



**Report  
to  
The LEGISLATIVE FINANCE COMMITTEE**



Public Education Department  
Program Evaluation of New Mexico Charter Schools  
July 23, 2010

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July 23, 2010

Dr. Susanna Murphy, Secretary Designate  
Public Education Department  
Jerry Apodaca Education Building  
300 Don Gaspar  
Santa Fe, NM 87501

Dear Dr. <sup>Susanna</sup> Murphy,

On behalf of the Legislative Finance Committee (Committee), I am pleased to transmit the *Charter School Program Evaluation*. The evaluation review team assessed charter school governance, oversight and management practices, the use of funding and cost-effectiveness of resource allocation decisions and the outcomes of student academic performance. The report will be presented to the Committee on July 23, 2009. Exit conferences were conducted with PED staff earlier to discuss the contents of the report. The Committee would like a plan to address the recommendations within this report within 30 days from the date of the hearing.

I believe this report addresses issues the Committee asked us to review and hope the charter schools and charter authorizers benefit from our efforts. We very much appreciate the cooperation and assistance we received from charter schools and your staff.

Sincerely,

David Abbey, Director

Cc: Dr. Don Duran, Assistant Secretary, Charter School Division, PED

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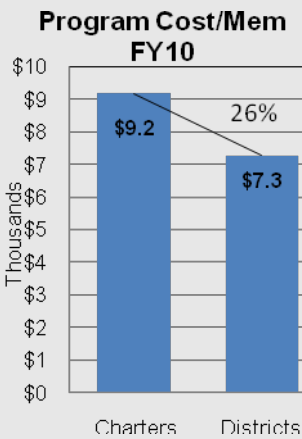
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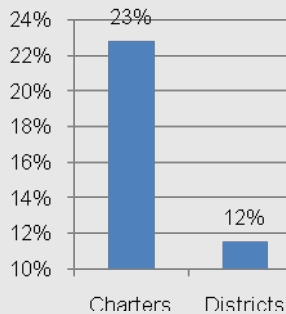
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*On average, charter school program costs are \$1,895 per student higher than school district's students.*

**Administration Expenditures from Operational Fund, FY10**



*Charter schools have less students to spread administration costs across and some schools have high administrator salaries.*

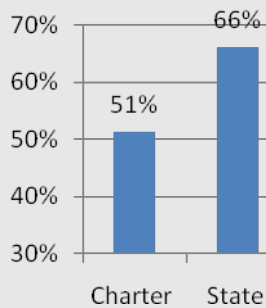
Charter schools are public schools that are established via a performance contract, or charter, with the state or a local school board, called an authorizer. Charter schools were first enacted into law in 1993 by allowing traditional public schools that could “convert” to charter schools. In 1999 the state Charter School Act (22-8B NMSA 1978) was enacted to encourage innovation in education, to address the needs of all students, including at risk students, improve student achievement, provide choices in education, encourage parental and community involvement, develop and use site-based budgeting and to hold charter schools accountable for meeting the PED standards and fiscal requirements. Although these purposes may at times seem competing, charter schools are to be incubators of innovation designed to provide alternative education opportunities and improve student performance. Charter schools are not home schools or religious schools and are not allowed to charge tuition. With the passing of the 1999 law, and other laws, charter schools are now allowed to submit applications as start-up schools to the state or local school board for authorization, have increased access to capital outlay funds and are automatically waived from many of the state programmatic requirements.

With this change in law, charter schools have grown from four schools operating in 1995 to 72 in 2010. The majority of charter schools are located in urban areas, primarily in Albuquerque. For FY10, state funding for charter schools was about \$116 million and charter schools served about 14,500 students. The increased presence of charter schools in the education landscape results in an increased commitment from the legislature in funding. Due to the increased growth in funding accompanying the expansion of the charter school landscape, the Legislative Finance Committee (LFC) is evaluating charter schools of New Mexico. The LFC program evaluation concentrated on three objectives:

- **Oversight** - Review the site governance as well as authorization, oversight and monitoring functions for charter schools by both the state and local school board chartering authorities.
- **Resource Allocation** - Review school funding, resource allocation and spending practices of charter schools, including the human resources environment.
- **Student Outcomes** - Assess the performance of students participating in charter schools, including comparisons to traditional public schools.

Charter schools have high costs to the state and have similar levels of student performance as traditional public schools. Current costs to the state are driven by favorable education funding formula adjustments for

**Average Four Year Graduation Rates, SY09**



*Charter high school students have a lower graduation rate on average than traditional public school students.*

**Average Scale Score Gains, Fourth Grade Reading SY08-09**



*Charter schools have the same levels of growth in the scale scores that determine proficiency as school districts and, higher socioeconomic achievement gaps in some grades.*

charter schools that total \$34.7 million. The small school site format of charter schools means that less of the state’s education funding is spent on instruction. Charter schools have to undergo an application process before opening and a charter renewal process every five years. The application process needs increased rigor to ensure only quality schools open; particularly in the areas of analysis of proposed budgets and cost assumptions, proposed facilities planning and inclusion of more objective and proposed objective performance measures that eliminate subjectivity from the charter authorizer renewal decisions. Charter authorizers need to play a greater role in determining charter schools’ role in the larger education framework, preferably through a proactive process like requests for proposals for education programs that target specific populations or serve specific areas. Until the State can provide an application and renewal system that strengthens accountability for schools and ensures only quality schools open, charter authorizers should not approve new charters.

Charter authorizers need increased oversight and monitoring of charter schools to ensure the academic and financial performance of schools, and the use of academic and financial watch lists could help facilitate this increase in profile for authorizers. Charter school site visits showed issues with regard to untimely financial audits, overpaying or neglecting tax obligations, improper expenses, lacking oversight functions, an over reliance on external financial management organizations, conflicts of interest and other examples of resource mismanagement. Charter schools need guidance in the lease arrangements they enter and should be required to solicit help from the Public Schools Facilities Authority (PSFA). The mandate for charter schools to be in public buildings by 2015 (22-8B-4.2 NMSA 1978) is in conflict with the need to close poorly performing charters. Nonrenewal of charter schools is a difficult decision for charter authorizers, and the State needs to mandate closure of poor performing schools by formalizing “second chance” renewal charters with conditions. If closure of poorly performing charter schools is not a viable option, policy makers should strongly consider a hard cap on charter schools Statewide.

**Key Findings**

- Charter schools generated about \$24.1 million in small school size adjustments under the formula for FY10 for schools that have chosen a small school program.
- Charter schools generated \$7.5 million in growth funding for FY10.
- Charter schools cost the State \$3.1 million by being held harmless on the teacher training and experience (T&E index).
- Charter schools spend less than districts on instruction because of administration and lease costs.

***“The [charter school] movement can't be to create more charter schools; the movement has got to be to create more great schools. Unfortunately, we have far too many mediocre charters, and we have far too many charter schools that are absolutely low performing.”***

*-Remarks by U.S. Secretary of Education Arne Duncan before the National Alliance of Public Charter Schools*

- Charter schools experiment with performance pay.
- Administrator salaries at some charter schools compete with superintendent salaries.
- Charter authorizers receive two percent of charter school State Equalization Guarantee (SEG) funds but place it in their operational fund and cannot account for direct services provided to charter schools.
- Charter school spending shows questionable or improper expenditures and late payments to vendors and to tax obligations.
- Charter schools have operations that have the potential appearance of conflicts of interest with regard to lease arrangements, family hiring and other contractual arrangements.
- There is large diversity in use of procurement cards.
- Charter school administrators identified education practices they feel are innovative, but there is no formal process for sharing these practices with traditional public schools.

#### **Key Recommendations**

- Charter authorizers should freeze approval of all new applications until the application and renewal process has increased rigor, monitoring and oversight and charter schools are closed on the basis of poor performance.
- Exempt charter schools from receiving small school size adjustments under the funding formula and clarify growth thresholds needed to qualify for growth unit adjustments.
- Procurement card programs should adhere to guidance promulgated by the Department of Finance and Administration (DFA).
- Extend the deadline for putting charter schools into public facilities by 2015 until the full cost has been examined.
- Identify best practices among innovative education programs and disseminate them through a PED website.
- Require a market analysis in the charter application via a community petition with signatures totaling 75 percent of the proposed student population.
- Require review and approval of proposed facilities in new applications by PSFA's planning and development division.

## BACKGROUND INFORMATION

**Charter Schools Overview.** Charter schools are public schools that have greater autonomy from traditional public school requirements in order to promote innovation in education, improve student achievement, and provide communities with school choice. Charter schools differ from private schools or home schooling as they are not sectarian or religious, cannot charge tuition or have admission requirements and may not be home-based. Charter schools, like all public schools, must be accredited by the Public Education Department (PED).

### Charter School Waivers (Section 22-8B-5 NMSA 1978)

| PED <i>must</i> waive requirements for:              | PED <i>may</i> waive requirements for: |
|--|--|
| Individual Class Load                                | Graduation Requirements                |
| Teaching Load  |  |
| Length of School Day                                 |  |
| Staffing Patterns                                    |  |
| Subject Areas  |  |
| Purchase of Instructional Material                   |  |
| Evaluation Standards for Personnel                   |  |
| School Principal Duties                              |  |
| Driver Education                                     |  |
| School districts for state-chartered charter schools |  |

Source: One Source

After going through the application process, charter schools receive their charter, or grant of right to operate, from one of two chartering authorities: the Public Education Commission (PEC) or a local school board. Those schools whose chartering authority is the PEC are called State-chartered charter schools and operate as a local education agency. Charter schools whose chartering authority is their local school board are called locally chartered charter schools and operate within the area of the local school district. Charter schools are accountable to the chartering authority for all applicable laws, rules and charter provisions.

### Charter School Application Process

| Step | Explanation  |
|------|--|
| 1    | 180 days before applying, the applicant provides written notification to PEC and local school district of the intent to open.  |
| 2    | Submit application to PEC or local school board. Chartering authority has to process the application unless the applicant failed to notify.  |
| 3    | Submission must be made by July 1 for consideration for the next fiscal year.  |
| 4    | Chartering authority receives and reviews applications. Application fees are not allowed.  |
| 5    | Public hearing held in the district where the applicant wants to open the charter school. Opportunities provided for written or oral community comments.   |
| 6    | Chartering authority rules on the application within sixty days of receipt. If the application is not reviewed in this time frame it is reviewed by the Secretary of PED.  |
| 7    | Chartering authority may approve, approve with conditions, or deny an application.   |
| 8    | If the charter application is denied, or approved with conditions, the authority shall state its reasons for denial or conditions within fourteen days. If charter is approved it is provided to the applicant together with any conditions. |
| 9    | Charter schools that have received notice of denial shall have a right to a hearing by the secretary. This begins a separate appeal process.   |

Source: OneSource and Charter School Act (Section 22-8B-6 NMSA 1978)



Charter schools are governed by a body of at least five members as set up in the school’s charter. Governing bodies can contract and are liable for their own actions; a school board is not liable for any actions taken by a charter school. Governing body members receive mandatory training from PED explaining PED’s rules, policies, procedures, the powers and duties of the governing board, legal concepts for schools, finance and budget matters and any other information PED deems relevant.

Charter school law has undergone an increased shift from a very controlled policy option only available to existing traditional public schools, to a more permissive law that allows for charter schools to be start-up charters as well as conversion charters. This more permissive law has helped fuel the expansion of charter schools in the State since the first law was enacted in 1993.

### New Mexico Charter School Laws: Then and Now

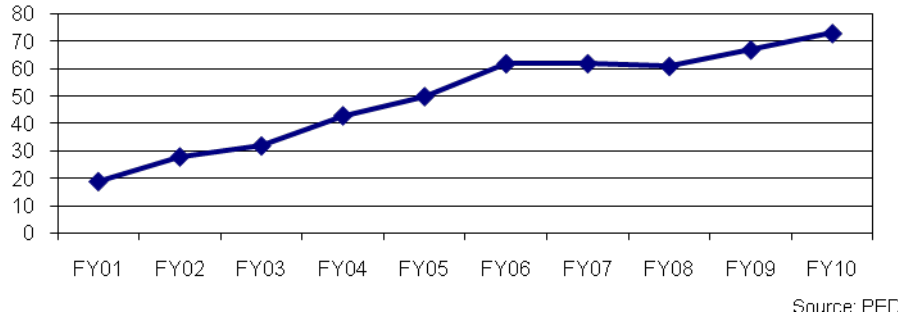
| 1995  | 2010  |
|---|---|
| Charter schools are schools limited to only conversions of existing schools.  | Charter schools may be new start-up schools or conversion schools.  |
| Charter schools are legally part of the school district.  | Charter schools are legally independent for their own actions; school governing bodies can sue or be sued and enter into contractual arrangements.  |
| Must be approved by the State Board of Education, the district approves the school's budget and there is no appeals process for approval decisions.                                       | Charters are authorized by either the Public Education Commission (State charters) or the local school district in which they reside. State charter schools submit their budget to PED for approval or amendment and local districts submit their budget to the local school board for approval or amendment (limited to approval or disapproval in entirety and based upon working within allotted resources). Charter application approval processes by both authorizers may be appealed to the Secretary of Education. |
| State and federal funds flow through the State and district to the charter schools and are subject to district negotiation. Schools do not have access to local bond or mille levy funds. | State charter schools have direct access to federal grants as a local education agency (LEA). Schools receive distribution of local 2 mill property tax funds based on the 40th day enrollment of the prior year. PED tells the County treasurer the amount to be allocated. Schools receive capital improvements 10 mill tax levies if they are included in the district's capital master plan if they are a local charter, or on their own master plan if a State charter.  |
| Charters are exempted from State or district requirements on a rule by rule basis and subject to State approval and district agreement.   | Charters are automatically waived from requirements for: individual class load, teaching load, length of school day, staffing pattern, subject area, purchase of instructional material, evaluation standards for school personnel, school principal duties and driver’s education. PED may waive graduation requirements as well.  |
| Charter applications must include performance standards that meet or exceed State standards. Schools must provide annual accountability reports.  | Charter applications must include performance standards that meet or exceed State standards. Schools must provide annual accountability reports.  |

Source: GAO/HEHS-95-42 and NMSA 1978

Charter schools have expanded rapidly over the last decade, from 19 operating charter schools in FY01 to 72 in FY10. This growth in charter schools mirrors the growth in total operating charter schools in the country. As reported by the Center for Education Reform, the number of charter schools grew from 1,297 in FY00 to 5,043 in FY10. With the increased commitment and responsibility for educating students the state has placed in charter schools and the growing emphasis on alternative public school choice nationwide, the state has an obligation to hold charter schools accountable for their financial and academic performance. The Charter School Act (Section 22-8B-11 NMSA 1978) has enacted a cap of start-up schools of no more than 15 schools opening in a year and a maximum of 75 charter schools in a five-year period. Charter school advocates have pointed to other provisions in the Charter School Act that limit the expansion of charter schools including limiting governing council members from sitting on the governing council of other schools and, in some of the smallest school districts in the State,

prohibiting start-up schools that would increase enrollment in charter schools past 10 percent of the school district's total student population. Currently, the two largest authorizers of charter schools in the State are the PEC and Albuquerque Public schools (APS).

**Number of Charter Schools Operating in New Mexico  
FY01 - FY10**



**Charter School Challenges.** Other state evaluations of charter schools discuss the many challenges charter schools face, and one common theme is financial mismanagement (for a full list of evaluations reviewed please see Appendix G). Other states or researchers have found combining the high start-up costs for operations and lack of economies of scale enjoyed by traditional public schools, with the common lack of financial management experience creates a high risk environment for resource mismanagement. Other state evaluations or program audits found: improper coding of expenditures, untimely financial audits, not taking advantage of federal funding, overpaying or neglecting tax obligations, improper expenses, conflicts of interest, lacking oversight functions, an over reliance on external financial management organizations, weak internal controls and numerous other examples of resource mismanagement. New Mexico has experienced some of these problems as well, with four of the 12 charter school having closed over the last decade being the result of fiscal mismanagement. Combining the history of financial mismanagement in the state with that of charter schools nationwide, charter schools represent a high risk of improper use of state funds.

Other state evaluations have found charter schools also face challenges with student performance. These reviews found limited innovation in practices, reliance on traditional public schools for student assessment infrastructure and data, limited growth information for high schools, some charter schools serving higher at-risk and exceptional student populations, a lack of self-monitoring for student outcomes, a lower starting point for student achievement, variable (lower, similar or higher) gains in performance, and other academic differences. Some charter schools in New Mexico also have low performance as illustrated by two of the 12 closures over the last decade citing a lack of student achievement.

Other evaluations acknowledge the difficulty in comparing student outcomes between charter and traditional public schools. At the same time, evaluators also acknowledge that student populations in charter schools are often very different from traditional public schools. Research on student performance for charter schools is still developing, but measurements should also take into account the population demographics between the two types of schools by looking at growth in individual student achievement. Snapshots of performance alone may provide a skewed result if one type of school has fluctuating populations of students that traditionally underperform.

### Charter School Closures

| Charter School                                  | Year Closed | Reason  |
|---|-------------|---|
| Highland High School                            | 1999        | Chose not to follow legislative requirement to reapply.                   |
| Taylor Middle School                            | 1999        | Chose not to follow legislative requirement to reapply.                   |
| Harrison Middle School                          | 1999        | Chose not to follow legislative requirement to reapply.                   |
| Broad Horizons Educational Center in Portales   | 2004        | Became alternative school.  |
| Albuquerque Public Academy/<br>Paseo del Monte  | 2004        | Closed for fiscal mismanagement.  |
| Charter Vo-Tech                                 | 2006        | Merged with another charter school.                                       |
| Horizon Academy Technology and Arts High School | 2006        | Closed for fiscal mismanagement.  |
| Life Skills Center of Albuquerque               | 2006        | Chose not to open.  |
| Lacy Simms in Alamogordo                        | 2007        | Charter revoked for fiscal mismanagement.                                 |
| Amistad in Clayton                              | 2007        | Charter revoked for fiscal mismanagement.                                 |
| Bridge Academy in Las Vegas                     | 2008        | Closed for lack of student achievement and legal and material violations. |
| Espanola Military Academy                       | 2009        | Closed for lack of student achievement and legal and material violations. |

Source: LESC and PED

#### **Objectives.**

- Review the authorization, oversight and monitoring functions for charter schools by both the state and local school board chartering authorities.
- Review school funding, resource allocation and spending practices of charter schools.
- Assess the performance of students participating in charter schools, including comparisons to traditional public schools.

#### **Scope and Methodology.**

- Review of laws, rules and regulations,
- Review of Legislative Finance Committee (LFC) files and interview LFC staff,
- Review statewide policies and procedures regarding information technology consolidation,
- Site visits for 16 individual charter schools,
- Interview charter authorizers (including PED and local district) staff, charter administration staff, charter school governing body members and other stakeholders,
- Analyze charter school expenditure and student performance data and
- Summarize other research for appropriateness to the evaluation.

**Authority for Evaluation.** LFC has the statutory authority under Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies and institutions of New Mexico and all of its political subdivisions, the effects of laws on the proper functioning of these governmental units and the policies and costs. LFC is also authorized to make recommendations for change to the Legislature. In furtherance of its statutory responsibility, the LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state law.

**Evaluation Team.**

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David Craig, Lead Program Evaluator  
Luciano Baca, Contractor  
Lawrence Davis, Program Evaluator  
Craig Johnson, Program Evaluator  
Michael Weinberg, Program Evaluator

**Exit Conference.** The contents of this report were discussed with senior officials of the Public Education Department, including: Assistant Secretary of Education for Charter Schools Division, Dr. Don Duran; Program Manager for charter Schools Division, Sam Obenshain; Assistant Secretary for Quality Assurance and Systems Integration, Dr. Sheila Hyde; the Director of the School Finance and Analysis Bureau, Steve Burrell; and Legislative Liaison Ruth Williams on July 12, 2010. In addition, draft copies of this report were discussed with charter schools selected for site visits in an open house in Mabry Hall of the Jerry Apodaca Building, 300 Don Gaspar Ave. in Santa Fe on July 12, 2010 to determine the accuracy of the information presented. For charter schools with prior commitments or unavailable on July 12, 2010 other arrangements were made to have staff discuss the findings with the school’s representatives individually from July 13-16, 2010. For charter schools that did not make arrangements to meet during this time, sections where the charter school was named were sent to the school’s representatives via email on July 19, 2010 and an opportunity was given for review and comment.

**Report Distribution.** This report is intended for the information of the Office of the Governor, the Public Education Department, the Department of Finance and Administration, the Office of the State Auditor, and the Legislative Finance Committee. This restriction is not intended to limit distribution of this report, which is a matter of public record.



Manu Patel, CPA  
Deputy Director for Program Evaluation

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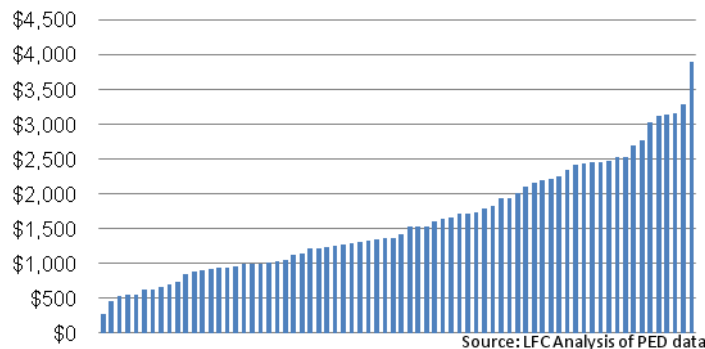
**FINDINGS AND RECOMMENDATIONS**

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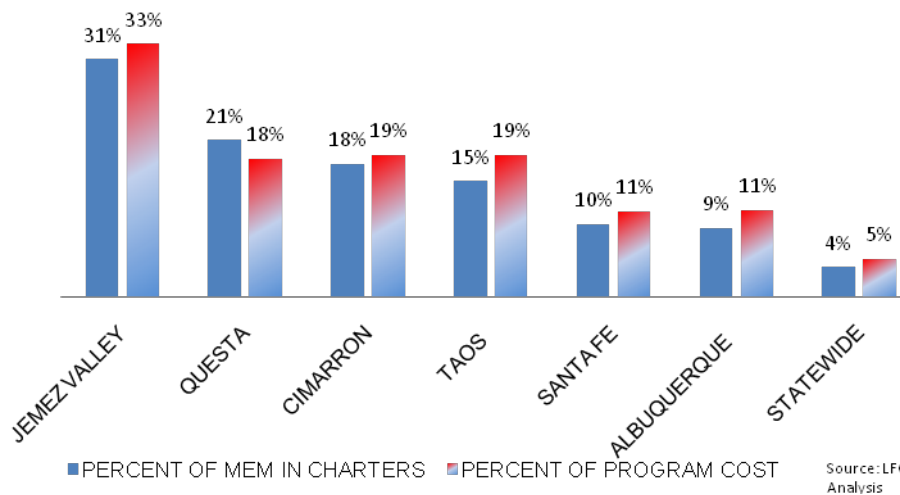
**FUNDING CHARTER SCHOOLS CREATES SIGNIFICANT CHALLENGES TO ENSURE COST-EFFECTIVE EDUCATIONAL SERVICES.**

**Charter schools serve about 4 percent of students statewide and received about \$113 million in state equalization guarantee (SEG) formula funding for operations in FY10.** Since 2002 charter school growth has continued to have a growing impact on total state formula funding. The 72 charter schools operating in FY10 served almost 14,500 students, with the remaining 335 thousand served through traditional public school districts. Charter schools in total average over 200 students, but the range in size of student membership (average of 80<sup>th</sup> and 120<sup>th</sup> day enrollment) is from 29 students at Lindrith Area Heritage to over 600 at El Camino Real in FY10. The per school formula funding revenues range from \$270 thousand to over \$3.9 million in FY10. Locally chartered charter school administrators have expressed concerns over equitable access to revenues like capital outlay and federal fund and PED should monitor charter school revenues to ensure the statutory provisions (22-8B-13 (B) NMSA 1978 and 22-26-9 NMSA 1978) regarding distribution of these funds is followed by local authorizers and districts. Charter schools generate higher program costs than their proportion of students in the State and in many districts because of favorable adjustments under the funding formula.

**Charter Schools  
Per School Formula Funding FY10  
(in thousands)**



**Charter Schools Impact on MEM and Program Cost - FY10**



*The State funding formula provides charter schools with per student funding rivaling the smallest school districts in the state; favorable formula adjustments account for 27 percent of charter school funding.* Charter Schools account for over half, or 32, of school districts/charter schools with per student program cost exceeding \$10 thousand in FY10. Ten charter schools received formula funding exceeding \$12 thousand per student. Two charter schools generated more formula funding than the smallest school district in the state. Charter schools have the same high levels of program cost per student and funding formula units per student as many of the small rural school districts. This shows that funding charter schools' diseconomies of scale is very similar to funding small rural school districts that have similar diseconomies of scale. Also reference Appendix C, which illustrates that charter schools cost per student are 26 percent above that of traditional public schools.

