

**Response To the
Report to the LEGISLATIVE FINANCE
COMMITTEE**

***Charter School Facilities Lease Assistance and
Capital Outlay Planning***

(Presented by LFC staff to the LFC on January 14, 2013)



The New Mexico Coalition for Charter Schools

Prepared by Bruce Hegwer, Ed.D.

Executive Director

January 28, 2013



January 28, 2013

The Honorable John Arthur Smith, Chairman
Legislative Finance Committee
State Capital North
326 Don Gaspar - Suite 101
Santa Fe, NM 87501

Dear Senator Smith,

Thank you very much for the opportunity for the New Mexico Coalition for Charter Schools (NMCCS) to respond to the report, *Charter School Facilities Lease Assistance and Capital Outlay Planning* that was presented to the Legislative Finance Committee on January 14, 2013. Upon a detailed review of the Report we find the Report to present a false and misleading representation of charter schools and charter school leases. Instead of letting the data determine the findings, it appears that the outcome of the report was preconceived and the data was gathered and organized to present the findings the authors wanted.

We have attached a copy of the Report to this letter and have highlighted incorrect information and provided commentary that presents an explanation and more accurate representation of the information provided in the Report. We have also attached supporting documentation from charter schools that provide correct data and/or a clearer explanation as to the circumstances.

We would like to summarize our response to the Key Findings in the Report:

First, the Report attempts to tie the small school size adjustment charter schools receive to the Lease Assistance Program. The small school size adjustment topic is better suited to another forum. However, the small school size factor is necessary for charter schools to provide the educational programs provided for, and approved, in their charter. Due to their small size and intensive educational programs, the charters have higher costs and the small school size adjustment is crucial for school providing the programs they were designed and authorized, to provide. It is important to note that charter schools are required to meet all of the data submission and reporting requirements as traditional public schools. This places an administrative burden on charter schools that don't have access to other funds that help offset the administrative cost of such requirements.

Charter schools pay excessive lease costs at taxpayer expense. This is a false and misleading statement. The increase in the amount of the lease assistance awards is a result in the increase in the number of charter schools receiving funds and the growth in the number of students attending charter schools. It is also significant to note that the standards of facilities increased from only "occupancy" to "adequacy" – driving up the cost of tenant improvements. It is also not factored in that the amount of lease reimbursement per MEM increased from \$300 in 2005 and adjusted to \$600 and the \$700 in 2009. Additionally **Attachment K** clearly articulates the lease assistance application for each charter school and the cost/sq. ft. for each school. *Please note for 2011-2012, the statewide average lease application cost per square foot is \$11.11.*

Charter School Foundations and other third parties are driving the cost of charter leases higher than necessary, costing the taxpayers millions of dollars. The use of Foundations to help charter schools is allowed, and encouraged in statute. Foundations incur costs in providing the facilities and procuring third party financing. Any amount paid to the Foundations over the leases assistance award to the charter school helps to offset that costs. The Report "implies that taxpayers are overpaying" but cites only 3 examples where that "may" be the case. A more careful examination of each school portrays a more accurate picture of the value the school is receiving. In addition, the PSFA mandates disclosure of any conflicts or potential conflicts of interests before awarding lease reimbursement grants.

Some charter schools use operational funds to pay for expensive leases and high administrative costs. It is true that may charter schools use operational funds to help pay for their lease costs. This is necessary because charter schools do not have access to other funding sources that could be used. Also, differences in interpreting and coding "administrative costs" by PED staff and school business managers leads to incorrect identification of what constitutes administrative costs. Some schools have inaccurately reported costs as administrative costs, when in fact; they should have been categorized differently.

Another factor to consider is that charters are prohibited from budgeting lease payment assistance grants every year because PSCOC does not make them final until several months into the new fiscal year. Every year, therefore, charters must budget 100% of their lease from some other source, and this is almost always the Operational Fund.

Additional costs and questionable space utilization are major factors in the high costs of charter school leases. When a charter school opens, it does so with the intent of not having to move to another location within a short period of time. Thus, some charter schools acquire facilities that are larger than their immediate needs to accommodate future growth as required by their charter contract, which is more cost-effective in the long run.

Lack of oversight and planning costs the state millions of dollars. We agree that charter schools need guidance and technical assistance when it comes to facilities. However, we do not believe the costs are as extreme as the Report would have you believe. When confronted with situations where guidance and technical assistance are not provided, charter leaders seek creative solutions to their facilities needs. While there may be one or two instances where a charter school lease may be portrayed accurately in the

Report, the vast majority of charter school leases are reasonable and without a conflict of interest. The vast majority of charter schools are in facilities that are safe and meet the needs of their students and academic programs. We ask that you consider the following:

1. The LFC report generalizes based on a small minority of cases that all charters have issues with facilities, leases, operational expenditures and conflicts of interests. This is incorrect and the large majority of charter schools operate efficiently, effectively, and totally within all laws and regulations.
2. There are programmatic and administrative justifications for charters receiving small school size adjustments.
3. Charters must use operational funds for leases because they do not have consistent and reliable access to capital funds.
4. Charters need a revolving fund to borrow from to purchase and improve leases.
5. Charters need guidance from PSFA/PSCOC concerning what the PSCOC deem reasonable and required lease terms.

We believe that it is important to offer solutions and we do concur that some modifications in the Charter Schools Lease Assistance Program are warranted. Thus, we propose the following:

1. A study of how charter facilities are financed in other states and development of a plan for NM charters.
2. The establishment of a revolving fund for charter facilities.
3. Fund guidance documents for facilities funding, conflict of interests, and facilities acquisition.
4. Standardize coding of expenditures in school budgets.
5. Fund training for business managers and PED budget analysts on coding expenditures.
6. Provide comprehensive list of public facilities available from all sources (local, state, federal).
7. Require districts to automatically include charters in SB-9, HB-33, and GO bond elections.
8. Standardize wording in leases; yet, retain ability for flexibility.
9. After first renewal, extend charter school renewal for up to 10 years so that charters can enter into 10 year leases which should drive down rental costs.
10. Change funding cycle for lease assistance payments so charters do not have to cover lease payments with operational funds until the lease assistance payments start flowing.

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11. Fund training for Governing Council members on facilities, leases and conflicts of interests.

Again, thank you very much for allowing the New Mexico Coalition for Charter Schools to respond to the Report. We look forward to answering any questions you may have about our response, and we look forward to working with you, members of the Legislature, and LFC staff to provide the educational system we all want for our students.

Sincerely,



Bruce Hegwer, Ed.D.
Executive Director

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BACKGROUND INFORMATION

Charter schools are tuition-free public schools that provide a choice in public education for parents, students, and educators. A charter contract between the school and an authorizer will establish the school as a charter. An authorizer can be either the local school district or the Public Education Commission. Charter schools are intended to promote innovation in education and enjoy greater autonomy in curriculum and methods. They also face unique challenges that standard public schools do not, such as securing long-term facilities. Lease assistance is awarded by Public School Capital Outlay Council (PSCOC) and administered by the Public School Facilities Authority (PSFA). Each year, the number of charter schools continues to expand, as does the responsibility and liability to the state and local school districts.

The lease assistance program is primarily affected by four pieces of legislation.

Table 1. New Mexico Statutes that affect Charter School Facilities

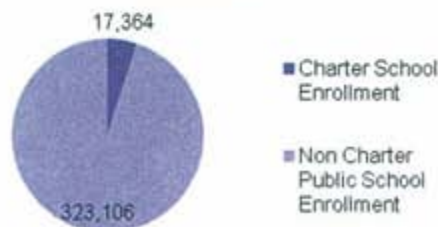
Public Finance Act	22-8 NMSA 1978	Provides the public school funding formula, the state equalization guarantee (SEG), and the official school enrollment or membership count (MEM).
Charter School Act	22-8B NMSA 1978	Provides the charter school application process, legal structure, facility standards, and duties of authorizers.
Public School Capital Outlay Act	22-24 NMSA 1978	Created the Public School Capital Outlay Council (PSCOC), the Public Schools Facilities Authority (PSFA), and the Public School Capital Outlay Oversight Task Force (PSCOOTF). This Act provides capital outlay funding for public schools.
Lease Purchase Act	22-26A NMSA 1978	Details the requirements for schools entering into lease purchase agreements.

Source: One Source

The Lease Assistance Program started in 2004, as part of the Public School Capital Outlay Fund Section 22-24-4 NMSA 1978. While the program is not specific to charter schools, the program has mainly benefitted charters. The program was initially capped at \$4 million, but the cap was removed and an annual adjustment tied to the Consumer Price Index (CPI) was established. Program awards have increased 377 percent from 2005 to 2013. At the current rate of expansion, an estimated \$50 million would be expended by 2021, diverted from other public school capital outlay projects.

As of the 2011-2012 school year, 96 charter schools exist in the state with the student population exceeding 17 thousand students. The total public school population is approximately 340 thousand, with charter school students accounting for 5 percent of the total. The state-authorized charters make-up 54 percent of the total.

Chart 1. Number of Students in NM, SY12



Source: PSCOOTF

Chart 2. Number of State vs. Locally Authorized Charter Schools



Source: PSCOOTF

At the September 2012 Public School Capital Outlay Council (PSCOC) meeting, the Council recommended making no increase to the lease assistance awards. This amount is at the discretion of the PSCOC and the amount per MEM (student membership) would remain at \$733. The Council also recommended to defer awards to nine schools until the high cost per square foot was justified. In addition, the award to the NM Virtual Academy was recommended to be deferred until the need and number of students physically present could be determined.

The LFC *Evaluation of New Mexico Charter Schools 2010* provided multiple recommendations relevant to lease assistance that were not implemented. This evaluation supports implementation of the two of those recommendations originally made in 2010. If implemented, these steps would increase the oversight needed to ensure taxpayer dollars are used efficiently. The two recommendations were:

- Charter authorizers should freeze approval of all new applications until the application and renewal process has increased monitoring and oversight. This recommendation includes closing poorly performing charter schools.

Senate Bill 446, which began implementation on July 1, 2012, increases the monitoring and oversight of charter schools by requiring Performance Contracts that are negotiated between the charter school and its authorizer that sets conditions and goals for improvement. There is now a yearly review of the contract and the progress made toward achieving the goals in the contract.

Recently, the PEC has approved only 1 new charter school for the 2013-2014 school year. In addition, the PEC approved the non-renewal of two charter schools which will terminate their charter on June 30, 2013.

- Exempt charter schools from receiving small school size adjustments provided for in the current funding formula for public schools.

Charter schools do not have access to capital, and other funds, that traditional school have access to. In addition, charter schools are small with enrollment caps, often have more intensive programs, and are authorized in their charter to have smaller pupil-teacher ratios. As a result, some of the costs charters incur are higher than traditional schools. In addition, charter schools are required to comply with the same data and reporting requirements as traditional schools. Thus, the small school size is necessary for charters to operate effectively and efficiently, and to meet the requirements of their charter.

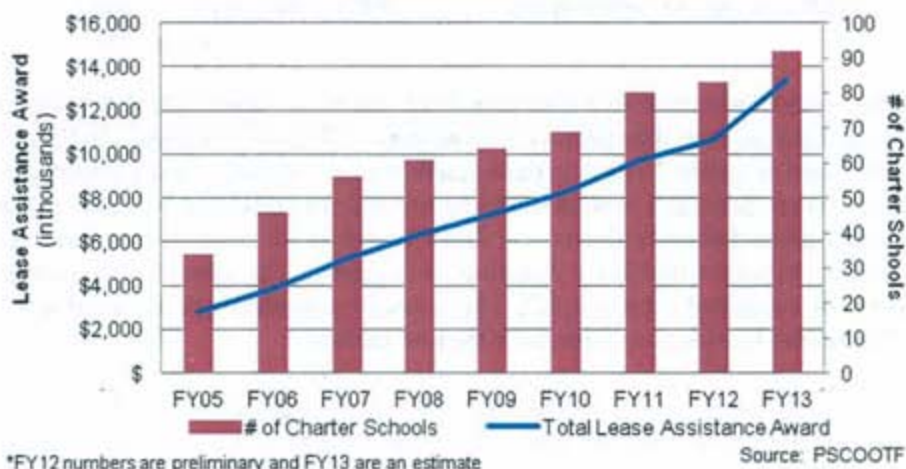
FINDINGS AND RECOMMENDATIONS

CHARTER SCHOOLS PAY EXCESSIVE LEASE COSTS AT TAXPAYER EXPENSE

Charter school costs are increasing with payments quadrupling over the past nine years. From 2005 to 2013, the number of charter schools has almost tripled, from 34 schools in 2005 to 96 in 2013. During the same time, facility awards have more than quadrupled from \$2.8 million in FY05 to \$13.4 million in FY13, with no limit on increases. **This is an incorrect statement because the lease assistance increases are limited to the CPI.** Increased costs can be attributed to lack of oversight, lack of regulation, and third-party markups. **This is also an incorrect statement because the increased costs are directly correlated to the increase in the number of charter school students and in the CPI adjustments.**

There are no requirements for determining if lease cost, tenant improvements, or space needs are reasonable.

Chart 3. Total Lease Assistance Awards and Charter Schools. FY05-FY13*



The chart above clearly articulates that the total amount of the lease assistance awards is attributable to the increase in the number of charter schools authorized and the number of students attending those schools.

Average lease rates are sometimes higher than market rates. The Property Control Division at the General Services Department provided the LFC with range of current lease rates for E-Occupancy facilities in the Albuquerque area and these ranged from \$6 to \$18 per square foot for tenant ready, triple net charter school leases. In the September 2012 LFC evaluation *Space Utilization and Impact on Capital Planning*, the GSD was credited with renegotiating 28 leases achieving lower lease rates more aligned with market rates. The savings to taxpayers are estimated at \$8.9 million.

The PSCOC distributes PSCOC 2012-2013 *Lease Assistance Awards* dated September 2012, which used data supplied by charter school applications but not validated. **The incorrect data supplied by the charter schools was due to a problem with the reporting that was subsequently corrected.** At the September 2012 meeting, the Council recommended deferring payments to nine schools that reported leases that cost over \$22.50 per square foot. These schools revised their reported square feet of leased space, which lowered the costs per square foot. At the LFC exit conference on January 8th, 2013, the PSFA provided revised cost per square foot data for 12 charters. The remainder of the report does not reflect these revised figures but uses the *PSCOC 2012-2013 Lease Assistance Awards* data dated September 2012. **Why not use the correct figures that were provided long before January 8th? The reason the correct figures were not used was because it did not cast the charters in a negative light which appears to be the intent of this report.** The list of charters with revised but self-reported and unverified data, can be found in **Appendix C**.

Table 3. Charter Schools Located in Albuquerque With Cost/Square Foot Over \$18

School	Total Sq. Ft. of Leased Space	Lease Amount	Cost/Sq Ft
New America-NM School	11,752	\$663,479	\$56
Cottonwood Classical Preparatory School	16,969	\$589,830	\$35
Horizon Academy West	17,633	\$522,853	\$30
La Resolana Leadership Academy	4,152	\$118,084	\$28
La Academia de Esperanza	13,679	\$360,000	\$26
Albuquerque School of Excellence	24,652	\$455,952	\$18
Media Arts Collaborative Charter School	10,800	\$198,360	\$18
ACE Leadership High School	12,000	\$220,000	\$18
Public Academy for Performing Arts	22,811	\$411,323	\$18

Source: PSFA

According to the PSCOC award document in September 2012, the New America-NM School has the highest cost per square foot of any charter school in the state. A new sublease effective September 2012, describes a new base rent amount that is effective December 2010, but the amount was not stated. That amount was requested by the LDC to which the school responded that it would not be provided until December 31, 2012. The school has yet to provide the base rent amount that describes all costs. Table 15 towards the end of this report, identifies outstanding request for information and includes the New America-NM requests. The new rent amount effective December 2012 is unknown and was requested by the LFC. The school responded that it could not be provided until December 31, 2012. The school has yet to provide the base rent amount.

Again, the information presented above is not correct. The September 2012 "award document" was acknowledged by the PSFA to have been in error, and was amended by the PSFA to reflect correct per-square-foot lease costs. New America School-NM met with Mr. Canney on December 6, 2012 and discussed a "lease justification letter" that was provided to PSFA and Mr. Abbey dated October 9, 2012. Mr. Cook of New America School-NM did discuss the correct numbers with Mr. Canney on several occasions. Although the correct numbers were provided, the LFC staff continued to use the incorrect figures. [Attachment A](#) at the end of this document provides a complete written response to this Report along with supporting documentation that was provided to the LFC staff.

The Cottonwood Classical's Montano lease increased \$108 thousand, or 72 percent in three years although the lease does not describe an increased square footage or tenant improvement.

Table 5. Cottonwood Classical Preparatory School: lease with Montano Land LLC

(in thousands)

	Annual Rent	increase \$	increase %
2010	\$150.00		
2011	\$216.00	\$66.00	44%
2012	\$258.00	\$42.00	19%
Cumulative		\$108.00	72%

Source: Cottonwood Classical Preparatory School lease with Montano Land LLC

The increase in the lease amount was due to an increase in square footage as a result of enrollment increases. As more students were added, more square footage was required. This was explained to LFC staff by Mr. Sam Obenshain, Principal of Cottonwood Classical. Mr. Obenshain explained to LFC staff that the school was moving to a new location with a new lease and staff indicated the above was a "moot point". If it is a "moot point", then why was it necessary to include it in this report?

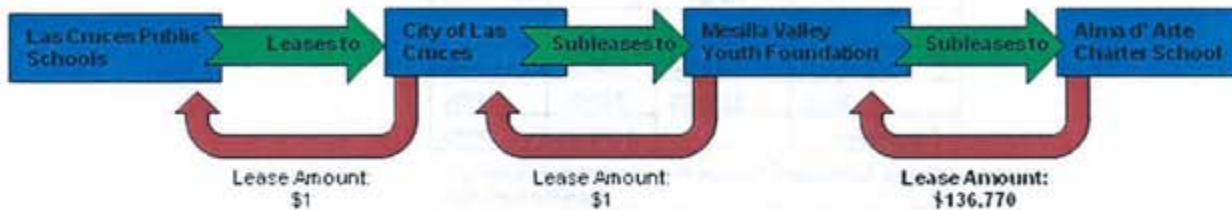
While the Cottonwood Classical Preparatory School had the second highest rent per square foot according to the PSCOC award document, a letter from the school to the PSCOC in October 2012, explained that the property owner increased the leased space from 6000 square feet to 13,265 square feet, or 121 percent. The lease amount remained the same. This increase in square feet causes the cost per square foot to drop from \$43 to \$19. This renegotiation of terms is an example of a good business practice but the change should be reflected in the lease. As the lease is expiring after this year, the school is planning to execute a lease purchase agreement and move to a new location.

