



STATE OF NEW MEXICO  
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December 7, 2018

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**Via Electronic Mail to:**

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Representative Jim R. Trujillo: [jimtrujillo@msn.com](mailto:jimtrujillo@msn.com)

Re: Public Education Commission Budget FY 2019-2020

Dear Madam Chair and Committee Members:

**STATUTORY AUTHORITY:**

The Public Education Commission (PEC) is created pursuant to Art. 12, Sec. 6 of the New Mexico Constitution, and its 10 commissioners are publicly elected officials. The PEC is administratively attached to the Public Education Department (PED). (1978 NMSA §9-24-9(A).) As an “administratively attached” agency, the PEC exercises its functions independently of PED, and without the approval of PED, especially for budgetary requests and decisions. (1978 NMSA §9-1-7(A)(1).) PEC submits its budgetary requests through PED, however, PED may not make changes to the budget and must submit it without changes in the departmental budget. (1978 NMSA §9-1-7(A)(2), §9-1-7(B)(2).)

**Budget Summary**  
**(dollars in thousands)**  
**FY19 – 2019-2020**

	<u><b>2018-2019</b></u>	<u><b>Agency</b></u>
	<u><b>Budgeted</b></u>	<u><b>Request</b></u>
<b>SOURCES</b>		
General Fund Transfers	-	839
Other Transfers*	-	1,979
<b>SOURCES TOTAL</b>	-	<b>2,818</b>
<b>USES</b>		
Personal Services and Employee Benefits	-	1,480
Contractual Services	-	194
Other	-	515
<b>TOTAL USES</b>	-	<b>2,189</b>
<b>FTE</b>		
Permanent		11
Term		2
Temporary		0.5
<b>TOTAL FTE POSITIONS</b>		<b>13.5</b>

\* NMSA1978, §22-8B-13.

**MISSION:**

PEC has two primary functions. First, as authorizer of all state-chartered charter schools, it evaluates and approves new schools, and oversees the academic, operational and financial performance of existing schools. The PEC has the authority and responsibility to approve, terminate or renew charter schools through charter contracts. The PEC also provides training and technical support to the charter schools. (*See i.e.*, 1978 NMSA §22-8B-5.3, §22-8B-16.) Second, PEC is governing authority and administrator of vocational education, guides primary and secondary education strategic planning and provides educational policy recommendations to PED. (1978 NMSA §§22-14-2, -3 (vocational education); 1978 NMSA §22-2-2.2 (strategic planning, policy and recommendations).)

**AT A GLANCE:**

The PEC budget request addresses a problem brought to light by the State Auditor, who noted a serious concern regarding the lack of accountability and transparency in PED’s spending of an estimated \$4,090,593 for charter school administrative expenses of which an estimated \$2,626,776 was for state-chartered charter schools in 2017. (Letter to Secretary-Designate Ruskowski from State Auditor Timothy Keller, August 25, 2017.)

In May, 2018 the PEC adopted practice standards, policies and procedures in response to National Association of Charter School Authorizers’ (NACSA) evaluation. PEC adopted and implemented a Performance Framework for all state chartered schools that included academic, operational and financial criteria to guide review, performance management, and oversight that meets NACSA guidelines, and has placed PEC as a leader among charter school authorizers nationally.

**BUDGET ISSUES:**

The PED has not provided PEC budget information for prior years, even though requested by the PEC. Therefore, the PEC is unable to compare this request to prior years. This PEC budget proposes cost savings in the 2% of the charter school-generated program costs which is designated for authorizer expenses. (1978 NMSA 22-8B-13.) In this budget proposal, PEC meets the administrative costs associated with Commission meetings and PED-Charter School Division support staff and services, with expanded computer and IT support (1978 NMSA 22-8B-17) and *has a \$625,567 surplus to invest in charter school program support, including professional development and Governing Board training.* PEC will provide training that is more specific, detailed and designed to answer sophisticated questions faced by the schools than what PED currently offers. With the budget, PEC will not be stymied from completing its obligations when PED refuses to or passively avoids releasing funds when requested by PEC to support the work of the PEC, which in at least one situation was a procurement for professional training and technical support.

**LEGAL CHALLENGES:**

PED Secretary, on his own motion, initiated litigation against the PEC regarding PEC's independent decision making and authorization of a new charter school. The PED has also engaged in litigation regarding two schools whose charter contract was not renewed by the PEC because of poor academic performance, which resulted in the PEC being *ordered by the PED* to allow the schools to continue to operate.

Sincerely,

By *s/ Patricia Gipson*

Patricia Gipson, Chair  
Public Education Commission

cc: David Abbey, LFC Director to: [david.abbey@nmlegis.gov](mailto:david.abbey@nmlegis.gov)  
Sunny Z. Liu, Senior Fiscal Analyst to: [sunny.liu@nmlegis.gov](mailto:sunny.liu@nmlegis.gov)