**Per Student Program Cost by Rank for FY10**

| Rank | DISTRICT/CHARTER                 | Program Cost |
|------|----------------------------------|--------------|
| 1    | COTTONWOOD CLASSICAL ST. CHARTER | \$16,054     |
| 2    | ACADEMIA DE LENGUA Y CULTURA     | \$15,697     |
| 3    | MOSQUERO                         | \$14,756     |
| 4    | VAUGHN                           | \$14,127     |
| 5    | WALATOWA CHARTER HIGH            | \$14,036     |
| 6    | WAGON MOUND                      | \$13,993     |
| 7    | LA ACADEMIA DE ESPERANZA         | \$13,918     |
| 8    | ROBERT F. KENNEDY                | \$13,623     |
| 9    | LA PROMESA EARLY LEADERSHIP      | \$13,414     |
| 10   | DES MOINES                       | \$12,953     |
| 11   | ROY                              | \$12,844     |
| 12   | RESERVE                          | \$12,609     |
| 13   | LA RESOLANA LEADERSHIP           | \$12,379     |
| 14   | TIERRA ENCANTADA CHARTER         | \$12,362     |
| 15   | RALPH J. BUNCHE ACADEMY          | \$12,341     |
| 16   | JEFFERSON MONT. ACAD.            | \$12,275     |
| 17   | HOUSE                            | \$12,234     |
| 18   | HONDO                            | \$12,227     |
| 19   | SAN JON                          | \$11,856     |
| 20   | SPRINGER                         | \$11,797     |

Source: PED

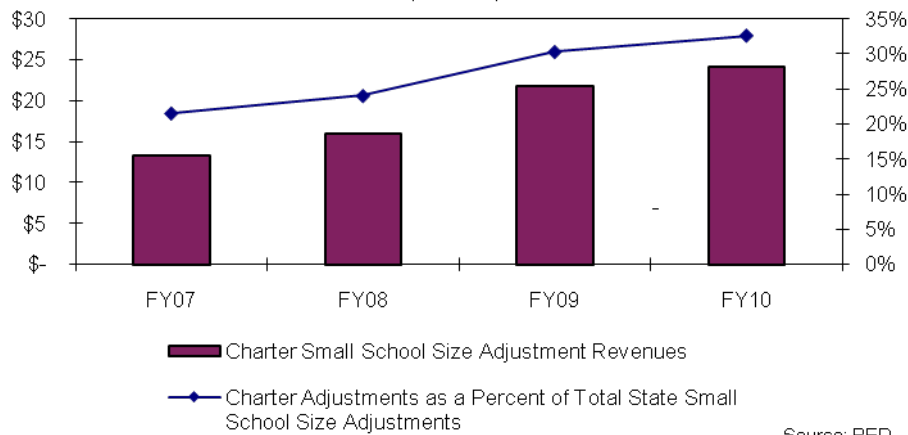
In addition, charter schools in the same community as traditional public schools generate much different per student formula funding in some cases. For example, Taos school district funding per student was \$7.2 thousand in FY10 but three out of four charters in Taos generated over \$10 thousand per student. Taos Municipal charter generated less than the school district on a per student basis, about \$6.7 thousand.

APS-authorized charters per student funding averaged almost 40 percent more than APS schools. The average charter generated over \$9.7 per student in FY10, while schools within APS generated about \$7 thousand per student. Some charters within APS generated over \$15 thousand per student. Deming's Cesar Chavez charter school generated about 55 percent more in per student funding (\$10,628) than the district (\$6,866).

**Charter schools benefit from state funding formula adjustments related to small school size and growth in enrollment having generated over \$32 million, or 27 percent of the statewide total \$118 million.** The State funding formula provides additional funding based on enrollment, weighted by different types of students, services, and teacher personnel costs. The formula also compensates for scale inefficiencies associated with small schools, mid to small size districts and for growth in enrollment exceeding one percent. These adjustments amounted to over a third of 40 charter schools total formula funding in FY10, and amounted to over 10 percent for another 27. For example, combined formula funding for small school size and growth amounted to over 62 percent (\$1.3 million) of total formula funding for Cottonwood Classical, over 51 percent (\$323 thousand) for Las Resolana and over 50 percent (\$351 thousand) for Middle College High charter schools in FY10. Robert F. Kennedy generated almost \$1.3 million and Las Montanas over \$1.2 million in combined formula funding for small school size and growth.

**In FY10, charter schools generated about \$24.1 million in additional formula funding because of their small size; however, charter schools are small sites by plan and serve as an alternative public school which should not qualify for this additional funding.** Traditional public schools generated an additional \$49.9 million in small school size adjustments in FY10, for a total of \$74 million between both charters and traditional public schools. Formula funding for total size adjustments, small school, rural and district, account for more than 30 percent of formula funding for 26 school districts or about 29 percent. About 35 percent, or 24 charter schools, rely on size adjustment formula funding for over 30 percent of their program cost. As more small charter schools are authorized the amount of small school size funding increases, in addition to any changes to the unit value.

**Charter School Small School Size Adjustments,  
FY07 to FY10**  
(in millions)



Source: PFD

***Of the 72 charter schools operating in FY10, 65 received small school size formula funding ranging from \$98 thousand to over \$600 thousand.*** Small school size adjustment funding accounts for as much as 45 percent of some charter schools' formula funding. For example, in FY10 Taos Academy received \$423 thousand, or almost 46 percent, of its \$928 thousand formula funding due to small school size adjustments. Middle College High, Moreno Valley High, Anthony Charter, School of Dreams, Career Academic Tech Academy and Vista Grande and Walatowa Charter High all received over 40 percent of their formula funding completely from small school size adjustments. While small school adjustment funding accounts for less than 20 percent of some charters' formula funding, the amount of funding can

still be substantial. For example, Robert F. Kennedy small school size formula funding totaled over \$600 thousand and La Academia de Esperanza over \$570 thousand in FY10, about 18 percent of each schools' total formula funding. Seven charter schools did not receive small school size adjustments.

*Despite charter schools' position that they are dependent on the small school size adjustment, it is not clear that the purpose of size adjustments in the funding formula is to act as a subsidy for the diseconomies of scale that the small school site charter school education programs produce.* There has been tacit recognition of these diseconomies; three out of the 16 charter schools LFC staff visited (La Luz Del Monte, La Resolana and Ralph J. Bunche Academy) are sharing facilities with one or more other charter schools that also receive small school size adjustment.

Charter schools are envisioned as smaller school sites by choice, and are often located in urban areas where traditional public schools have available space. Further, the Public School Finance Act (Section 22-8-23 (A) NMSA 1978) states "separate schools established to provide special programs, including but not limited to vocational and alternative education, shall not be classified as public schools for purposes of generating size adjustment program units." The purpose of the Charter Schools Act (Section 22-8B-1 NMSA 1978) is "to enable individual schools to structure 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," which to a reasonable person could be interpreted as a special program.

Currently, magnet schools serving at-risk populations that are affiliated with a school district are restricted from accessing small school size adjustments, but the exact same school serving the exact same students organized as a charter school would receive the small school size adjustment which raises questions of equity. In times of decreasing or static revenues, the feasibility of this continued level of funding for such a small segment of the student population is questionable.

*In addition, segments of the public and policymakers continue to question whether school districts that are either small or in close proximity to other districts should consolidate.* However, at the same time the State and other school districts are authorizing more charter schools that could be considered "micro-school districts," requiring the public to provide heavy subsidies for diseconomies of scale, the State continues to fund small school districts with similar diseconomies of scale. It is unclear why one form of public school is currently favored over the other because it is unlikely the State would approve creating new school districts the size of Vaughn, Wagon Mound, Des Moines, Roy or even Mosquero.

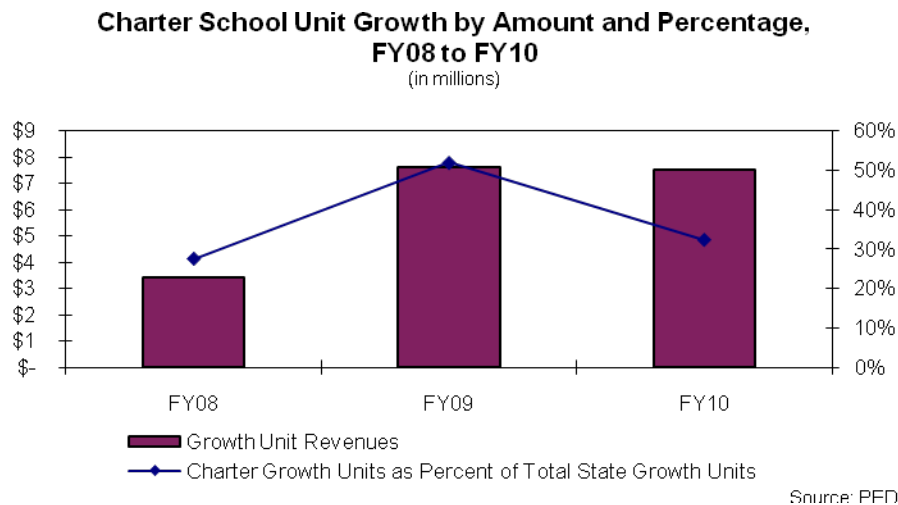
The State currently subsidizes medium to small school districts, however, this funding and its impact is less than the small school size adjustment. Of the 89 school districts, 72 received district size adjustments in FY10 ranging from \$21 thousand for Mosquero to almost \$570 thousand for Las Vegas City. However, district size adjustments does not account for a large portion of school district's program cost. For example, formula funding for district size amounted to about seven percent of Jemez Valley's program cost and typically runs around five percent for many districts. District size adjustments, which are separate from school size adjustments, total about \$18 million under the funding formula.

**Charter schools disproportionately benefit from funding for student population growth under the funding formula because of their very small size, generating over \$7.5 million in FY10.** Charter schools generated over 32 percent of growth funding in FY10. School districts and charter schools may



qualify for additional funding, provided they grow enrollment at least one percent. However, many charter schools' enrollment is less than two hundred students, which makes qualification for this funding far easier than a larger school district like Las Cruces or Rio Rancho. For example, charter schools on average have to increase their enrollment by two students, versus Rio Rancho that must grow by 172 students, which is larger than most charter schools. Funding for charter school growth averaged six percent or over \$100 thousand in FY10, but did account for over 30 percent of total formula funding for some charter schools.

The funding formula, in other facets, treats charters and school districts differently based upon size. For example, the allowable limits for carry-forward of cash balances is scaled depending on the student population size of the school district or charter school, and a similar approach could be implemented for growth units. In addition, the PEC has seen increases in applications for virtual schools; distance learning schools without brick and mortar school sites or common levels of labor or administration costs but high enrollment. PEC has denied all virtual school applications but growth generated under the funding formula for these types of schools with no facilities could be large.



***Double funding of some students, estimated at \$6.5 million, occurs in the first year of operations for new charter schools and their continued expansion exacerbates this issue.*** When charter schools first open, they receive funding based on a projection of students they will serve and then are forced to refund any of the State Equalization Guarantee (SEG) funds to which they are not entitled on the 40<sup>th</sup> day of the school year. This means that new charter schools are funded on the basis of their current year enrollment. If the majority of the students in the new school attended traditional public schools in the school year immediately preceding opening, these students will also be included in the traditional public school's count.

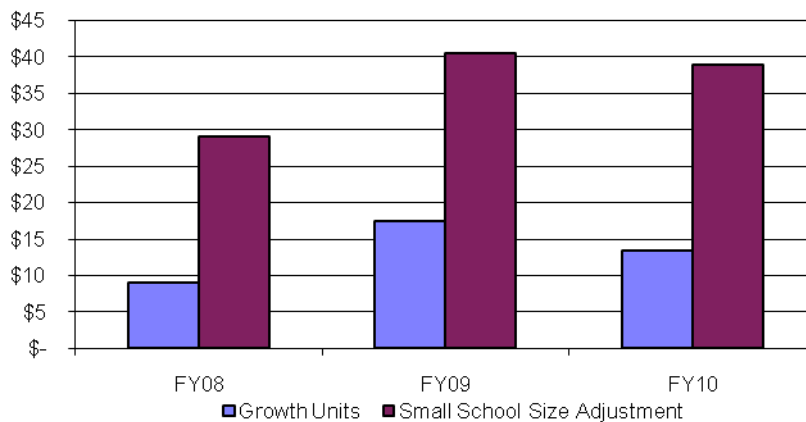
No actual analysis of the amount that the State is double funding new charter school students that come over from traditional public schools is available. For instance, PED's CSD approved eight of the nine schools set to have their first year of operations in FY11. According to these school's applications they project to enroll 1,196 students in FY11. Using the state average of 1.8 units per student for FY10, and the final FY10 unit value of \$3,792.65, and assuming a conservative estimate that 80 percent of the projected students enrolled will be from traditional public schools, this provides an estimate of the

double funding to be almost \$6.5 million. Currently, another 13 charter schools have applied for approval from the PEC. Continuing to expand the number of schools will place greater pressure on available funding for all public schools, particularly at a time the State is facing acute financial shortages.

**The funding formula singles out charter schools for favorable treatment by allowing them to generate higher funding using a district’s teacher training and experience (T&E) index rather than the charter schools’ own.** Statutory changes in 2009 allowed charter schools to use the higher of the district’s or its own T&E index for FY09 and FY10. The statute sunsets at the end of FY11 and starting FY12 charter schools will use their own T&E index. The T&E index is a multiplier within the funding formula intended to account for higher labor costs associated with school districts and charter schools that hire a greater percentage of their teachers with more experience and/or education. Allowing charter schools to have a unique hold harmless provision in the formula helped them generate an additional \$3.1 million in FY10.

**Eliminating the impact of charters on the funding formula from size, growth and the T&E index save harmless provision would increase funding \$34.7 million for all school districts and charters statewide.** Charter schools diluted the unit value by \$38.85 with the amount of small school size adjustments they generated and by \$13.43 with what was generated in program growth units in FY10. If charter schools were to have more limited access to either of these areas of the funding formula, the lost revenues generated under these areas would be accompanied by a subsequent rise in revenues generated via the unit value.

**Charter School Growth and Size Adjustment Funding and the Unit Value Dilution, FY08-FY10**



Source: PFD

**Recommendations**

***Statutory Changes***

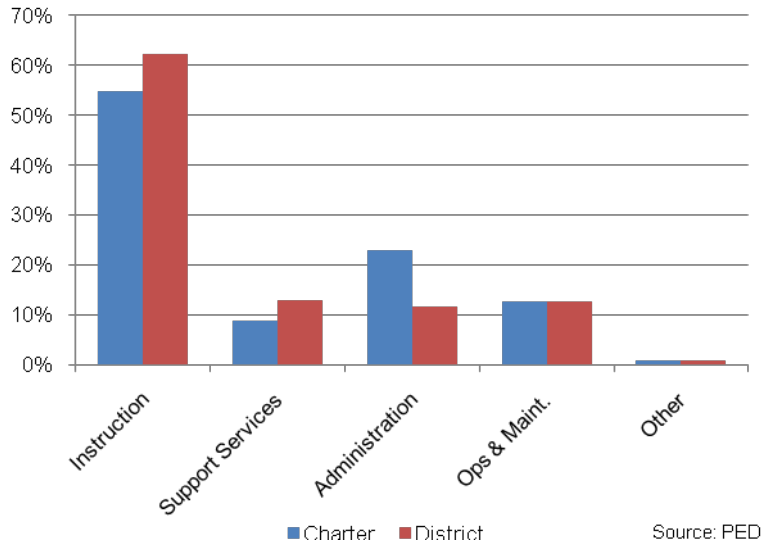
Amend Section 22-8-23 NMSA 1978 to clarify that charter schools are special public schools and exempt from receiving small school size adjustment units and, consistent with other past LFC staff recommendations, the legislature should limit small school size adjustments to rural, isolated schools.

Amend Section 22-8-23.1 NMSA 1978 to clarify the growth required to qualify for additional units based on the size of the school district or charter school. For example charter schools and small districts with MEM less than 500 may need an increase of 20 percent of MEM to qualify.

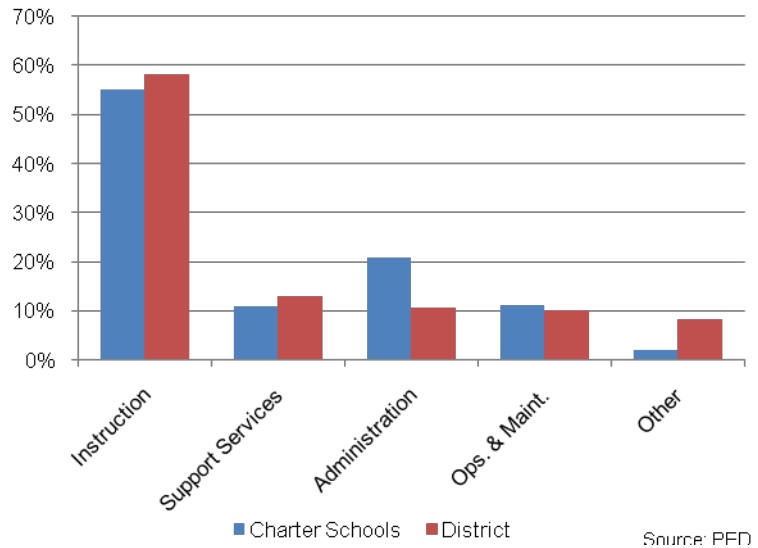
**INCREASED OVERSIGHT OF CHARTER SCHOOL RESOURCE ALLOCATION DECISIONS IS NEEDED TO SAFEGUARD STATE ASSETS.**

**Charter schools spend a smaller share of funding on instruction than school districts overall, primarily due to high administrative costs and in some cases building leases.** Charter schools spend almost twice the rate on administration than school districts, reducing funding available for instruction and support services. The following graphs exclude debt service and capital outlay across all funds.

**FY09 Charter School and District Expenditures by Function Operational Fund Only**  
(in millions)



**FY09 Charter School and District Expenditures by Function for All Funds**  
(in millions)



The small size of charter schools limits their ability to spread administrative costs across more student revenue. However, spending decisions appear to vary widely among charter schools along with how much of their operational fund is spent on instruction, administration and operation and maintenance costs. In FY09, Espanola Military Academy spent almost as much on administration, \$472 thousand or 30 percent, as direct instruction, \$496 thousand or about 31 percent. Village Academy reported spending 44 percent of its operational fund on administration, or about \$302 thousand out of total spending of \$691 thousand. By contrast, other schools dedicate significant resources to instruction, such as Turquoise Trail which spent 72 percent of its operational fund on instruction in FY09. Other schools with similar dedicated spending on instruction included: Cottonwood Valley (71 percent), Taos Municipal Charter (70 percent) and Rio Gallinas (73 percent).

***Impacts of lease costs on charter schools vary; costs may be supplemented by operational funds that decrease the ability to spend resources on instruction.*** For example, El Camino Real reported spending over \$1 million on lease costs for buildings, with about \$600 thousand funded out of operational fund. These costs accounted for about 14 percent of all spending from operational funds. Las Montanas reported spending over \$280 thousand on building lease costs in FY09, with about \$233 thousand spent from its main operational fund and the balance from PSCOC lease assistance. As a result, Las Montanas spent about 10 percent of its operational fund on their building lease. This school also spent about 28 percent on administration and 48 percent on instruction. Montesorri charter school reported spending 20 percent of its operational fund on lease payments, or about \$360 thousand of the nearly \$500 thousand spent.

By contrast, Turquoise Trail’s lease assistance payments of over \$300 thousand from PSCOC covered its entire obligation to Santa Fe Public Schools in FY09. Amy Biehl is in a public building and reported spending only \$1,200 on lease costs.

**Charter schools are starting to experiment with innovative compensation methods including performance pay.**

Three schools LFC staff visited are either considering a form of merit bonus or have enacted performance pay. For example, governing body members at Ralph J. Bunche Academy and at Village Academy said they were considering a merit bonus if the students reach certain objective student performance goals. At La Luz del Monte they have enacted performance bonuses, but are wary of performance pay because they are concerned with liability issues associated with the performance pay framework. Average teacher salaries vary across charter schools often because of different mandated salary levels for staff.

**Charter Schools Average Teacher Salaries**

|                                |             |
|--------------------------------|-------------|
| San Diego Riverside            | \$58,634.22 |
| CATA                           | \$49,039.57 |
| La Academia de Esperanza       | \$47,833.36 |
| Las Montanas                   | \$46,573.41 |
| Alice King                     | \$42,973.85 |
| Amy Biehl HS                   | \$42,166.35 |
| La Luz Del Monte               | \$41,464.84 |
| NACA                           | \$39,349.84 |
| PAPA                           | \$38,573.76 |
| Village Academy                | \$38,246.17 |
| Ralph J. Bunche                | \$37,794.64 |
| Vista Grande                   | \$30,626.57 |
| Bataan Military Academy        | \$30,041.02 |
| La Resolana Leadership Academy | \$29,652.82 |

Source: PED

**Some administrator salaries at charter schools are higher than superintendent salaries of large school districts.**

Information on all charter school head administrator salaries is currently unavailable on PED’s website, but school district superintendent salaries are available. A comparison of some charter school administrator contracts to traditional public school superintendent salaries show that charter school administrators make more in some instances than the

administrators that oversee the state’s largest districts, as shown in the table below. Others are lower or appear somewhat comparable to small school districts. During site visits charter school administrators said they performed similar functions to superintendents (coordinating federal programs and transportation) or that they have teaching duties in addition to administration, and that the elevated pay for charter school administrators is justified by these functions. Charter school governing councils are responsible for determining the terms and conditions of governing council member contracts, though if the administrator is the founder then they have often selected the initial governing council.

**Selected Charter School Administrator & School District Superintendent Salaries**

| School/District                                | FY09 Contract Amount   | FY09 Student Count |
|--|------------------------|--------------------|
| Albuquerque                                    | \$256,000              | 86,962.50          |
| La Luz Del Monte Learning Center               | \$204,361 <sup>1</sup> | 106.50             |
| Las Cruces                                     | \$168,259              | 23,562.50          |
| Rio Rancho                                     | \$151,880              | 15,521.00          |
| Roswell  | \$147,000              | 9,253.00           |
| Gadsden  | \$140,560              | 13,814.25          |
| Career Academic Technical Academy              | \$120,000 <sup>2</sup> | 118.00             |
| Santa Fe                                       | \$118,000              | 12,224.75          |
| W. Las Vegas                                   | \$115,000              | 1,699.25           |
| Jemez Valley                                   | \$114,000              | 346.00             |
| Grants   | \$110,206              | 3,542.25           |
| Texcico  | \$109,515              | 517.50             |
| Taos   | \$105,685              | 2,733.50           |
| North Albuquerque Co-Op Community (Alice King) | \$105,131 <sup>3</sup> | 153.50             |
| Penasco  | \$105,000              | 541.00             |
| Magdalena                                      | \$103,000              | 427.25             |
| Public Academy for Performing Arts             | \$95,000               | 350.00             |

<sup>1</sup>Based on \$68,120.39 times three schools.

<sup>2</sup>Based on 1.2 FTE

<sup>3</sup>Calculated as base salary times 1.3 FTE

Source: PED and School Site Visits

**Charter schools operate as semi-autonomous local education agencies and their continued expansion creates challenges for robust fiscal oversight by the state and some local districts.**

Each charter school requires additional separate and unique administrative and oversight responsibilities, both programmatically and fiscally. This requires adequate staffing and resources. For example, charter schools require separate accounting, budgeting and reimbursement processes from PED, in addition to programmatic oversight carried out by the PED’s Charter School Division (CSD) and other programs within PED, such as priority schools. As such, state law allows authorizers to withhold up to two percent of a charter schools’ formula funding to offset additional administrative expenses they may incur (Section 22-8B-13 NMSA 1978).

*Both local and state authorizers claim that the two percent SEG withholding is not sufficient for the services provided, however, district superintendents and PED could not provide supporting documentation to support such claims.* PED and APS have dedicated full-time staff providing charter

school services for which costs can easily be identified. Both authorizers said these costs are not inclusive and do not include indirect support services. State and local authorizers stated that services provided to charter schools for the SEG withholding include, but are not limited to, the following: initial and renewal charter reviews technical and monitoring assistance through PED's information technology, budget bureau, administrative services division, staff attorneys, deputy secretaries and Secretary's offices, follow-up for audit findings, facilities master planning, administration of federal and state grants and other services provided on an as needed basis.

Administrative SEG withholding fees are currently used to supplement charter school authorizers' operational accounts. School districts and PED do not allocate charter schools service costs to identifiable accounting line items. Therefore, it is difficult for authorizers to produce detailed and accurate supporting documentation for services provided.