Charter school foundations and other third parties are driving the cost of charter leases higher than necessary, costing the state millions of dollars. Many charters lease their facilities as part of a sublease executed by a foundation or another third party that are not held accountable to Public Education Department (PED) or the Public School Facilities Authority (PSFA). Some of these foundations charge a premium to charter schools to cover their operational costs. **Foundations that are providing facilities to charters incur costs that must be recaptured through rent. For example, a Foundation will incur legal costs to draft lease agreements.**

The New America – New Mexico Charter School – The school's sublease is valued at \$1.3 million to private investors. The lease purchase agreement, executed September 2012, was not approved by the state prior to execution, but approval is required. The new sublease references the purchase agreement that sold the interest in the charter school sublease to a private investor. The purchase price for the interest in the sublease was \$1.3 million dollars, implying that taxpayers are overpaying by *at least* this amount. **This is incorrect. First there was not a lease purchase agreement. Secondly, the \$1.3 million paid by private investors represents the debt incurred by the lessor for two phases of construction. There was not any overpayment. The new lessor was simply paying the original lessor the debt incurred for the cost of the improvements. This Report makes it sound as if the \$1.3 million represented an excess cost to the school. Please refer to Attachment A for a full explanation.**

Alma d' Arte - The Las Cruces charter school leases its facility from the Mesilla Valley Youth Foundation (MVYF), the school's foundation. . The school subleases the building for \$137 thousand a year, the maximum lease assistance payment amount the school is eligible for. MVYF, in turn, subleases from the city of Las Cruces for one dollar annually The City then leases from Las Cruces Public Schools for one dollar as well. Because the foundation is not accountable to the state, thousands of public dollars may (**This is a supposition on the part of the LFC staff**) be used for other activities or costs associated with the foundation, when the cost to lease the property is only one dollar.

Chart 4. Sublease Flow Chart and 2013 Lease Payments of Alma D' Arte Charter School

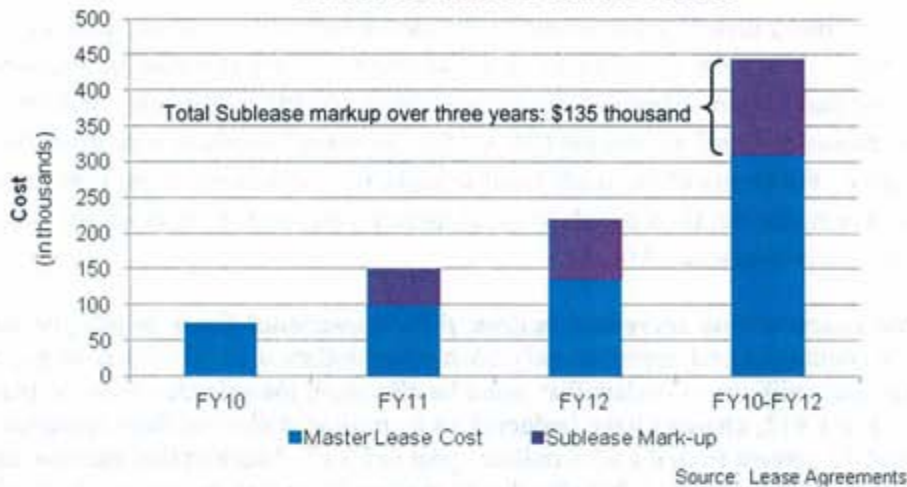


Attachment B, a statement from the Founder of Alma d' Arte, provides an explanation of the relationship diagrammed above. This same information was provided to LFC staff. What this report does not indicate is that for 8 years, from 2003 to 2011, Alma d' Arte did not pay any rent. Lease payments started only 2 years ago to help purchase the property from Las Cruces Public Schools. In addition, for the first 5 years of existence, Alma d' Arte only assisted with a partial amount of the utilities.

The New Mexico School for Architecture, Construction, and Engineering (ACE) has a facility condition index rating not meeting adequacy standards although this has not yet been verified by the PSFA. **How can this facility be determined as not meeting adequacy standards when it has not been verified by the PSFA?** The school pays a very high lease rate at \$18.33 per square foot, which is one of the highest rents in the state. . ACE subleases its facility from the Construction Advancement Program Inc (CAP) . The director of CAP is also the principal of ACE and pays the sublease. Over the past three years, CAP has charged ACE \$135 thousand more than the costs of the lease

Again, the information in the Report concerning ACE leadership High is incorrect. The Principal of ACE Leadership High made several unsuccessful attempts to schedule a meeting with LFC staff. The actual cost per square foot for the term of the lease is \$12.36 rather than the \$18.00 reported by LFC staff. Also, the Principal is no longer the Executive Director of the CAP and he was not a signatory on behalf of the school or the CAP at the time. **Attachment C** is a response to this report prepared by Tony Monfiletto, Principal of ACE leadership High School, that explains the lease costs for the school. Worth mentioning also is the fact that the student population at this school has increased significantly.

Chart 5. Construction Advancement Program's Markup on Sublease with ACE Charter School



Charter schools use operational funds, which are subsidized by small school size adjustments, to pay for excessive lease and administrative costs. In FY12, 12 charter schools spent 10 percent or more of their general fund on leases for their buildings. The ASK Academy, a charter in Rio Rancho, spent 19 percent of their SEG funds on lease payments. Some schools spend upwards of \$400 thousand on lease payments from their operational budget.

Table 4. FY12 Operational Fund Expenditures on Lease Payments

Charter	Percent of Operational Fund
ASK Academy	19%
Albuquerque School of Excellence	18%
Montessori Elementary School	18%
Digital Arts and Technology Academy	17%
New America School	15%
Cesar Chavez Community School	14%
School of Dreams Academy	12%
Academia de Lengua y Cultura	11%
La Resolana Leadership Academy	10%
Cottonwood Classical Preparatory School	10%

Source: PED

In conversations with many of the school listed above, it is unclear where these percentages were obtained. Many of the schools could not duplicate the percentages listed above. The ASK Academy spends less than 15.5% of its operational budget on lease payments. Please see Attachment D, which is a response to this report from the ASK Academy.

One glaring error noticed right away is that charter schools are prohibited from budgeting lease payment assistance grants every year because PSCOC does not make them final until several months into the new fiscal year. Every year, therefore, charters must budget 100% of their leases from some other source, and this is almost always the Operational Fund. It is the natural consequence of the timing of budget preparation/approval and PSCOC awards.

The fact that the authors of this report compared budgeted to actual lease payment amounts – and then attributed the resulting artificial 52% increase to nine new charters and “increased lease payments” – demonstrates an extraordinary lack of understanding of charter school operations. It is important to note here that charter schools do not have access to many of the other funds that traditional schools do. Thus, a charter is not able to use funds from other sources to help offset administrative and facilities costs. For example, most small schools received additional IDEA “discretionary” funds as a member of a Regional Educational Cooperative. For many of the traditional schools, this represents many tens of thousands of dollars. The traditional schools can then use these funds to pay a percentage of their administrative costs instead of having to use their operational funds.

More than half of the charters have increased budgets from operational funds to pay for lease payments in FY13. Charter schools annually spend approximately \$6 million dollars of SEG funds to pay for their leases. These SEG funds represent millions of dollars that could be allocated, towards classroom instruction, curriculum and support services. For FY13, charters have budgeted \$8.8 million dollars of their operational fund for lease payments, an increase of 52 percent from the \$5.8 million spent in FY12. Much of this increase can be attributed to nine new charters starting services in FY13, but also due to charters having an increasing share of operational fund used on lease payments.

In this situation, one cannot use “Budget” as a comparison to “Actual”. PED requires charter schools to budget a portion of their leases in Operational Funds each year because lease assistance award letters don’t go out until September. For example, East Mountain Charter High School’s initial operational budget for FY2013 included \$141,795 for rent/lease, the actual amount they will spend to pay the lease using Operational Funds is \$0.00 because, once they have their lease assistance award, the \$147,795 will be paid using that fund.

Again, charter schools do not have access to capital funds to pay for their facilities. Thus they must use a portion of their operational fund to pay for facilities.

Table 8. Charter School Operational Fund Expenditures on Lease Payments

FY11	FY12	FY13 (Budgeted)
\$5,870,871	\$5,770,974	\$8,771,011

Source: PED

Small school size adjustments allow some charters to have excessive administrative and lease costs. Charter school have noted during funding formula workgroup sessions that size adjustments are integral to their ability to finance their capital needs. Charters receive millions in size adjustments annually, which contribute to their ability to pay for lease payments out of their operational funds. Charter schools receive over \$20 million in size adjustments annually. In FY12, charter schools were awarded \$26 million and 87 percent of charter schools receive size adjustments. The additional funding provided by size adjustments contributes to charters’ ability to spend operational funds to cover lease payments in excess of lease assistance payments.

Small school size adjustments allow charter schools to spend more money on administrative costs when compared to small school districts receiving size adjustments. School districts with fewer than 200 students spent 18 percent of their operational budgets on administrative costs in FY12, while charter schools, which averaged 211 students in FY12, spent an average of 22 percent of their operational budgets on administrative costs. In 2012, 17 charter schools spent more than 30 percent of their operational funds on administration.

Table 6. Charter Schools with more than 35 Percent of Operational Expenditures on Administrative and Central Services, FY 12

Charter School	Portion of Operational Fund Spent on Administrative and Central Services
Village Academy	43%
SIA Tech (School for Integrated Academics and Tech)	43%
The Great Academy	42%
Anthony Charter School	40%
La Resolana Leadership Academy	37%
Walatowa Charter High School	37%
Academy of Trades and Technology	35%

Source PED

A distinction must be made between “Actual” and “Budgeted” expenditures. The figures above may be indicative of preliminary Budget figures that were adjusted when actual budgeted amounts were derived.

The coding of what constitutes administrative costs is arbitrary and subject to interpretation. Business managers and PED budget analysts often code things in budgets differently. For example for many years SIA Tech was incorrectly coding a direct instruction cost as administrative costs. When they asked their budget analyst about this, they were told to leave it as it is. This results in a \$200,000 coding error that greatly inflates the schools administrative costs. When corrected, SIA Tech’s administrative costs drop from 43% listed above, to just over 20%. This is just one example and there are many others. What this illustrates is a great need to provide training to business managers and PED budget analysts on correctly coding items in budgets. There needs to be some standardization of coding so that budget items are categorized correctly.

Attachment E, provided by the Executive Director of the GREAT Academy, illustrates that an analysis of their expenditures only comes up with 30% of their expenditures being classified as Administrative and Central Services, not the 42% as indicated above.

Some charter schools receive small school size adjustments despite scale efficiencies. Southwest Learning Academies receive small school size adjustments, giving them over \$850 thousand in extra funding, despite having many scale efficiencies. Southwest includes a primary school, intermediate school and high school that serve grades 4-12. The three schools are housed in the same facility and share administrative staff. The LFC identified this issue in other charters and traditional public schools in past reports.

The size adjustments, which are meant to compensate for scale inefficiencies of small schools, are not appropriate for Southwest because the schools consolidate staff and facilities.. Small school size funding contributes to unique expenditures at that school such as aeronautics programming and leasing additional space.

Attachment F, a written response to this Report by Southwest Learning Centers, clearly articulates a number of misleading statements and misrepresentations presented in this report. Among them are:

- Each school is a separate legal entity;
- Each school has a separate governing body; and

- Each school has a separate audit as required by law.

In addition, the statement that “small school size funding contributes to unique expenditures at that school such as aeronautics programming and additional leased space” is entirely incorrect. None of the three schools mentioned in the report offers programs cited in the example above. And nowhere in this Report does it mention the quality of the programs offered at these schools, the outstanding student accomplishments, the creative and innovative programs at the schools, the number of students on the waiting list, and the great values the schools are getting with their facilities. As mentioned above, many traditional schools do exactly the same thing. In addition, many traditional schools could save the taxpayers hundreds of thousands of dollars if schools within their districts were consolidated in fewer buildings. For example, in one district that has approximately 650 students, there are 3 elementary schools. The schools are configured this way in order for the district to receive small school size funding for each school. If the three elementary schools were consolidated into fewer buildings, the costs savings would be tremendous. Also, if this issue was identified in past reports, why is it necessary to report it again?

Recommendations

The legislature should:

Require lease amounts to be approved by PSCOC and eliminate the \$700 per MEM and replace with justified per-square-foot costs or square foot per MEM as determined by the Council.

It appears that this would require additional PSFA staff and funding to do this.

The PSCOC and PSFA should:

- In PSCOC award determinations, develop and use benchmarks to determine limits for high cost-per-square-foot leases.
- Require review and possible renegotiation assistance for leases above market rates. PSCOC should continue the practice of deferring lease payments until high costs are justified.
- Classify as ineligible for lease assistance:
 - A charter school not meeting statutory public building requirement after 2015 (See Appendix B);
 - A charter school lease for payment to a foundation or other third party in excess of actual lease cost to property owner.
 - A charter school leasing property from public entities for space already paid for by the public.
 - Excessive cost per square foot or excessive square footage.

ADDITIONAL COSTS AND QUESTIONABLE SPACE UTILIZATION ARE MAJOR FACTORS IN THE HIGH COST OF CHARTER SCHOOL LEASES.

Expenses beyond base rent drive up lease payments for schools. Additional costs are being included in lease payments, which contribute to higher costs to schools.

Poor oversight and mismanagement of tenant improvements has been expensive for taxpayers. Facilities that meet adequacy standards when leased would prevent the need for tenant improvements prior to the first renewal period. According to statute, additional lease payments *may* be used for leasehold improvements after a school’s first renewal, typically five years. Many tenant improvements, however, have occurred prior to the first renewal, and appear to be mismanaged, creating opportunities for waste or abuse.

Los Puentes Charter School’s lease includes \$1.1 million of tenant improvements that the school cannot account for. The tenant improvements are incorporated into the school’s current lease, but the school has no documentation of what improvements were made and how they totaled to \$1.1 million. The school subleases from its foundation, which then leases from Charter School Property Solutions, a charter school property development

corporation that owns the building and completed the tenant improvements. The specific improvements are not defined in the master lease or the sublease.

According to staff at Los Puentes, and stated in **Attachment E**, which is their response to this report, the LFC team was provided with both the Lease and Sublease for the facility. The leases are also provided yearly to the PSFA with the Lease Assistance application. The tenant improvements are described for over a page, in detail, within the lease, as well as in attachments to the lease.

Los Puentes is in its third renewal, but it is unclear how a charter can move into a commercial facility in the first five years of its charter without tenant improvements when the facility must meet Educational Occupancy and other PSFA requirements in order to utilize the space. This requires the owner to make improvements that make the property no longer suitable for office use if the school were to leave.

It should also be noted that Los Puentes, and the ASK Academy are represented by a facilities staff person who is a licensed real estate broker who was part of the entire process of negotiating and obtaining both facilities, without commission. Leasing a facility with an option to purchase requires not "required approvals" as this student states. Only a lease purchase, defined by statute, is required to be approved by the PRD, and now also PSFA.

Similarly, La Promesa Charter School's Lease includes \$500 thousand of tenant improvements that the school cannot account for. The current lease for La Promesa provides for a \$500 thousand allowance to be paid by the landlord for improvements. The lease identifies the school's current administrator as the sole representative for the school in this matter. The administrator claimed that the improvements were over \$700,000 but could not provide any supporting documentation on planned or completed work to the facility. Even with these questionable improvements, the building has a weighted New Mexico condition index (wNMCI) of 33 percent, above the adequacy standard as defined as the state average of 22 percent. The lower the wNMCI, the better the facility.

Attachment G, a response submitted to the LFC by the Executive Director of La Promesa, indicates that the "LFC staff contends that La Promesa Early Learning Center cannot account for the tenant improvements identified in our Lease Agreement with our third party private landlord". This is untrue and misleading. The Lease Agreement with La Promesa Early Learning Center's current landlord provides that the landlord prior to occupancy would make tenant improvements of up to \$500,000 (included the cost of engineering, construction management fees and permitting fees; no out of pocket from the charter school). It also provides that if the lease improvements exceeded this budget, that the charter would pay for any overage. The list of tenant improvements were not made an attachment to the lease; that list was in the hands of the landlord and not available when I met with LFC on December 14, 2012. I requested the information from our landlord and subsequently provided that information to the LFC staff. The detailed list of improvements shows that the total expended by our landlord was \$648,964. Our landlord did not seek the difference from the school, nor increase our lease payments.

It is significant that this lease was negotiated as a year to year lease. We had intended to enter into a lease purchase agreement to acquire a permanent facility, however, based on an appraisal (after improvements were made) our current building appraised too low for the landlord to sell it to us at fair market value. We are now taking steps to find a permanent home, for which we are unfairly criticized by the LFC.

It is extremely troublesome that although the LFC staff had the information about the cost of our tenant improvements before the Report was released, the staff did not amend the Report or correct the information in its presentation to the LFC, which clearly implies that I, as La Promesa Early Learning Center's director responsible for overseeing the lease, has acted either negligently or somehow has mismanaged funds. This is a very serious allegation. I note that this statement is made in passing on page 6 of the report without any factual basis for the statement other than I could not provide exact numbers from memory about our lease on the day I met with the LFC staff evaluator."

In addition, the New America School – New Mexico incurred more than 245 percent in increased rent, which was primarily attributed to \$1.6 million in leasehold improvements to property that the state will never own and incurred

within the charter's first three years. While the charter school has only a sublease to the property, improvements to infrastructure include sidewalks, parking lot, drainage pond, landscaping, water, wastewater and electric utilities. A new school gym will also be constructed on site, paid for by taxpayers. Unless the gym can be relocated, it will remain on site indefinitely (photo of site is provided below).

The school has not achieved its first renewal, which makes the leasehold improvement payments inconsistent with statute. For the New America School-NM, the lessor did not make improvements, but the sublessor, which further complicates determining the eligibility of these payments. The sublessor also charges \$25 thousand in development fees, which is included in the rent.

