonrenewal.

F. A decision to revoke or not to renew a charter may be appealed by the governing body of the charter school pursuant to Section 7 [22-8B-7 NMSA 1978] of the 1999 Charter Schools Act.

Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.


A. The amount of finding allocated to the charter school shall be not less than ninety-eight percent of the school-generated program cost.

B. That portion of money from state or federal programs generated by students enrolled in a charter school shall be allocated to charter schools serving eligible for that aid. Any other public school program not offered by the charter school shall not be entitled to the share of money generated by a charter school program.

C. All services centrally or otherwise provided by the local school district, including custodial, maintenance and media services, libraries and warehousing shall be subject to negotiation between the charter school and the local school district. Any services for which a charter school contracts with a school district shall be provided by the district at a reasonable cost.

Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

A. The "charter schools stimulus fund" is created in the state treasury. Money in the fund is appropriated to the department of education to provide financial support to charter schools, whether start-up or conversion, for initial start-up costs and initial costs associated with renovating or remodeling existing buildings and structures for expenditure in fiscal year 2000 and subsequent fiscal years. The fund shall consist of money appropriated by the legislature and grants, gifts, devises and donations from any public or private source. The department of education shall administer the fund in accordance with rules adopted by the state board. The department of education may use up to three percent of the fund for administrative costs. Money in the fund shall not revert to the general fund at the end of a fiscal year.

B. If the charter school receives an initial grant and fails to begin operating a charter school within the next eighteen months, the charter school shall immediately reimburse the fund.


Effective dates. – Laws 1999, ch. 281 contains no effective date provision, but, pursuant to N.N. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for “Adjournment Dates of Sessions of Legislature” table.


The state board may extend for a period of two years the charter of any school for which the state board has granted a charter prior to the effective date of this act. Any further extensions of the charter shall be governed by the provisions of the 1999 Charter Schools Act [22-8B-1 to 22-8B-15 NMSA 1978].


Effective dates. – Laws 1999 ch. 281 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1999, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for “Adjournment Dates of Sessions of Legislature” table.

Compiler’s notes. – The phrase "effective date of this act", referred to in this sections, means June 18, 1999, the effective date of Laws 1999, ch. 281.