***Charter schools are component units of either school districts or PED, depending on who authorized them, and as such are part of that entities annual financial audit.*** Some charter schools have not had timely financial audits. Five charter schools have not completed audits for FY09, including San Diego Riverside, Vista Grande, Walatowa, Anansi and Taos Municipal charter schools. As such, school districts and PED have a vested interest in ensuring that charters are able to comply with applicable fiscal requirements for public entities and make available information needed to complete a timely audit. Poor financial practices reflect on the school district or PED's financial audit and in some cases poor record keeping has resulted in late audits. New state law requiring on-time audits carries potential financial penalties for non-compliance which will heighten school districts' interest in ensuring charter schools timely compliance with audit requirements. Guidance from PED may be necessary to clarify which entity would be penalized due to a late audit. For example, if the charter school is clearly responsible for holding up the audit then it should face the reduction in state aid payments rather than the school district, but these issues often are not clear cut.

Disruptions in operations in either the charter school or district can impact the timeliness of the charter, district or state audits. For example, in Vista Grande, disruptions of operations at the district level have delayed issuance of an audit for FY09 for the charter school, though a draft report shows no findings. By contrast, audits have been a problem for the San Diego Riverside charter school as they had not had a complete audit since 2005. As of the date of the site visit, audits have been completed up to 2007. A contract auditor has been hired and completion of audits for 2008 and 2009 is scheduled for November of 2010 – the State Auditor approved the contract in late April of 2010.

The number and significance of charter school audit findings increased from FY08 to FY09. A total of 701 audit findings were identified for 72 charter schools within both fiscal years and does not include 11 charter schools whose audits remained, or remain, outstanding. Audit findings increased from 296 to 405 from FY08 to FY09, respectively. Seven audit reports remain outstanding and one is currently under review by the state auditor's office for FY09. Significant audit findings for internal controls, cash and fixed assets have also increased, which include the following:

- Purchase order approval – A manager approved their own contract. Preparation of financial statements – (SAS 112 finding) charter lacks knowledge to apply GAAP and prepare financial statements;

- Deficiencies in internal control structure design, operation and oversight – Charter does not have comprehensive documentation for internal controls structure, business manager performs all receipting and depositing functions, no documentation for bank reconciliations and payroll is not reviewed by the principal;
- Lack of supporting documentation – Unable to provide supporting documentation for disbursement transactions and journal entries;
- Cash disbursements – Untimely deposits, lack of supporting documentation and does not reconcile to general ledger;
- Unauthorized transfer of cash – Transfer was not authorized by PED; and
- Fixed asset inventory – Did not perform year-end inventory review and lack of disposal records.

***A lack of financial institutional knowledge has increased charter school reliance on outside organizations to perform financial functions.***

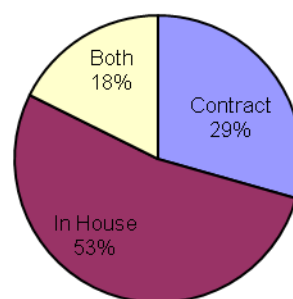
Financial accountability is an essential component for governmental organizations. Eight of 16 charter schools within the sample contracted for financial services with organizations or individuals that are not solely dedicated to their charter school. Charter schools are becoming increasingly dependent on outside organizations to perform financial services such as the not for profit New Mexico Coalition for Charter Schools (NMCCS), private accounting firms or individuals that maintain multiple contracts with charters.

Other state evaluations also have found an over reliance on financial services providers and New Mexico charter schools are beginning to follow this trend.

Organizations like NMCCS and accounting firms have dedicated staff to perform these services but individuals contracting to perform financial services must divide their individual time between charters. The evaluation team expresses concern about the number of charter schools an individual or organization can maintain in order to provide quality and dependable services. NMCCS currently provides services to 14 charter schools, while six individuals provide services to 19 charter schools. Charter school administrators said they are increasingly dependent on licensed business officers by the state but were unhappy with the rigor of the licensing function. In addition, the evaluation team discovered that some individuals providing these services set their compensation amount at \$49,999, which is one dollar below the state procurement code threshold of \$50 thousand that mandates a competitive bidding process.

**Some charter schools would benefit from improved spending practices and record keeping.** Using payables or voucher reports from FY08 and FY09 for charter schools selected for site visits, LFC staff selected samples of procurement supporting documentation to allow for a detailed overview of charter school expenditures. Charter school supporting documentation shows examples of some of the same discretionary spending seen in past reviews of traditional public schools. Finding qualified business managers has proven challenging for many charter schools and puts school site administrators in less than an ideal position given their expertise typically resides in programmatic areas. Combined with

**Business Office Functions in Charter Schools**  
(51 respondents)



Source: LFC Email Survey

allocation of revenues directly to school sites, this lack of financial experience presents an environment prone to potential financial mismanagement.

Hand in hand with the financial mismanagement evidence that LFC staff witnessed is the transient nature of charter school administration and location. For example, at Ralph J. Bunche and Public Academy for the Performing Arts, none of the purchasing approval decisions in FY08 or FY09 were made with the current administrator. At Career Academic Technical Academy (CATA), Vista Grande, the Public Academy for Performing Arts and Village Academy Charter School, there has been turnover in the business officer functions which impacted timeliness of charter school business functions in past years and the current business officer was not present in the years where spending analyses were conducted.

***Charter schools often do not retain the supporting documentation in times of business office turnover because the function is contracted out.*** For Village Academy and Vista Grande, LFC staff was unable to evaluate or conduct a proper analysis because the previous business officer was not able to provide a voucher report that tied to supporting documentation. At Village Academy, supporting documentation for the FY08 and FY09 expenditures is in such a state of disarray as to make it difficult or impossible to locate supporting documentation for selected expenditures. However, the new business manager provided LFC staff with a voucher report for FY10 and could easily provide supporting documentation for selected expenditures.

***Some discretionary spending at charter schools showed similar patterns as previous school district evaluations.*** While other areas of government are trying to determine how to maintain previous levels of service in a time of decreasing or static state revenues, charter schools are engaging in spending practices that have not been adjusted to reflect the current fiscal environment and generally reinforce education's perspective that they are isolated from tough decisions regarding revenues and expenditures. A review of sample expenditures found in-service meals, lobbying services, field trips with questionable instructional value like going to the movies or bowling and professional development travel destinations like Hollywood and Disneyland. Other examples included the following:

- Las Montanas spent \$750 to purchase the school's staff their choice of a Christmas ham or turkey.
- La Luz Del Monte (LLDM) spent \$1,000 on cinch packs and \$435 on School shirts and vests in preparation for the North Central Accreditation visit. LLDM also spent \$281 on magnets bearing the school logo.
- La Luz Del Monte spent \$13,531.44 on installing wood floor paneling in the current facility. When LFC staff asked if this constituted an upgrade to the facility that should be covered by the lease, the site administrator said upgrades are allowed as long as the school can take it with them when they leave.
- In FY08 and FY09, the Public Academy for Performing Arts used to have a blanket purchase order open for a non-instructional support special revenue activity fund called "Miscellaneous Activities Items - Principal's Discretionary Fund" for \$1,000. The current business officer closed the fund moved it to the larger activities fund. Hand written notes on supporting documentation for a flower purchase say "Activity Fund? Cannot be used for Operational," which reinforces the spend-first, worry-about-it-later mentality of some administrators.
- La Academia de Esperanza rented out the Embassy Suites Hotel and Conference Center in Albuquerque for the Student Prom for \$3,606 from a non-instructional support special revenue



fund that was coded with the instruction function. Included in this expenditure were \$700 for a chocolate fountain with fruit, rice crispy bars and marshmallows and ten gallons of punch for \$320. La Academia de Esperanza also spent \$449 on food from Weck's for a staff in-service training day.

- The Native American Community Academy spent \$1,135.77 to take the students for pizza, laser tag and bowling at the Isleta Fun Connection for an honor roll field trip.

*Some charter schools had questionable or improper expenditures.* As public entities, and pursuant to Section 13-1-99 NMSA 1978, charter schools are "Excluded from the requirement of procurement through the state purchasing agent but not from the requirements of the Procurement Code." Based on the amount of procurement audit findings, and concern expressed by the CSD of PED, some charter schools may interpret Section 13-1-99 NMSA 1978, as an exclusion from the procurement code.

Charter schools may strengthen procurement procedures but must comply with state regulations at a minimum. For example, Bataan Military Academy mandates that purchases, rental and lease of any tangible personal property or construction between \$3 thousand and \$9.9 thousand must have three documented quotes. Procurement code allows charters to directly procure services, construction or items of tangible personal property under \$5 thousand but does not require them to obtain three documented quotes. Charter school violations of the procurement code abound in the supporting documentation that LFC staff pulled and a complete list would be lengthy, but below are some excerpts.

- CATA bought a poster maker for \$5,495 on its initial federal grant and four 42" flat screen plasma televisions for \$5,400 without getting three quotes from vendors on the items.
- Las Montanas has a purchase order for \$35,772 with School Technologies that did not go out to bid and was completed as sole source procurement because of a vendor written justification letter.

LFC staff found instances where local charter schools were making donations to persons and associations. Charter schools remain component units of school districts and the state and are covered by the anti-donation clause.

- In FY09, La Luz del Monte made a \$250 donation to the UNM Women's rugby team.
- Prior to the November 2008 general elections, PAPA appears to have made a \$75 campaign contribution to a former state legislator's campaign.

It is common for charter schools to provide the governing body meals or a per diem and gifts to employees. Charter school governing body members are not limited to the same prohibitions to serving without compensation as outlined in Section 22-5-5 NMSA 1978 for school board members. PAPA buys food and drink for governing body meetings and has a blanket purchase order open on its activity funds for \$100. Bataan Military Academy had a purchase order for \$75 for a governing council members' per diem and bought everyone dinner at a local hotel for \$190.50. Charter schools also engage in gift purchases; either for staff appreciation or for going away gifts. Las Montanas also spent \$514.50 on a school movie outing and \$500 on 20 gift cards to Chili's and \$100 on 4 gift cards from Applebee's as tokens of appreciation for staff. Bataan Military Academy also bought a \$50 Applebee's gift card as a token of appreciation.

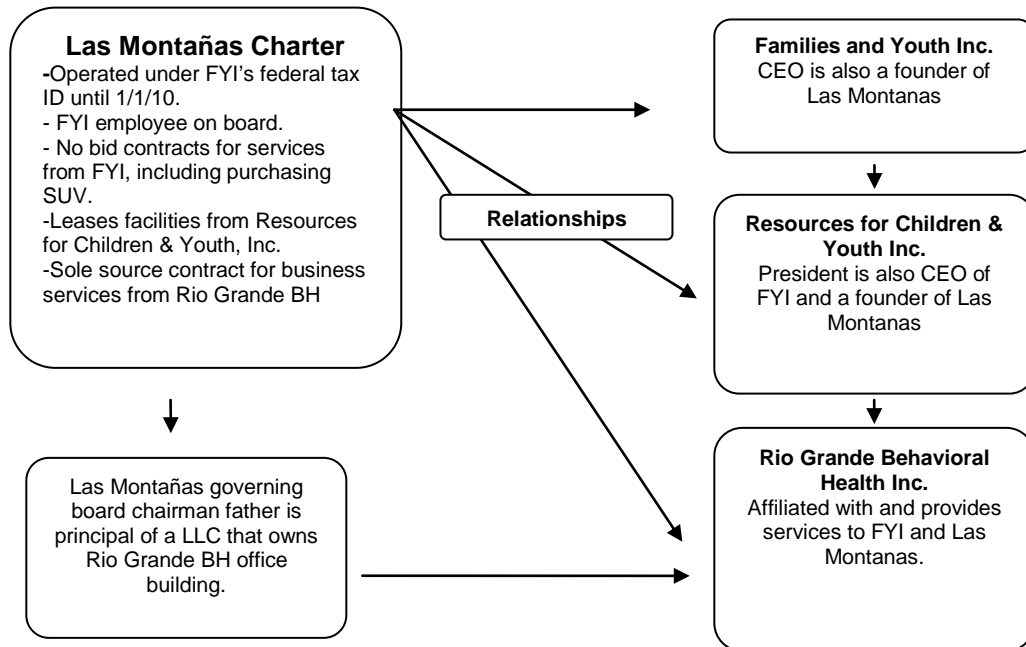
DFA guidance on gifts says state agencies should provide written justification to the Financial Control Division and State Budget Division's approval or disapproval on the following criteria: 1) the expenditure must be consistent with the agency's constitutional and statutory mission; 2) it must be for a public benefit and purpose; 3) it must be necessary; and 4) it must be specifically authorized under State and Federal laws related to appropriation, fiduciary responsibility, budget availability, and cash availability before making expenditures and to draft the justification in the order of the criteria listed in the second paragraph above. It may be possible for charter authorizers to fulfill a role of oversight and monitoring similar to that of the State's Financial Control Division and the State Budget Division.

*Charter schools' expenditures show many instances where they neglect tax obligations or other payables.* For example, La Academia de Esperanza (LADE) had to pay \$5,414 to the IRS because tax deposits were not made in sufficient amounts by the dates required. LADE tried to have the penalty charges removed because of a transition in business officers but was unsuccessful in their efforts. Not paying bills in a timely fashion should be a financial warning sign and trigger additional financial oversight by a charter authorizer depending on the consistency and how widespread the problem may be.

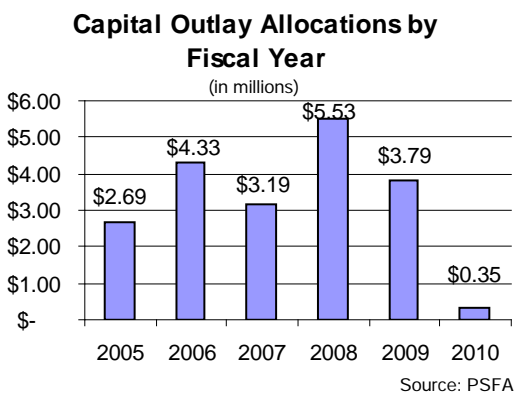
**Some founders, administrators and business managers contract with their charter schools for additional services.** These issues raise concerns over real, or potential appearance of, conflicts of interest. Specific language outlined in Section 22-21-1 NMSA 1978 prohibits governing board members and school employees from selling or being a party to any transaction to sell to, or contract with the department, school district or public school with which such a person is associated. However, there is much less specific guidance on whether they are to be employed in *any* capacity similar to language in Section 22-5-5 NMSA 1978. Further, the section also says any person violating any provision of this section is guilty of a fourth degree felony under the Criminal Code (Section 30-1-1 NMSA 1978). This section does not provide any guidance on conflicts of interest for founders, and even less clear is the nature of relationships related to contractual arrangements with the founder or governing body - approved family members. LFC staff discovered the below instances during field work:

- La Luz Del Monte (LLDM) has one of its governing body members acting as substitute at the school earning a total of \$165 over the last two fiscal years. La Luz Del Monte does not contract with substitutes but does have an additional contract with the business officer for \$700 to train other personnel on business office function and attend training on Saturdays for accounting procedures. This should have been an addendum to the regular contract and, as it stands, appears to be a violation of Section 22-21-1 NMSA 1978. La Luz Del Monte also contracts with an entity known as Southwest Educational Consultants for training, paying them \$11.7 thousand in FY09 and the invoice was billed to the same address as the school. A search of the web redirects to the school's website.
- Vista Grande contracted with the founder of the school (and current lessor of the School's property) for three separate contracts with scopes of work for instructional planning, strategic development and professional development totaling \$23 thousand.
- Las Montanas charter school conducts business with the founder's privately owned business and until January 1, 2010, used that organization's federal tax ID. The founder was signing service agreements for the school as a customer, and the school also paid \$17.8 thousand for a GMC Yukon it procured from the founder's company, Resources for Children & Youth, Inc. as well as leasing a 2002 Chevy Van for food services for \$1,047.95 per month. Las Montañas has many contracting arrangements that have the appearance of potential conflicts of interest, including an arrangement with Rio Grande Behavioral Health Services for \$145 thousand that Rio Grande

Behavioral Health said was procured through sole source procurement and did not go out to bid. A relationship map for various business transactions can be found below. The current administrator was hired after the school was founded and the board was established.



**Administrative guidance and regulations for lease agreements are needed.** Three basic contracting methods may be used when securing a facility for charter operations: use of vacant district space, leasing or purchasing. While school districts are required to provide charter schools with available facilities unless they are used for other educational purposes, some districts are reluctant to allow charter schools to occupy space that is being used as storage or administrative offices. Charter schools may access capital outlay funding from local mill levies and bond elections, state capital outlay distribution and Public Schools Capital Outlay Committee (PSCOC) lease reimbursement.

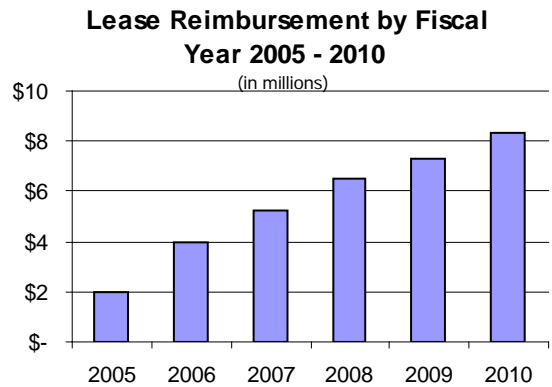


Though the PSCOC awards funds for lease assistance, in FY09, 75 percent of charter schools used operational funds to support lease agreements. In FY10, lease assistance awards paid for 64 percent of charter school lease agreements. PSCOC lease assistance awards are allocated by student membership, making it difficult for small charters to adequately fund facilities.

According to Public School Facilities Authority (PSFA), 98 percent of lease reimbursements were awarded to charter schools in FY10. Lease reimbursements have increased 315 percent from FY05 (\$2 million) to FY10 (\$8.3 million). In

FY10, 51 charter schools received lease assistance.

Lease-purchase arrangements are viewed as unfavorable business risks by lessors. Section 22-26A-5(H) NMSA 1978 states, “If state or school district funds, above those required for lease payments, are used to construct or acquire improvements, the cost of the improvements shall constitute a lien on the real estate in favor of the school district and then, if the lease purchase arrangement is terminated prior to the final payment and the release of the security interest or the transfer of title at the option of the school district.” As a result, charters such as Vista Grande have been unable to secure lease-purchase agreements.



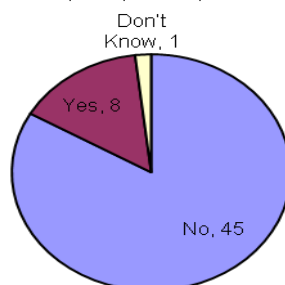
Instead, many charter schools enter into undesirable lease agreements. These agreements, unlike lease-purchases, are not reviewed by the PSFA. Regulatory guidance, particularly with regard to E-Occupancy, state adequacy standards and municipal codes, is deficient. The Public Academy for Performing Arts was shut down by the City of Albuquerque’s fire marshal because the school lacked appropriate sprinklers or fire exits. Senate Bill 140 of the 49<sup>th</sup> Legislature contained language to address school facility lease agreements but was ruled non-germane. Two schools in Taos, Roots and Wings and Vista Grande, have potential conflicts of interest in their lease arrangements as they lease with the founder. The founder for both schools is the same person. Roots and Wings identified the potential conflict of interest but still leases with the same individual due to limitations in site availability.

The Public School Code does not require arm’s length transactions regarding nepotism or founders’ interests in charter school lease agreements. The facilities environment for charter schools has seen the growth of private, specialty charter school developers that have large amounts of capital on hand to aid in start-up costs such as Charter School Property Solutions (CSPS), a California-based company.

Finally, only 1 of 16 charter schools (Las Montanas) provided a market rate analysis, which ensures that charters are paying a fair and reasonable rate. The State Property Control Division could serve as a valuable resource on market pricing during lease negotiations. The full potential cost of how much it will cost the state to move charter schools to public buildings has never been calculated.

**Charter schools have diversity in use of purchase and credit cards.** Charter school staff said much of this diversity is related to the small school environment.

**Charter Schools Using a Purchase Card Program**  
(54 respondents)



Source: LFC Email Survey

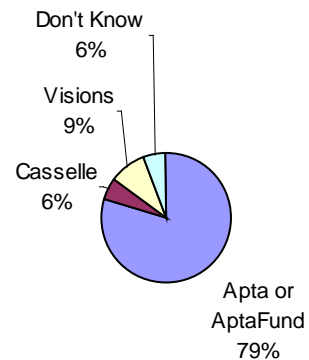
Results of an LFC survey indicate eight charter schools currently use a credit card for purchases. Of these eight schools, LFC staff visited five of the schools and reviewed the purchase card procedures and expenditures. The state DFA's Financial Control Division recommends that all agencies that have credit cards issued by oil companies replace them with Wright Express fuel cards from the Transportation Services Division of the General Services Department and recommends all agencies holding house credit cards from vendors (e.g. Office Depot, Wal-Mart and Staples) use instead the state's procurement cards. Charters and school districts are not bound by state requirements for using procurement cards, however LFC considers DFA's procurement card program a best practice. Charter schools have mixed implementation of procurement cards as illustrated below:

- Las Montanas had been using debit cards, a Sam's Club card and their own credit card in FY08 and FY09 before they were cancelled and the school applied to piggyback on the DFA procurement card in March of FY10.
- La Luz Del Monte has developed their own procurement card system using a Visa credit card. The site administrator said the controls built-in are the low limit of \$3 thousand. The teacher using the card also has to log out the card and bring back a receipt. The business officer also reconciles the receipts and the administrator has to sign off. This is different than the DFA card, which has limits on both spending and access. LLDM has developed policies and procedures for the credit card usage.
- Vista Grande has been using Sam's Club and Wal-mart cards. Vista Grande requires a hard copy of a purchase order requisition to be attached before usage is allowed.
- Amy Biehl Charter High School uses a MasterCard for travel and postage purchases. The school has policies and procedures regarding card usage, and the administrator has sole signatory responsibilities.
- Turquoise Trail Charter School, one of the first charter schools and a conversion charter, has a MasterCard and policies and procedures that give the administrator full signing responsibilities and also outlines that statements will be paid in full monthly.

**Charter schools' accounting information system is adequate, though improvements could be made and financial data is stored in Canada.** LFC contracted with Computational Analysis and Network Enterprise Solutions, LLC (CAaNES), 50 percent owned by the New Mexico Tech University Research Park Corporation to conduct a limited information technology review of the accounting systems used by one charter school. Approximately 79 percent of charter schools are using the accounting software provided by the same vendor. Therefore, only one charter school was approached for the limited review. Amy Biehl Charter High School allowed LFCC and CAaNES the opportunity to evaluate their system.

CAaNES found some security issues that were immediately corrected and that ultimately appeared to improve the product; the remote data center had not gone through a Statements on Auditing Standards (SAS) 70 security audit; and a business continuity plan is not available in case of catastrophe. The remote data center holding Charter school financial information is located in Canada. Charter schools need to ensure that the State and federal requirements

**Accounting Software in Charter Schools**



Source LFC Email Survey

for financial and other data are protections are adequately reflected in their contracts.

**Student transportation arrangements differ among charter schools.** According to Section 22-8-26 NMSA 1978, money in the transportation distribution of the public school fund shall be used only for the purpose of making payments to each school district or state-chartered charter school for the to-and-from school transportation costs of students outlined within statute. Pursuant to Section 22-8B-4 NMSA 1978, locally chartered charter schools shall negotiate with a school district to provide transportation to students.

In practice, the decision to provide student transportation is a discretionary choice for all charter schools. Eight charter schools visited negotiated transportation services with their respective school districts. Other charter schools stated that districts were reluctant to negotiate with their charter schools or elected not to provide student transportation. If charters are unable or opt not to provide transportation services parents and guardians are responsible for providing student transportation to-and-from school.

### **Recommendations**

#### ***Statutory***

Amend the Public School Code or the General Appropriations Act to require all public school districts and charter schools to implement procurement card programs, should they choose to implement a purchase card program, that conform to the program authorized by DFA.

Extend the deadline for putting charter schools into public buildings by 2015 until the full potential cost is examined. Consider only allowing charters that exceed performance and financial standards during their initial five year authorization for publicly financed or procured facilities.

Require the PEC or a local school board that authorizes charters to review and approve leases that may involve founders to ensure arm's length transactions and market rate analysis to ensure fair prices.

#### ***Regulatory***

PED may consider placing limits on how many schools for whom licensed business officers may provide services. PED may also consider better clarification on expected business practices for licensed business officers.

Charter authorizers should create accounting cost centers to track direct services negotiated with charter schools for the administrative withholding of SEG funds to help determine sufficiency.