**Table 7. Leasehold improvements
New America - NM**

(in thousands)

Job 1250: original improvements	\$639
Job 1252: Phase 2A	\$389
Job 1118: 5th portable classroom	\$108
Job 1455: Phase 3	\$503
Total	\$1,639

Source: Klinger Constructors LLC

Again referring to **Attachment A**, on numerous occasions, NAS-NM has provided documentation to LFC staff on the nature of the lease, sublease rents, and improvements. In addition, NAS-NM representatives met with LFC staff to explain any questions that LFC staff may have had. Evidently, the LFC staff did not understand the nature of the lease and the improvements. Currently, the land owner is not currently interested in selling the property. However, the 40-year ground lease does contain a right to purchase the property at such time as the Archdiocese may see fit to sell the property. In any event, by the end of the 40 year ground lease, the School will have received commensurate value from the property and its improvements.

The Albuquerque School of Excellence, with a high cost per square foot, incurred a base rent increase of 96 percent over five years that primarily funded tenant improvements. The school could not provide documentation to support the cost of the improvements. The school has not achieved its first renewal, which makes the tenant improvement inconsistent with statute.

Table 8. Albuquerque School of Excellence
(in thousands)

	Annual Rent	Increase \$	Increase %	Cumulative
Year 1	\$300.0			
Year 2	\$396.0	\$96.0	32%	32%
Year 3	\$468.0	\$72.0	18%	50%
Year 4	\$528.0	\$60.0	13%	63%
Year 5	\$588.0	\$60.0	11%	74%
Total		\$288.0		96%

Source: Albuquerque School of Excellence lease with Solidarity Investments LLC

The rent increase was because of enrollment growth the school was experiencing and adding additional grades. The initial improvement costs are spread over 5 years. After that, the lease costs drop dramatically. Subsequent to this Report, the school did furnish LFC staff with documentation on the improvements. **Attachment H** reports the growth the school experienced and amortization of the improvement costs over 5 years.

Eligible costs for lease payments are not defined in regulation or statute. Types of costs that are allowable expenses for lease payments are not defined. Therefore schools routinely pay for a number of different expenses through lease payments. Types of expenses written into leases and paid for through lease payments include maintenance, facility and infrastructure repair, janitorial services, and utilities. These costs should be paid from a

school's operating budget and separately accounted for and not require funding from the PSCOC. In addition, charters pay for school foundation fees and expenses, and school foundation reserves, which require further scrutiny.

Unlike traditional public schools, charter schools do not have access to capital funds, and to other funds that could be used to pay for some of the expenses listed above. Therefore, such costs must be built into leases or paid for from operational costs. If a charter school uses operational funds for these expenses, because they don't have other revenue sources, then it takes away from the use of operational funds in the classroom. This Report is highly critical of charter schools using operation funds for facilities costs, yet, this Report is asking for just that. The statements above by LFC staff clearly support the need for charter schools to receive small school size adjustment funds.

School districts are collecting the maximum allowable lease payments for portables and land that taxpayers have already paid for. The Albuquerque Public School (APS) district's practice of billing charter schools the maximum rent allowed for portable classroom that have already been paid for with public funds. This practice complies with statute. The Public Academy for Performing Arts (PAPA) pays the equivalent of \$18.03 rent per square foot to APS for the portables, the ninth highest rent per square foot in the state. APS receives \$251 thousand in revenue from PAPA in FY12, which goes into the APS operating budget

The Los Carinos Charter School in Espanola is another example of money flowing through a district charter school and going to the district for a building that has already been paid for by taxpayers. Taxpayers are paying \$130 thousand in lease assistance annually for Los Carinos Charter School to occupy the old Espanola Middle School building which has been classified by the PSFA as unfit for students and PSFA staff recommended it be demolished.

The space allotted for each school varies greatly with no apparent consequence. The La Promesa Charter School is planning a move to a facility that is larger than the Santa Fe Convention center and will pay a rent that is 12 times higher, or \$360 thousand more per year, than the school's current rent. La Promesa Charter School currently leases a space that is 9 thousand square feet and is planning a move to facilities that have 92 thousand square foot facility. The new facility is advertised as costing \$3.65 per square foot, yet the sublease reflects a price of \$4.29 per square foot. The reason for the markup between the advertised price and the price reflected on the sublease is unclear. The explanation provided for additional space is increased enrollment and planned growth even though the current facility meets the minimum New Mexico Administrative code (NMAC) space requirements of 32 net square feet per student for grades one through five.

Table 9. La Promesa Facility Comparison

	Current Facility	New Facility
MEM (student membership)	251	251
Net Square Footage of Leased Classroom Space	9,000	92,000
Total Lease Payment	\$35,000	\$394,998
Square Foot Per MEM	36	367
Price Per Square Foot	\$3.88	\$4.29
Amount of Lease Assistance Requested	\$35,000	\$190,000

Source: La Promesa Application for Lease Assistance and PSCOC

According to the La Promesa responses to this Report (Attachment G) "LFC staff criticizes La Promesa Early Learning Center for planning a move into a "92,000" sf facility for rent that is substantially higher

than what we pay now for a 9,000 sf facility. First, the comparison to the "Santa Fe Convention Center" is hardly objective or useful when identifying a concern, if there was one. Next, La Promesa Early Learning Center is planning (no lease has been signed) to enter into a lease of a facility that is 82,000 sf, but only occupy and pay for what we need, i.e. 35,000 sf; only a portion of which is classroom space. The staff next magnifies this misleading characterization of our facility circumstances by pronouncing that we have the highest per student space allocation of all charter schools; which is simply false. LFC staff not only uses incorrect figures to reach this fiction, but uses the wrong methodology. Simplified, classroom space (not total leased space) of the facility divided by the number of students gives the per student square foot utilization. The staff appears to have either negligently or intentionally manipulated the data to reach exaggerated conclusions about our school; it is unclear whether this same methodology was applied to reach the conclusion that other charter schools are leasing more space than they need – a generalization that is extremely questionable given the methodology applied to our school."

The minimum square footage per student deemed adequate by PSFA rule ranges from 25 (grades 9-12) to 50 (kindergarten). A number of charter schools exceed this range. There appears to be no oversight regarding a maximum square footage per student and more than one-third of charter schools have over 100 square feet per student in classroom space and seven schools have over 200 square feet per student in classroom space.

These statements are not correct and the numbers of square foot per student are greatly overstated. In reality, the numbers for charter schools are much lower than this. This is indicative of LFC staff not understanding the difference between classroom and total facility space. Also minimum square footages are set by PED.

Table 10. Charter Schools With More than Twice the Minimum Classroom Square Feet per MEM Established by PSFA, FY13

School	Classroom Sq. Ft. Per MEM
La Promesa Charter School (new lease)	367
Carinos Charter School	361
Sidney Gutierrez Middle School	295
The Montessori Elementary School	218
New Mexico School for the Arts	205
The ASK Academy	162
Tierra Encantada Charter High School	161
Native American Community Academy	159
Vista Grande High School	152
Digital Arts and Technology Academy HS	149
Coral Community School	148
Amy Biehl High School	141
El Camino Real Academy	141
Turquoise Trail Charter School	140
Southwest Aeronautics, Mathematics and Science Academy	138
Academy of Trades & Technology	138
SW Primary Learning Center	135
The Learning Community Charter School	124
Red River Valley Charter	122
Taos Integrated School for the Arts	120
San Diego Riverside	116
NM International School	110
Anansi Charter School	109
Mission Achievement and Success	109
William W. & Josephine Dorn Charter Community	108
Ralph J. Bunche Academy	107
SW Intermediate Learning Center	107
East Mountain High School	104
Bataan Military Academy	103
Christine Duncan's Heritage Academy	103
Village Academy	103
The Academy for Technology & the Classics	100

Source: PSFA

This entire table is completely false! These are not Classroom Square Foot per Mem. These numbers represent total facility space, not classroom space. LFC staff are totally confused to the difference between classroom space and total facility space. Tables like this which clearly indicate a gross misunderstanding that unnecessarily put charter schools in a negative light.

This table also contradicts the square footages reported in Appendix D of this report. LFC staff obviously had the correct information but chose not to report it.

Applications for lease assistance payments include self-reported numbers that are not validated. Lease assistance applications from charter schools include self-reported numbers on the amount of square feet of classroom and administration space. These numbers are not verified by PSFA, and may present data quality issues for decisions that rely on the data. Twelve schools revised their square footage numbers for their applications in 2012 because they improperly reported. For example, in their original application for lease assistance for the 2013 school year,

Horizon Academy West had previously recorded leasing 17,663 square feet of space. The school had not included their library, computer lab or multipurpose room in the calculation, and the leased space was later revised to 33,762 square foot. The complete list of charters with revised numbers can be found in **Appendix C**.

While it is true that the original numbers submitted by the twelve schools were initially incorrect due to confusion in reporting, these schools corrected their numbers long before this Report came out and incorrectly them in Table 3.

Standardized leases are needed to provide stronger oversight, lower costs, and reduced risks for taxpayers.

The General Services Department uses standardized leases that allow annual operating cost increases but typically do not include increases to base rent. Many of the charter school leases have complicated and vague references that often provide an unfair advantage to the property owner. The PSFA has been collecting charter school leases with the school's facility assistance applications since 2010, and has recommended the use of standardized leases to enhance consistency and transparency in charter school leases. Charters should contract for all other services separately from base rent, including contracts for maintenance, janitorial services and utilities. **This was commented on earlier.** Of the 96 charter school leases reviewed, the following problems were noted:

- 1) Charter schools do not always provide a copy of the fully executed lease. Until executed, all items are subject to change, including not executing the lease at all, and moving to a new location.
- 2) Leases become complicated when they involve the charter school foundation. Many times, the foundation leases the property and subleases to the charter school. Only in rare instances was a master lease included with the sublease, which is needed for due diligence.
- 3) Charter schools do not always provide a complete set of amendments, needed to perform due diligence.
- 4) Charter schools do not always provide supporting exhibits to identify square footage, expansions, and tenant improvements.
- 5) Some leases are not clear regarding the responsible party for insuring real property. As a result, insurable exposure may be difficult to identify.
- 6) Many leases assign charter schools with responsibility for property maintenance, utilities, insurance, and taxes. If these expenses are rolled into the lease, these are difficult to quantify and complicate inconsistent reimbursements identified as rent.
- 7) Some leases assign charter schools with responsibility for losses such as roof and utility losses, normally born by the landlord.
- 8) Over \$338 thousand in tenant security deposits were identified and is an internal control concern. When a lease terminates, these deposits should revert to their source.

The above makes it appear as if all charter schools have these issues which constitute an unfair representation of all charter schools. It would be helpful to know many instances each of the above items occurred in the 96 leases reviewed. It is conceivable that these may have occurred with only one or two schools or with just a few schools.

Recommendations:

The Legislature should:

- Limit or eliminate lease assistance awards being provided for building that are already owned by either state or the school district.

PSCOC and PSFA should:

- Develop and require the use of a standardized PSFA approved lease format.
- Tenant improvements should not be allowed for charter schools that have not been renewed in accordance with state statute which would eliminate tenant improvement for schools within their first 5 years of existence. For schools with tenant improvements, these improvements need to be approved by PSFA and supporting documentation provided upon completion.

- Require tenant improvements be funded by HB33 proceeds and require the use of local match, as provided for by Section 22-20-1 NMSA 1978.
- Set a limit on classroom space per mem in regulation and require schools that exceed that limit to justify this need for lease assistance awards to be given. Use lease assistance only for base lease amount, and prohibit rolling in operation & maintenance costs or tenant improvements or any other costs.
- **Again, as previously stated, charters do not have access to capital and other funds.**

LACK OF OVERSIGHT AND PLANNING COST THE STATE MILLIONS OF DOLLARS

Poor accountability in charter school planning and lack of planning resources results in some charters being housed in temporary, inadequate facilities. Many schools are not represented by leasing agents or real estate professionals and are at a disadvantage to negotiate leases and lease purchases. School principals and governing bodies are negotiating real estate contracts with some of the largest real estate developers in the state, as well as businesses from out of state. Access to PSFA or PED guidance or oversight, prior to executing contracts, similar to function performed by the General Services Department (GSD) would improve the process.

A number of charter schools do have legal counsel representing them.

An overlap of responsibilities exist between the PED and PSFA. This overlap may lead to fragmented oversight and lack of responsibility. For example, both agencies are required to approve lease purchase agreements, but some school have executed agreements without the required approval of either. The Public School Capital Outlay Oversight Task Force (PSCOOTF) *Review of Charter School Facilities Issues September 24, 2012*, policy consideration #1 was to provide charter schools with a dedicated centralized resource to provide increased facilities knowledge and experience. The dedicated resource could reside in the Charter School Division of the PED or the PSFA.

Charter schools are being approved before they have facilities resulting in schools with temporary locations and unplanned leases. The Public Education Department Charter School Division provides detailed instructions for the charter school application. The application, available on-line, includes evaluation criteria for the facility plans. To achieve a 'meets criteria', a school must have provided evidence that efforts have been made to begin a search for an appropriate facility in the desired geographic location. This criteria is lacking because it does not ensure an adequate facility.

The Charter Schools Act, Section 22-8B-4.2(C) NMSA 1978, includes language that dilutes the effectiveness of the law to require adequate facilities. "On or after July 1, 2011, a new charter school shall not open and an existing charter school shall not relocate unless the charter school demonstrates, within eighteen months of occupancy or relocation of the charter, *the way* in which the facilities will achieve a rating equal to or better than the average New Mexico condition index." This 18 month opportunity to demonstrate 'the way' in which facilities will achieve adequacy, allows 'homeless' charter schools to gain authorization, without adequate and permanent facilities.

This is inaccurate because the school must demonstrate how it will be in compliance within 18 months.

The facility that the ASK Academy planned to occupy was not ready in time for the first day of school. The school was forced to find an alternative location and was housed in Cross Point Christian Church for 2.5 months.

Since the ASK Academy was required to open by October 1 or delay opening for one year, it was necessary to move into a temporary facility for a short time when construction was delayed at their permanent location. This facility was in no way inadequate. Even as a temporary facility, it had to obtain Educational Occupancy and PDFA approval that required tenant improvements by the owner.

The Coral School did not provide the new lease to the PSFA for review, because of a last minute change in facilities. While the Coral School is searching for a permanent location, the school is charged a daily rent from the current landlord. The facilities have no playground, no food service, and the classrooms have to be cleared at the close of each Friday so that the landlord, a church, may use the space on weekends.

Exemptions from state adequacy standards and the lack of facility knowledge and planning leads to charter schools being located in challenging facilities. Current exemptions allow charter schools to locate in facilities such as office buildings, warehouses, churches, and portable buildings. Such facilities often lack of playgrounds or have playgrounds being located on blacktop or parking lots, lack lunch facilities, lack adequate parking for staff and lack library space. Additionally, the Public School Capital Outlaw Work Group *Review of Charter School Facilities Issues September 24, 2012*, reported most charter schools lack a dedicated person or resources with facility knowledge and experience in planning and operations.

Exemptions are granted when a charter school's approved program does not require it to have such a space. For example, a cafeteria is not required if the school does not have lunch program. Also, the lack of a dedicated facilities person or facilities resources are funding issues. Such staff and resources require funding.

Table 11. Selected Charter School Variances from Adequacy Standards

All Site Recreation and Outdoor PE Standards
Most Classroom Standards
All Physical Education Standards
All Libraries/Media Centers Standards
All Food Service Standards
Most Safe Access and Parking Standards

Source: PSFA

Table 17. Photographs and Descriptions of Three Charter School Properties for Which Site Visits Were Conducted

Many schools are leasing portable classrooms for permanent school facilities, which is not a long-term, cost-effective solution. Four charter school were identified as existing mainly of portable classrooms. Collectively, these schools pay approximately \$525 thousand for annual portable rental. The replacement value for each portable, provided by the Public School Insurance Authority (PSIA), is estimated between \$84 thousand and \$99 thousand dollars depending on the condition. Many lease purchase agreements are being executed without PED or PSFA approval and without appraisals to determine value.

Table 12. Estimated Replacement Value of Classroom Portables

Building Condition	Count of Portables	Total Replacement Value	Average
Average	721	\$60,552,000	\$83,983
Excellent	126	\$12,534,000	\$99,476

Source: PSIA appraisals 2012

After an average of just eight years of payments, and estimated \$535 thousand per year would be saved if the portables were purchased, rather than leased. Because of the lack of long-term planning, taxpayers will pay for these portable classrooms many times over.

Table 13. Estimated Break Even in Years for Portable Classrooms

	Number of Portable Classrooms Leased	Annual Portable Expense	Average Cost Per Portable	Number of Years to Buy New Portable
Albuquerque Talent Development Secondary Charter	6	\$74,700	\$12,450	8.0
Cottonwood Valley Charter (Socorro)	7	\$93,715	13,388	7.4
New America School - NM (Albuquerque)	8	\$105,455	\$13,182	7.5
Public Academy for Performing Arts (PAPA Albq)	22	\$251,172*	\$11,417	8.7

*PAPA pays \$251,172 directly to the Albq Public School District who owns the portables

Source: LFC

Cottonwood Valley Charter is comprised primarily of portables. According to the Principal, Karin Williams, it would have made more sense to purchase them up front, but no funds were available at the time (11 years ago). At this point, it would be a mistake to purchase them because the maintenance required is increasing every year.... they are not in good shape. They never wanted the school to be housed primarily in portables, but there aren't any adequate facilities to lease in the small town and even with bond money from the district, they haven't had enough funds to build permanent classroom space. When they received capital outlay money for our multipurpose building, it was only a small part of what we had requested. They asked for funding to complete their campus facilities plan, but that wasn't approved (because they didn't have the match). Their situation is fairly unique within the state and not many other schools are in that situation. At this point, a very small outlay of money at this point would enable them to complete the campus. They wouldn't require any more lease assistance.

New Mexico virtual schools present risk in properly allocating lease assistance payments. Student attendance at all public schools could be manipulated. Virtual charter schools present a problem in that they could manipulate those number to procure additional lease assistance payment funds. **This is pure speculation and makes assumptions about the people that run virtual charter schools, and about all public schools as well.** State law defines school membership as the average full-time equivalent enrollment using leased classroom facilities on the 80th and 120th days of the prior school year. Such measurement may provide a path for virtual charters to obtain unnecessarily large lease assistance payments. Virtual schools could manipulate their 80th and 120th day calculations by inviting local students for events on those days, thereby inflating the actual number of students that use the facility. For example, the school had four students in the facility during a site visit by PSFA in November, and the school administrator noted that between three to ten students attend the school daily. The New Mexico Virtual Academy could invite its 48 San Juan county students to use the facility on the 80th and 120th days to inflate its numbers.

This assumes that people who run virtual charter schools are inherently deceitful. While this true that it could happen, in reality there is no basis for these statements.

Many lease purchase agreements are being executed without appraisals to determine value and some without required PED or PSFA approval. State law requires charter schools to be in public buildings by 2015, with some exceptions. One exception is a lease purchase agreement and is attractive to many charters (See Appendix B).

To comply with the section 22-20-1 NMSA 1978, the charter school must receive approval from the PED and the PSFA, prior to executing a lease purchase agreement (**PSFA approval is not required**). To date, nine charter schools have received PED approval, prior to executing the lease purchase agreement. Nine additional schools are in various stages of the lease purchase process, with two schools executing a lease with option to purchase agreement without receiving the required approval. These include the Great Academy, Cesar Chavez, Los Puentes, and New America-NM.

Appraisals are not required by law, but routinely, an option to purchase is agreed upon by certified appraisal in a charter lease. Please refer to Attachment D.

New America-NM is not in a lease purchase agreement. What they have is a lease, with an option to purchase in the future, which is entirely different than a lease purchase agreement. Please refer to Attachment A.

Although the law does not require a formal appraisal to value a real estate purchase, only four of the nine approved lease purchase agreements included a formal appraisal. A professional appraisal would assist in appropriately valuing difficult properties and include the value of any tax-exempt interest payments. This valuation process can be complex but important in preventing excessive payments. For example, The Albuquerque Talent Development Secondary Charter School and their foundation are currently reviewing a proposed lease purchase agreement with their property leaseholder Saylor Family Trust, LLC. The proposed purchase price is \$2.75 million and consists of approximately 3.2 acres of land where the leased portable classrooms are situated. The Bernalillo County Assessor lists the total full market value of the property plus improvements as \$517,000.

Appendix I, provided by the Saylor Family Trust, LLC mentioned above, clearly articulates their relationship and activities relevant to the Albuquerque Talent and Development Secondary Charter School facilities and other charter school properties they are involved with. In addition, the same documents clearly spell out the details of the financial arrangements between the schools and the Saylor Family, and a full explanation of the lease arrangements and amounts. What is important to note, is that portion of the document is dedicated to explaining the difficulties and frustrations of a private business owner trying to help provide facilities to charter schools.

New Mexico virtual schools present risk in properly allocating lease assistance payments. Student attendance at virtual school facilities could be manipulated in order to procure lease assistance payment funds. State law defines school membership as the average full-time equivalent enrollment using leased classroom facilities on the 80th and 120th days of the prior school year. Such measurement may provide a path for virtual charters to obtain unnecessarily large lease assistance payments. Virtual schools could manipulate their 80th and 120th day calculations by inviting local students for events on those days, thereby inflating the actual number of students that use the facility. For example, the New Mexico Virtual Academy could invite its 48 San Juan county students to use the facility on the 80th and 120th days to inflate its numbers. The school had four students in the facility during a site visit by PSFA in November, and the school administrator noted that between three to ten students attend the school daily.

Charter school applicants are not required to report potential conflicts of interest regarding facilities. The charter school application asks only that charters provide evidence that they have searched for a facility for their school. PEC and PED have little oversight over potential conflicts of interest that can arise from such leases as a result.

Charters are not routinely checked for conflicts of interest prior to awarding schools their lease assistance payments. Not true as charter schools must submit a conflict of interest form. Conflicts of interest are self-reported to the PSFA for lease assistance payments and are only required of charter schools when they enter into a new lease, regardless of the term. Charter schools can enter into long-term leases or lease-purchase agreements for upwards of 30 years without PSFA holding schools accountable for potential conflicts of interest. Additionally, the conflict of interest questionnaire that charters complete as part of their lease assistance application may not result in PSCOC consequences for non-compliance. Several schools had conflict of interest policies missing from PSFA records, and one school, Creative Education Preparatory Institute I, indicated on their conflict of interest form that it did not have any written policies regarding conflicts of interest, yet still receives lease assistance payments.

It is not a requirement for receiving lease assistance payments to have a conflict of interest policy in place. PSCOC requires a conflict of interest questionnaire, on which it asks if they a policy.

Potentially inappropriate relationships not addressed by statute or rule are costly. Several schools have been identified as having relationships with potential financial interest. Regulations should be drafted to address such conflicts.

1. The Director at the ACE Charter School is also the director of the Construction Advancement Program Inc., the company that leases to the ACE Charter School. **Not correct. Please see Attachment C.**
2. "Southwest Learning Centers" is the collective name used for four charter school, including the Southwest Secondary Learning Center (SSLC). The school leases a facility at 9904 Montgomery Blvd NE in Albuquerque, NM from Southwest Educational Consultants (SEC) to provide space for SSLC's Alternative Educational Program as well as additional storage space for the school. The Director is listed by the Public Regulation Commission (PRC) as the agent, and a director of SEC. SSLC sub-leases property from SEC; in FY11 the annual lease total was \$114,000 at \$13.41 PSF. This annual lease cost is \$10,000 above amount paid for the underlying master lease between SEC and the owner of the building prior to building and maintenance expenses. The Director of the SEC claims expenses totaled \$2,884.00 in FY11, leaving the company with a \$7,116 profit. The Director school formally disclosed this interest in SEC as a potential conflict of interest SSLC's governing body.
3. The Executive Director of The GREAT Academy in Albuquerque is listed as a director of the Educate America Now Foundation(EANF), a New Mexico non-profit that offers education consulting services. In FY12, The GREAT Academy contracted with the EANF for \$12,000. The GREAT Academy is contracting with its executive director's own non-profit, which also lists his wife as a director. The GREAT Academy's Executive Director claims that him and his wife are no longer on the board of EANF, but the Public Regulation Commission's website still lists them as Directors of the non-profit. **Please see Attachment J. The Executive Director and his wife resigned their position on the Educate America Now Foundation Board before the contract with the GREAT Academy.**
4. Two foundation members of the foundation for La Promesa Early Learning Center Charter School are also employees of the school and are immediate family members. **According to documentation recently provided to the LFC members, and included as Attachment G, "The LFC staff cites our recently incorporated foundation, whose incorporating board includes two La Promesa Early Learning Center employees and a family member of one of these employees. Nowhere does the LFC staff identify any contractual relationship between the nonprofit and La Promesa Early Learning Center – because there is not one. Moreover, the LFC staff does not and cannot identify any "cost" to the school as a result of this relationship – much less a "costly" one. There simply is no inappropriate relationship. La Promesa Early Learning Center clearly disclosed that it was the charter school's intent to enter into a lease with the nonprofit, who is the lessee of the new school site that is currently being developed by a private landlord. This lease has not been entered into. La Promesa Early Learning Center, sometime ago adopted an extensive conflict of interest policy, which will be followed prior to execution of our sublease with the nonprofit – if the current members are still on the board. Moreover, the nonprofit board of directors is a founding board that will be replaced with new members who can serve the organization that was created to benefit our school. The staff's assertion that there is "potentially" inappropriate activity by our school and/or foundation is a sweeping overgeneralization based on nonexistent facts."**

It is worthy of note that in any of the instances above, nothing of an illegal nature occurred. Also, the newly enacted SB 446 requires disclosure of any conflicts of interests as part of the organization component of the

Performance Contracts. The authorizer, be it the PEC, or the local district, is informed of any potential conflicts of interest.

Recommendations:

The Legislature should consider amending statute to do the following:

- Address conflicts of interests to include foundation board members, school founders and contracted employees and make funding contingent on avoiding these conflicts.
- Require new charters or charters relocating (after July 1, 2013) to meet public space and adequacy requirements before students may attend. Remove requirement to “have a plan.”
- Clarify that a school district or the State, through PSFA, hold title to charter school property and not individual charter schools through a lease-purchase or purchase agreements.

PSCOC & PSFA

- Require state charter schools submit for approval all leases and amendments. PSFA may assist with negotiating lease amounts upon request.
- Require local charter schools submit for approval all leases and amendments. **To who?**
- Implement rules to require Charter schools to certify no conflicts of interest exist, and recertify upon any changes in charter administration or council. **Partially required in SB 446.**
- Implement rules to provide charter schools with increased facilities knowledge and experience. **This would be very helpful!**
- Require to use HB33 funds to pay for lease purchase payments rather than facility lease reimbursements.

PED

- Enter into agreement with PSFA to transfer a portion of the two percent PED withholds from charter school’s SEG for administration/oversight. The amount should be no less than the equivalent of 0.5 percent of state-chartered charter schools’ SEG

PSCOC

Consider freezing high cost FY13 requests until PSFA staff ensure no awards are made for:

- operation & maintenance costs rolled into base lease amounts;
- unapproved lease purchase agreements; **This is a PED function.**
- marked up lease costs due to third parties, including foundations; **This needs to be defined.**
- charters that have yet to renegotiate expensive leases in light of new market conditions. **This needs to be defined.**

The above are making recommendations on items that are not adequately described or quantified.

ATTACHMENTS

Page 1 of 1

Attachment 1

Attachment 2

Attachment 3

Attachment 4

Attachment 5

Attachment 6

Attachment 7

Attachment 8

ATTACHMENT A



The New America School-NM
1734 Isleta Blvd SW
Albuquerque, NM 87105
(505) 222-4360
www.newamericaschoolnm.org

Hon. Jared Polis, Founder
Juan Vigil, Governing Council President
LaTricia Mathis, Principal

January 11, 2013

Jeff Canney

Via electronic mail

Program Evaluator, Legislative Finance Committee

325 Don Gaspar, Suite 101

Santa Fe, NM 87505

Re: New America School – New Mexico/Legislative Finance Committee staff report to LFC re: charter school facilities and capital outlay funding

Dear Mr. Canney:

I am Chief Business Officer for the New America School – New Mexico (“NAS-NM”). This letter responds to your e-mail dated January 11, 2013 at 7:28 a.m. In that e-mail, and pursuant to my request, you provided draft findings related to NAS-NM, which I understand will be provided to the Legislative Finance Committee (“LFC”) in a report at 8:30 a.m. on Monday morning, January 14, 2013 (the “Report”).

This letter is intended to clarify misinformation contained in those findings, in the very short time you have given us to respond before the Report is presented to the LFC. Certainly, more information may be available than is able to be quickly relayed in this letter, and we have always made ourselves available to meet and discuss any questions or issues relating to NAS-NM’s facilities. In fact, we did meet with you and responded to your questions and provided documentation in what we considered to be a timely manner under the circumstances and practical difficulties inherent during the recent holiday period. At no time, however, did you indicate any ‘deadline’ for response to your questions or requests of December 17, 2012, and NAS-NM was not made aware of when your final report would be compiled and provided to the LFC. We certainly believe that we did provide information that responds to the all questions and issues you raised on Dec 17, and we continue to be willing to work through any remaining questions or misunderstandings that remain on your part. Therefore, we object to and dispute any portrayal of NAS-NM in the Report as failing or refusing to provide requested information or responding to questions.

Any review of NAS-NM’s facilities should keep in mind the School’s history and mission.

The New America School-NM is a state-chartered public high school located in the south valley of Albuquerque. Our mission is to empower new immigrants and English Language Learners with the educational tools and support they need to maximize their potential, succeed, and live the American Dream. With students ranging in age from 14 to 63, we are the educational lifeline towards a better future for the more than 400 students we serve daily in both a day and evening program. The need here is great, with a 98% poverty rate, and facing language barriers, our students are served by TESOL certified teachers in SIOP oriented, small classrooms with supports and interventions to make them successful. Our scores for raising achievement for our lowest performing students exceeds the state average, and we match the state in providing opportunities for learning. In the four years since NAS-NM has opened its doors to serve students, student enrollment has far exceeded the projections in our charter application, and

more than 140 students have graduated with their diploma. More than that, they have become more educated and productive citizens of New Mexico, and will certainly have more opportunities in life because of the education and support NAS-NM has given them.

Your proposed findings reference "the PSCOC award document in September 2012" in support of your allegation that NAS-NM has the highest cost per square foot of any charter school. Please be reminded that that September 2012 "award document" was acknowledged by the PSFA to have been in error, and it was amended by the PSFA to reflect correct per-square-foot lease costs. A copy of that document is enclosed. At our meeting at the school on December 6, 2012 we discussed the "lease justification letter" (enclosed) that we provided to PSFA and David Abbey dated October 9, 2012. I also discussed the correct numbers with you on several occasions. I am baffled as to why this correct information apparently has not been used in the Report, but I again request that your findings be amended to reflect the correct calculations.

With regard to the new Sublease, the rent amounts are set forth in Schedule A of that Sublease, which likewise was provided to you by email on December 3, 2012. We provided additional information regarding rent and all costs included in rent to you in response to your request on January 10, 2013. In any event, the base rent that NAS-NM is paying to its nonprofit landlord (excluding developer fees) currently is \$24,273.42. Total monthly rent (with developer fees and excluding the land rent and modular classrooms) is 36,500.00. With all three monthly rent components it is 52,937.91 or 25.15 per sq ft. After March, 2015 because developer fees are reduced, the amount is 49,633.32 per month or 23.58 per sq ft. And, in November, 2017, when all developer fees are paid the amount is 32,196.22 per month or 15.29 per sq ft until the end of the nonprofit lease period. Again, we discussed these sq ft costs numbers several times.

The School takes issue with your statement to the effect that NAS-NM's payments under the Sublease are "at least" \$1.3 million too expensive. This represents a fundamental misunderstanding of the transaction, which I would have been more than happy to walk through, had I been given the opportunity to do so before the Report was finalized. In short, the School's nonprofit landlord purchased the school's previous landlord's leasehold interest for approximately \$1.3 million; this amount represents payment by the current landlord to retire the principal amounts owed by the previous landlord to construct the first three phases of the School's facility. The current landlord amortizes this amount – which represents its investment in the first three phases of the property – to the School as part of the base rent. This amount, therefore, essentially represents the cost to the School for the initial improvements to the site, reflected as part of the School's rent. There is no 'overpayment'. Moreover, it is the School's landlord – not the school – which has undertaken to make the improvements to the property. The Sublease -- like any lease -- compensates the landlord for its investment in the property, by way of rent.

Any increase in the School's total rent due to the current landlord can be attributed to the new multipurpose building that the landlord is constructing on the property on the School's behalf; the amounts paid for the improvements related to the initial phases of the facility essentially remain the same. While it presently is the case that the owner of real property upon which the School sits is not currently interested in selling the property to the school or the current landlord, the 40-year ground lease does contain a right to purchase the property at such time as the Archdiocese may see fit to divest itself; the School certainly hopes that it will have the opportunity to purchase the real estate at some point in the future. In any event, by the end of the 40 year ground lease, the School will have received commensurate value from the property and its improvements.

Further, it is important to remember that the Sublease provides for a 15-year payment schedule to the current nonprofit landlord. By the end of 2027, the rent payments to the nonprofit will end and the School

will simply pay the ground lease amounts (\$91,800 annually), plus rents on any modular buildings on the property at that time (currently, there are 8 modular buildings on the property, and the School pays \$105,454.92 annually for them as part of its total rent). As pointed out in our 'justification' letter to the PSFA and PSCOC, at that time the School's rent will decrease significantly for the remainder of the ground lease term, to \$7.81 per square foot assuming the same land lease and modular classroom costs.

Finally, there seems to be significant misunderstanding on the part of LFC staff with regard to the nature of the Sublease. Although the Sublease does contain an option to purchase the property outright at some point, the Sublease is not set up as a "Lease Purchase Agreement" under the New Mexico Public Schools Lease Purchase Act, NMSA 1978 Section 22-26A-1 *et seq.* At the end of the Sublease term, the School will not own the real estate, which will remain under the ground lease. This is not a 'lease to own' arrangement by which the School will own the property at the end of the Sublease. Recognizing this, the Sublease contains a provision whereby the School *may* opt to convert the existing Sublease to a lease-to-own arrangement pursuant to the Lease Purchase Act, to the extent it is feasible under that Act, subject to approval by the NMPED and the PSFA (see paragraph 5.C of the Sublease).

I am unclear as to what you mean with respect to your statement that the 'leasehold payment improvements' may not be 'eligible' because the School has not been renewed. Please clarify and I will respond. As stated above, the School is not making improvements to the property; the landlord makes the improvements and the School is paying rent. This arrangement is wholly permissible under the existing laws, and the School has contracted accordingly.

Mr. Canney, we have worked with you and we have worked through your questions in good faith. We commit to continuing to do so in the future. However, we respectfully take issue with your conclusions as presented in your January 11 e-mail, and we hope that you are willing to amend them in the final report as set forth herein.

Please contact me with any further questions or issues.

Sincerely,



Craig A. Cook, Chief Business Officer
New America School - New Mexico

Cc: David Abbey, LFC Director
Charles Sallee, LFC Deputy Director for Program Evaluation
Fred Silva, NAS-NM Governing Council
Juan Vigil, NAS-NM Governing Council
Susan Fox, Esq.

ATTACHMENT B

ALMA d'ARTE

The relationship between Alma d'arte and the Court Youth Center is like no other in the state. Alma has one of the best charter facilities because of the Court Youth Center. Alma started because CYC lead the community request to establish an arts charter high school and wrote Alma's first charter in 2002. CYC secured some \$6,000,000 from 1993 to 2001 to renovate the old junior high school for afterschool arts programs. Because a facility existed, it was a natural step to include the building for the school's use. CYC continued to offer after school and community programs in the joint facility. It did not charge Alma rent from 2003-2011, and in the first five years, Alma assisted with only a partial amount of the utilities. Lease payments started two years ago to help purchase the building from the Las Cruces Public Schools who want \$2 million for the property. The lease amount is the standard \$700 per student and the school does not take out additional rent costs from their operating budget for the facility rent.

The school would not be able to find another space in the community with the square foot capacity and specifics for arts programming that CYC created in the renovation—theatre, art studios, culinary kitchens—for the some \$130,000 in lease payments it currently pays CYC.

CYC would prefer to continue the relationship with the school in the building but the reality is that CYC could ask the school to move prior to its charter renewal in 2014 and the building would revert to being an arts community venue as it started in 1993. This action would not solve suit anyone in the community!