Consider having PSFA review leases for language and costs prior to approving lease assistance awards and authorize adjustments to the per student lease payments for charter schools in need due to unusually high market prices that may directly impact operational funding.

PED should issue guidance on how it would apply withholding of state aid payments due to late audits, including guidance for withholding state aid due to component unit non-compliance.

**OVERALL, STUDENT OUTCOMES AT NEW MEXICO’S CHARTER SCHOOLS ARE NOT BETTER THAN OUTCOMES AT TRADITIONAL SCHOOLS.**

**Prominent national studies have shown that charter schools do not outperform traditional schools.** In June 2010, Mathematica Policy Research conducted an impact evaluation for the Institute of Education Statistics that found “on average, charter middle schools that hold lotteries are neither more nor less successful than traditional public schools in improving student achievement, behavior and school progress.” The same study found varying levels of student outcomes across charter middle schools with larger positive impacts on math for schools serving more low income populations.

PED contracted with the Center for Research on Education Outcomes (CREDO) at Stanford University to analyze charter school performance in New Mexico. The June 2009 CREDO report stated, “The typical student in a New Mexico charter learns significantly less than their virtual counterparts in their feeder pool in both reading and mathematics.” CREDO released another report in June 2010 which found that charter schools improved their performance but that performance is essentially similar to traditional schools. The 2010 report also noted that students in poverty enrolled in charter schools received no significant benefit or loss. The results of the CREDO study’s comparison of charter and traditional school performance within commonly reported student groups are shown below.

**Charter School Performance by Student Group, 2010**

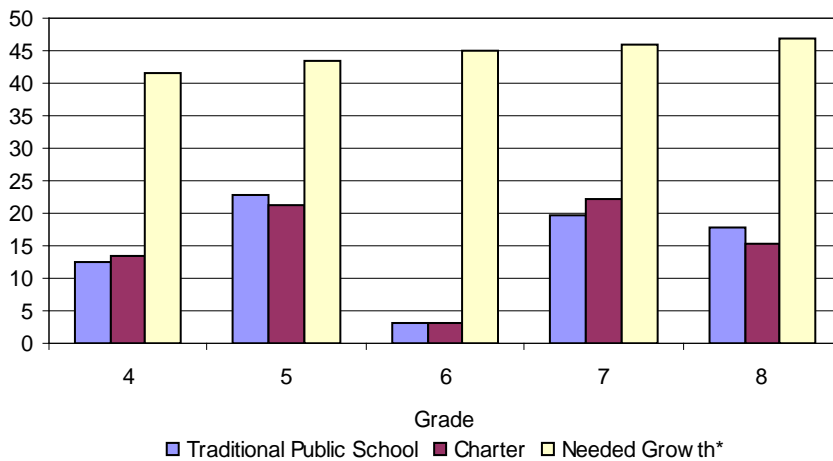
| <u>READING</u>   | <u>MATH</u>                |
|--|----------------------------|
| <b>Charters provided significantly BETTER results for these groups</b> |                            |
| English Language Learners  |                            |
| <b>Charters provided significantly WORSE results for these groups</b>  |                            |
| Native Americans   | All Students               |
|  | Hispanics                  |
|  | Native Americans           |
| <b>Charters provided SIMILAR results for these groups</b>              |                            |
| All Students   | Students in Poverty        |
| Hispanics  | Special Education students |
| Students in Poverty  | English Language Learners  |
| Special Education students   |                            |

Source: CREDO

**Despite substantial funding, charter school performance on common metrics, such as proficiencies, growth, and graduation, is similar to traditional schools.** For SY08-09, about 32 percent of all schools statewide made Adequate Yearly Progress (AYP); 47 percent of school districts met AYP, 46 percent of charters did meet AYP.

**Charter school performance on the New Mexico Standards Based Assessment (SBA) is similar to traditional schools.** For SY09, the percent of students achieving proficiency on math at charter schools was about 37.5 percent; the percent of students achieving math proficiency at all public schools was about 40.5 percent. About 55.5 percent of charter school students and about 54.5 percent of all public school students reached proficiency in reading. Proficiency data is a common measure for student performance but charter school data can vary considerably while schools are growing rapidly. Often charter schools are smaller school sites than traditional public schools and therefore a slight increase or decrease in the student population of charter schools can have a large impact on the number of students scoring proficient or above. In addition, due to FERPA concerns, PED does not produce results for groups of students numbering less than 10 so many charter schools will not have grade level data reported.

**Average Growth in Reading Scale Score SY08-SY09**

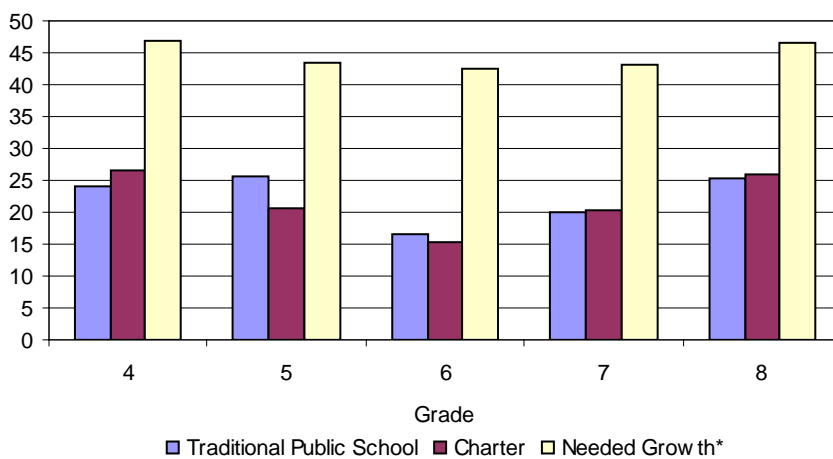


\*Growth needed to move from the midpoints of the nearing proficiency to proficient cutscore interval. Source: PED

scoring proficient or above. In addition, due to FERPA concerns, PED does not produce results for groups of students numbering less than 10 so many charter schools will not have grade level data reported.

**Student academic growth at elementary and middle school charters was similar to growth at traditional schools.** The change in student scale scores was averaged for math and reading in all grades for which it is possible to have two years of growth.

**Average Growth in Math Scale Scores SY08-SY09**



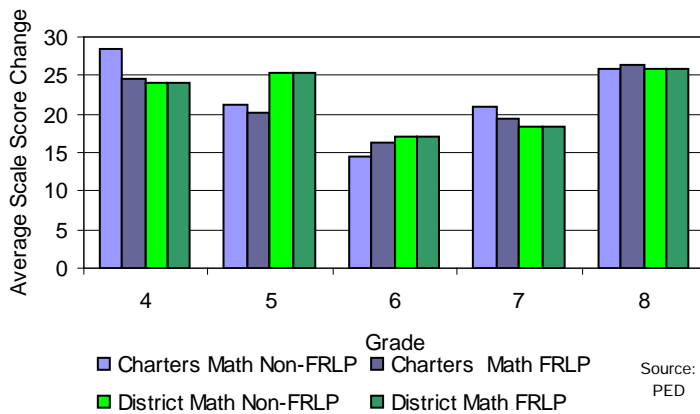
\*Growth needed to move from the midpoints of the nearing proficiency to proficient cutscore interval. Source: PED

Charter schools average scale score gains for both subjects closely mirror traditional public school scale score gains. As the NMSBA is vertically aligned, schools should always expect to see some growth. Neither charters nor traditional schools were able to achieve the amount of growth necessary to move from the middle of the scale score band for nearing proficient to the middle of the scale score band for demonstrating proficiency. Practically speaking, moving from midpoint to midpoint would be extremely rare.

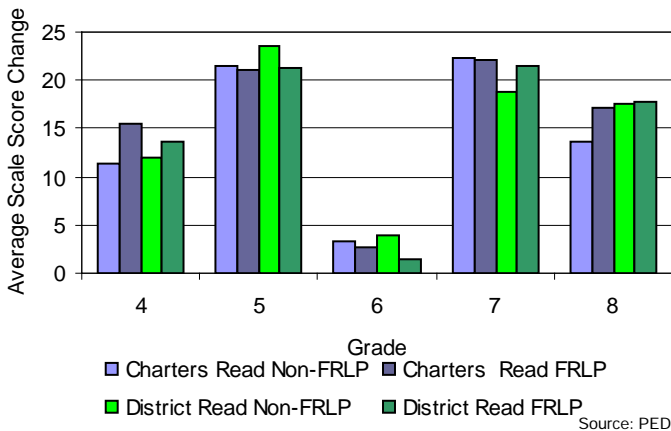


*For SY09, about 39 percent of economically disadvantaged students at charters were proficient in reading, a gap of about 16 percent. About 23 percent of economically disadvantaged students at charters were proficient in math, a gap of about 14 percent.* Statewide, 46.1 percent of economically disadvantaged students were proficient in reading and 32.5 percent of economically disadvantaged students were proficient in math.

**Charter and Traditional Public School Math Achievement Gaps**



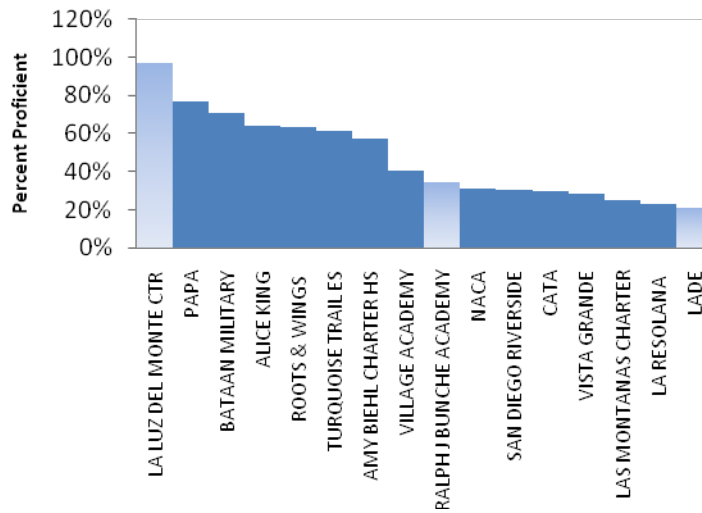
**Charter and Traditional Public School Reading Achievement Gaps**



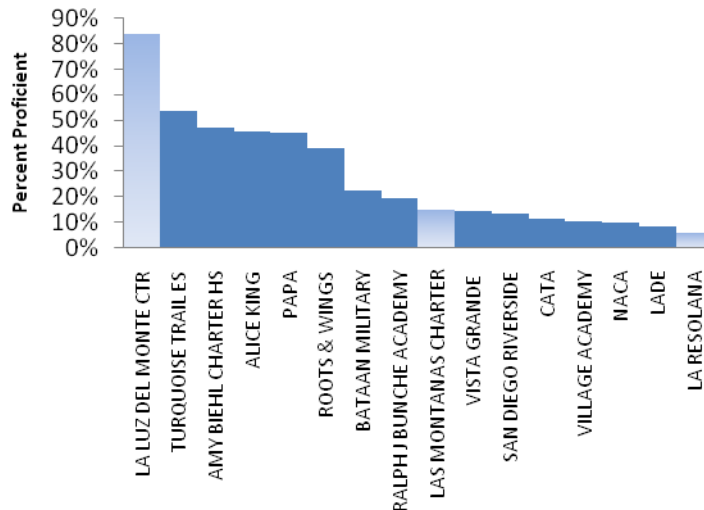
*Neither charters nor traditional public schools achieve the growth required to quickly close achievement gaps.* Charters struggle with some of the same problems in student performance as traditional public schools. Charter school students eligible for the free and reduced lunch program had growth similar to their traditional school peers. As this descriptive data shows, average scale score gains are very similar among all groups of students. Differences in scale score gains or losses may be attributable to the number of students averaged. Static scale score gains in both populations' shows that neither traditional public schools nor charter schools are closing the socioeconomic achievement gaps; in order to close gaps, economically disadvantaged students would need average scale score gains that are much higher.

*Like traditional schools, those charter schools with a high proportion of economically-disadvantaged students struggle to achieve high levels of proficiency.* The charts below shows the proficiency levels for the 16 site visit schools.

Charter School Site Visit Schools Reading Proficiencies, SY09

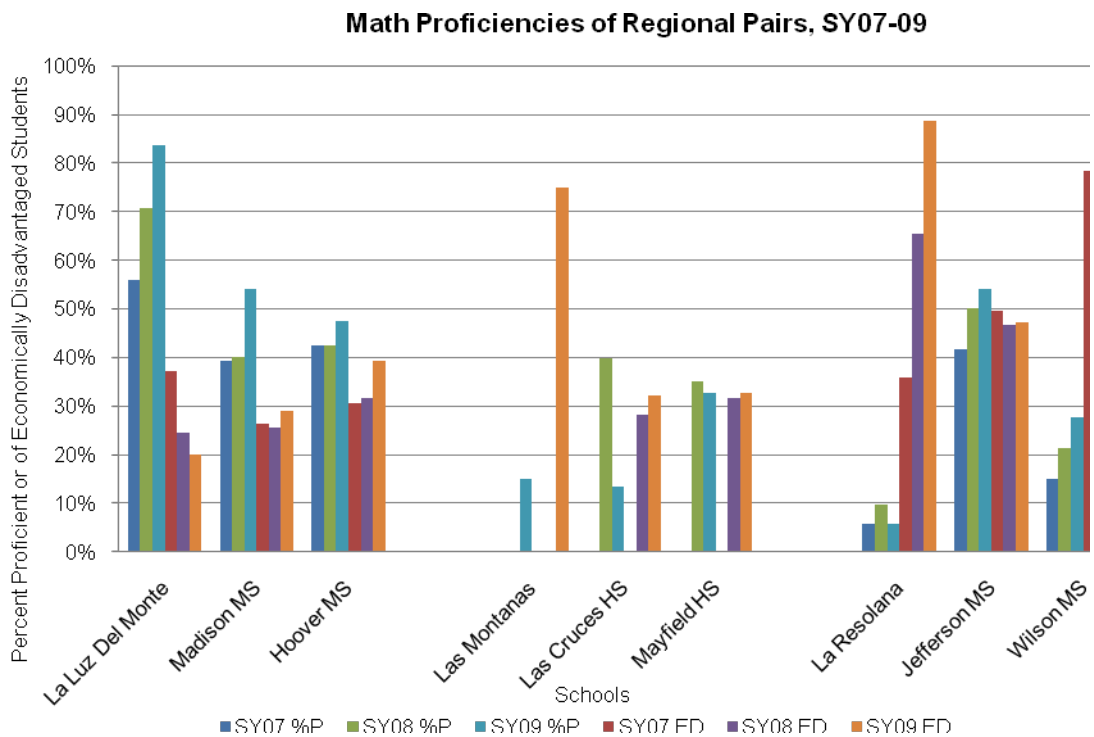
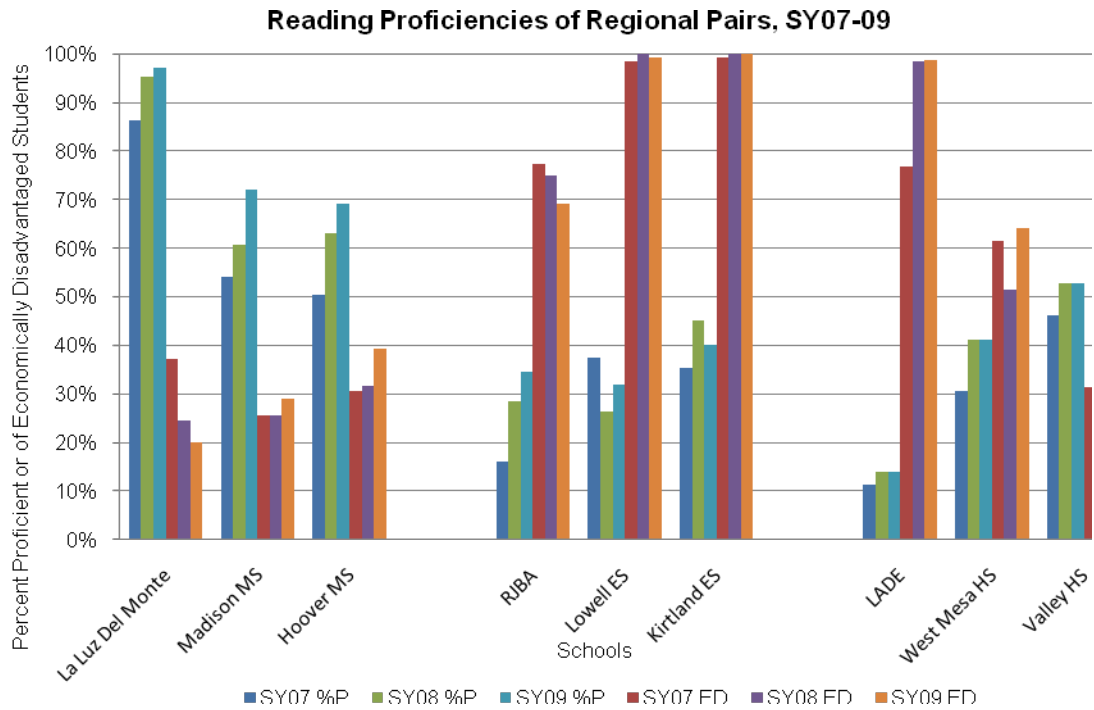


Charter School Site Visit Schools Math Proficiencies, SY09

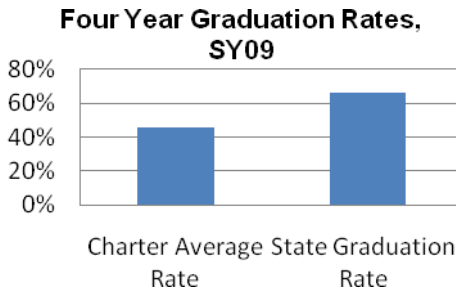


La Luz Del Monte has some of the highest levels of students scoring proficient and above in the state but also has a decreasing percentage of economically disadvantaged year after year. La Luz Del Monte’s peer groups of traditional public schools have increasing percentages of economically disadvantaged students year after year and decreasing rates of students scoring proficient or above. Also, the peer analysis shows some schools serve radically different populations than their regional peers as is the case with La Academia De Esperanza, where the majority of students are at-risk and economically disadvantaged. The analysis shows that some schools with large economically

disadvantaged populations also do about the same as traditional public schools that serve less economically disadvantaged populations as is the case with Las Montanas and Las Cruces High School in SY09.



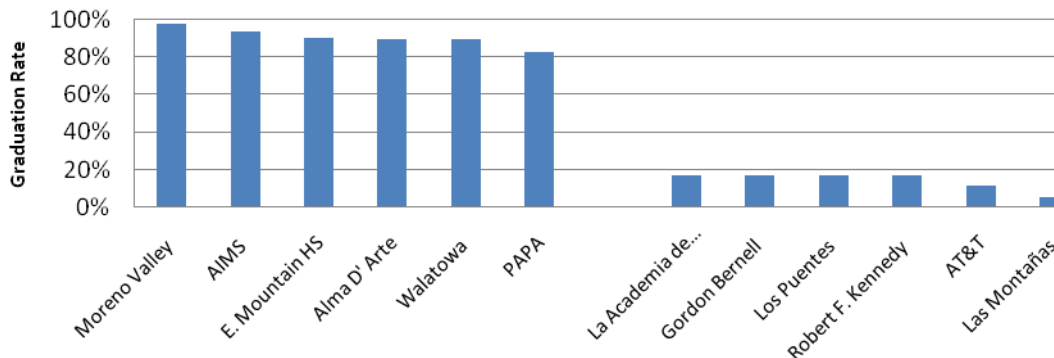
**Almost half of charter schools are high schools.** Thirty-five of the 72 (48.6 percent) of the charter schools operating in FY10 provide education to grades nine through 12 and 53 percent of the charter school students in the state are enrolled in high school. Charter schools represent roughly one fifth of the state’s total high schools. Due to the grades tested (currently only eleventh grade), an analysis of growth in scale scores is unable to be conducted.



**Charter schools on average have a lower graduation rate than traditional public high schools.** Thirty two of the 35 charters had 2009 cohort graduation data available. These 32 charters had an average graduation rate of 51.4 percent, compared to the state average of 66.1 percent. Charter schools also have a bimodal distribution in graduation rates, with many of the schools serving at risk or special student populations having very low graduation rates and other schools with student populations that have less of the academic indicators commonly associated with poor student performance having

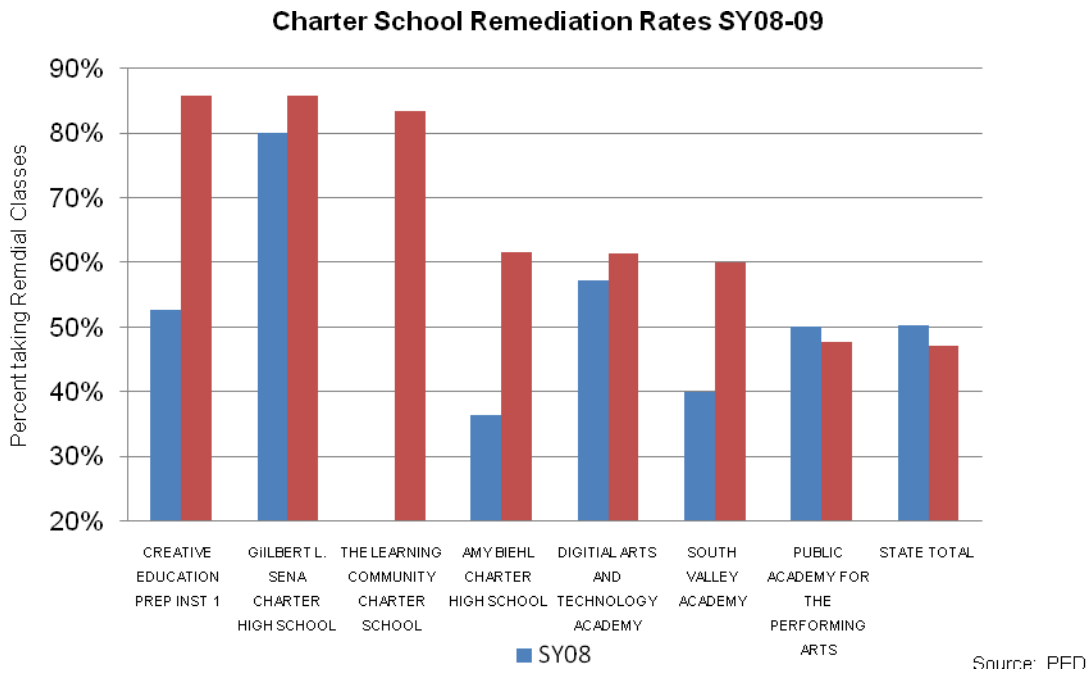
very high graduation rates. The top five charters had an average graduation rate of 92.2 percent; the bottom five charters had an average graduation rate of 13.4 percent.

**Bimodal Graduation Rates Among Charter Schools, SY09**



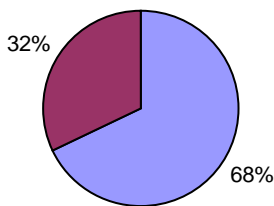
**Charter school graduates had a greater need for remedial coursework than did graduates of traditional schools.** When enrolled in New Mexico’s higher learning institutions, 53.7 percent of charter school graduates required remediation as compared to 47.1 percent of traditional high school graduates in 2009. Charter students did outperform graduates of public alternative high schools, 64.2 percent of whom required remediation. Charter school remediation rates calculated by the New Mexico Office of Education Accountability show that seven of the 15 schools for which data was available have a greater remediation rate than the state total remediation rate. Charter schools are at a greater disadvantage when serving youth that enter school below grade level as the traditional methods for addressing students performing below grade level, like district-wide vertical alignment initiatives, are unavailable. Some site visit schools have therefore begun early identification efforts using entrance tests to target remedial instruction. For example, approximately 40 percent of incoming freshmen at Amy Biehl test two or three grade levels behind in reading and/or math and at CATA conversations with the curriculum

director indicate that their students enter at least one grade level below standards and benchmarks. Both Amy Biel and CATA said increased instructional time to bring students up to grade level.



**Overall, charter schools have fewer economically disadvantaged students.** On average, according to NMSBA data for SY09, 48 percent of students at charter schools are eligible for free and reduced lunch whereas 68 percent of students at traditional public schools are eligible. This may be the result of failure on the part of the individual schools to solicit free and reduced lunch eligibility forms, or neglecting to participate in the program because they do not serve lunch. Many charters are high schools and high schools tend to have fewer students participating in the program. Charter schools also tend to have fewer special education students.