Lease information for Alma d'arte and Mesilla Valley Youth Foundation (dba) Court Youth Center

- CYC has been a non-profit since 1993 as an after-school arts in learning/education program
- In 1993 the Las Cruces Public Schools, the City of Las Cruces and the Court Youth Center entered into a 25-year lease to save the deteriorated original Court Jr. High School and CYC became a community arts venue for after school programming for children and youth
- CYC, in partnership with the City, was responsible for securing capital outlay funds to renovate the 49,000 sq. ft. facility and secured some \$6,000,000 in federal, state, local, and private funds to save the historic building
- In 2001, CYC was approached by state arts and youth groups to start a charter school using their successful arts in learning program. CYC wrote the first charter and Alma opened in 2004 using the existing building that CYC had renovated and maintained since 1993.
- Because of the partnership with the City and CYC, Alma has been in a public building since its inception
- From 2004-2011, CYC allowed Alma to use the facility during the school hours, without charge, and CYC continued arts programming in afterschool and weekend hours.
- In 2010, the LCPS District informed CYC that they were interested in selling the property for \$2 million and the schools, the city, the non-profit, and Alma have been working together to secure the building for joint use as a school and a community arts venue, as it was intended when the charter was first written in 2002
- Lease payments started in an effort to secure a permanent facility for the school and to help with maintenance and utilities, no money from the lease payments profits any individuals

ATTACHMENT C



ACE LEADERSHIP
HIGH SCHOOL

Building Leaders with ACE

January 14, 2013

John Authur Smith, Chairman
Luciano Varela, Vice Chairman
David Abbey, Director
Legislative Finance Committee
325 Don Gaspar
Suite 101
Santa Fe, NM 87501

Dear Sirs:

Below is a description of the lease commitments for ACE Leadership High School. We are providing this information because we were unable to successfully schedule a meeting with LFC staff. These responses are directly related to the critique in the report:

- **Average cost per-square foot for the three year term of the lease is \$12.36/ft rather than \$18.00 quoted in the LFC report.** The school has a three-year lease that is weighted heavier in FY13 to adjust for the growth of phasing in our enrollment over the course of the first three years of operation. The details of our lease provide for an average of \$12.36/ft² over the 36 month lease period from August, 2010 to August, 2013.

In FY11 the \$75,000 lease payments are for leased space of 12,000 ft², which equals \$6.25/ft² in FY12, \$150,000 in lease payments are for 12,000 ft² of leased space equaling \$12.50/ft². Finally, in FY13, \$220,000 in lease payments for 12,000 ft² equal \$18.33/ft².

PSFA Lease Awards totaled \$67,418 in FY11, \$64,083 in FY12, and \$152,903 in FY13. ACE Leadership was forced to use operating funds to cover the balance of the lease cost because the funding is based on prior year enrollment. Note that the lease payments did not increase in year two although the school doubled in enrollment. Also, in year three the school was only funded based on the year two enrollment. If the lease reimbursements would have kept pace with the actual number of students attending, there would have been negligible impact to the school's operating fund.

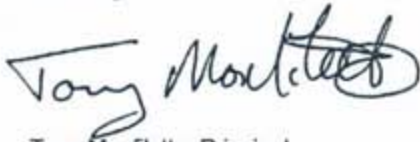
Total lease payments	\$445,000
Total PSFA Lease Assistance	\$284,404
Total lease not covered by PSFA Lease Assistance (to be covered by Operational funds)	\$160,596

- **While the Executive Director of the Construction Advancement Program (CAP) was also the principal of the school, there was no conflict of interest.** Neither the CAP, or the Executive Director/Principal, have an ownership interest in the school facility. The CAP, which is the education foundation of the Associated General Contractors—NM Buildings Branch, made a zero interest loan to the school for improvements to bring the school to adequate standards. In addition, the school also raised \$40,000 in a private grant for building improvements from the Partners for Developing Futures, non-profit philanthropic organization.

Also, the Principal is no longer the Executive Director of the CAP and he was not a signature on behalf of the school or the CAP at the time.

Staff at ACE Leadership High School made repeated attempts to meet with the LFC auditors but we were unsuccessful.

Sincerely,



Tony Monfiletto, Principal

ATTACHMENT D

A New Mexico Public Charter School

The ASK Academy

21st Century Design Thinking



January 28, 2013

The Honorable John Arthur Smith, Chairman

Legislative Finance Committee

State Capital North

326 Don Gaspar -- Suite 101

Santa Fe, NM 87501

Dear Senator Smith,

Here are the corrections to the misinformation in the LFC report with regards to The ASK Academy in Rio Rancho:

PAGE 6 & PAGE 13: The ASK Academy spends less than 15.5% of its operational budget on lease payments. The report states that 19% was spent specifically from SEG. From SEG alone, it would be even less. It is unclear where this percentage was obtained.

PAGE 7 & PAGE 20: LACK OF OVERSIGHT. The ASK Academy is represented by a facilities staff person who is a licensed real estate broker who was part of the entire process of negotiating and obtaining both facilities, without commission. Leasing a facility with an option to purchase requires no 'required approvals' as the study states. Only a lease purchase, defined by statute, is required to be approved by PED, and now also PSFA.

PAGE 18: CLASSROOM SF PER MEM. The ASK Academy was in its second year of operation in 2012-13 with growing enrollment. The school building needs to match enrollment projections, according to the PSFA.

PAGE 20: TEMPORARY FACILITY. Since The ASK Academy was required to open by October 1 or delay opening for one year, it was necessary to move into a temporary facility for a short time when construction was delayed at their permanent location. This facility was in no way inadequate. Even as a temporary facility it had to obtain Educational Occupancy and PSFA approval that required tenant improvements by the owner.

GENERAL COMMENTS:

PAGE 12 & PAGE 23-24: FOUNDATIONS. Creating a nonprofit entity (foundation) specifically organized to provide a facility for the charter school when public buildings are not available, is one of few options available to charters to meet the requirement to be in a public facility by 2015 (22-8B-4.2 NMSA). This was created by law, not by 'third parties' looking to take advantage of charter schools or 'conflict of interest,' but to comply with the law when

charters are unable to carry debt in accordance with the Bateman Act, and cannot tax or bond as public school districts. The Foundations must be a specific type of nonprofit, Public Charity Status 509(a)(3), under section 501(c)(3) of the IRS Code, organized purely for the benefit of the charter school with no other charitable purpose. This section requires that the school control the foundation, thereby requiring a majority of the directors of the foundation be appointed by the governing council or principal of the school. Although governing council members of the school are not able to serve on the foundation board, school personnel often make up the initial board of the foundation and some overlap should continue into the permanent board of the foundation to meet the federal requirements of its nonprofit status. Foundations are required to have a Conflict of Interest Policy that clearly states that no director can have any type of financial benefit from the foundation, in order to maintain its' tax-exempt status. An annual statement is signed by each director annually to affirm compliance with this Conflict of Interest Policy.

Foundations often charge a slightly higher rate to the school than the master lease, in order to establish a maintenance fund. These are not "marked up sublease costs" benefiting third parties.

PAGE 20: EXEMPTIONS FROM ADEQUACY STANDARDS. A charter school must have a facility that meets the requirements of its charter. For this reason, the PSFA has a Variance Chart for Charter Schools. This does not mean that a facility is inadequate because it doesn't have one of these waived requirements, but because it is not part of the schools charter.

PAGE 22: STUDENT ENROLLMENT FOR LEASE ASSISTANCE. Students may only be counted for membership if they are enrolled, have a student ID and are reported in the STARS system. "Inviting local students for events" to inflate enrollment numbers is simple not possible, and shows a lack of understanding of the reporting requirements of public schools.

PAGE 22: APPRAISALS. Appraisals are not required by law, but routinely, an option to purchase is agreed upon by certified appraisal in a charter lease.

SECTION 1: CHARTER SCHOOLS PAY EXCESSIVE LEASE COSTS AT TAXPAYER EXPENSE

- **ELIMINATE PER MEM FOR SF COSTS:** Statutory requirements for adequate facilities are determined by required SF per student, based on grade level. \$700 per MEM for a high school student, requires 25 net SF, equating to \$28 per year for lease of facilities for that student—less than \$0.16 per day. All costs greater than this a school must fund. A commercial lease typically cannot be acquired for this amount.
- **INELIGIBLE FOR LEASE ASSISTANCE:**
 - **Payment to a foundation that exceeds master lease**—Charging a reasonable amount over the lease payment to establish and maintain a maintenance fund for repairs or maintenance that the school cannot pay for and is not the responsibility of the owner is prudent business practice and budgeting.
 - **Space already paid for by the public**—Agreed. Now the legislature will have to make that directive to school districts and other public entities that they will be responsible to provide, maintain and keep the space provided at Educational Occupancy and Educational Adequacy Standards. Since districts are unwilling to release space for the lease reimbursement rates, it seems unlikely they will provide space for no compensation.
 - **Excessive Cost/Excessive SF**—Lease rates must include usually extensive tenant improvements, financed by the owner, to convert commercial space into a school facility meeting Education Occupancy and Adequacy requirements. Many of those improvements would have to be undone by the owner if the school left the facility to return it to office occupancy. Square footage must match the requirements of the schools' charter. What may

be considered excessive in a traditional school, is required, for example, in a Science, Technology, Engineering & Mathematics school requiring more extensive labs, larger classrooms for project based learning, etc. This is why the PSFA requires the charter be submitted to determine suitable facilities and NMCI score.

Adequacy standards for a high school student is 25 per square foot, per student per classroom. If a student takes six classes, that is 150 square feet per student. At this rate that is a reimbursement rate of \$4.87 per square foot. Now extend that to an enrollment of 150 students and the required classroom space is 22,500 sq ft. This does not include special spaces, common areas and offices. The brand new Cleveland High School in Rio Rancho is about 200 per square foot, per student. We suggest a survey of existing public schools to determine the amount of space per membership for comparison.

Thank you for your consideration of our comments regarding the LFC Report on Charter School Facilities.

Best regards,

Pamela Correa

Pamela Correa

General Manager



January 28, 2013

The Honorable John Arthur Smith, Chairman

Legislative Finance Committee

State Capital North

326 Don Gaspar - Suite 101

Santa Fe, NM 87501

Dear Senator Smith,

Here are the corrections to the misinformation in the LFC report specifically with regards to Los Puentes Charter School in Albuquerque:

PAGE 6 & PAGE 16: The report states that Los Puentes' lease includes \$1.1 M in tenant improvements "that the school cannot account for." The LFC team was provided with both the Lease and Sublease for the facility. The leases are also provided yearly to the PSFA with the Lease Assistance application. The tenant improvements are described for over a page, in detail, within the lease, as well as further in Exhibits A & B. Exhibit A has the ALTA Land Title Survey for the entire property, including buildings and detailed schematic design floor plans from the architect for every building. Exhibit B is a narrative specifying the that final space plans and working drawings must be approved by the tenant and school, and must meet Educational Occupancy and state adequacy requirements of federal, state and local authorities applicable to the school. The school was part of the RFP process for architects and attended the presentations of their proposals, making the final recommendation. The school was also provided with the contractors cost estimates from the design plans for consent of Landlord's proposed selection of contractors and subcontractors. The narrative details the tenant improvement allowance, and the responsibilities of the landlord to deliver the improvements within the negotiated lease rate for the improved facility. Insurance requirements were also clearly defined. Exhibit B also includes the PSFA Charter School Variance Chart.

Los Puentes is in its third renewal, but it is unclear how a charter can move into a commercial facility in the first five years of its charter without tenant improvements when the facility must meet Educational Occupancy and other PSFA requirements in order to utilize the space. This requires the owner to make improvements that make the property no longer suitable for office use if the school were to leave.

Thank you for your consideration of our comments regarding the LFC Report on Charter School Facilities.

Best regards,

Ellen Moore

Principal

ATTACHMENT E

The GREAT Academy Expenditure Distribution Analysis

According to the Public School Facilities Authority, Report #13-01, The GREAT Academy spent 42% of its Operational Fund on Administrative and Central Services. We are not sure how that percentage been calculated. Based on our internal analysis, The GREAT Academy only spent 32% of our Operational Fund into Administrative and Central Services funds.

Total Budget Amount for Operational Fund	\$1,466,490.00
Total Expenditure of Fy11-12 of Operation Fund	\$1,141,486.78
Expenditure on Administration and Central Service (fund 2300, 2400, 2500)	\$476,229.84
Proportion of Operational Fund Spent on Administrative and Central Services	32%
Expenditure on Instruction (fund 1000)	\$231,443.45
Proportion of Operational Fund Spent on Instruction	16%
Expenditure on Instruction and Its Support Services (fund 1000, 2100, 2200)	\$444,181.31
Proportion of Operational Fund Spend on Instruction and Support Services	30%

ATTACHMENT F



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www.sslc-nm.com

January 9, 2013

Legislative Finance Committee
Attn: Senator John Arthur Smith, Chairman
State Capitol North
325 Don Gaspar – Suite 101
Santa Fe, New Mexico 87501

Dear Senator Smith:

Thank you for the opportunity to review the proposed section of the LFC's report. Unfortunately, our comments cannot be limited to stylistic changes as the LFC staff requested. The "report language" is from our position misleading and makes conclusions that are based on erroneous assumptions and without a factual basis.

Nowhere in the isolated section of the LFC report that we were permitted to review in advance of its release does the LFC staff correctly describe the schools that make up the Southwest Learning Center. We, as the governing council presidents of each of the schools, want to make it clear that there are three charter schools, each authorized by the New Mexico Public Education Commission (PEC), located in the facility at issue. We are sure that you know each of these three schools is a separate legal entity; they are each considered and treated as "separate districts" by the Public Education Department (PED). Each school has its own governing body and undergoes a separate audit as required by law, to name a few of the distinctions (and additional expenses) among the schools. The schools' distinct identities are lost by the report's use of the term "Southwest Learning Academies" (sic); inferring they all exist and are operated as one charter school (or one district); which is not the case. The correct name of the facility at which the three schools operate is the "Southwest Learning Center" and the names of the three charter schools located there are: Southwest Secondary Learning Center, Southwest Intermediate Learning Center and Southwest Primary Learning Center.

As to the stated objectives of this evaluation, the report section provided to us for comment does not mention that Southwest Secondary Learning Center's lease costs are \$7.62/sq.ft.; that Southwest Intermediate Learning Center's lease costs are \$6.06/sq.ft.; or that Southwest Primary Learning Center's lease costs are \$11.08/sq.ft. It is our understanding the LFC was interested in how the schools' lease expenses fare when compared to other charter schools, districts, or even other comparable commercial space in the city the charter school is located in? And further, there is no discussion of the quality of the facilities and whether they represent a good value for the schools and the New Mexico tax payers; one of the stated objectives. We hope that these points are fairly presented in another section of the report. We believe that we have been very

Public School Facilities Authority, Report #13-01
Charter School Facilities Lease Assistance and Capital Outlay Planning
January 14, 2013

conscientious and diligent in keeping our facility in impeccable condition and that we negotiated a competitive lease that provides a high quality facility; information we had hoped would be conveyed to the LFC.

We are also concerned that rather than concluding that our competitive lease rates and terms enable the three schools to keep facility costs at an acceptable percentage of operational budget, which in turn contributes to our effective, efficient, student-centered allocation of operational resources, the LFC staff has concluded that the small school size adjustment is the only reason our programs can include unique offerings such as an alternative educational setting and an aeronautics program for SSLC – which are required aspects of the charter contract; not an optional perk as suggested by the language of the report. In fact, by a review of Table 6, it is clear that our schools are not on the list of those charters that the LFC staff identified as having “excessive” administrative costs.

Although the LFC report no longer concludes that our schools are “*improperly awarded*” small school size adjustments, the ultimate inference and conclusion is the same. The report still concludes that small school size adjustments are not appropriate for our schools, suggesting that somehow our schools are funded in a manner not contemplated by law. If this report is intended to analyze how or whether it is appropriate for districts (again, we are considered districts) to use dollars generated from the small school size adjustment at any level for capital needs, then it should do that in a manner that examines the data, rather than to assume that it is “not appropriate for Southwest because schools consolidate staff and facilities.” As the report correctly points out, this application of existing law is not unique to our schools, but rather occurs in numerous other districts around the state.

The report also states that “the intent of the size adjustment is to compensate for scale inefficiencies of small schools and that this adjustment is not appropriate for the three charter schools at issue”. Again, this is a much larger conversation beyond the scope of the report. We would, however, like to again point out that this application of existing law occurs in several small school districts such as Des Moines, Mosquero, House and Lake Arthur – to name only a few. All of these districts receive small school size adjustment units for an elementary and a high school which are housed in the same facility.

Finally, we believe that the comment that “small school size funding contributes to unique expenditures at the school such as aeronautics programming and leasing additional space,” is misleading and in fact, incorrect. It is misleading firstly because it again treats all three schools as one entity; and secondly because two of the three schools at issue do not have either one of the programs cited as examples. This statement further ignores that we are three separate charter schools with very specific missions and legally binding agreements with our Authorizer. We are required to prioritize our funds to reach the goals as stated in our charters and negotiated contracts. The schools’ boards prioritize funding to address their distinct programmatic needs - that includes an aviation program (in one of the three schools mentioned above) for which there is a clearly articulated need (466,650 pilots will be needed over the next 20 years to support demand.) The programmatic choices we make about where to focus school operational funds are board decisions. The decisions are made recognizing that by making one choice, we will not be able to provide other options for students such as spending for a band, orchestra, football team,

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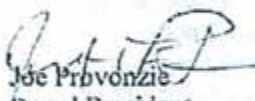
Charter School Facilities Lease Assistance and Capital Outlay Planning
January 14, 2013


choir, etc.; programs regular districts, and other charter schools choose to fund with their operational dollars.

As to the additional leased space, SSLC's program includes providing an alternative educational setting and individualized direct instruction. Because of the academic rigor of the program at SSLC, and the high expectations set by the parents and staff, students often require additional assistance without distraction. Clearly, the programs and our funding priorities have been rewarded by a 94.5% (>98% for Hispanic students) graduation rate; an award in both 2011 and 2012 by the New Mexico ACT Council for "*significantly increasing ACT composite scores over the past five years, increasing student participation in the ACT, and improving college readiness*". Additionally, Southwest Intermediate Learning Center is recognized by the NMPED as the top performing middle school in New Mexico – while Southwest Primary Learning Center is one of the top five performing elementary schools in the State!

Consequently, as the Presidents of the three Boards for these high performing charter schools, we request that you include our rebuttal above to be printed in the LFC Report.

Sincerely,


Joe Provonzie
Board President
Southwest Secondary


Judy Chapman
Board President
Southwest Intermediate


Jerry Duran
Board President
Southwest Primary

ATTACHMENT G

LA PROMESA
EARLY LEARNING CENTER

Where success speaks louder than words



January 21, 2013

VIA EMAIL AND U.S. MAIL

The Honorable John Arthur Smith, Chairman

Legislative Finance Committee

State Capitol North

325 Don Gaspar – Suite 101

Santa Fe, New Mexico 87501

Re: Response to LFC Staff Report on Charter School Facility Lease Assistance and
Capital Outlay Planning Report – Released January 14, 2013

Dear Senator Smith:

Thank you for the opportunity to respond to the above-referenced report by the Legislative Finance Committee's ("LFC") staff. I am the Director of the La Promesa Early Learning Center ("La Promesa"), erroneously referred to throughout the above referenced Report as "La Promesa Charter School." The name of our school is only one of many mistakes made by the LFC staff when describing our current and future facility circumstances. Needless to say, it is extremely unfortunate that the LFC staff released the report before any of the charter schools were given the opportunity to review it for accuracy and comment. Even more harmful is the impression left by this Report with the LFC members who rely on the LFC's fiscal analysts and professional performance auditors to assess particular programs. Overall, I believe the Report is misleading and makes underdeveloped legislative recommendations that are based on factual errors, unsubstantiated assumptions, and faulty, biased conclusions. The Report indicates a clear misunderstanding of laws applicable to charter schools, pertinent practices and policies of relevant agencies and divisions, and a lack of neutrality in its approach.

I understand that the New Mexico Coalition for Charter Schools will be presenting a comprehensive response to the Report and its recommendations. I, therefore, have attempted to limit my responses to the Report sections that address La Promesa Early Learning Center's facilities.

Issue #1. LFC staff contends that La Promesa Early Learning Center cannot account for the tenant improvements identified in our Lease Agreement with our third party private landlord. This is untrue and misleading. The Lease Agreement with La Promesa Early Learning Center's current landlord provides that the landlord prior to occupancy would make tenant improvements of up to \$500,000 (included the cost of engineering, construction management fees and permitting fees; no out of pocket from the charter school). It also provides that if the lease improvements exceeded this budget, that the charter would pay for any overage. The list of tenant improvements were not made an exhibit to the lease; that list was in the hands of the landlord and not available when I met with LFC on December 14, 2012. I requested the information from our landlord and subsequently provided that information to

the LFC staff. The detailed list of improvements shows that the total expended by our landlord was \$648,964. Our landlord did not seek the difference from the school, nor increase our lease payments.

It is significant that this lease was negotiated as a year to year lease. We had intended to enter into a lease purchase agreement to acquire a permanent facility, however, based on an appraisal (after improvements were made) our current building appraised too low for the landlord to sell it to us at fair market value. We are now taking steps to find a permanent home, for which we are unfairly criticized by the LFC.

It is extremely troublesome that although the LFC staff had the information about the cost of our tenant improvements before the Report was released, the staff did not amend the Report or correct the information in its presentation to the LFC, which clearly implies that I, as La Promesa Early Learning Center's director responsible for overseeing the lease, has acted either negligently or somehow has mismanaged funds. This is a very serious allegation. I note that this statement is made in passing on page 6 of the report without any factual basis for the statement other than I could not provide exact numbers from memory about our lease on the day I met with the LFC staff evaluator.

Issue #2. LFC staff criticizes La Promesa Early Learning Center for planning a move into a "92,000" sf facility for rent that is substantially higher than what we pay now for a 9,000 sf facility. First, the comparison to the "Santa Fe Convention Center" is hardly objective or useful when identifying a concern, if there was one. Next, La Promesa Early Learning Center is *planning* (no lease has been signed) to enter into a lease of a facility that is 82,000 sf, but only occupy and pay for what we need, i.e. 35,000 sf; only a portion of which is *classroom* space. The staff next magnifies this misleading characterization of our facility circumstances by pronouncing that we have the highest per student space allocation of all charter schools; which is simply false. LFC staff not only uses incorrect figures to reach this fiction, but uses the wrong methodology. Simplified, classroom space (not total leased space) of the facility divided by the number of students gives the per student square foot utilization. The staff appears to have either negligently or intentionally manipulated the data to reach exaggerated conclusions about our school; it is unclear whether this same methodology was applied to reach the conclusion that other charter schools are leasing more space than they need – a generalization that is extremely questionable given the methodology applied to our school.

Issue #3. On page 23 of the report the LFC makes the following conclusion, "[p]otentially inappropriate relationships not addressed by statute or rule are costly." The staff cites our recently incorporated foundation,¹ whose incorporating board includes two La Promesa Early Learning Center employees and a family member of one of these employees. Nowhere does the LFC staff identify any contractual relationship between the nonprofit and La Promesa Early Learning Center – because there is not one. Moreover, the LFC staff does not and cannot identify any "cost" to the school as a result of this relationship – much less a "costly" one. There simply is no inappropriate relationship. La Promesa Early Learning Center clearly disclosed that it was the charter school's intent to enter into a lease with the nonprofit, who is the lessee of the new school site that is currently being developed by a private landlord. This lease has not been entered into. La Promesa Early Learning Center, sometime ago adopted an extensive conflict of interest policy, which will be followed prior to execution of our sublease with the nonprofit – if the current members are still on the board. Moreover, the nonprofit board of directors is a founding board that will be replaced with new members who can serve the organization that was created to benefit our school. The staff's assertion that there is "potentially" inappropriate activity by our school and/or foundation is a sweeping overgeneralization based on nonexistent facts.

The LFC staff does not reveal to the LFC Section 22-8B-4.2(D)(2)(b), which provides that a charter school will meet the "2015 Deadline" if no other public building is available and "*the owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility to the charter school.*" – To comply with the law, the

non-profit foundation is acquiring a facility to lease to the charter school that will meet adequacy standards by our next renewal. All public finance laws have and will continue to be followed throughout our transactions with our foundation.

I ask that you circulate our response to other members of the Legislative Finance Committee, or at a minimum instruct staff to append my letter of rebuttal to the report as part of the public record. We hope, Senator, that you will consider entering something in the record that will indicate the LFC staff's report was not acceptable to the LFC and that findings therein require further study that will include participation by charter school representatives *before* it is released again.

Sincerely

Analee N. Maestas

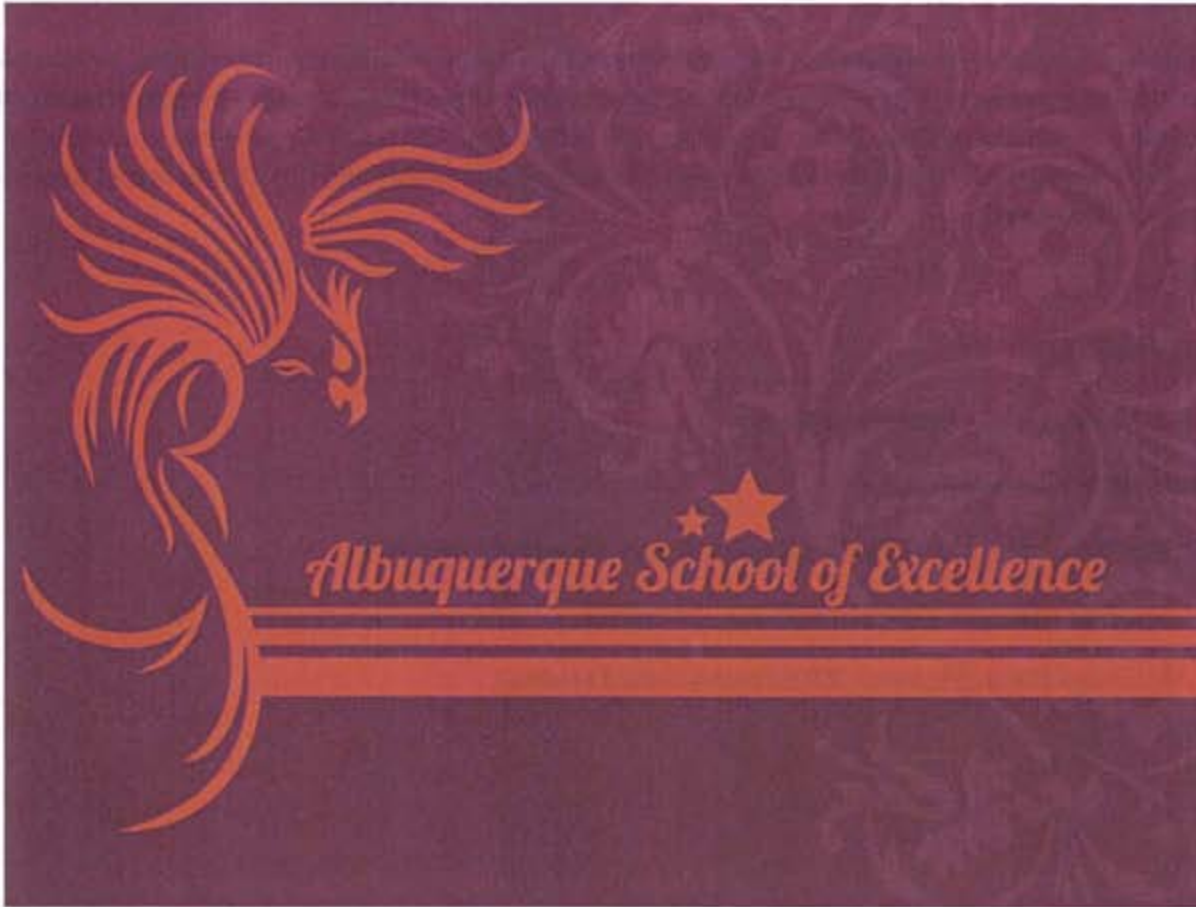
Analee N. Maestas, Ph.D. Executive Director

La Promesa Early Learning Center

Cc: The Honorable John M. Sapien, Chair – Senate Education Committee

Mr. Bruce Hegwer, Director, NMCCS – via email

Mr. Tony Gerlicz, Director, PED Charter School Division



**ALBUQUERQUE SCHOOL OF
EXCELLENCE
FACILITIES REPORT**

JANUARY 2013

GOVERNANCE

Albuquerque School of Excellence Governing Council

President: UNAL SAKOGLU, PH.D. - Phone: 505-710-7645 email: unal@abqse.org

Vice President: MEHMET FATIH SU, PH.D. - Phone: 505-816-8489 email: mfsu@abqse.org

Secretary: MUSTAFA CETIN - Phone: 505-974-7610 email: mscetin@abqse.org

Treasurer: OSMAN ANDEROGLU, PH.D.- Phone: 505-480-7186 email: anderson@abqse.org

Member: ERIC COONTZ, PH.D. - Phone: 505-767-6030 email: eric.coontz@abqse.org

Member: SAYAVUR BAKHTIYAROV, PH.D.-Phone: 505-846-0458 email: sayavur@abqse.org

Principal

AHMET CETINKAYA, M.Ed.

Location

Address: 13201 Lomas Blvd NE Albuquerque, NM 87112

Phone : (505)-312-7711

Fax : (505)-312-7712

Web : www.abqse.org



Quick Facts

	Enrollment	% increase	School Grade	Grades
2010-11 (40D)	214	-	C	1 st thru 8 th
2011-12 (40D)	292	+36.4 %	B	1 st thru 9 th
2012-13 (40D)	316	+8.2 %	-	1 st thru 10 th

Facilities



Cafeteria / Gym



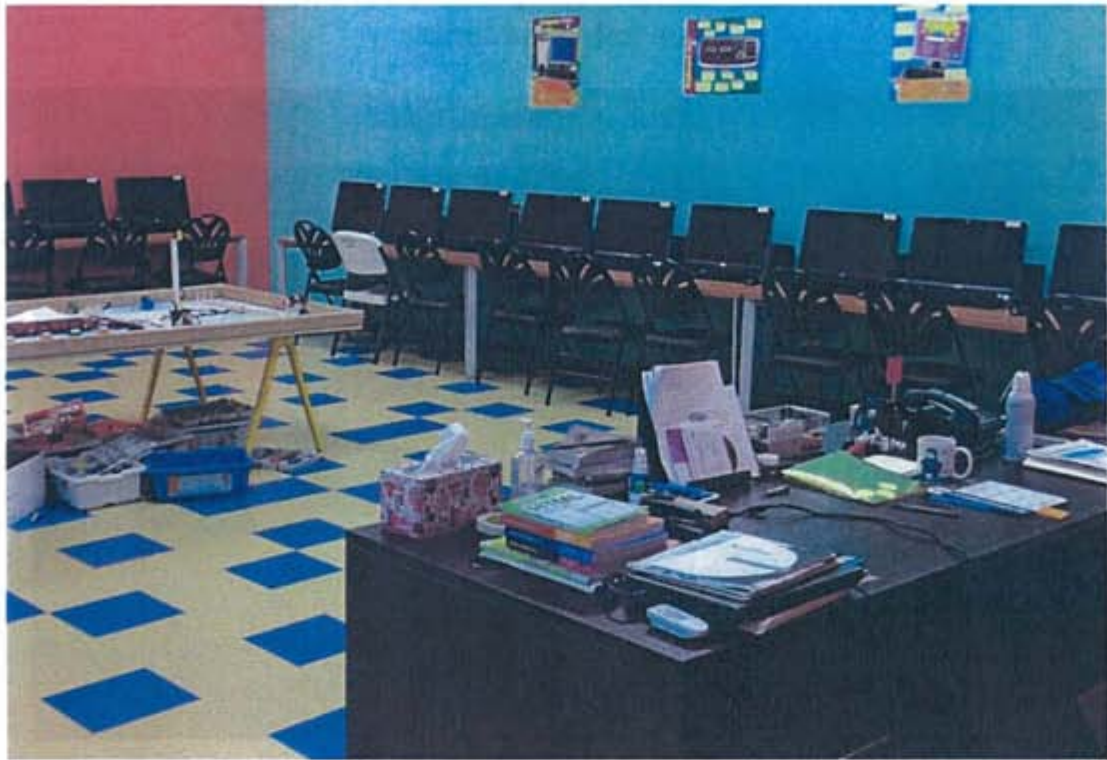
Classrooms



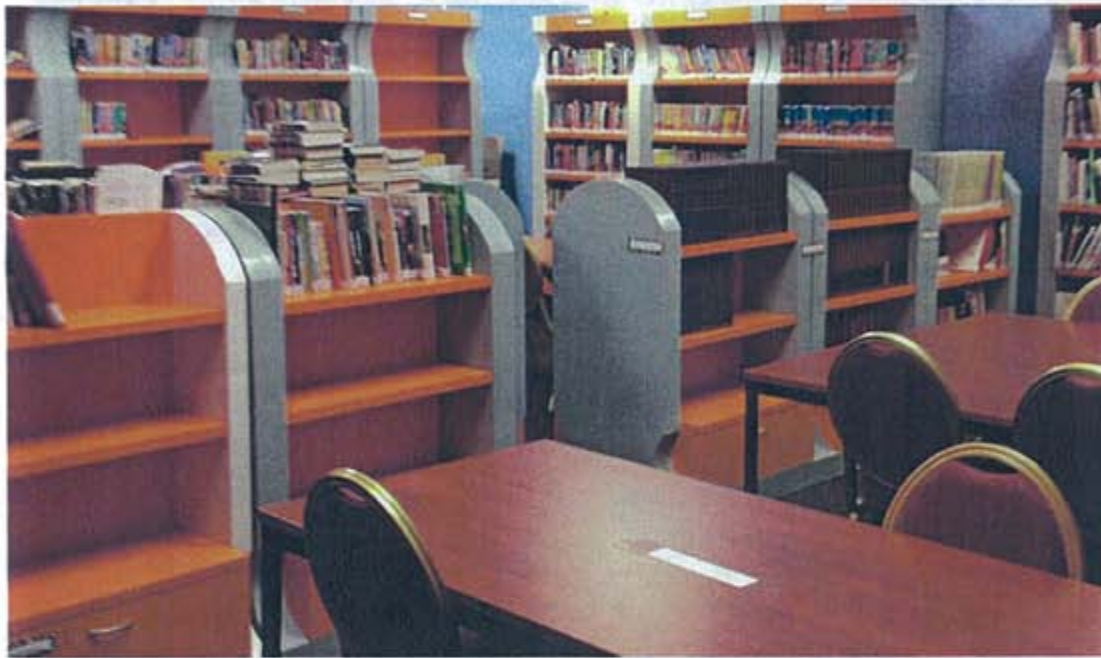
2nd Grade Classroom and Art Classroom



Science Classroom and Computer Lab



Science Lab and Library



Entrance and Hallways



Lease Increase Table

	Monthly Rent	Increase %	\$ per sq ft	Square ft usage
2010-11	\$25,000	-		24000
2011-12	\$32,996	32 %		28000
2012-13	\$38,996	18 %		28000
2013-14	\$43,996	12.8 %		28000
2014-15	\$48,996	11 %		28000

Lease Payments

Lease Payments				
	Months	Base Rent	Improvements	Total
1	Sep-10	\$11,666	\$13,334	\$25,000
2	Oct-10	\$11,666	\$13,334	\$25,000
3	Nov-10	\$11,666	\$13,334	\$25,000
4	Dec-10	\$11,666	\$13,334	\$25,000
5	Jan-11	\$11,666	\$13,334	\$25,000
6	Feb-11	\$11,666	\$13,334	\$25,000
7	Mar-11	\$11,666	\$13,334	\$25,000
8	Apr-11	\$11,666	\$13,334	\$25,000
9	May-11	\$11,666	\$13,334	\$25,000
10	Jun-11	\$11,666	\$13,334	\$25,000
11	Jul-11	\$11,666	\$13,334	\$25,000
12	Aug-11	\$11,666	\$13,334	\$25,000
13	Sep-11	\$17,916	\$15,080	\$32,996
14	Oct-11	\$17,916	\$15,080	\$32,996
15	Nov-11	\$17,916	\$15,080	\$32,996
16	Dec-11	\$17,916	\$15,080	\$32,996
17	Jan-12	\$17,916	\$15,080	\$32,996
18	Feb-12	\$17,916	\$15,080	\$32,996
19	Mar-12	\$17,916	\$15,080	\$32,996
20	Apr-12	\$17,916	\$15,080	\$32,996
21	May-12	\$17,916	\$15,080	\$32,996
22	Jun-12	\$17,916	\$15,080	\$32,996
23	Jul-12	\$17,916	\$15,080	\$32,996
24	Aug-12	\$17,916	\$15,080	\$32,996
25	Sep-12	\$17,916	\$21,080	\$38,996
26	Oct-12	\$17,916	\$21,080	\$38,996
27	Nov-12	\$17,916	\$21,080	\$38,996