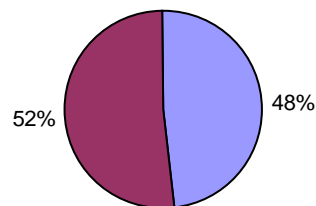
**District Schools Free and Reduced Lunch Eligibility, Grades 4-8**



■ FRLP ■ Non-FRLP

Source: PED

**Charter School Free and Reduced Lunch Eligibility, Grades 4-8**



■ FRLP ■ Non-FRLP

Source: PED

**No systematic effort currently exists to identify innovative education practices nor is there any process to transfer innovations to traditional public schools.** Charter school administrators declare several innovations associated with charter schools, including specialized education program concepts, service delivery methods, or structural changes (see Appendix A with charter school concept map). Some of the proposed innovations are available elsewhere in traditional public schools or are old concepts being tried anew. Many of the concepts, service delivery methods or structural changes administrators identified are not unique to charter schools. Charter school administrators said bringing new, untried education programs to the New Mexico education landscape should be considered innovative. Although a list of all of the self identified innovations would be exhaustive, many of the charter schools use similar approaches unavailable to traditional public school students. A summary of these self-identified, proposed innovations is provided below.

### Concepts

- Health or culture-oriented curriculums,
- Expeditionary learning,
- Online learning,
- Performing or visual arts-related curriculum and
- Schools that focus on career readiness or at-risk and other specialized student populations.

### Specialized Service Delivery Method

- Technology as a supplement to education programs or as a service delivery method,
- Blended classes (e.g., humanities covering Social Studies and English) or thematic unit teaching,
- Project-based learning (e.g., where children are actively creating arts and crafts based projects the majority of the day),
- Application-oriented learning
- Team or group learning
- Internships
- Kinesthetic learning (motion oriented instruction) and
- Brain-based research or multiple learners' perspectives (e.g. service delivery based upon psychology theories of how students learn).

### Structural Changes

- Small school size,
- Site-based management,
- Low student teacher ratios,
- Change in start and end times or block scheduling,
- Increased advisory and guidance roles for administrators or support services,
- Decreased or eliminated use of textbooks,
- Different grading scales (e.g., not giving any F's and children have to attain 70 percent or higher) and
- Partners with other non-profits (e.g. Teach for America).

Charter school operators indicated that innovation transfers take place, but also identified them as market driven or similar to innovation in traditional public schools. Other stakeholders, including staff from the NMCCS and PED's CSD said the multiple curricula approach and innovative education

practices are not the true innovation of charter schools and that the idea of site-based management and government are the true innovations of charter schools. When combined with the willingness to be closed down at the renewal process, these market-based approaches should represent an expansion of the idea of innovation of charter schools.

## **Recommendations**

### ***Regulatory Changes***

Charter Authorizers should establish specific student performance criterion for new charters and those seeking reauthorization that is Specific, Measurable, Attainable, Realistic and Timely (SMART). Performance criteria should also include SMART metrics to assess any unique mission of the charter – such as improvements for severely at-risk students other than standardized test scores.

Charter authorizers should consider the student populations of comparison schools when looking at snapshot student performance data of charter schools, particularly schools that serve large populations of economically disadvantaged or at risk students.

PED should identify and disseminate through web site any best practices found at top performing charter schools to promote innovation transfers.

## **THE CHARTER SCHOOL APPLICATION AND RENEWAL PROCESS NEEDS RIGOR AND OVERSIGHT, MONITORING AND GOVERNANCE NEEDS IMPROVEMENT**

**The application and renewal process needs additional steps to ensure charter school success and better use of state assets.** Although an improvement over non-existent processes early after the Charter School Act's passage, the current application process does not provide for adequate review of business plans. Best practices for charter school authorizers require rigorous business plans with market analysis to demonstrate that the school has the capacity to carry out its plan. The current state application process includes statements of need and budget narratives; it also requires applicants to provide information on financial viability, soundness of revenue projections, and expenditure requirements. Preliminary budgets, however, estimate the number of students to be served but do not adequately support assumptions made in these quasi-business plans. Examples include estimates for teacher training as well as varying costs for audit services.

***Improved communication between PED's Charter School Division and the PED's School Finance and Analysis Bureau will help determine if state charter start-up and renewal applications should be granted.*** State charter schools financial audit findings reflect on the agency as a whole and the School Finance and Analysis Bureau has an interest in ensuring the financial viability of proposed charter schools. Communication between these two divisions of PED during the application and review process will result in increased safeguarding of the state's assets. A similar process should be enacted at local authorizers.

***Statements of need lack supporting documentation, such as petitions of community support, in seven of the eight applications approved by the PEC.*** Often statements of need point to the existence of other charter or private schools in the area and it is unclear how this supports the need for another charter school. Instead, these statements should provide clear and concise evidence of the demand for a charter school in the community being served, preferably through a process similar to the petitions required for renewal applications. Some locally chartered charter schools that provided early initial applications did not provide projected enrollment.

***Applications lack detail regarding facilities.*** New Mexico is a leader in requiring explanations of potential facilities in the application process and in providing equal access to capital outlay funding for charter schools. During the application and renewal process, however, the descriptions of the schools' intended facilities are often inadequate. Many applications indicate plans to form building committees to identify sites after approval. In addition, the costs associated with facilities are vague. In one instance, a proposed budget for a state charter school described the need to use operational funds to make up a shortfall in the PSCOC lease reimbursement program.

Improper facilities planning may result in homeless charters. In several instances, facilities plans have unexpectedly changed due to circumstances beyond the applicants' control. This has resulted in some schools moving through multiple sites. Additionally, many schools have accrued expenses to store furniture and materials during and after these transitions.

The preopening checklist that is currently being used by CSD does not require a review of the facilities. APS is currently revising its preopening checklist. PSFA is developing a timeline to accompany their input regarding facilities. PSFA is uniquely positioned to oversee the facilities portion of the application



and has the institutional knowledge to ensure proposed budgets adequately reflect how the charter school will remain economically sound.

**Charter documents need improved performance measurements to allow nonrenewal of poorly performing charter schools.** Many performance measures currently in place are insufficiently specific, measurable, attainable, realistic and timely (SMART). Student performance on the New Mexico Standard Based Assessment (NMSBA) is not required as a benchmark, though CSD factors this as part of the state renewal process. Financial performance indicators, limited to audit findings and resolutions, are insufficient. Not having performance measures that are objective and measurable leads to conflicts during the renewal process regarding the subjectivity of renewal determinations. The state should not be renewing poorly performing charters. The National Alliance for Public Charter Schools recommends charter applicants identify performance measures, including but not limited to:

- Student academic proficiency,
- Individual student academic growth,
- Closing achievement gaps in both proficiency and individual student growth;
- Attendance,
- Recurrent enrollment from year to year,
- Postsecondary readiness (for high schools),
- College remediation rates for graduates,
- Financial performance and sustainability and
- Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.

*The state should consider moving from a reactive application process to a proactive request for proposal process that can target the role of charter schools in the large education landscape.* Currently the application process that charter authorizers use does not allow charter authorizers to consider the need of the proposed start-up charter school in the larger education landscape. For example, the PEC approved three charter schools with missions to provide programs targeting science, math, engineering and technology (STEM) and two charter schools with missions focused on supplementing curriculum with the arts. There is no process by which charter authorizers can solicit applications for targeted education programs in certain areas of the state; if an authorizer wanted more STEM schools and only received applications for arts schools, then it would have to issue charters for arts programs.

*Non-renewal of charters is a challenging but important role for authorizers.* Many times charter authorizers have to balance their roles as facilitators and regulators. One school's charter was renewed as a State-chartered charter school by the PEC despite CSD's recommendation for nonrenewal. It is unknown if this process is common among local authorizers. Formalizing this process in law and making it binding based upon measurable and objective performance measures will prevent the state from funding poorly performing schools in perpetuity.

In interviews, CSD staff have stressed that each application is evaluated as a whole. Best practices for charter application processes say authorizers should "grant charters only to applicants that have demonstrated competence in *each* element of the authorizer's published approval criteria and are likely to open and operate a successful public charter school."

**Improved oversight and monitoring of charter schools is needed.** Unlike traditional school boards, governing bodies at charter schools are not publicly elected and are, therefore, ultimately accountable to their authorizers.

*Many schools shared common challenges during their initial chartering time period.* These challenges include: turnover in charter governing council members, administrative turnover, conflicts between administrators and business managers, declining enrollment, disconnects between projected and actual populations of students, procurement code or other state business regulation violations, and facility changes. Charter schools are particularly susceptible to these obstacles during their first three years and call for heightened oversight during this period. CSD currently uses self-reporting to monitor charter schools, while APS monitors charters annually.

*CSD's open and transparent application and renewal process serves as a model for districts.* CSD has considerable information for applicants on its website and provides guidance on a range of charter school issues. CSD has made it an organizational goal to be a model authorizer, and local authorizers are increasingly using its practices. One example of this type of best practice is that many state-approved charter schools revise their original application to serve as a more functional operating charter.

*Charter school administrators need financial oversight training.* Many charter schools (nine of 16) contract business office functions and rely on the expertise of these vendors. The most common—and sometimes the only—performance measure of business office functions is audit findings. Performance measures should focus on issues impacting going concern; requests for reimbursement, projected versus actual enrollment figures, budget adjustment requests and timeliness of payables. Many charter school administrators are not familiar with all of the workings of the state procurement code, despite adopting its regulations as their own. Many contractors see their role as advisement; authority for the financial well being of the school resides with site administrator and the governing board.

*The financial information charter school governing bodies receive and their members' level of training varies.* Some charter schools' governing bodies do not receive payables or a check register report, budget adjustment reports, budget summaries, or bank reconciliations. Some charter school governing body members lack knowledge about reading budgets, government fund accounting, the procurement code and standard financial reporting documents.

**Governance reforms to disclose and prevent conflicts of interest are necessary.** The relationship between a school's administrator and its governing body represents a potential conflict of interest. Administrators who also found schools select board members; similarly, some administrators select replacements to the governing body. These governing bodies, in turn, approve administrators' salaries and hiring recommendations. In some instances administrators have hired immediate family members, though this is in compliance with Section 22-8B-10(B) NMSA 1978 or took place before it was enacted. Additionally, six of the 11 charter school governing body members had not signed a conflict of interest disclosure form. Financial auditors also expressed concern over family hiring in many of its audit findings for charter schools as well.

**Lottery admission requirements need improved guidance.** Lottery methods vary widely between schools. In cases where the number of students applying to a charter school exceeds the number of students allotted at that school, a lottery is used to determine admission. How to conduct the lotteries,

how to weigh and exempt populations, and what to include on the applications is unclear. It appears that each method is aligned to Section 22-8B-4.1 NMSA 1978. Charter schools varied in how they conducted the lottery; some administrators hold the lottery in private and others opt for drawings that are open to the public.

Charter schools also vary in how they weight lottery application procedures. A school that focuses on serving students from low socioeconomic backgrounds, for example, is unable to give preference to these families through its lottery. In contrast, another school gives preference to students returning from an “approved leave of absence.” State guidelines do not clearly indicate whether these are allowable procedures.

Finally, the content of lottery applications varies. While some schools only request contact information, others include specific questions regarding special education status, last school attended, and parents’ employers; this information is not prohibited by state statute. Another school, however, requires the students to write a “letter of intent,” a practice that does appear to be prohibited. Lottery guidance from the federal government and PED is insufficient to determine whether these practices represent infringement on equal access to the school.

## **Recommendations**

### ***Statutory Changes***

The Legislature should amend statutory language for the application process outlined in Section 22-8B-6 NMSA 1978 to require a market analysis that justifies the need for a charter school in the community and incorporate a community petition with signatures totaling 75 percent of the proposed student population.

The Legislature should amend statutory language for the application process outlined in Section 22-8B-6 NMSA 1978 to require review and approval of proposed facilities in new applications by PSFA’s planning and development division. Start-up applicants should propose multiple facilities that meet required E occupancy standards as well as PSFA’s occupancy standards. The legislature may consider requiring PSFA to review existing charter school facilities for adherence to facilities standards and at any time a charter relocates to new facilities.

The legislature should formalize the process where in charter schools are granted renewal charters with conditions into statute. Renewal charters with conditions should be granted only once and contain objective and measurable performance targets that are binding on authorizer renewal decisions. This would mandate the closure of poorly performing schools.

The legislature should reformat the current application process to move from the current reactive process that requires authorizers to consider all education programs to a more proactive targeted request for proposal (RFP) process that allows charter authorizers to target specific education programs for delivery to their student populations.

## ***Regulatory Changes***

The Public Education Commission and local school districts should not process new charter applications submitted for approval until other changes recommended in this report to the application/renewal process are implemented.

The Public Education Commission and local school districts should consider not approving any pending applications until a new system of rigorous approval and oversight is established and facilities issues resolved.

PED should change the state charter application process so that applications and preliminary budgets are reviewed by both the School Finance and Analysis Bureau and the Charter Schools Division at PED. Local authorizers should amend the local charter application processes so that applications and preliminary budgets are reviewed by the Budget, Planning and Analysis Departments or similar entities. Focus the review of proposed budgets and budget narratives on sustainable and accurate projections and ensure budget narratives provide support for cost assumptions.

Charter authorizers' pre-opening checklists should include an inspection of the suitability of facilities by PSFA's Planning and Development Division and the charter authorizer.

Charter authorizers should monitor charter schools at least annually, increasing this requirement to quarterly reporting when common academic and financial indicators of school challenges arise. A portion of the administrative funds withheld from charters should finance this monitoring.

Prior to opening, all potential charter school administrators should be required to attend financial oversight training that includes responsibilities of the school under the procurement code and required financial reporting.

Increase the rigor with which charter school authorizers review charter school applications so that applicants demonstrate competence in *each* area of the application. Require that charter schools have measurable performance objectives, both academic and financial, to minimize ambiguity in renewal decisions. More attention should also be paid to the governance mechanisms in the re-authorization process.

Charter authorizers should exercise their responsibility to close or not approve schools for lack of demonstrated competence in *any* section of the start-up or renewal application.

Charter school administration officials should present governing body members with standardized forms of financial reports including, but not limited to: payables or a check register report, budget adjustment reports, budget summary that provides an overview on budget status, and bank reconciliations.

Charter school governing body members should have a conflict of interest disclosure form on file with the school or charter authorizer.

PED's CSD should clarify the lottery process to ensure that schools comply with state law, including how to conduct the lottery, preferences allowed and application content.

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SECRETARY OF EDUCATION

BILL RICHARDSON  
Governor

July 20, 2010

*MEMORANDUM*

**TO:** *David Abbey, Director, Legislative Finance Committee*

**FROM:** *Susanna Murphy, Ph.D.*  
*Secretary of Education Designate*

Sheila Hyde, Ph.D.  
Deputy Secretary

**RE: PED RESPONSE TO LFC PROGRAM EVALUATION: STATE & LOCAL  
CHARTER SCHOOLS**

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The Public Education Department (PED) would like to commend the Legislative Finance Committee (LFC) for dedicating a significant amount of time to the study of charter schools in New Mexico and for focusing on some important issues that educational reformers are addressing throughout the nation. This focus will inform educational policy as we define quality educational outcomes for all students attending public schools, whether traditional or charter.

We also thank the Legislature for providing an alternative educational setting to parents and students in the public school system. Charter schools provide an opportunity to create new, innovative, and more flexible ways of educating children.

Over the past two to three years, the PED's Charter Schools Division undertook the challenge to be a model authorizer and has implemented and placed into practice best practices. As authorizers have adopted the best practices modeled by the division, improved results in performance and accountability have followed.

A few of the LFC's proposed recommendations do not recognize that new processes and practices are being implemented.

Further, the Public Education Commission has only been authorizing charter schools for three years (since September of 2007) while local districts have been authorizing schools since the inception of the Charter Schools Act. The LFC report bases most of its recommendations on information derived from the past practices of local district authorizers.

It is important to note that the PED's Charter Schools Division has aligned the practices that it has disseminated to authorizers with the standard reiterated by the National Association of Charter School Authorizers (NACSA) that "quality authorizing practices create quality charter schools."

Many of the recommendations in the LFC's report revolve around the cost of charter schools. The report raises issues regarding disparities in how the funding formula is implemented, particularly as it relates to charter schools and small districts. It seems to imply that charter schools are solely responsible for the potential differences that the funding formula allows. But the comparisons that are made in the report do not appropriately compare budgets of similar entities or consider the students being served. In comparing charter schools to large districts, the report exaggerates the disparity that may exist.

The LFC recommends changing the funding formula in the areas of school size and growth. These changes will impact charter schools and may have unintended consequences for many small districts. Certainly, charter schools will find it harder to succeed, both financially and programmatically.

Finally, the report concludes that new charter schools should not be approved until the Legislature acts on the recommendations put forward. Let us be clear: the recommendation for the Public Education Commission to not process new charter applications until changes to the application/renewal process are implemented and the state's finances stabilize is contrary to law. Section 22-8B-6 C NMSA 1978 states: "if an application is submitted to a chartering authority, it **must** process the application."

### **LFC Recommendations Regarding Charter School Funding**

The evaluation report makes several recommendations with regard to how charter schools are funded. It recommends exempting charter schools from receiving small school size adjustments and clarifying the growth required for charters and districts to qualify for additional units based on their size.

The funding formula adjustments exist based on the Legislature's recognition of the unique needs of charter schools and small districts. Further, growth factors for charter schools are limited based on the enrollment cap for the charter school while districts have no such cap on enrollment and can receive the benefit of growth calculations ad infinitum.

In a thorough analysis of charter school funding completed in 2010 by Ball State University, it was found that charter schools in New Mexico receive nine percent less per pupil revenue than do school districts. These conclusions are based on a methodology that accurately reflects the true disparity that exists between charter school funding and traditional school funding.

The report identified that the percentage of total revenue that charter schools receive is less than the percentage of the total enrollment that they serve. The chart provided on page 49 of the LFC's report attempts to compare the average cost of charter schools with the state's average cost for schools. It is not possible to make such an "apple-to-apple" comparison.

While the Ball State study demonstrated that disparity of funding for charter schools exists across the nation, it did acknowledge the strides that the Legislature has made in New Mexico to diminish this inequity of funding and ranked New Mexico as 2<sup>nd</sup> in the nation for closing the funding disparity for charter schools. It further ranked the Albuquerque Public Schools as the number one district in the nation for closing the district funding disparity.

Some of the more significant findings from the Ball State report are:

- New Mexico charter schools received \$9,240 in revenue per pupil compared to \$10,149 in revenue for district public schools
- Albuquerque charter schools received \$9,268 in revenue per pupil compared to \$9,709 for district public school students
- Charter schools in New Mexico serve 3.1 percent of students but receive 2.8 percent of total public school revenues
- Statewide charter schools receive less federal revenue per student than districts (\$600 vs. \$1,391)
- Charter schools receive less local revenue per student (\$303 vs. \$1,439)
- Charter schools receive more state revenue (\$8,337 vs. \$7,319). One factor contributing to charter schools having higher state revenues than district schools is the higher high school student population.

Exempting charter schools from small school size adjustments will make it more difficult for small charter schools to generate enough money to be self-sufficient and provide educational services to students.

The growth units for charter schools are necessary as charter schools have to expand rapidly to provide for an increased number of students entering a school (grades may be added each year as schools complete their “phase-in plans.”) The increase in student population requires an increase in staffing, materials, equipment, and infrastructure, among other areas.

Further, the LFC report points out that charter schools and small districts have “diseconomies of scale” and as a result are more costly for the state. However, state-chartered schools exist as local educational agencies (LEAs) and are required to operate and perform all of the duties that a district must perform. These additional requirements demand that head administrators at these charter schools perform many of the duties assumed by a district superintendent and all of those associated with a school principal. Since the state charter schools do not receive a benefit from a district-wide infrastructure and support personnel that larger school districts can afford, the administrative responsibilities of a state charter administrator equate more directly with those of a small school district. It is, therefore, not uncommon for administrative costs at a charter school to represent a larger portion of the total expenditures than for a school district.

We disagree with the finding by the LFC that the funding formula treats charters and school districts differently based on size. The funding formula is applied equally to both charter schools and school districts based on statutory requirements.

We further disagree that the funding formula singles out charter schools for favorable treatment by allowing them to generate higher funding using a district's T&E Index rather than the charter school's own T&E Index. New charters do use the district's T&E Index, but the following year they use their own T&E Index.

Another area in the report that requires some explanation comes from the comments around "double funding." What the report fails to mention is the process by which adjustments are made at both charter schools and districts. The double funding of students benefits the districts, not the charter schools. The districts also must adjust their budgets based on the prior school year's enrollment numbers. This is another example that highlights the impact that the funding formula has on all schools, both traditional and charter.

There are some instances where the funding formula benefits charter schools and other instances where they are harmed by the funding formula. As an example, when charter schools are funded based on the projected number of students they are not allowed to project for any special education students, ancillary personnel needs, or bilingual students. Many charter schools have significant numbers of special education and bilingual students that they are required by law to serve. Yet these students are not funded through the formula until adjustments are made in January of the school's first year of existence. The result is almost a full-year unfunded mandate to provide full educational services to students.

There are numerous other issues identified in the report regarding increased funding for charter schools. The recommendations for statutory and regulatory changes would eliminate many of the resources upon which charter schools depend. These arguments appear to ignore the basic tenets inherent in the funding formula, among them:

- State Equalization Guarantee (SEG) funds are calculated and therefore generated by student enrollment (MEM)
- SEG funds are intended to "follow" the student, and are not entitlements for districts.

Further, under the administration of Secretary of Education Veronica C. García, charter schools were not approved for emergency supplemental for their operating budgets. Small district can receive the benefits of supplemental funding annually *and* small district size adjustments.

A funding formula task force was appointed in 2006 by the Legislature and the Governor "to determine the cost of a sufficient education for all public school students in New Mexico." The report that this task force presented in January of 2008, *An Independent Comprehensive Study of the New Mexico Public School Funding Formula*, concluded that "...the intention of this exercise was not to create a 'one size fits all' prescription for best educational practices. Rather, the model provides a systemic process with which to determine the level of expenditures needed to provide a sufficient education across a wide range of circumstances (i.e., needs and scale of operations). To take full advantage of the creativity, commitment, and experience of local educators, we recommend allowing them discretion to determine exactly how funds should be used." The LFC's report seems to apply a one-size-fits-all methodology to education, which is not consistent with the findings of the proposed new funding formula task force and is not consistent with the intent of the current funding formula.



## **Findings Regarding Financial Accountability**

The PED takes seriously its responsibility for holding school districts and charter schools accountable for their financial performance. We also believe that school districts must hold their locally authorized charter schools to the same high standards of accountability and, likewise, that local charter school governing bodies must ensure that high standards of financial accountability are being met.

As stated earlier, most of the information that is presented in the LFC's evaluation report is derived from the past practices of local district authorizers. Through the work of the Charter Schools Division, authorizing practices have been deliberately changed, developed, and implemented that have increased the level of oversight and accountability in which charter schools and authorizers engage.

The LFC report raises concerns regarding audits, business managers, fiscal controls, and the lack of training for personnel on financial management issues in charter schools. These issues are not unique to charter schools and are found in districts as well. In recognition of this fact, the PED is currently serving on the Legislative Education Study Committee's (LESC) School Finance Work Group to evaluate the adequacy and effectiveness of New Mexico's laws and regulations relating to public school finance, including the financial capacity and controls of school districts and charter schools statewide.

The work group will review the following areas: laws, rules, and policies; licensing and training for school business officials; availability of resources, including qualified school business officials and independent auditors; internal financial controls within school districts and charter schools; and capacity, including the supply and demand of school business officials.

There is a shortage in New Mexico of properly trained business officials. When financial mismanagement is identified it is generally associated with improperly trained staff or with a charter school or district's inability to find qualified staff.

The findings in the LFC evaluation report regarding spending practices and record keeping are another indication that authorizers have a responsibility to monitor compliance of charter schools. Local districts with locally chartered schools have the power to impact financial accountability and should regularly monitor charter finances. They can and should act when the local charter evidences lack of accountability with public funds. Ultimately, should a charter poorly perform financially, the authorizer has the power to revoke the charter.

It is difficult, however, to determine the scope of fiscal mismanagement occurring within charter schools based on the LFC's report as the examples presented are anecdotal in nature and not representative of charter schools across the state. Concerns over financial mismanagement are precisely why the PED has worked with the Legislature to strengthen the fiscal monitoring requirements for all schools.

PED appreciates the care, time, and attention that the Legislature has devoted to charter schools. We applaud the Legislature for ensuring passage of numerous pieces of legislation that PED has recommended to address areas of oversight and accountability.

In 2010, the PED requested legislation (HB 74 of 2010) to require locally chartered charter schools to be subject to oversight by the local district during the charter school's planning year. This legislation passed and now provides local district authorizers with the same authority previously afforded to the PED to require the charter schools under their authority to demonstrate their readiness to commence operations.