28	Dec-12	\$17,916	\$21,080	\$38,996
29	Jan-13	\$17,916	\$21,080	\$38,996
30	Feb-13	\$17,916	\$21,080	\$38,996
31	Mar-13	\$17,916	\$21,080	\$38,996
32	Apr-13	\$17,916	\$21,080	\$38,996
33	May-13	\$17,916	\$21,080	\$38,996
34	Jun-13	\$17,916	\$21,080	\$38,996
35	Jul-13	\$17,916	\$21,080	\$38,996
36	Aug-13	\$17,916	\$21,080	\$38,996
37	Sep-13	\$17,916	\$26,080	\$43,996
38	Oct-13	\$17,916	\$26,080	\$43,996
39	Nov-13	\$17,916	\$26,080	\$43,996
40	Dec-13	\$17,916	\$26,080	\$43,996
41	Jan-14	\$17,916	\$26,080	\$43,996
42	Feb-14	\$17,916	\$26,080	\$43,996
43	Mar-14	\$17,916	\$26,080	\$43,996
44	Apr-14	\$17,916	\$26,080	\$43,996
45	May-14	\$17,916	\$26,080	\$43,996
46	Jun-14	\$17,916	\$26,080	\$43,996
47	Jul-14	\$17,916	\$26,080	\$43,996
48	Aug-14	\$17,916	\$26,080	\$43,996
49	Sep-14	\$17,916	\$31,080	\$48,996
50	Oct-14	\$17,916	\$31,080	\$48,996
51	Nov-14	\$17,916	\$31,080	\$48,996
52	Dec-14	\$17,916	\$31,080	\$48,996
53	Jan-15	\$17,916	\$31,080	\$48,996
54	Feb-15	\$17,916	\$31,080	\$48,996
55	Mar-15	\$17,916	\$31,080	\$48,996
56	Apr-15	\$17,916	\$31,080	\$48,996
57	May-15	\$17,916	\$31,080	\$48,996
58	Jun-15	\$17,916	\$31,080	\$48,996
59	Jul-15	\$17,916	\$31,080	\$48,996
60	Aug-15	\$17,916	\$31,080	\$48,996
	Totals	\$999,960	\$1,279,848	\$2,279,808

Improvements

First year improvements were budgeted around \$1.3 million and the actual costs were around \$1,341,000. These figures were emailed by the president of Solidarity Investments, LLC, as the lessor.

The architect of the project estimated the cost in between \$80 and \$100 per square footage that this will make a rough estimate of minimum \$1.9 million. A letter from the architect will be emailed on Monday.

The rent increases of this building in the first five years are because of the initial improvements that after 5 years the rent will drop to a very low amount.

I tried to compile a report to answer some the questions on justification of rent increase in five years. It took a while for me to access the information on actual numbers.

Ahmet Cetinkaya, Principal

ATTACHMENT I

SAYLOR FAMILY TRUST

Our Family became involved in the Charter School movement in 2000 when we were approached by a group from Arizona that had extensive experience in running Charter Schools. They needed a facility of approximately 22,000 sq. ft. for a K-8 charter school facility. Previously, we had spent in excess of \$1,500,000.00 to remodel the center to build a Planet Fun family fun center in a 30,000 sq. ft. portion of the existing center. Many of the facilities that were built for the fun center were similar codes as those required for E-occupancy. We leased the original school to the Charter and it worked out very well. In the next two years, we built Horizon Academy West and Horizon Academy Northwest to the specifications of the their Charter's governing board and expanded Horizon Academy South 3 times. Horizon Academy West was built on approx. 6 acres of West Bluff Center (over 32 acres) which included a Super Walmart, Chili's, Home Depot, International House of Pancakes, Staples, Panda Express, Radio Shack, and many other merchants. The average rents per sq. ft. in West Bluff Center are around \$22.00 to \$30.00 per sq. ft. and land costs in the \$16.00 to \$28.00 per sq. ft. It is THE premier close in Westside location at the intersection of Coors Rd. and Interstate 40.

The LFC report begins with the statement that, "most charter schools do not have cafeterias, gymnasiums, and science labs." Also, the report states that the schools are leasing office buildings, warehouses, churches, and portable buildings that in most cases are substandard. It became clear that to compete with APS schools for students, Horizon needed REAL schools in highly prominent locations with full size gymnasiums, cafeterias, refrigerated air conditioning, regulation soccer fields, outdoor playgrounds and basketball courts, ample pick up and drop off areas, and administration and counseling areas in addition to classrooms. Our schools are purpose built on land that is appraised at a minimum of \$8.00 per sq. ft and as much as \$14.00 per sq. ft. on prime corners and are in fact shopping center sites with much higher land costs than most charter schools. When we built Horizon Academy West we demolished over 15,000 sq. ft. of existing buildings (in retrospect a big mistake) to make room for the new classroom buildings, layout and infrastructure. Bill Spreck's office thoroughly reviewed the plans for facility compliance and held up our plans for over 5 weeks which caused the campus to be delivered in mid September instead of July 1, 2003, requiring temporary rented facilities until we received our certificate of occupancy for E occupancy. We also lost over 100 students that had enrolled but when the schools were not completed, transferred to other schools. We made EVERY change Mr. Sprick's office requested which again boosted the development costs significantly as well as the development time. The classrooms were built on concrete stem walls at ground level with earthquake compliant foundations, permanent stucco, roofs, electrical and plumbing stubs, as well as communications. We already owned the 10 acres and 34,000 sq. ft. of buildings. Our building and conversion costs of the school were in excess of \$3,350,000.00. Our return on total investment at delivery of the facility was less than 4.5% and our interest rate on the 2.5 million dollar loan was initially 7.85%. The additional capital was borrowed against one of our industrial parks that had been free and clear prior to building the school. Our most recent appraisal (which is over \$1,000,000.00 less than we have invested), done by Browning Commercial Appraisal for Bank of Albuquerque on the Horizon Academy West property was only \$4,320,000.00 dated January 13, 2012. It appraised the property lower because on page 51 it analyzes the lease rate, and as the appraisal states, on page 30 "Current rental rates and vacancies for educational and school properties in this submarket would not justify new construction and would not be economically feasible at this time." And on page 51 the appraisal states, "with a median of \$15.15, and an average of \$16.22 per square foot per year. Based on analysis of comparable market data, and considering all factors, we believe the market lease rate for the subject will fall below the median of the indicated range. We estimate market rent for the subject at \$15.00 per square foot per year, triple-net. Noted is that the subject is currently leased at \$13.48 per square foot. Therefore, the subject's lease when compared to our estimated market rent is +/- 10% below market."

In addition, Saylor Family Trust maintains a 4 man full time maintenance team (which includes electricians , roofers and plumbers) that spend approximately 50% of their direct cost time sheets, truck time and material and parts costs, maintaining our 5 schools. These children can be very destructive to these facilities. Among the daily repairs: broken doors, locks and door closures, vandalism, clogged urinals, sinks and toilets, maintaining mechanical units, filters, carbon monoxide tests, thermostats, and complete replacement of HVAC units when required (we keep 2 new units in inventory at all times for quick replacement), and flooded bathrooms due to kids plugging the floor drains. We routinely repair and replace fluorescent fixtures, ballasts and bulbs, kitchen equipment, breakers and electrical wiring, faucets seals and toilets, floors, concrete walkways, parking light lighting, asphalt repairs and striping, roofs and rain gutters, fences, walls and irrigation sprinklers and controllers. Some days we have receive 5 calls for maintenance requests at the various schools on a variety of issues. All of these costs are borne by exclusively by Saylor Family Trust since, under the anti-donation clause, the schools cannot use public funds to maintain or make upgrades to private facilities. Every time the PSFA or PED makes a site visit and demands improvements or upgrades for facility compliance, we make ALL of the required improvements at our expense AT NO cost to the schools. I have been VERY DILIGENT in challenging the property taxes that are assessed to the schools and have been successful in having the taxes reduced to more than 50% of replacement of actual improvement and land value. Now the committee is looking at that "assessed value" (after my tax protests which in most cases are successful and now are well less than half of actual value and suggesting that we are somehow "cheating the schools" based on the County assessed value alone.

Horizon Academy West and North Valley Academy and El Camino Real Academy, despite having a hard wired 2.5% annual increase in their leases, neither school has had ANY increase in the base rent in over 3 years due to the difficult funding environment for Charter schools.

Albuquerque Talent Development Secondary Charter School

The original site for ATDSCS was a 2.4 acre site on the south portion of a 10 acre West Bluff Center site which I had re-approved for school development in 2004. ATDSCS had already opened the school at a site adjacent to Double Eagle airport on leased land with \$765,000.00 worth of new modular and movable buildings including the handicapped accessible ramps leased from William Scotsman, a National building leasing company. The school had to move from that far on the west side location and I was approached by the Governance Counsel to see if I would lease them the site which had previously been approved to build a Homewood Suites hotel and that I had in escrow since 2004 for \$1,275,000.00 to a developer to build the hotel. It was vacant land and the plans and specifications were already approved by the City of Albuquerque. The school could not pay for the infrastructure or moving costs of the buildings so I had my architect lay out the school on the 2.4 acres so that I could get cost estimates from contractors and engineers to see what the costs might be. The original costs for water meters, landscaping, grading and drainage, electrical and communication stubs, parking lot and lighting, curbs and gutter, and misc. was about \$450,000.00. After approval by the State and City Engineer, Fire Dept and Hydrology, the cost had risen to in excess of \$600,000.00. We had sold another property at that time, had some capital and agreed to build out the site and lease it to the school. After we moved the buildings (we had to disconnect all of the electrical, water, gas and communications at the old Double Eagle site) it was determined that we should permanently install the buildings at ground level on concrete stem walls with concrete walkways around the buildings, permanent electrical, communications and plumbing. The fire Dept then insisted that we build a 100,000 lb engineered, 3 ft deep base coarse loop road around the school for fire engine and emergency vehicle access. The final building cost was in excess of \$700,000.00. We agreed on approx. \$12,500.00 per month for a lease rate and we delivered the school. The school opened and within 6 months, the principal was relieved of her duties, the enrollment declined and the rent had to be reduced to about 75% of the agreed upon lease rate for both William Scotsman and Saylor Family Trust, LLC. Had we not agreed to reduce the rent, the school would have to close. There have been NO rent increases for 3 years and the 75% rate is the current lease rate. I challenged the property taxes 3 years ago and got the taxes reduced by over 50% to the current assessed value rate. In December of 2012 Saylor Family Trust,

purchased the William Scotsman buildings to accommodate a potential sale of the property on a 30 year Lease to Purchase for the school. Over the last two years, we divided the 10 acre into 3 parcels. The Horizon Academy West site at 5.5733 acres, ATDSCS site @ 3.1866 acres and the cell tower site @ .1377 acres . The math is : Land at about the price it was originally sold in 2004 - \$1,275,000 for 2.4 acres but now is 3.1866 acres (138,803 sq. ft.) at \$1,375,000.00, (\$9.91/sq. ft.) the cost of the buildings at \$650,000.00 and the \$700,000.00 building, infrastructure and moving cost or about \$2,700,000.00. We have gone through the process of formally getting approval for the expanded campus in the last two years by our engineers and architects in which the site is now approved for about a 26,500 sq. ft. final campus size with an 8000 sq. ft. gym and cafeteria (see site layout) . To complete a Lease to Purchase agreement, we had to actually own the buildings which are now permanently attached to the site. The monthly payment over 30 years is exactly the same monthly payment as ATDSCS is currently paying (at the 25% reduction and NO INCREASES in over the last 3 years). Your committee NEVER asked us for our appraisals, building and engineering costs, or finance costs. We will be happy to provide them upon request.

Southwest Primary and Secondary Learning Centers

The facility which houses 3 schools at 10300 Candelaria N.E. is without a doubt one of the finest, most technologically advanced and successful charter schools in the State of New Mexico. We purchased the building out of a foreclosure years ago and spent millions building the Charter School that is now in the facility. As a result of the advantage we derived from purchasing the property at a preferential price and after the extensive renovations, SWSLC pays the lowest price per sq. ft. for the finest Charter School facility. The existing base lease payment is \$34,447.00/mo. which equates to about \$9.50 per sq. ft. A building and property of this quality if made E-occupancy compliant with the amenities of SWSLC would cost upwards of \$20.00 per sq. ft. if it were built today. SWSLC enjoys an incredible value in terms of the lease rate at about half or less than market rate. Again, if appraised at a 9.5% to 11% CAP at current lease rates it would only appraise for probably \$4.3 million or about \$1.2 million less than actual cost. And would someone PLEASE look at the results Scott Glasrud, Dolly Juarez and their team have achieved. They have 4000 students on their waiting list to gain a slot in their enrollment. Their test scores are the highest in the State (every student, every grade, every year) with virtually a 100% graduation rate. Look at the percentage of students that get scholarships and go on to college. And look at the student and parent satisfaction numbers. By any measure, SWSLC is the quintessential and premier example of what Charter Schools were meant to be.

Charter School Risk Factors are Significant

All investments are rated in terms of return on investment relative to risk. A 10 year United States Treasury Bill (which is considered the safest low risk investment asset) currently yields 1.87% per year (with a current inflation rate of about 2.6%) and the investor ties up his capital for 10 years and loses .73% per year. A Walgreens 20 year lease on a 13,440 sq. ft. building yields about 5.5% to 6.0% (Cap Rate) at about a \$6,250,000.00 cost and a monthly Lease of about \$375,000.00 per year. Walgreens is a AA Credit Tenant and has never defaulted on a lease agreement in the history of the Company. If you collect \$375,000.00 per year on a Walgreens Lease, it will appraise at \$6,250,000.00.

Charter Schools are an extremely risky investment. In the 2003-2004 school year, the Horizon Academy 3 schools had funding curtailed by the NM PED for funding various operations when the founders and some of the operators and administrators were terminated by the NM PED for cause. Saylor Family Trust, LLC was not paid monthly lease payments on all 3 schools for the months of April, May and June of 2004 (at that time a \$235,000.00 loss). Further, the schools were in danger of having the Charters revoked by PED. I worked day and night with Tom Savage, Patricia Matthews, Brad Winter, Beth Everett, Dr Michael Kaplin, who was in charge of the Charter program at PED, Veronica Garcia, Secretary of Education and Don Duran, asst. Secretary of Education for over 2 years. The Governance counsels were reformed with newly elected board members and I provided copies of all documents and invoices relating to the schools, the building costs, plans and specifications, land and acquisition

costs, engineering and maintenance costs etc. We saved the schools, just barely but it took 2 to 3 years to get all of the schools back on solid ground in the aftermath. The founders had borrowed over \$1,200,000.00 through their Friends of Horizon entity from First Community Bank to purchase computers, furniture and equipment, playground equipment, desks, electronics, servers, and operational costs to create the 3 schools. After default, the Bank eventually had to enforce the collateral agreements and were rapidly moving toward repossessing all of the Furniture, Fixtures and Equipment at the 3 campuses to satisfy the bank loans. Patricia Matthews and I negotiated a discounted buyout of all the equipment with a \$250,000.00 discount on the loan balance due First Community Bank and Saylor Family Trust, LLC paid off the balance of just under \$700,000.00. The bank assigned all of the liens and collateral assets to Saylor Family Trust, LLC. Don Duran and the PED staff eventually arranged for some supplemental funding for two of the schools to purchase the assets from Saylor Family Trust at Horizon Academy Northwest and Horizon Academy West at about 75% to 80% of what Saylor Family Trust had paid the bank for those assets. No funds were ever paid to Saylor Family Trust for the loans at Horizon Academy South, now El Camino Real Academy. Saylor Family Trust lost over \$200,000.00 on the purchase of the Horizon Academy FF&E Assets. When enrollment dropped at several of the schools and the budgets were adjusted downward, we had to make substantial rent concessions to the schools for the last 6 months of the school funding year over the 11 years we have owned the facilities to make the budgets work relative to funding. At the height of El Camino Real budget problems in 2008, we wrote the school a check for \$250,000.00 as a charitable contribution to save the school. Saylor Family Trust has paid for signs, fliers, brochures and marketing personnel and materials, postage, banners, uniforms, activity fees, transportation and school supplies for needy students and their families over the years amounting to tens of thousands of dollars. Saylor Family Trust has been much more than a Landlord to the Charter School Tenants; indeed we have been their partners and ONLY source of capital in a budget crisis or for unexpected emergency costs.

FINANCING CHALLENGES

Virtually no banks will loan money directly to a Charter School and by law, they cannot commit the school to any debt payment schedule on any loan. The appraisers use a 9.5% to 12% CAP Rate to appraise the facilities due to the high risk and many defaults of Charter Schools on Lease Agreements and contracts. The only way to make a Lease To Purchase Agreement amortize at the current monthly lease rate of a school is over 30 years at a lower percentage rate than the property owner can borrow money. Further, property owners can only borrow money for 5 to 7 years and must then "roll over the loan" when it comes due at the then prevailing interest rate. So for 30 years, the property owner continues to assume ALL OF THE Interest Rate RISK under a Lease To Purchase Agreement until paid in full. If the rate on the underlying debt rises above the fixed rate in the Lease To Purchase Agreement, the property owner must subsidize the differential for up to 30 years. Under a Lease to Purchase Agreement, the school NEVER ACTUALLY BUYS THE PROPERTY until the last payment extinguishes the balance or when a school bond pays off the balance! There is no responsible adult or actual person that is creditworthy or personally responsible for honoring the agreement that is executed by the school. If the school experiences a decline in enrollment, it may not be in a position honor the obligations agreed to by the Governance Counsel. If the school experiences malfeasance or fraud by the management the Charter can be revoked and the agreement may go into default and the property owner now has a vacant school with no income to service the remaining debt that needs to be serviced and upon which he is personally liable. For the PED to approve the Lease To Purchase Agreements the agreement must contain a clause that states that in effect if funding is cut or enrollment declines or the Charter Program experiences reduced funding, the property owner must agree to reduce the payment or the Charter School can terminate the Lease to Purchase Agreement. So when the LFC suggests that an MAI commercial appraisal should be required prior to approving a Lease or Lease to Purchase Agreement, have any of these factors been properly evaluated?