We further worked with the Legislature in 2010 on legislation (HB 227/251csa of 2010) that passed that now requires local school boards and governing authorities of charter schools to establish finance subcommittees and audit committees.

Additionally, in 2009, LFC Chairman Lucky Varela carried PED legislation, that took effect on July 1, 2010 (HB 321aa of 2009), that amends statute to establish sanctions against school districts and charter schools for not submitting timely audit reports to the PED. The bill requires the state auditor to notify PED of the failure to submit an audit; and provides for the temporary withholding of up to seven percent of a district's current-year SEG distribution and possible suspension of the local school board or governing body of a charter school. The PED is currently implementing this legislation.

Although not mentioned in the LFC's evaluation report, the Legislature passed PED-requested legislation in 2009 (SB 148) that requires a training course, developed by PED, to be provided to all governing body members of charter schools that explains PED rules, policies, and procedures, statutory powers and duties of governing boards, legal concepts, finance, and budget, and other matters that the PED deems relevant.

Late audits are not just a problem for charter schools, which is why HB 321aa of 2009 is not limited to charter schools and also includes school districts. And, financial mismanagement is not just a problem for charter schools, which is why HB 227/251csa passed. The state needs time to implement this legislation before declaring that charter schools represent a high risk to improper use of state funds.

### **Findings Regarding Capital Outlay**

The other area of concern identified in this section of the report addresses the lack of detail provided for proposed facilities for charter schools. While there is no question that the topic of facilities is problematic for many charter schools, New Mexico is not unique in this area.

Nationally, charter schools have had difficult times securing appropriate facilities for a number of reasons. However, the proposed recommendations around charter school facilities do not sufficiently address the many factors that affect the timely securing of an educational facility.

While the report acknowledges that "facilities plans have unexpectedly changed due to circumstances beyond the applicants' control," it does not make the connection between this lack of control of the real estate market and the inability of charter school applicants to effectively secure a facility prior to being granted a charter. The report also fails to understand that charter applicants have no resources to pay for a market study or any type of lease for a facility prior to submitting an application.

The report identifies schools as "homeless charters," implying that there are charter schools that are currently in existence that do not have facilities. This is simply not the case. Legally, all schools must be in a facility that meets "educational occupancy" standards. The PED's Charter Schools Division works directly with the PSFA to ensure "E-occupancy" is obtained before students may step foot in the school. Since the inception of the Charter Schools Division with the revision of the Charter Schools Act, the requirement for schools to be in facilities that meet educational occupancy standards has been enforced consistently and has eliminated the past phenomenon of allowing charter schools to occupy sub-standard facilities. Further, the Public Education Commission has made the opening of a charter school conditional upon demonstration that the facility receives a certificate for E-occupancy.

## Findings Regarding Performance

The LFC's evaluation report states the following: "National studies have shown that charter schools do not outperform traditional schools." The LFC refers to other state evaluations, but only provides data from the CREDO reports. There have been a number of other studies across the nation (other than the CREDO reports) that have drawn the conclusions that charter school students' performance exceeds district students' performance.

Some examples are studies out of Stanford University, the Illinois Policy Institute and the Colorado League of Charter Schools, which all presented data indicating that charter schools are in many cases outperforming traditional public schools.

It is important to note that the 2009 CREDO report includes strongly positive results:

- At the national level, charter students perform lower than non-charter students in reading and math in the first year, but higher in reading and the same in math the second year. By the third year, national results show charter students performing higher than non-charter students in both subjects.
- At the state level, charter students perform higher than non-charter students in reading and math in only three of 15 states the first year, but higher than non-charter students in seven of 15 states in reading and eight of 15 states in the second year. By the third year, at the state level, charter students outperform non-charter students in 11 of 12 states in reading and nine of 12 states in math.

The CREDO report from 2010 shows further significant findings:

- Student academic performance for charter schools in New Mexico is improving over time. The longer charter schools exist, the better performance their students produce.
- Growth in reading improved from a deficit when compared with traditional public schools in 2006 to matching their progress in 2007. There was also improvement on the math indicators as charter schools reduced their deficits by half from 2006 to 2007.
- Substantial progress was also made with special education students in both reading and math over the time period studied. These improvements were larger than those seen at traditional public schools for the same groups of students over that same time period.
- Nearly all the remaining student subgroups at charter schools made at least some progress in math from 2006 to 2007, including Hispanics, Native Americans, students in poverty, and English Language Learners.
- One area that appears to be a singular strength of New Mexico's charter schools is with English Language Learners (ELLs) in reading. In both time periods studied, these students experienced growth that was on par with the growth experienced by native English speakers, while their counterparts at traditional schools had growth significantly below that of native English speakers.

Any comparison of schools must take into consideration the following factors: the length of time that the charter school has been in existence, the location of the charter school (racial and socio-economic make-up of the student population), both state and local governance, and student background (family education levels, peer backgrounds, and community assets). The graphs presented on page 31 of the LFC report substantiate the conclusions in the national research that show charter school performance increases the longer students remain in the school and the longer the schools are in existence. Given the short amount of time charter schools have been in existence, the longitudinal data demonstrating success over time is simply not available. However, from the data that is available, indicators demonstrate that this phenomenon is happening with New Mexico charter schools.

Further, regarding the recommendation for the PED to identify and disseminate best practices, this has already been implemented. PED has solicited best practices from charter schools throughout the state to post on the Charter Schools Division's website and be shared across the state. This practice was initiated by the Assistant Secretary for Charter Schools in the early spring of 2010.

It is important to remember New Mexico's unique population when speaking of charter school innovation. Even if previously tried as a demonstration project in other states and communities, when a promising program is applied in New Mexico it becomes truly innovative because we are using it with a population of students – Native Americans, ELLs, etc. – that the demonstration states may not have.

In the continuous improvement model being implemented by the PED's Priority Schools Bureau, one of the pieces looked at is: what is working in comparable schools and populations? We might look in Las Cruces, Albuquerque, Arizona, California and Texas for schools with similar demographics that are showing strong growth trends and bring their successful innovations to New Mexico. Being innovative does not mean that a charter has to implement something new and different to education.

The LFC report is critical of charter schools for not being innovative. We disagree. The U.S. Department of Education defines innovative programs as those programs that: (1) expand proven and scalable models regionally and nationally to inspire the public and decision makers; (2) build scaling capacity of key, high-impact programs and organizations; (3) demonstrate, validate, and codify promising evidence-supported models; (4) create platforms that facilitate innovation efforts and broad adoption of "what works"; and (5) create new breakthrough models. The charter school models in New Mexico fulfill this definition of innovation.

### **Findings Regarding Oversight, Monitoring and Governance**

This section of the report begins by addressing potential changes in the application process for initial and renewal charter schools. The LFC report is critical of the proposed budgets that are provided by the applicants in the initial and renewal charter processes. The report recommends that the proposed budgets be based upon market studies and intimate that these budgets in the applications receive no further external review or oversight. We disagree.

The open enrollment law in New Mexico allows any student to choose to apply for enrollment in any school -- a charter school or a traditional school. Charter schools must also select their students by lottery. These requirements make it extremely difficult, if not impossible, prior to the establishment of a school to identify which students might attend and which might not.

The market for charter schools is best determined by students on waiting lists who want to attend a charter school, not on the real estate values in the area. The proposed budgets that are provided in the applications give the best estimate of the revenues and expenditures for these schools. However, before a charter school can begin receiving SEG funds it must have its budget approved by the PED in the same manner that a local district's budget is approved. The estimates that were made in the applications are not kept in the final budgets that are approved, but rather are made and adjusted based upon the actual number of students who are admitted to the school. A school's budget should not be based on a market analysis but consistent with actual expenses when the budget is approved.

In terms of improved communication between the Charter Schools Division and the finance areas of the PED, this is already occurring. Budget components from new charter school applications are currently and have been reviewed by the School Budget and Finance Analysis Bureau.

The LFC's report recommends that initial charter school applicants "provide clear and concise evidence of the demand for a charter school in the community being served," and propose a petition process similar to that found in the requirements for renewal applicants as outlined in law. Existing data demonstrate a demand for charter schools. Further, community input hearings, in which members of the community express their support of new charter schools, are required in law.

Current statutory language limits the performance measures that can be utilized by a chartering authority. PED would be supportive of statutory language that would allow for improved performance measures. Specific to the recommendations regarding charter school applications, the PED's Charter Schools Division has required for the past two years that applications for initial and renewal charters have SMART goals.

PED recognizes the need for substantial monitoring of all charter schools in existence and has instituted through the Charter Schools Division a rigorous monitoring process that has been shared with school districts as a model to replicate for the charter schools under their authority. Regarding concerns over "self-reporting," this is only a beginning step in the monitoring process, which culminates in an annual monitoring report that uses the school's self-reporting as one component. The monitoring process that has been developed and published on the Charter Schools Division's website has multiple monitoring documents corresponding to the particular stage of development of the charter school (i.e., in the planning year, Years 1-4, and the final or renewal year of the charter school). During its evaluation, the LFC was provided by PED with all of the monitoring documents and processes utilized.

Regarding potential conflicts of interest among the governing bodies and inconsistent or unlawful admissions requirements for charter schools, the Charter Schools Division has addressed both of these areas for at least two years. The division requires that all charter school governing bodies authorized by the state approve and submit a conflict of interest policy that outlines the actions to be taken when a potential conflict of interest arises. Similarly, the division requires that all state charter schools submit an admissions/enrollment policy that details the lottery selection process they utilize for selecting students.

Along with this guidance and oversight for the state charter schools, the Charter Schools Division has created and posted on its website frequently asked questions (FAQs) around the lottery process that incorporate federal guidance and the requirements in state law. It is against federal and state law to

exempt populations from the lottery process. The guidance provided from the FAQs on the division's website specifically addresses the lottery application and states:

The application for admission to the charter school should only request information necessary to enable the school to identify the student and determine what grade the applicant is seeking to enter. Basic contact information, such as address, telephone number, and e-mail address, can be requested. Applications should not request ethnic, racial, religious, or language information from the applicants. Applicants cannot be required to submit copies of test scores, transcripts, immunization records, IEP, or 504 files from the last school. The charter school cannot require applicants to write an essay or letter of intent before an applicant's name is placed in the lottery. Any additional information desired by the school can be requested after the lottery has been conducted.

This information was also provided to the LFC during its evaluation process.

I am committed to working with the Legislature, the Public Education Commission and local school districts to ensure that charter schools in New Mexico meet the public's expectations for high accountability and to address the issues raised in the LFC's report. I am also mindful that small school districts and charter schools have unique needs and, often, populations.

Addressing the complexities of the funding formula in isolation may lead to unintended consequences for all of New Mexico's public school children.

The PED firmly believes that charter schools offer students and parents a critical choice and provide best practices that will improve learning for students in both charter and traditional schools. They deserve our continued investment.

Thank you.

SM/rmw

cc: The Honorable Lucky Varela, Chairman, Legislative Finance Committee  
The Honorable John Arthur Smith, Vice-Chairman, Legislative Finance Committee  
Frances Maestas, Director, Legislative Education Study Committee  
Manu Patel, Deputy Director, Legislative Finance Committee  
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Dr. Sheila Hyde, Deputy Secretary, Public Education Department  
Steve Burrell, Deputy Secretary, Public Education Department  
Dr. Don Duran, Assistant Secretary, Public Education Department  
Ruth Williams, Manager, Public Education Department

## **APPENDIX A: CHARTER SCHOOL POLICY PERSPECTIVES**

Researchers have developed theories on the origins of charter school policies. The theories echo the education reform policy initiatives of the early 1990's: developing new and innovative education programs, improving student performance, refocusing education on the needs of the community and improving parental education choices. Each of these reform policy theories have their own sets of assumptions and will influence how policy makers view charter schools are performing. The purpose statement of New Mexico's Charter School Act (Section 22-8B-3 NMSA 1978) provides for all of the reform policy perspectives: enabling schools to use different and innovative teaching methods; to allow 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; to improve student achievement; to provide parents and students with an educational alternative; 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 the department's educational standards and fiscal requirements. The following chart helps illustrate that many of these policy reforms may be competing in nature.

## Common Charter School Policy Perspectives During Charter Law Creation

|                           | <b>Innovation and Experimentation</b>  | <b>Standards Based Reform</b>   | <b>New Supplies of Public Schools</b>  | <b>Competition/Market Strategy</b>   |
|---------------------------|--|---|--|--|
| Assumptions               | The current education system does not promote new and effective teaching strategies or education programs. Charters should still work within the existing framework of education.                              | Decreasing regulations will help schools allow students to achieve higher performance standards. Charter schools are one of many tools necessary to improve lagging student performance.                      | Charter schools represent a completely new and alternative framework of public education compared to the public education system; one that will serve to meet the needs of parents and communities that are unmet in traditional public schools. | Parental choice for educational opportunities will create market incentives to improve the entire education system.  |
| Expectations              | Charter flexibility should be limited to curriculum and staff flexibility. The focus of charters should be on setting school improvement performance goal using new educational programs and service delivery. | Charter schools will help students that are poorly performing, often at risk or alternative students. The target populations are those students that have not been well served in traditional public schools. | There will be schools run by community groups or nonprofit groups that meet the needs of the community. Charter schools will largely operate independent from local school boards or an independent chartering agency.                           | Parents are in the best position to determine the needs of their kids and their choices for their kids should drive all instruction and fund allocation for public schools.  |
| Accountability Focus      | The accountability is focused on compliance with state and local rules.  | Accountability focus is on performance on standardized tests and other student performance measures.  | Accountability is individualized according to terms in a charter contract. Parental choice and charter authorizer monitoring provide the main forms of accountability.   | The market itself will act as an accountability mechanism because parents will not want to send their kids to problem schools.   |
| Expected Outputs          | New and innovative education programs or curricula and new and innovative service delivery methods. New or innovative methods of developing student learning. New professional opportunities for teachers.     | Improved student performance, specifically of those that are at risk or needy students.   | Parental or community involvement in the school. Refocus of traditional public schools to being more community and parent focused.   | Develop a site-based budgeting framework that is successful. Charters should meet all of the state's requirements for education standards and fiscal requirements but otherwise parental choice will be the best indicator of success. |
| Possible Output Conflicts | New supplies of public schools; the focus should be on what the new educational benefits of the charter school are, not on issues of control or choice.  | Competition/Market; parental choice is not the end goal in and of itself. Without improved student performance charter schools become another poorly performing school.                                       | Innovation and experimentation; the performance of schools should be measured more by community and parental support and not by what new changes they bring to the education landscape.  | Standards based reform; closing poorly performing schools should be based on parental choices and not necessarily student performance or financial mismanagement.  |

Source: Hill, Paul T., Robin J. Lake and Mary Beth Celio. *Charter Schools and Accountability in Education*. Washington, D.C.: Brookings Institution Press, 2002.



## APPENDIX B: SITE VISIT SELECTION METHODOLOGY

In order to inform sites selected for the evaluation, LFC staff placed all of the 72 operating charter schools on a matrix and examined the following characteristics:

- State or Local Charter
- Location
- Urban or Rural Setting
- Grades Served and School Type (ES, MS, HS or Blend)
- School Concept (See Below)
- Years that PED had reported revenues for the school
- FY09 Final Funded Membership (Size)
- FY09 Expenditures and Per Pupil Expenditures
- Number of students present full academic year/all students from AYP reports (attendance/mobility)
- Math and Reading Percent Proficient or Above Scores
- Socio-economic, Ethnic and Students with Disabilities Percentages
- Audit Findings Analyses including:
  - If the school had reports for FY08 and FY09
  - If the report was filed late
  - If findings referred to cash management, internal controls or payroll.

Site visit schools were selected so as to provide the greatest range of schools in the charter school community as possible. The idea of a concept map was developed as a way to ensure that the LFC evaluation captured as many of the multi-curricular foci that charter schools engage in as possible to present possible innovations to the committee. It was developed by searching charter school websites and looking for similar key phrases the different charter schools used. A graphic representation and the number in each concept category are presented on the following page.

**Schools of Choice (28)**

The focus is to provide the community with school choice. Schools provide traditional content, but different methods of presentation, pedagogy or environment. Schools emphasize low student teacher ratios, parental or community involvement.

**Culture and Dual Language Schools (16)**

Schools cater to families that value a dual language environment or multicultural and diversity awareness and may focus on preserving elements of Native American or Hispanic culture and history. Often have large ELL or ethnic subpopulations.

**Technology and Online Learning (10)**

Schools that focus on augmenting their curriculum by providing an introduction into the media arts, concentration on STEM (Science, technology, engineering, or math) curricula, or enhance the traditional curriculum by presenting the content via

**At-risk and Career Schools (7)**

Schools that seek to serve non-traditional students. Students may be underperforming, returning to school, or the school has a flexible schedule that caters to the students' career. Schools have a more near-term focus for their students and some are taking classes to enter the workforce directly after school,

**Arts-based Schools (4)**

Schools supplement the State's standards for curriculum with a curriculum that emphasizes the fine arts or performing arts. Schools may augment the traditional curriculum with some of the same small class size, parental involvement or student focus themes, but the primary focus remains on an arts-based

**Environment Schools (4)**

Environment schools seek to supplement traditional curriculum with an awareness of the environment by farming and wilderness training. Expeditionary learning (outward bound) is a curriculum that focuses on long-term field visits and individual group projects.

**Specialty Schools (3)**

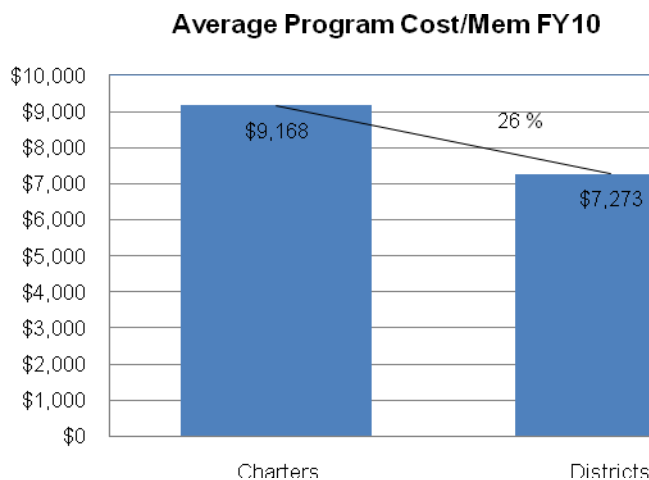
Schools whose concept either have a history, curriculum or target a population that separates it completely from all other charter schools; schools that began as preschools and expanded to serve higher grades, serve incarcerated adults, or are military schools.

## APPENDIX C: CHARTER SCHOOL PROGRAM COST COMPARISONS

Charter Schools receive a disparate share of state education revenues. The program cost is the best metric for determining the true cost to educate children. Using a comparison of program costs to the final funded membership for fiscal year 2010, LFC staff show that charter schools generate nearly 26 percent higher program costs. Program costs use cost differentials to reflect cost adjustments the state needs to make for providing different services to different student populations. For example, high school students and students receiving special education services receive higher cost differentials than elementary students. These cost differentials are then multiplied by the average student membership on the 80<sup>th</sup> and 120<sup>th</sup> day to generate program units and then multiplied by the training and experience index to generate “adjusted program units.”

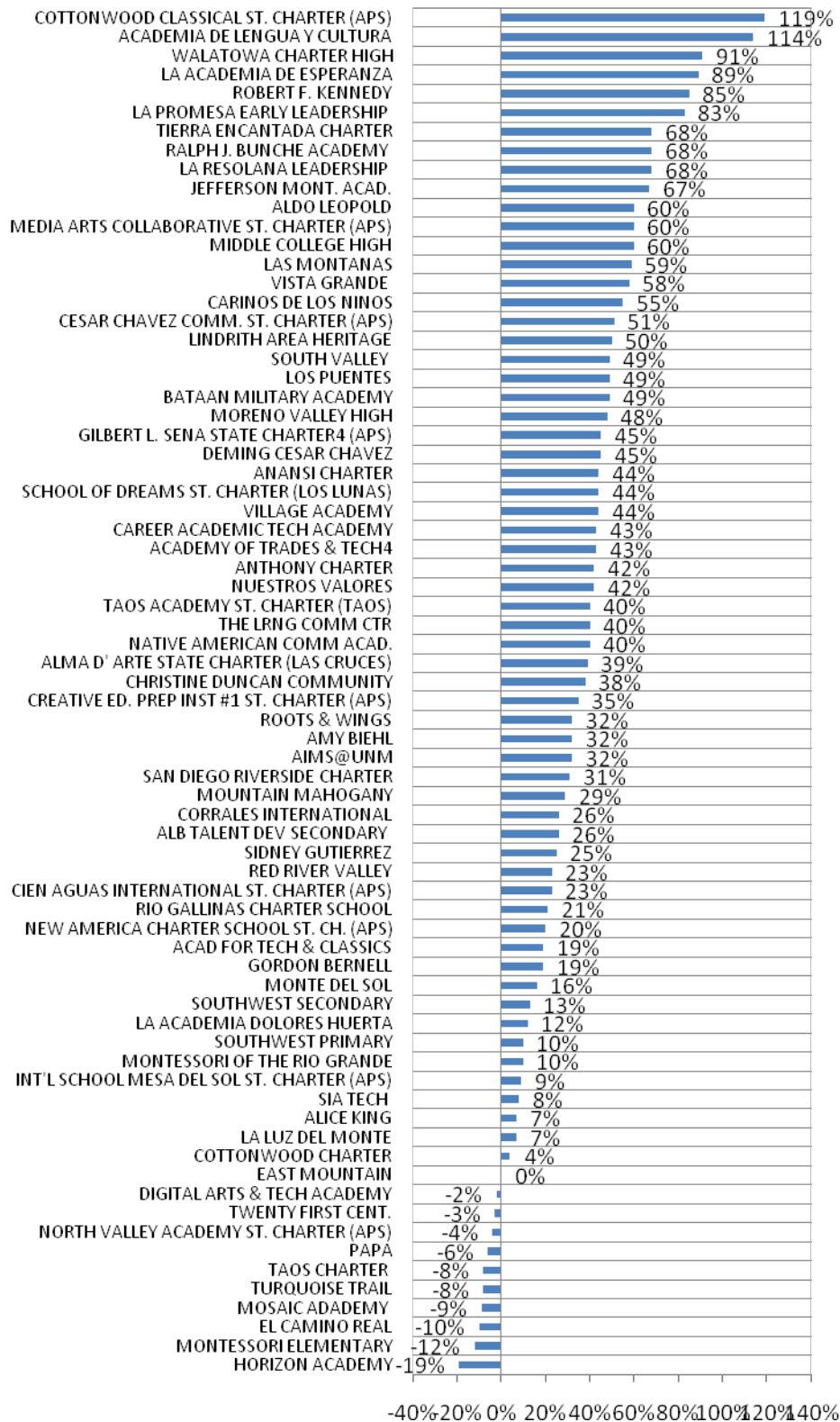
Funding formula adjustments like program growth and size adjustments are then added to reach the program cost, which is then adjusted to determine the portion of the state equalization guarantee. Because the difference in program cost and state equalization guarantee (SEG) amount is adjusted based on Impact Aid Revenue, property taxes and Forest Reserve funds, there are very minimal differences between charter schools’ program cost and SEG revenues. Most of the differences between program cost and SEG are the result of the two percent administrative withholding by the charter authorizer and any cash carry over balances. When conducting a ratio analysis it becomes clear that the majority of charter schools have much higher program costs than other schools in the state. LFC staff created the distribution bar chart below to show how far above or below the state’s average program cost per student of \$7,347. Sixty-one of 72 charter schools in the state have program costs that exceed the state’s average, as indicated on the following page.

A recent Ball State study that took place prior to charter schools having increased access to local capital



outlay funds shows the state of New Mexico as having the least disparate funding between traditional public schools and charter schools out of a sample of 25 states. The methodology uses all revenues generated by both entities divided by total MEM but assumes the state has levers over federal funds like impact aid, property values and local bond elections that it does not and the use of a methodology that measures revenues across all funds is questionable in terms of determining the true costs of charter schools to the state.

**Percent Difference in Charter School Average Cost/MEM and State  
Average Cost/MEM FY10**



## APPENDIX D: LFC EMAIL SURVEYS

To inform the evaluation, the LFC sent out three surveys: one to all of the charter schools in the state, one targeting new charter schools and one to superintendents of local school districts that have charter schools for information on locally-chartered charter authorizing practices. Survey responses were used by the LFC to identify aspects of charter school operations, as well as issues and challenge that new charter schools face. The survey questions are provided below.

### *Charter School Survey Questions*

1.     a.) Who is your business manager?  
        b.) Who provides basic financial services for your charter school?  
        c.) Is this position filled in-house or is this a contracted service?
2. What financial accounting software do you use at the school?
3. Did you receive any assistance (paid or otherwise) when developing your charter? If not, what resources did you use in developing your application? If so, who provided these services?
4. Who was the auditor-in-charge who did the financial audits for your school?
5. Please provide a brief description of the mechanisms you use to track student performance at your school (short-cycle assessments, student portfolios, etc.).
6. Does your charter school regularly report financial and student performance information to the chartering authority (budget status reports, cash reports, and results of short-cycle or NMSBA data, etc.)?
7. Does the school use a purchase card program? If so, please provide any policies or procedures regarding their use.

### **The Following Schools Did Not Respond to the LFC Charter School Email Survey:**

| School  | Email                            |
|---|----------------------------------|
| Anthony Charter School†                           | cadolph@anthonycharterschool.org |
| Carinos De Los Ninos                              | vernon_jaramillo@hotmail.com     |
| Cottonwood Valley Charter School                  | cvcs@cottonwoodvalley.org        |
| Creative Education Preparatory Institute #1       | tjcrepin2000@yahoo.com           |
| El Camino Real Academy/Horizon Academy South      | jennifer.ecra@comcast.net        |
| International School @ Mesa Del Sol               | gvoigt@nmmediaarts.org           |
| Jefferson Montessori Academy                      | cholguin@jmacarlsbad.com         |
| La Promesa Early Learning Center                  | Bmaes@lpelc.com                  |
| La Resolana Leadership Academy†                   | j_montoya1129@yahoo.com          |
| Lindrith Area Heritage Charter School             | cdkannon@hotmail.com             |
| Montessori Elementary School                      | mbesante@tmesnm.com              |
| Native American Community Academy†                | kbobroff@nacaschool.org          |
| Nuestros Valores Charter School                   | mosanch8@hotmail.com             |
| Public Academy for Performing Arts†               | thenderson@paparts.org           |
| Rio Gallinas School                               | storyranch@hotmail.com           |
| Robert F. Kennedy Charter School                  | rbaade@rfkcharter.net            |
| School of Dreams Academy                          | dyates@schoolofdreamsacademy.com |
| SIA Tech (School for Integrated Academics & Tech) | kelly.callahan@siatech.org       |

† Indicates a school the LFC selected for a site visit

Source: LFC and PED's CSD

### *New School Survey Questions*

1. What are some aspects of the current charter school law that you find burdensome or helpful for a new charter school?
2. What are the pros and cons to the application and renewal process?
3. What are some of the financial challenges the school has faced?
4. What fund sources is the school accessing for operations?
5. What fund sources does the school use for capital outlay? Is the school going to use any operational funds for capital outlay? Why or why not?
6. Is the school receiving start-up funds (Federal or state stimulus)? What does it plan to use these funds on?
7. How did you determine the market was right for a charter school in the area? What sort of market analysis did you do; was it based on data or just a sense of the will of the community?
8. How did you determine who would provide the business office functions? What sort of personnel with business background does the school have?
9. What is the relationship like with the governing body?
10. Have you seen any shift in the nature of the relationship between governing body members and yourself since the school began operations, or has there been any turnover?
11. What do you feel is the most important qualities for a governing body member to possess?
12. Did you (or do you) feel pressure to open your doors quickly? Did you feel rushed to open? Why or why not?
13. What was your planning year like? Were you evaluated by your chartering authority using a checklist?
14. How did you determine the projected enrollment for funding in the first year?
15. What was your expectation of the needs of the children before opening? How do the needs of the children enrolled match your expectations (i.e., was the school designed for English language learners but large numbers of students with disabilities showed up, etc.).
16. Did your attendance match your enrollment projections?
17. If you had a magic wand and could change one thing about the charter school environment what would it be?

### *Local Superintendent Questionnaire*

1. What role do you think charter schools play in the education landscape? What role should they play?
2. Do you have any policies or procedures regarding the authorization process for charter schools?
3. How do you hold charter schools accountable for their academic performance?
4. How have you held charter schools responsible for their financial performance?
5. Is the district receiving regular reports on the financial and academic health of the charter school?
6. How have you used the two percent of the SEG allocated to your office for administration and oversight services? What services does your office provide to charter schools for this withholding? Please provide us with documentation of how these funds were used.
7. Do you evaluate the charter school prior to opening? Please provide any criteria you use to evaluate charter schools.
8. How would you describe the relationship between the school district and the charter school? Are there open lines of communication between the two entities?

9. Do you believe the charter school is practicing new and innovative education initiatives? Have any of the charter school's activities prompted a change in district operations?
10. What do you use to measure whether a charter should be renewed, revoked or not renewed? Are performance measures quantifiable in the school's charter?
11. Does the charter document expectations for financial and organizational operations, including how audit findings will be resolved?
12. Please provide any additional information or recommendations that you think will aid this evaluation.

## **APPENDIX E: PUBLIC SCHOOL FACILITIES AUTHORITY E OCCUPANCY GUIDANCE**

During fieldwork of the evaluation, many school administrators said the process for which a charter school attains E Occupancy was not open and transparent. During interviews with staff from the Public School Authority (PSFA) about available space at existing districts, PSFA said they could provide a white paper giving guidance to charter schools on how to attain E Occupancy certificates. This evaluation makes a recommendation for charter schools to be required to work with PSFA during the application process to meet all occupancy and state adequacy standards. In the absence of the recommendation being enacted, the LFC provides the primer as an appendix for charter school informational purposes.

### **INTRODUCTION**

'E' occupancy is a concept that confuses most people that are not familiar with building codes and their terminologies. The International Building Code and the associated family of companion codes, collectively known as the I-Codes, classify buildings into groups based on use and function. These groups are not only based on specific use and function, but also based upon expected fire hazards and life-safety properties based on those uses and functions. The 'E' or educational group is established in recognition of the fact that children, in general, require more safeguards that would adults.

We are often asked if there is a checklist or some other easy-to-understand set of criteria for determining whether an existing facility can be classified as an E Occupancy building. Unfortunately, the structure of the building codes does not lend itself to compilation of a simple and useful list of criteria. As one building code instructor that I know likes to say when asked a question about the codes, "that depends". For example, if you ask a seemingly simple question such as, "If I want to build a 22,000 square foot school, do I have to provide fire protection (sprinklers)?" My answer would be, "that depends". In this case, it depends on whether each classroom in the planned facility has an exit directly to the outside or not. It would also depend on whether area separation fire walls were provided that divides the building into fire areas smaller than 20,000 square feet. If either of these were true, sprinklers would not be required. If not, based on the size of the building, sprinklers would be required. This scenario is further complicated when you consider that, even if you are not required to sprinkle this hypothetical facility, you may wish to do so to take advantage of other provisions of the code such as area increases. On top of all of this, the state of New Mexico amends many of the provisions of the I-Codes via administrative rule. These amendments are often made in recognition of local conditions and construction practices.

In summary, every facility that we look at is unique and must be evaluated individually for its potential to conform to the code requirements for E Occupancy. The building codes comprise a specialized body of knowledge and, in most cases, it would prove challenging for someone without a background in building construction and building codes. As such, this document is not provided to make you an expert in the codes related to E Occupancy. Rather, it is a guide and directs you to the resources that can assist you in determining whether a particular facility is classified or can be classified as an E Occupancy.

This document deals only with existing facilities since a new facility would be designed specifically for the intended use and occupancy and would be issued a Certificate of Occupancy upon final inspection.



## I. Determine the Current Occupancy of the Facility You Are Considering

If you are considering a facility that was most recently used to educate five or more students in grades Kindergarten through 12, there is a good chance that it has already been classified as an E Occupancy facility. In any case, this must be confirmed.

**The New Mexico Construction Industries Division (CID) of the Regulation & Licensing Department** is the permitting and inspection authority for the majority of the state of New Mexico and maintains records of Certificates of Occupancy that they have issued. Unless the facility is located within the jurisdiction of the City of Albuquerque, this should be your first point of contact. Following is their contact information:

Toney Anaya Building  
2550 Cerrillos Road  
Santa Fe, New Mexico 87505  
(505) 476-4700  
<http://www.rld.state.nm.us/cid/index.htm>

Even if this building was permitted and inspected by a local or county building department *except for the City of Albuquerque*, I recommend that you contact CID first. They can refer you to the appropriate local building department, if necessary.

**The Building & Safety Division of the City of Albuquerque Planning Department** is the permitting and inspection authority within the City of Albuquerque. They maintain records of Certificates of Occupancy issued for buildings within their jurisdiction and should be your first point of contact when looking at a facility in the City of Albuquerque.

600 2<sup>nd</sup> Street NW  
Albuquerque, New Mexico 87103  
(505) 924-3860  
<http://www.cabq.gov/planning/bldgsafety/>

## II. What If The Facility the Charter Is Considering Is Not Classified As E Occupancy?

You can contact the **Public School Facilities Authority (PSFA)** to perform a preliminary analysis of the facility that you are considering to help you determine if it is feasible to use the building as an educational facility. While we do not have authority to issue the Certificate of Occupancy, PSFA has facilities specialists certified in the building codes which can visit the property and conduct a preliminary assessment and provide you with a report on their findings. This report will help you decide the feasibility of using the site to house your school. The report will also provide you with information about the facilities potential to comply with the applicable provisions of the Statewide Adequacy Standards for educational facilities. You can reach us at:

1312 Basehart Road SE  
Albuquerque, New Mexico 87106  
(505) 843-6272

[www.nmpsfa.org](http://www.nmpsfa.org)

or in our Santa Fe office at:

2019 Galisteo  
Suite B-1  
Santa Fe, New Mexico 87505  
(505) 988-5989

### **III. Change of Occupancy**

If E Occupancy cannot be established for an existing facility that the charter is planning to occupy, the building owner will have to apply to the authority having jurisdiction for a change of occupancy. The code requirements for change of occupancy can be found in the International Existing Building Code (IEBC). The IEBC references other codes in the I-Code family.

In New Mexico, there are many local and county building permit and inspection agencies and it can seem complicated when trying to determine who has jurisdiction over a particular facility. The following rules-of-thumb attempt to make this clear. Keep in mind that, if you are still not sure who has jurisdiction over a particular facility that you are considering, you can always contact the Construction Industries Division for assistance.

If the facility is located in the City of Albuquerque and is either publically or privately owned, contact the City of Albuquerque Building Safety Division.

If the facility is publically owned, but outside the City of Albuquerque, contact the Construction Industries Division.

If the building or facility is privately owned and located outside the City of Albuquerque, contact the local or county permitting and inspection agency, or the Construction Industries Division, as applicable.

You may also contact PSFA at any time for assistance.

## **APPENDIX F: AVERAGE SCALE SCORE CHANGE BY GRADE ANALYSIS METHODOLOGY**

In order to determine average levels of individual student growth between SY08 and SY09 for charter and district students, LFC entered into a memorandum of understanding with PED and received data for these students from PED. Due to display limitations in the software used to conduct the analysis, and in order to format and calculate growth of school students' scores in a timely fashion, some basic computer programming needed to be completed. LFC staff downloaded a free software program called "CygWin" which allows the user to access Microsoft files in a Linux-type command line structure. LFC collaborated with a computer science doctoral candidate from the University of New Mexico, Sunny Fugate, to receive guidance and information on basic Unix and Perl command functions to calculate growth in the command line for students between SY08 and SY09. The command line history for the majority of the analysis (with the exception of an early systems crash) and the code for the Perl commands used to calculate growth, create a hash table and then place the growth back into the master file are available upon request. The following are an overview of the steps used to calculate growth:

1. The team placed fields (school years, scores, unique student ID) into a .csv file so that they could make commands using field order while working in the comma separated format.
2. Students who were not present for a full academic year (FAY) in SY09 (four snapshots) were eliminated from the data set so as to allow the team to search for a unique student and find their SY08 score.
3. Student data for scale scores in SY09 were put into a comma separated file as well as SY08.
4. Commands were written in Perl to calculate the average scale score change from SY08 to SY09 for each unique student ID and place it next to any SY09 score in a .csv file. This was then combined with the original master data.
5. LFC staff converted this to MS Excel. These values for growth calculations were then added back into the .csv master files provided by PED.
6. The .csv was then formatted back into MSEXcel and the file was then copied and pasted into five different worksheets with the help of LCS.
7. Using the MSEXcel worksheet, LFC staff average scale score growth for all students in grades 4-8 for both charter and traditional public school students as well as separating by free and reduced lunch program eligibility.

## APPENDIX G: OTHER STATE EVALUATIONS

As indicated in the background, many other state evaluations have found limited innovation in practices, reliance on traditional public schools for student assessment infrastructure and data, limited growth information for high schools, some charter schools serving higher at-risk and exceptional student populations, a lack of self-monitoring for student outcomes, a lower starting point for student achievement, variable (lower, similar or higher) gains in performance, and other academic differences. Other state evaluations have also found that combining the high start-up costs for operations and lack of economies of scale enjoyed by traditional public schools, combined with the common lack of financial management experience, creates a high risk environment for resource mismanagement, improper coding of expenditures, untimely financial audits, not taking advantage of federal funding, overpaying or neglecting tax obligations, improper expenses, conflicts of interest, lacking oversight functions, an over reliance on external financial management organizations, weak internal controls and numerous other examples of resource mismanagement. The following is the list of evaluations or audit reports that LFC staff reviewed:

1. "An Evaluation: Charter School Program," Wisconsin Joint Legislative Audit Committee, Report 98-15, December 1998.
2. "Program Review: Charter Schools Need Improved Academic Accountability and Financial Management," Office of Program Policy Analysis and Government Accountability: An Office of the Florida Legislature, Report No. 99-48, April 2000.
3. "Charter School Management Strengthened, But Improved Academic Accountability Needed," Office of Program Policy Analysis and Government Accountability: An Office of the Florida Legislature, Report No.02-22, March 2002.
4. "California's Charter Schools: Oversight at All Levels Could Be Stronger to Ensure Charter Schools' Accountability," California state Auditor, Bureau of State Audits, 2002-104, November, 2002.
5. "Charter School Application Requirements Are Reasonable; Financial Management Problematic," Office of Program Policy Analysis and Government Accountability: An Office of the Florida Legislature, Report No. 05-11, March 2005.
6. "Performance Audit: Charter Schools, Arkansas Department of Education," Arkansas Division of Legislative Audit, PSPE02605, June 1, 2006.
7. "Response to Questions about Charter Schools Regarding Funding, Facilities, Assets and Liabilities, Technical Assistance and Oversight: A Report to the Executive Appropriations Committee of the Utah State Legislature," Prepared by The Office of Legislative Research and General Counsel, The Office of the Legislative Fiscal Analyst and the Utah State Office of Education, November 14, 2006.
8. "Florida Senate: Interim Project Report on Charter School Accountability," Florida Senate Committee on Education, Pre-K-12, Report 2008-120, November 2007.
9. "A Performance Audit of Utah Charter Schools," Office of the Utah Legislative Auditor General, Report Number 2007-01, January 2007.
10. "School District Performance Audit Report, K-12 Education: Reviewing the Research on Charter School Performance, A Report to the Legislative Post Audit Committee, Legislative Division of Post Audit, State of Kansas, May 2007.
11. "Evaluation Report: Charter Schools," Minnesota Office of the Legislative Auditor, June 2008.
12. "Authorization and Monitoring of Charter Schools: GDOE Needs to More Effectively Monitor Individual Charter School Performance and Compliance with Charter Terms," Georgia

Department of Audits and Accounts: Performance Audit Operations, Performance Audit 08-23, March 2009.

13. “Charter Schools in Tennessee: Issues of Innovation and Sustainability,” Office of Research and Education Accountability, Comptroller of the Treasury, February 2008.
14. Fitzgerald, John, “Checking in on Charter Schools: An Examination of Charter School Finances,” Minnesota 2020 Fellow, June 2009.

In addition to reviews of all State Auditor Office reports for charter schools in New Mexico, LFC staff evaluated component unit financial audits for charter schools from three other states: Hawaii (two financial audits), Arkansas (eight financial audits) and Louisiana (five financial audits). LFC staff also analyzed twelve GAO reports dating from 1994 – 2005.

ADDENDUM I  
CHARTER SCHOOL RESPONSES



1900 Randolph St. SE  
Albuquerque, New Mexico 87106  
Phone: 505-292-0100  
FAX: 505-292-0109  
Website: [www.rjba.org](http://www.rjba.org)

July 20, 2010

To Whom It May Concern:

A review of the draft of the report of the Legislative Finance Committee indicates that it focuses on the financial stability and viability of charter schools and their cost effectiveness. It does not, however, address the issue of why charter schools exist in the first place. There were no conversations with the parents of the 35,000 students statewide to indicate why parents have chosen charter schools to educate their children. To ignore why parents have selected charter schools is to ignore significant information that these parents have to offer. In addition, there was no conversation with or survey of students to indicate how they feel about being in a charter school, especially with the older students who have much to say about why charter schools are important to them. The administrative assistant at Ralph J Bunche is a graduate of a charter school and attests that she would not have graduated from high school without the opportunity that it provided. How many other young adults are of the same mind set? There was no research to indicate this important factor in maintaining charter schools.

Much in the review was made of the Small School size adjustment and how charter schools take advantage of this additional funding. In fact, Ralph J Bunche presents in its charter a PTR of 15 to 1 as part of its proposal. The charter indicates that it is in the best interest of children to provide smaller learning environments. If the charter was approved with this ratio, should not the support for maintaining this ratio also be a part of the approval process. It is my understanding that the charter is a contract between the authorizer and the school. If the charter is approved and it is the school's responsibility to meet the conditions as set forth in the charter, is it not also the responsibility of the authorizer to help the school meet those conditions?

Each charter school in New Mexico must provide in its proposal a description of the students it intends to serve, how it intends to meet the needs of these students, and what it will do differently from the traditional schools in the state. No mention was made in this report of the reasons that charter schools were founded and what progress schools have made in meeting the goals and objectives established by its charter. Is this not another factor to be considered when considering the success of charter schools?

Another important factor that was not included in this report was the discussion of student progress. Many students enter charter schools having not met the standards according to the NMSBA, but no mention is made of the progress that students have made from the point that they entered the charter school to the present. Many parents select charter schools because they know that their child is behind and need an opportunity to catch up. They do not believe that their child will have that opportunity and select a charter school with its smaller class size and more individualized attention to help their child become successful. To report only one set of results is to ignore that difference that charter schools make for children.

One of the most important factors in the continuation of any charter school is the requirement that the school be in publically owned building by 2015. While some mention is made of this in the report, mention was not made of the fact that the Public Land Office and the New Mexico Public Schools Facilities Authority are not in communication and do not share information about the availability of publically owned space that may be available for charter schools.

Finally, a suggestion was made that there be a cap or freeze on charter schools in New Mexico until such time that the issues of charter schools can be addressed. It seems to me that this solution would be dangerous not only for the existing charter schools but other public schools as well because Race to the Top money from the federal government is not available to states that limit charter school growth.

While the report to the LFC provides some information about charter schools, it is my opinion that it does not adequately describe these schools, the role that they play in the education of the students of our state, and the necessity for their continuation in order to meet the needs of all families.

Sincerely,

Penne L. Wilson PhD  
Principal  
Ralph J Bunche Academy



Cottonwood Classical Preparatory School  
Response to LFC Audit Report Notes  
July 14, 2010

The evaluation reported in the report does not consider key issues in its recommendations:

1. Growth of funding: Districts and charters both benefit as students relocate. Both entities are allowed in the formula to count students that move between schools. The formula does this to recognize the increased cost of students to the new district/school. In addition, the district/school from which the student moved is held harmless as it loses membership to allow it to adjust its programs to a smaller membership count.
  - a. The recommendation to eliminate small school size adjustment would take funds from the smallest districts/schools and allocate a portion to those districts/schools that currently do not qualify for this funding. The recommendation would increase the number of already tight budgets and the number of small districts applying for "Emergency Supplemental" funds. The formula recognized the "economy of scale" of larger districts/schools. This change would do with this equalization factor.
  - b. The recommendation to eliminate the T&E hold harmless provision would make smaller districts/schools losing experienced and level II and III staff to retirement, etc feel the impact much sooner. This will cause financial issues as schools attempt to continue programs with decreased funding. This will impact smaller districts/schools to a much greater degree.
  - c. The recommendation to rethink the qualifying threshold for growth is not reasonable. The argument can also be used against small districts that only need 2 students to receive additional growth units. The growth units are used to meet the needs of the additional students as a school grows. Charters do not have the ability to raise capital funds to address equipment, facility and other capital needs as do districts. As districts grow they may qualify for growth funding but also can raise funds through the mil levies and general obligation bonds.
  - d. The comparison of Cottonwood Classical Preparatory School to school districts is not a fair comparison. The study seems to indicate that if a school is strategic and plans the growth and expansion of its program it is unfair. However, the study then indicates the schools need better financial management. The study contradicts itself.

The State Equalization Funding Formula has been studied over and over. The formula in previous studies has been determined to be one of the fairest formulas in the nation. If this is the case the factors within the formula must be maintained for all schools and districts. To change the formula because a small percentage of the total funding (4.5% in the study) goes to charter schools is an overreaction. Comparing districts to charter schools only demonstrates a lack of knowledge of the formula and its history. The formula was created to provide equitable funding for all children in the State of New Mexico attending public schools.

2. Tougher renewal and application processes: Would like to see an application that includes work with PSFA to develop a facility plan in advance. However, new applicants are not allowed

to incur or submit any expenditure prior to award of grants. Will the NM PED allow expenditures from the school to be paid prior to award, approval, or renewal?

3. The recommendation to close poor performing schools moving towards higher level performance measures for charter schools should be expanded to include existing district public schools. State law currently requires district schools to become conversion charters along with other requirements if improvement is not made. All schools should be held to the same standards.
  
4. Problematic statements that need to be researched and corrected:
  - a. P.17 Charter schools spend a smaller share of funding on instruction than school districts overall.... The analysis should look at districts with similar demographics and, at a minimum, districts with similar membership counts. Including large districts distorts the analysis and is biased.
  - b. P.31. "National studies have shown that Charter Schools do not outperform traditional schools". A review needs to be conducted which compares similar demographic populations. Including schools providing service to at-risk students along with high academic schools distorts the studies.
  - c. P.36. Graduation rates must look at the same as "b." above.
  - d. P.37. College remediation rates must look at the same as "b." above.
  - e. P. 39. In addition to the information provided by other charter schools, APS has now begun to train and install schools with equipment, such as promethean boards, being used by charter schools for many years.

**RESPONSE to 2010 LFC Performance Evaluation Report  
By SAN DIEGO RIVERSIDE CHARTER SCHOOL July 20, 2010**

**1) Charter Schools Average Teacher Salaries - \$58,634.22**

COMMENT: San Diego Riverside appears in the school sequence at the 4<sup>th</sup> position (in no particular order that I can discern) at an average salary of \$58,634.22. That number is incorrect and actually represents the salary of a 19-year veteran teacher who served as special education coordinator at the district and then, later, joined our staff. Please note, San Diego Riverside is a Title I school in NCLB status. Federal guidelines mandate that our students are served without waiver by Highly-Qualified teachers. Such teachers are hard to come by, in most cases, in rural areas. Our T&E is higher because we have been fortunate to employ talented, highly qualified teachers with appropriate experience who enjoy working in a smaller school environment. However, they choose our school, it does not appear to be a function of bidding competition with other schools or districts. Out of 9 teachers, we have four with special endorsements and other valuable professional experience that increased our T&E. When a total average is taken of all faculty, the correct average salary is \$52,555.27. When an average is taken of our teachers, excluding the most senior and HQ faculty, the resulting figure is \$45,476.44.

**2) Charter schools are component units of either school districts, or PED . . . for the annual financial audit.**

Walatowa High Charter School is mentioned in a list of charter schools with incomplete audits for 2009 (San Diego Riverside, Vista Grande, Walatowa, Anansi and Taos Municipal Charter Schools). Walatowa High, our sister school in the same district, was not a subject of the LFC research study. Their site financial audit was not delayed, but because they are a component unit in the same district, the audit, overall, is late. The remaining district audits for 2008 and 2009, inclusive of all units, are scheduled to be completed by November 2010. Since 2005, the delays have included several factors contributing to delays rolling forward e.g. fixed assets database lost by external contractor; more recently, the contracted auditor suffered a health crisis requiring hospitalization and recovery lasting nearly 8 months. The district did not wish to hire another auditor because the original auditor had done so much work, already.

**3) Possible recommendation to require charter developer applicants to complete separate Business Plan in addition to the regular application format.**

COMMENT: Because of the extra costs associated with preparing a comprehensive Business Plan, I would encourage PED to discuss such needs with Schools/Departments of Business at State-Funded Postsecondary institutions, as well as the Small Business Administration. Perhaps, PED could arrange to match up volunteer graduate business students, or SBA/SCORE (retirees) to work with charter developers on a free or nominal-cost basis.

**4) Requiring applicants to include three specific options for facilities.**

COMMENT: This requirement would be virtually impossible to meet in most rural and/or tribal communities where, generally, applicants, if lucky, might be able to option one facility.