It is amazing indeed that developers and Property Owners will continue to want to build Charter Schools in New Mexico. ATDSCS was the last school we built 6 years ago and despite numerous requests from several

Charters, we will not even consider taking the risk of developing another school given the political and banking environment. We were told that we would be "taken out of these facilities" by the founders of Horizon Academy after 3 to 5 years and we are still looking forward to the day we no longer own any Charter Schools. It was never our intention to own these schools for more than 3 years; it was always our intention to sell them to the schools so that they could control their own destiny and become eligible for State funding to grow their programs. Over the last 35 years we have developed many free standing commercial pad buildings, multiple tenant strip buildings, Shopping Centers, Industrial Parks and specialty commercial properties (Car Washes, Laundromats, Restaurants etc). Charter Schools have been the most difficult assets to create, meet code compliance, finance and maintain of all the projects in which we have participated. We value all of our tenants whom we view as our "customers", "our partners" and "our friends" and have done everything within our power to insure their success. Perhaps the perspectives contained in these pages will give you a somewhat different view than the combative comments contained in the LFC report of January 14, 2013.

Respectively Submitted,

Richard Saylor

Managing Member

Saylor Family Trust, LLC

R.B. Saylor Property Management Co. Inc.

ATTACHMENT J

The GREAT Academy
Gain Real-world Experience through Active Transition



Dear Mr. Pahl:

I would like to take this opportunity to respond to the draft language relating to The GREAT Academy in the report that you are preparing for the Legislative Finance Committee, which relates to Educate America Now Foundation (EANF). You sent that proposed language in an email to me dated January 4, 2013. The proposed language is as follows:

The Executive Director of The GREAT Academy in Albuquerque is listed as a director of the Educate America Now Foundation, a New Mexico non-profit that offers education consulting services. In FY12, The GREAT Academy contracted with the Educate America Now Foundation for \$12,000. The GREAT Academy is contracting with its Executive Director's own non-profit, which also lists his wife as a director.

It is my understanding that you will incorporate the information in this letter into the report, or append this letter of clarification.

Neither myself nor Keisha Matthews have been on the EANF's board of directors since September of 2011. The Public Regulation Commission's website still lists us as directors, however; apparently this is because, after further examination, we discovered that the proper paperwork was not filed with the State to update the board membership for EANF. That is in the process of being corrected. We have notified the president of Educate America Now Foundation of this matter and she assured us that she would work expeditiously to file the proper paperwork to update the board membership of the non-profit.

Before the school contracted with EANF, Mrs. Matthews and I were aware of the perceived conflict of interest and made an attempt to avoid it by resigning our positions on the EANF Board prior to the contract with The GREAT Academy. Nevertheless, it has since been decided that The GREAT Academy would no longer contract with Educate America Now Foundation as long as myself or my wife, Keisha Matthews are employed with The GREAT Academy. Accordingly, the contract with EANF was terminated as of June 30, 2012 and the School is no longer contracting with EANF for professional services.

I hope that this adds some clarification to the relationship that the school had with Educate America Now Foundation. Please let me know if you need further information or if you have questions.

Thanks,

Jasper Matthews

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PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL 2011-2012 LEASE ASSISTANCE APPLICATIONS

ATTACHMENT K

District	School	State (S) or Local (L) Charter	Charter (x for "Yes")	Grade Level	Charter in Public Building or Exception ¹	Lessor	Total Sq. Ft. of Leased Space	Avg of 80/120 Membership or Estimate per PED	Sq. Ft. per PED MEM	Actual Lease	Cost/Sq Ft	Lease Payment for Classroom and Direct Admin Space	Maximum Allowable Lease Assist @ \$733.35/PED MEM ²	Maximum Allowable Lease Assist @ \$733.35/PED MEM ² or Adjusted Lease
Albuquerque	Academia de Lengua y Cultura	L	X	6-8			15,538	87.6	179	163,400	10.52	72,472	63,801	63,801
Albuquerque	Academy of Trades & Technology	S	X	9-12	Z	N-LWOP	20,771	170.8	122	179,800	8.55	160,834	124,670	124,670
Albuquerque	ACE Leadership High School	S	X	9-12			12,000	109.5	110	120,000	10.00	64,083	80,302	64,083
Albuquerque	Albuquerque Institute for Math & Science	S	X	6-12	X	U	18,372	261.6	79	230,419	12.54	230,814	191,404	191,404
Albuquerque	Albuquerque School of Excellence	S	X	1-9			10,465	208.5	50	350,000	36.31	379,818	152,903	152,903
Albuquerque	Albuquerque Talent Development	L	X	9-12			13,306	143.5	94	213,179	15.78	210,953	105,236	105,236
Albuquerque	Alice King Community School	L	X	K-6			20,804	245.0	85	260,000	13.94	221,820	179,671	179,671
Albuquerque	Amy Behl High School	S	X	9-12	X	F	42,101	278.0	151	1,200	0.03	1,178	203,871	1,178
Albuquerque	Balsan Military Academy	L	X	9-12			13,611	138.5	98	173,698	12.78	169,152	101,569	101,569
Albuquerque	Career Academic & Technical Academy	L	X	9-12			13,332	137.0	97	155,114	11.63	155,267	100,469	100,469
Albuquerque	Cesar Chavez	S	X	9-12	Z	N	20,022	181.5	110	321,360	16.05	187,697	133,103	133,103
Albuquerque	Christine Duncan's Heritage Academy	L	X	K-8			13,332	121.0	110	93,600	7.02	93,600	88,735	88,735
Albuquerque	Clan Aquas International School	S	X	K-7			13,644	196.0	82	143,202	10.50	131,838	121,736	121,736
Albuquerque	Corrales International School	L	X	K-10			16,286	183.5	89	264,984	16.27	256,511	134,570	134,570
Albuquerque	Cottonwood Classical Preparatory School	S	X	8-12			16,624	347.5	48	465,199	27.85	465,206	254,839	254,839
Albuquerque	Creative Education Prep. Institute #1	S	X	9-12			15,334	175.5	87	155,273	10.13	127,247	128,703	127,247
Albuquerque	Digital Arts and Technology Academy HS	L	X	9-12			45,991	293.0	160	604,313	12.86	604,178	214,872	214,872
Albuquerque	East Mountain High School	S	X	9-12	Z	N	29,046	356.5	112	336,000	6.43	325,213	261,439	261,439
Albuquerque	El Camino Real Academy	L	X	K-12			61,500	488.3	126	700,000	11.36	675,093	358,241	358,241
Albuquerque	Gilbert L. Sena Charter H.S.	S	X	9-12			14,535	175.0	83	186,140	12.81	186,140	128,336	128,336
Albuquerque	Gordon Barnell Charter School	L	X	9-12	X	C	13,360	302.5	44	175,000	13.10	175,000	221,838	175,000
Albuquerque	Horizon Academy West	S	X	K-6			17,178	420.5	41	522,853	30.44	522,967	308,374	308,374
Albuquerque	La Academia de Esperanza	L	X	6-12	Z	N	13,680	330.0	43	360,000	26.32	360,000	234,672	234,672
Albuquerque	La Promesa Charter School	S	X	K-6			9,416	177.0	53	69,996	7.43	69,996	129,803	69,996
Albuquerque	La Rositana Leadership Academy	S	X	6-8			4,148	63.0	66	118,004	28.47	101,188	46,201	46,201
Albuquerque	Los Puentes	L	X	7-12	Z	N	19,579	187.0	105	288,000	14.71	168,389	137,136	137,136
Albuquerque	Media Arts Collaborative Charter School	S	X	9-12	Y	N-LWOP	10,800	175.0	62	184,248	17.09	133,298	128,336	128,336
Albuquerque	The Montessori Elementary School	S	X	K-8	Z	N	35,019	342.0	102	667,314	19.06	666,914	250,806	250,806
Albuquerque	Montessori of the Rio Grande	L	X	K-6	X	D	14,727	192.5	77	124,719	8.47	121,761	141,170	141,170
Albuquerque	Mountain Mahogany Community	L	X	K-7			12,223	146.0	84	102,000	8.34	94,506	107,069	94,506
Albuquerque	Native American Community Academy	L	X	6-12	X	D	29,871	379.5	79	279,871	9.37	278,449	278,306	278,306
Albuquerque	New America School	S	X	9-12	Z	N	11,684	283.0	41	613,517	52.91	597,580	207,538	207,538
Albuquerque	North Valley Academy	S	X	K-8			37,558	485.0	78	569,424	15.00	416,402	355,675	355,675
Albuquerque	Nuestros Valores Charter School	L	X	9-12	X	C	8,152	134.5	61	49,536	6.08	43,525	68,630	43,525
Albuquerque	Public Academy for Performing Arts	L	X	6-12	X	D	22,800	342.5	67	300,874	14.07	279,551	251,172	251,172
Albuquerque	Ralph J. Bunche Charter	S	X	K-7	X	SL	11,000	83.5	130	56,650	5.15	56,650	61,235	56,650
Albuquerque	Robert F. Kennedy Charter High School	L	X	9-12	X	D	20,932	254.5	82	176,833	8.45	166,689	166,638	166,689
Albuquerque	SIATech	L	X	9-12	X	F	5,961	298.5	20	101,600	16.99	101,587	218,005	101,587
Albuquerque	South Valley Academy	L	X	9-12	Z	N	12,795	228.0	56	180,000	14.07	179,958	167,204	167,204
Albuquerque	South Valley Preparatory School	S	X	6-8			10,304	82.5	111	127,264	12.35	124,037	67,835	67,835
Albuquerque	SW Intermediate Learning Center	S	X	7-8			12,480	112.0	111	92,207	7.40	90,221	82,135	82,135
Albuquerque	SW Primary Learning Center	S	X	4-6			15,000	108.5	142	88,294	5.89	85,299	77,368	77,368
Albuquerque	SW Secondary Learning Center	S	X	7-12			20,520	275.5	74	220,733	10.76	213,152	202,030	202,030
Albuquerque	The Albuquerque Sign Language Academy	S	X	K-6	X	C	7,171	47.0	153	86,052	12.00	34,350	34,467	34,350
Albuquerque	The International School at Mesa del Sol	S	X	K-6			14,336	118.0	124	94,911	6.60	90,168	85,069	85,069
Albuquerque	The Learning Community Charter School	S	X	6-12	Z	N	26,465	212.0	125	240,000	9.07	240,027	155,470	155,470
Albuquerque	Tierra Adentro	S	X	6-11			8,141	157.0	52	137,144	16.85	129,925	115,136	115,136
Albuquerque	21 st Century Public Academy	L	X	5-8			25,432	239.0	106	184,008	7.24	184,006	175,271	175,271
Astec	Mosaic Academy	L	X	K-8			18,000	178.5	100	116,000	6.44	115,995	131,636	115,995
Bernalillo	Village Academy	S	X	6-8			3,937	42.0	94	45,800	11.57	45,600	30,801	30,801
Carlsbad	Jefferson Montessori Academy	L	X	K-12	X	D	15,736	160.5	98	117,703	7.48	111,934	117,703	111,934
Cimarron	Marena Valley High School	L	X	9-12			8,640	80.0	108	60,000	6.94	60,000	58,668	58,668
Clow	Choices - Alternative Learning Center	S	X	7-12			13,279	260.5	51	89,600	7.53	95,533	191,038	89,533
Deming	Deming Cesar Chavez	L	X	8-12	X	D	11,454	145.5	79	100,000	8.73	96,297	106,702	96,297
Espartero	Carnes Charter School	L	X	K-7	X	D	25,000	194.5	129	139,923	5.60	138,285	142,637	138,282
Espartero	San Juan Elementary (L and)			K-6			54,471	420.0	130	10,134	0.19		308,007	10,133

PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL 2011-2012 LEASE ASSISTANCE APPLICATIONS

District	School	State (S) or Local (L) Charter	Charter (x for 'yes')	Grade Level	Charters in Public Building or Exception ¹	Lessor	Total Sq. Ft. of Leased Space	Avg. of BOY120 Membership or Estimate per PED	Sq. Ft. per PED MEM	Actual Lease	Cost/Sq Ft	Lease Payment for Classroom and Direct Admin Space	Maximum Allowable Lease Assist @ \$733.35/PED MEM ²	Maximum Allowable Lease Assist @ \$733.35/PED MEM ² or Adjusted Lease
Gadsden	Anthony Charter School	L	X	7-12	X	D	5,723	67.5	85	51,000	8.91	50,459	49,501	49,501
Gadsden	La Union JTPA/Alvarez Farms			9-12			15,646	24.0	652	18,000	1.15	18,000	17,600	17,600
Gakup	Chief Manuelito MS (Land)			5-8		SL	45,014	642.5	70	8,438	0.19	8,438	4,711,177	8,438
Gakup	Churchrock Academy (Land)			K-5		T	37,586	272.5	138	5,500	0.15	5,426	199,836	5,426
Gakup	David Skeel ES (Land)			K-5		SL	17,226	214.8	80	3,557	0.21	3,556	157,304	3,556
Gakup	Middle College High School	L	X	10-12	X	U	3,584	60.0	60	15,130	4.22	14,763	44,001	14,763
Gakup	Ramah Middle School (Leant)			6-12		SL	18,979	219.0	87	4,858	0.26	4,730	160,604	4,730
Jemez Valley	San Diego Riverside	L	X	K-8	X	T	12,079	102.5	118	75,168	6.22	75,168	75,168	75,168
Jemez Valley	Walatowa High Charter School	L	X	9-12			3,732	68.0	55	46,900	12.57	46,900	49,688	46,900
Las Cruces	Alma d'arte Charter HS	S	X	9-12	X	D	17,031	171.8	99	125,770	7.38	123,741	123,770	123,741
Las Cruces	Families and Youth Inc./Las Montanas	L	X	9-12			28,662	300.5	95	359,625	12.55	206,284	220,372	206,284
Las Cruces	La Academia Dolores Huerta	L	X	5-8			9,996	120.0	83	114,661	11.47	109,969	68,002	68,002
Las Cruces	School of Dreams Academy	S	X	7-12			20,000	179.5	111	241,758	12.09	240,431	131,636	131,636
Questa	Red River Valley Charter	S	X	K-8	X	D	7,893	59.0	134	43,268	5.48	43,268	43,268	43,268
Questa	Roots & Wings Community School	L	X	K-1,5-8			4,000	34.0	118	40,044	10.01	23,636	24,634	23,636
Rio Rancho	The ASK Academy	S	X	9-11			24,100	111.0	217	367,130	15.23	367,130	81,402	81,402
Roswell	Sidney Gutierrez Middle School	L	X	6-8	X	M	18,803	59.5	316	12,000	0.64	12,000	43,634	12,000
Santa Fe	Monte del Sol Charter school	L	X	7-12	Z	N	27,905	355.5	78	253,752	9.09	250,781	250,780	250,781
Santa Fe	New Mexico School for the Arts	S	X	9-12			38,029	130.5	291	150,000	3.94	144,785	95,702	95,702
Santa Fe	The Academy for Technology & the Classics	L	X	7-12			41,177	357.0	115	537,545	13.05	475,504	261,806	261,806
Santa Fe	The MASTERS Program	S	X	10-12	X	U	5,147	121.5	42	69,999	13.60	63,270	89,102	63,270
Santa Fe	Tierra Encantada Charter High School	S	X	7, 9-12	X	D	17,224	131.0	131	101,500	5.89	91,950	96,069	91,950
Santa Fe	Turquoise Trail Charter School	L	X	PreK-6	X	D	59,899	483.0	129	335,683	5.60	334,251	339,541	334,251
Silver	Aldo Leopold High School	S	X	9-12			10,622	98.0	110	72,000	6.85	65,793	71,868	65,793
Socons	Cottonwood Valley Charter School	L	X	K-8			10,310	170.0	81	123,870	12.01	123,870	124,870	123,870
Taos	Anasazi Charter School	L	X	K-5	Y	N-LWOP	12,518	110.5	113	112,296	8.97	112,294	81,035	81,035
Taos	Taos Academy Charter School	S	X	5-12			11,700	120.5	97	90,000	7.69	90,000	88,369	88,369
Taos	Taos Integrated School for the Arts	S	X	K-5			9,001	89.0	101	72,000	8.00	71,140	85,268	85,268
Taos	Taos Municipal Charter School	L	X	K-8	Z	N	10,066	203.0	50	142,100	14.09	142,079	148,870	142,079
Taos	Visita Grande High School	L	X	3-12			6,400	103.0	62	64,600	13.22	64,871	75,535	64,871
West Las Vegas	Rio Galinas School	L	X	1-8	X	D	10,327	107.5	96	75,300	7.29	74,201	78,635	74,201
Albuquerque	NM International School	S	X	K-2			10,781	120.0	90	129,600	12.02	129,408	68,002	68,002
Albuquerque	The GREAT Academy	S	X	10-12			15,370	120.0	128	180,480	11.74	180,480	68,002	68,002
Las Cruces	John Paul Taylor ES	S	X	K-8			7,200	156.0	45	109,200	15.17	109,200	114,403	109,200
TOTAL / AVERAGE	98		83		37	41	1,634,403	17,581.0	8,405	16,268,745	11.11	14,996,771	12,893,026	10,780,043

NOTES:
 Shaded rows indicate new applications (1st)
¹ Direct Administrative Space not to exceed 150/sf = 1.5/sf x MEM
² 1.019*1.016*0.996*1.016* \$700/MEM (Consumer Price Index) FY 09 = 1.5% FY 10 = 1.5% FY 11 = -0.4% FY 12=1.6%
³ X = Public Building; Y = Lease Purchase; Z = Lease from Non-Profit (meets standards in 22-8b-4.2. for being housed by July 1, 2015)

Ownership Key:
 C = County(3), D = District(13), F = Fed(2), M = Municip(1), N = Nonprofit(13), SL = State Land Office(4), T = Tribal (2), U = University (3)