David,

Thank you for the opportunity to provide the LFC with an overview of La Academia de Esperanza Charter School (Esperanza). The attached demographics of our students demonstrates the extreme nature and needs of the young people we serve. Many of our students require intensive mental health interventions which must go hand-in-hand with well-rounded academic practices. We receive students from throughout New Mexico with chaotic backgrounds at home and school, as well as long histories of mental health issues and trouble with the law. Our students come to us having slipped through the cracks of our educational and community resources. Our mission is to get them on track, valuing education and becoming positive contributors to our local neighborhoods.

The yearly NMSBA's do not necessarily test the same students year-to-year at Esperanza. Our high mobility rate is partly due to the fact that many students leave the school after receiving intensive mental health services. We must use a short-cycle assessment (Northwest Evaluation Association, or NWEA) to demonstrate progress of our individual students. The attached NWEA results are promising, yet we are striving for improvement. 60.6% of students made significant gains in Math, while 50.7 % made significant gains in reading during the 2009-2010 school year. This is encouraging because our student body includes some of the highest risk students in our state. The attached demographics suggest our students are at-risk of dropping out and not graduating, they are at-risk of not having the skills to be gainfully employed, and they are at-risk of having trouble with the law. We seek an on-going dialogue and accountability system that proves our worth as a school and we encourage anyone with an interest in the long-term education of troubled youth in New Mexico to visit our site and speak with the students, parents, staff, and governing council.

Thank you,

Steve Wood

Principal

(505) 239-5939



**Student Demographics 2009-2010 SY**  
**5200 Sequoia & 1401 Old Coors**  
**(244 students surveyed)**

Male: 60.2%      Female: 39.8%

Ethnicity:

Caucasian: 18.85%  
Hispanic: 65.57%  
Native American: 9.02%  
Black: 3.28%  
Bi-racial: 3.28%

Grade:

6<sup>th</sup>: 2.88%      9<sup>th</sup>: 36.63%  
7<sup>th</sup>: 8.64%      10<sup>th</sup>: 23.05%  
8<sup>th</sup>: 7.82%      11<sup>th</sup>: 14.4%  
12<sup>th</sup>: 6.58 %

SPED: 32.79%      Reg. Ed: 67.21%

Current Living Arrangements:

|                                 |                       |
|---------------------------------|-----------------------|
| Bio Parents: 26.87%             | Single Parent: 32.6%  |
| Bio Parent & Step Parent: 18.5% | Other Relative: 8.37% |
| Adoptive: 4.41%                 | Foster: 1.76%         |
| TFC: 4.85%                      | Group Home: 1.32%     |
| Other: 1.32%                    |                       |

JPO (past or present) 26.97%      Legal History: 52.5%

Clinical Diagnosis: 68.88%

Psychotropic Medications (present): 44.35%

Substance Use/ Abuse: 73.77%

High Risk Behaviors: 97.89%

Students with Treatment History: 79.91%

Students currently in RTC or Day Treatment Program (**not including other outpatient services/therapy**):  
133 students (54.51%)

Residential Treatment: 72 students (29.51%) A residential treatment center (RTC) is a live-in facility providing therapy for substance abuse, mental illness, or other behavioral problems.

Day Treatment: 61 Students (25%) Partial hospitalization is a type of program used to treat mental illness, substance abuse, or other behavioral problems. In partial hospitalization, the patient continues to reside at home.

## LA LUZ DEL MONTE LEARNING CENTER

10301 Candelaria Rd. NE  
Albuquerque, NM 87112  
(505) 296-7677 fax: (505) 296-0510

July 21, 2010

New Mexico Legislative Finance Committee  
Representative Luciano Varela, Chairman  
325 Don Gaspar, Suite 101  
Santa Fe, New Mexico 87501

Dear Members of the Legislative Finance Committee,

The Board of Directors and Administration of the La Luz Del Monte Learning Center want to thank you for including our school in the 2010 Program Evaluation of State and Local Charter Schools. With the permission of David Craig, Program Evaluator we offer the following response.

While we have not seen the final report, Mr. Craig has provided us advanced notice of areas in which our school was either commended or where suggestions for improvement were made. Please know that we take the recommendations seriously and we will be working diligently to provide remedies.

We are concerned with the direction the report has taken in regards to the small school size adjustment. By their nature, charter schools are small learning communities. The recommendation by the evaluators to eliminate or adjust the small school size adjustment for charter schools is problematic. For example, by State law, schools must employ highly qualified, licensed teachers. Due to the three-tier licensure system, these teachers cost the same regardless of the number of students served; lights cost the same to turn on whether there are five students or twenty-five students in a room. Eliminating the small school size adjustment for charter schools will have the effect of decreasing budgets by 20-30% – this would be catastrophic for the students attending charter schools.

Secondly, while appreciative that our student's reading and mathematics performance on the State's standards-based assessment was recognized as among "the highest levels in the State" we are concerned that this student/teacher accomplishment was minimized due to a 2% reduction (one student) in students qualifying for free and reduced lunch. As you know, charter schools are not permitted to "choose" their students. Students are admitted via a lottery. To minimize student achievement and a school's accomplishments due to a statistically insignificant reduction caused by a legislatively dictated random event is disingenuous. There is no "achievement gap" at La Luz Del Monte, the students qualifying for free and reduced lunch, Hispanic students, African American students, and students receiving special education services all scored significantly higher than their peers in traditional schools. The school has made AYP every year it has been in existence.

Finally, the La Luz Del Monte Learning Center's \$281.00 discretionary spending on "magnets" was questioned. We believe this questioned expense deserves a response. The school printed "magnets" with every teacher's name, email address, and phone number on it. Additionally, the "magnets" contained the parent's unique log-in information to check on their son/daughter's progress, attendance, and assignments. The "magnets" served as a communication tool for parents – making communication with the school's staff easy and effective. The "magnets" contained much more than the "school logo" as implied in the report.

We again thank you for including our school in your review of charter schools and appreciate the opportunity to respond to those parts of the report that we have had the opportunity to review.

Sincerely,

  
Judy Chapman, Board President

  
D. Scott Glasrud, Head Administrator

*"A Golden Opportunity"*



July 20, 2010

**Legislative Finance Committee**

Attention: Lawrence Davis (Program Evaluator)  
State Capitol North  
325 Don Gaspar – Suite 101  
Santa Fe, New Mexico 87501

Re: Las Montañas Charter HS Report of Findings

On July 15, 2010 we received various copies of the LFC 'Report of Findings'. We conducted a full review of the pages received, and have established a written response on the status and/or resolution for corrective action; to include, expressing opinions, as to valid or fair representation to the operation of Las Montañas Charter High School.

**1. Finding—Small Size Funding over \$12 Million and Average Teacher Salaries**  
**(See Page 8 and 14 – Report of Findings)**

**Response –**

- Small size funding formula is established by the state. Therefore, Las Montañas Charter High School adheres to this formula, and how these funds are generated. This is not a site-based management issue or decision. **See Exhibit "A"**
- Teacher salaries correlate with *Licensure* levels, and funding expectations for each level. Currently, Las Montañas has (13) Level-1 teachers; (6) Level-II teachers, and (7) Level-III teachers. Administratively, a common and sound practice is to budget at a Level-II position. **See Exhibit "B"**
- A decision to hire teachers should be based on sound hiring practices. Specifically, one that is based on student needs, as well as program needs. Any school's teacher staffing patterns will vary from Level I, II, or III. There are many considerations that affect the hiring practice.
- The average of \$46,573.41 noted on your report will vary from year-to-year; based on staff attrition.

**2. Finding—Analysis of Economically Disadvantage Populations vs. Traditional Public Schools**  
**(See Page 30 – Report of Findings)**

**Response –**

The date listed on page 30 of the *Report of Findings* fails to define and disaggregate disadvantage populations to determine if public schools serving economically disadvantaged populations do

about the same. Within this population, several considerations should be considered for Las Montañas Charter High School:

- Las Montañas was the only school that met AYP (*Adequate Yearly Progress*) among the area's four local high schools
- Parents elect to have their child enrolled at Las Montañas Charter High School.
- 85% of our school population is considered free and reduced
- 5% of our school population comes from private schools
- 27 students graduated May 2010; 80% of the 27 graduates would not be in school; 25 of these graduates were credited to Las Cruces Public Schools Cohort Graduation Rate

50% of the Las Montanas Charter High School student population would have dropped out of high school, if they had not attended Las Montanas Charter High School.

- a) 7% are 18 and 19 year of age (300 students)
- b) 3% have a parent that is incarcerated
- c) 40% would most likely be dropouts.

### **3. Finding—Procurement Concerns** **(See Page 24 – Report of Findings)**

#### **Response –**

It was noted on the Report of Findings that Las Montañas was previously using debit/credit cards in FY08 and FY09 before they were cancelled. This is true; Las Montañas at one point did have a credit card for staff business trips, and a Sam's Club card to purchase supplies and gasoline for the school vehicles. However, these card accounts were closed in 2009, and *Procurement* cards were obtained through 'Bank of America' on March 2010 so that Las Montañas could be in compliance with the New Mexico State Procurement Code. Secondly, the *Report of Findings* stipulates that, as of current, Las Montañas continues to use gas cards. This is incorrect! Las Montanas does not retain any gasoline cards. When it is necessary to purchase fuel for the school vehicles; Las Montanas uses the procurement card for this expense.

### **4. Finding—Conflict-of-Interest/Relationship between Families & Youth, Inc., and LMCHS** **(See Page 21 – Report of Findings)**

#### **Response –**

When the application was processed to establish the new Las Montañas Charter High School; the business relationship with Families & Youth, Inc., was already established; disclosed and approved by the Las Cruces Public School Board of Education. Families & Youth, Inc., (FYI) and Las Montañas have been working toward the separation. Progress has been documented, and communicated with our authorizer.

### **5. Finding—Father of Las Montanas Governing Board Chairman owns RGBHS** **(See Page 22 – Report of Findings)**

#### **Response –**

Incorrect statement; Supporting paperwork will show that "*Puerta Privada, LLC* is the owner of the RGBHS office building. **See Exhibit "C"**



- 6. Finding—Las Montañas Charter HS conducts business with the Founder’s privately owned business, and continues to use that organization’s Federal Tax ID.  
(See Page 21 – Report of Findings)**

**Response –**

Las Montanas acquired its own Federal Tax Identification Number (FEIN) on February 9, 2009. The Las Montañas Employer Identification Number (EIN) is 35-2355542. The New Mexico Public Education Department (PED) and other business connections have been informed of this change. **See Exhibit “D”**

- 7. Finding—Las Montañas Charter HS has Purchase Order for \$35,772 with School Technologies that did not go out to bid.  
(See Page 20 – Report of Findings)**

**Response –**

Creative Learning Systems/School Technologies is a “sole” source vendor of the SmartLab. Creative Learning Systems is the creator, manufacturer, and sole distributor of the SmartLab. No other technology education vendor has an equivalent system. Therefore, going out for bid was not necessary. **See Exhibit “E”**

- 8. Finding—Las Montañas Charter HS paid \$17.8K for a GMC Yukon; it procured from the Founder’s company Resources for Children & Youth, Inc., (RCYI) as well as leasing a 2002 Food Service Van for \$1,047.95 per month.  
(See Page 21 – Report of Findings)**

**Response –**

- 2004 GMC Yukon – this vehicle was purchased for student transportation only. Las Montañas paid \$17,789 for this vehicle. The sale price for this vehicle was at/or below blue book value. **See Exhibit “F”**
- 2002 Chevy Van – this vehicle was purchased to transport student meals to the school. Las Montanas paid \$9,401.45 for this vehicle. The sale price for this vehicle was at/or below blue book value. The standard cost in leasing a vehicle is \$100 per day; approximately \$3,000 a month. It was cost-effective for Las Montañas to lease the Food Service Van from Families & Youth, Inc., for the favorable amount of \$1,047.95 per month. **See Exhibit “G”**

We understand this was a Procurement Code violation. This was an audit finding for fiscal year ending June 30, 2009; corrective measures has taken place, and school officials will comply with future *Procurement* procedures.

- 9. Finding—Families & Youth, Inc., (FYI) employee a member of the Board  
(See Page 22 – Report of Findings)**

**Response –**

We researched this matter, and learned that the employee in question was Kathryn (Kathy) Garza. In speaking with Ms. Garza we asked that she provide us with information as to her employment status while serving as a board member of Las Montañas Charter High School. Ms. Garza informed us that between September 1988 and July 2007 she was employed at Memorial Medical Center (MMC) as a full-time *Environmental Services Attendant*; **See Exhibit “H”**. Ms. Garza also informed that when she resigned from MMC, she accepted a volunteer position with AmeriCorp for an approximate period of two years. When her placement with AmeriCorp expired, Ms. Garza said she was given a monetary stipend in the

amount of \$438 dollars; to include educational benefits for *free* classes at DABCC for service with AmeriCorp. Ms. Garza alleges that she elected to pursue her education; to this day she continues to be enrolled as a part-time student at Dona Ana Branch Community College (DABCC); **see Exhibit "I"**. Ms. Garza affirms that she has never been a paid employee of Families & Youth, Inc.

**10. Finding—Las Montañas Charter HS reported spending over \$280K on building lease costs for FY09, with about \$233K spent from its main operational fund, and the balance from PSCOC Lease Assistance.**

**(See Page 14 – Report of Findings)**

**Response –**

All allocations from PSCOC for Lease Assistance are used for this purpose only. It is our understanding that school districts receive bond monies to assist with facilities. Las Montañas Charter HS does not receive this type of assistance.

**11. Finding—Las Montañas Charter HS spent \$750 dollars to purchase the school staff their choice of a Christmas Ham or Turkey. Las Montanas also spent \$514.50 on a school movie outing, and \$500 dollars on (20) gift cards to Chili's, and \$100 dollars on (4) gift cards from Applebee's as token of appreciation for staff.**

**(See Page 19 – Report of Findings)**

**Response –**

Administration was not aware that expenditures for staff incentive were unacceptable. We accept full responsibility for this error, and Las Montañas will ensure that this type of expense does not occur again.

**12. Finding—Las Montañas Charter HS has many contracting arrangements that have the appearance of potential conflicts of interest; including an arrangement with Rio Grande Behavioral Health Services (RGBHS) for \$145K that RGBHS said was procured through *sole* source procurement, and did not go out to bid.**

**(See Page 21 – Report of Findings)**

**Response –**

Procurement mistakes were made. However, the cost to Las Montañas is not unreasonable. All current contracts between Las Montañas and other entities are in the process of being reviewed. These contracts will be presented to the Las Montañas Board of Governance, as required.

Furthermore, please be informed that Las Montañas Charter High School has established its webpage. When LFC was in Las Cruces visiting our school; our website was under reconstruction. Our website designer has informed us that our website should be in operation by mid-next week. Our website link will be *lasmontanashigh.com*

Mr. Davis, please let us know if additional information, or further clarification is needed. Las Montañas addressed all responses to the best of its ability. We hope to have satisfied some of LFC's concerns, and we look forward to hearing from you should you have any questions.

Respectfully,

Joyce A. Aranda  
Academic Dean  
Cell Phone: (575) 635-0476

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Dexter Sandoval  
District Controller  
Rio Grande Behavioral Health Services  
Cell Phone: (575) 650-7704

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Christopher (Chris) Lopez  
Chairman, Board of Governance  
Cell Phone: (575)640-4297

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Jose V. Fietze  
CEO, Families & Youth, Inc.  
Founder of Las Montañas Charter HS  
Cell Phone: (575) 642-6491

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Documentation/Exhibits Provided By: Melba L. Ramos  
Cell Phone: (575) 312-3301

Amy Biehl High School

Dear LFC Charter School Audit Team,

7-21-2010

In addition to the request for school-specific corrections that already submitted to David Craig, I wish to offer the following letter to highlight larger concerns with the methodology of the report and several of its conclusions. As you well know, the “charter industry” within the current legal framework is now ten years old and has grown dramatically in that time period. It represents a significant investment in the realm of policy making, state money, entrepreneurial efforts of educators, and parental trust. As such, I recognize the need for a thoughtful analysis of the charter movement’s impact in New Mexico. While I appreciate the team’s efforts in undertaking this study, I feel that the methodology lacks the necessary robustness to arrive at some of the broad recommendations asserted at the conclusion of the report. I made my concerns clear to David Craig in our interview; however, I wish to restate them here for the record.

#### Performance

Page 31 of the draft report contains the assertion: “National Studies have shown that Charter Schools do not outperform traditional schools....” The only study cited in this report in support of this statement is the CREDO report. CREDO was largely recognized as having significant shortcomings. The mere fact that the study relies exclusively on 9<sup>th</sup> grade test data to assess high school performance precludes any growth analysis for a student’s time at high school. If this blanket statement is to remain in the report, it should include a clear reference to the one national study referenced. If only one study is referenced, one has to question the validity of the statement.

As schools of choice, charters are unique animals within the education landscape. An analysis of performance should also include an examination of why parents continue to choose to place their children in schools—even when those schools may be failing by certain measures. What is it about these schools, or the schools they are leaving, which leads them to make a leap of faith in a new institution with no long-term track record? What aspects of school safety and overall accessibility might contribute to a family’s choice of a charter?

The audit report does not reference the fact that charters are frequently guided by unique performance goals contained within their charter, specific to their mission. Thus, if a school is focusing on dropout reengagement, commonly held performance indicators may not be applicable. The audit report calls for even greater clarity of a school’s performance goals—a point with which I concur. Such goals, already in use at many charter schools, emphasize growth and improvement over time, measures not addressed in this audit. Amy Biehl HS, with its mission of college readiness and service, is looking carefully at ACT scores and college admission rates, while also tracking students’ persistence in two- and four-year colleges, as well as their level of community engagement beyond high school.

p. 37 “Charter schools are at an even greater disadvantage to serving youth that come into their school below grade level as the traditional methods for addressing students performing below grade level, like district-wide vertical alignment initiatives, are unavailable.”

The underlying assumption in this statement is that because of the ladder-like sequence of district schools, meaningful communication about students occurs during periods of transition which, in turn, contributes to student success. It is fairly common knowledge that such targeted communication, except as relating to special education students, rarely occurs between district schools. By conjecturing that charters schools are at a disadvantage based on a district practice that occurs only infrequently at best and links to no measurable data, the integrity of the report’s approach on this topic is called into question.

The report would be better served by highlighting the efforts that charters **do** make to support the successful transition of their incoming students. ABHS, like many charters, offers small- and large-group school tours, an open house, half-day orientations for all new students and parents, careful diagnostic testing in reading and math, and parental and student interviews concerning both the learning styles of their children and their mental health needs. Essentially, charters start early at building meaningful relationships with the students they serve—creating an important sense of belonging that many families have never experienced before. Such investments of time and energy also allow for the construction of a pre-arrival image of every child as a learner that can actually be communicated to teachers and advisors which then translates into proper class and support placements on the first day of school. It is precisely because of these investments in facilitating successful transitions that charters succeed in building bridges to families and students that larger, more bureaucratic schools often fail to do.

Page 39: “Charter school innovation has not been in the areas of new education programs and innovation transfers do not take place.”

Given the minimal attention paid to educational program during the site visits, it is difficult for me to understand how the team arrived at this statement. From my experience in charter schools, much of the innovation has occurred in taking known concepts and implementing them on a school-wide level. Putting school-wide initiatives into operation requires different approaches to organization, leadership, and implementation. Traditional district schools stand in stark contrast to this approach, especially at the high school and middle school levels, where schools typically have myriad classes and initiatives, which are accessed by only certain segments of the population.

At ABHS, we believe the “new, innovative” programs we have developed do make a difference in the quality of education of our students:

1. Whole school service days in the community on MLK Day. These include students, parents, and teachers working side by side in a variety of settings.
2. Year-long service requirements of every student, regardless of academic performance or disability.
3. 2 Dual Credit classes required for every student.
4. Every student takes the ACT.
5. Thematically linking 2 dual credit classes with the service work in the community so that students are provided a real world context to inform the academic experience. For example, a student working at Enlace Comunitario's Center to support victims of domestic violence also takes college classes in Sociology and Women's Studies. Similarly, a student working in the UNM Robotics lab attends classes in Math and computer programming.
6. College expectations for all students: achieve a 75% to receive credit for high school classes.
7. Operating a full-inclusion approach to Special Education at the high school level.
8. Full staff participation in SPED IEPs. (Typically, there are only representatives present.)
9. Implementing a year round calendar at the high school level.
10. Building 5 weeks of professional development and an 8 hour work day into teacher contracts.
11. Paying for students to use the ABQ public transportation to get to school.
12. Successfully locating within a mixed used environment—public transportation, businesses, and non-profits readily accessible and within walking distant. Facility usage partnerships for Physical Education and Library.
13. Saturday School offerings.
14. Interim School offerings during the quarterly.
15. Creation of Project Week in which community members come in and offer classes on a variety of topics.
16. Holding Public Exhibitions of student work in multiple subject areas in which every student presents and defends work in front of community panelists.
17. Literary Circles: Small group book club discussions once a week with adults from the community. This model has been extended to certain local elementary schools.
18. Specific classes offered to all students dedicated to college guidance, admittance, and success for all students.
19. Three years of ABHS Roundtable with participation from business leaders, policy makers, educators, and bureaucrats in examining issues of college readiness.
20. 2 years of participation in Governor's Summit on Higher Education.
21. Dedicated partnerships with multiple APS and charter elementary schools (Dolores Gonzales, Coronado, and Christine Duncan) providing them with weekly bilingual tutors and mentors in 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> grade classrooms.
22. Partnership with UNM Dept. of Education to host student teachers. Over the last five years, ABHS has trained 15 student teachers and been praised for the quality of experience these students have received.
23. Partnership with NM Highlands and Smith College in Boston to train social work interns. (5 total interns within past 2 years)
24. New leadership structures within schools.

25. Departure from traditional salary schedules to more fairly compensate teachers for their work.

Transfer of Knowledge:

It is important to recognize that although there have certainly been collaborations between charters and the district, historically, the relationship could be characterized as one of regulation and competition. This has started to change recently as the district has developed specific collaborations with certain schools, frequently involving facilities or programs to better serve at-risk populations or health needs.

There have been numerous transfers of knowledge, experience, and direct training between schools around Albuquerque, New Mexico, and the nation. As a CES mentor school, ABHS has hosted numerous visitors from around the country, while also supporting the creation of the Native American Community Academy. Most recently ABHS supported the creation of ACE Leadership High School. Representatives from district schools have come from: La Cueva, Albuquerque Academy, Bosque Prep, Harrison Middle School, James Adams Middle School, Dolores Gonzales Elementary, West Mesa High School, Highland High School, Early College Academy, and numerous charter schools. The school has also been visited by leaders in higher education, including multiple teams of professors and administrators from UNM, CNM, NM Tech, NM Highlands, and St. John's College.

Although there may not be many overt transfers of knowledge and expertise from charter schools to the districts, I do not feel this assessment is accurate. Since the inception of charter schools ten years ago, the APS school district has altered course in order to create their own versions of smaller, mission driven schools or to partner with specific charters. The notable examples here are the creation of New Tech High School on the Del Norte campus and the Early College Academy. In addition, the district has facility and programmatic collaborations with NACA and PAPA.

While not publicly attributed to charter influence, recent APS changes which focused on student led family meetings as well as an attempt to implement later start times for high schools are both components that have been in place for years in several charter schools.

Finally, the report asserts that charters have been more expensive than normal schools, implying that some charter schools have intentionally chosen their small size to exploit increased funding opportunities for small schools. While an examination of charter finances may be in order, we must not lose sight that these schools were never conceived of as a means to recreate the large schools that already exist within the state. I refer the committee to Think New Mexico's report on small schools from November, 2008:

Decades of research have shown that smaller schools have higher graduation rates, higher student achievement, lower levels of student alienation and violence, and higher levels of satisfaction among students, parents, principals, and teachers. Small schools also dramatically improve the performance of low-income children, which helps to narrow the persistent achievement gap.

The capital costs of small schools can also be far less per student than those of large schools if the small schools are designed to take advantage of community educational resources like gymnasiums, pools, libraries, and sports fields, rather than duplicating these facilities. Several New Mexico charter schools have successfully applied this community-based model, at a savings of millions of taxpayer dollars.

Over the past decade, New Mexico has moved assertively to create new opportunities for students to experience educational success, recognizing that one size doesn't fit all. As start-up entrepreneurial enterprises, charters have evolved in spite of great odds, and their presence has altered the conversations of public education in a profoundly positive way. Before dismissing the movement as an overpriced dud, we must strive to ensure that our tools for evaluating the state's return on investment are as innovative and creative as the schools the movement has generated.

Sincerely,

MikeMay  
Executive Director  
Amy Biehl High School