

## PROPOSED DEFINITIONS – CHARTER SCHOOLS ACT\*

Term	Statutory Cite	Problem Experienced	Why is this Important?	Proposed Definition
Local Educational Agency	22-8B-4(T)	Confusion among charters and those who work in the charter field as to if a charter is its own L.E.A.	An L.E.A. has certain rights and responsibilities and it is essential that schools know what the law expects of and provides for them.	<ul style="list-style-type: none"> <li data-bbox="1457 391 2032 894">• Federal law defines an L.E.A. as: "a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools."</li> <li data-bbox="1457 902 2032 1227">• Because this has been defined by federal law NM may not define it in a way that conflicts. It is a good starting point but the Committee may find, as it moves through this revision process, that it wants to exclude some functions of an L.E.A. from that of a charter school based on the ability of charters to perform them.</li> <li data-bbox="1457 1235 2032 1339">• I defer to charter school personnel and administrators to inform that Committee about what these exclusions might be.</li> </ul>

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Lottery	22-8B-4.1	Non-specific language leads to confusion and abuse	At the heart of a public charter system is equal access to education. A purposefully (or even unintentionally) skewed lottery infringes on this right. Examples of these lotteries in NM include requirement of written essays, recommendation letters, testing information and requested information about a student's disabilities.	The process by which a qualified student is selected for admission to a charter school. Information gathered by the school, in advance of awarding acceptance to a student, may not include more than the potential student's name and contract information.**
Enrollment Preference	22-8B-4.1	Non-specific language leads to confusion	Purposefully (or even unintentionally) violative enrollment preferences may keep some students out and/or may allow some students in in violation of the intent of this provision.	Fulfillment of available openings with students who have already been admitted through an appropriate admission process and are continuing through subsequent grades. As used in this Act 'siblings' means students living in the same residence at least 50% of the time in a permanent or semi-permanent arrangement. This includes long term foster care placements and siblings related to each other by marriage or cohabitation.

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Governing Body Training	22-8B-5.1	Organizations from which governing body members may obtain training has been narrowed beyond practicality by Rule of the Department	Because of the specificity written into Rule obtaining the proper and correct training in the required timelines is often challenging for governing body members. Attempts to get this Rule changed have not been successful.	Training required by statute to educate governing body members and ensure compliance with all applicable laws. This training may be obtained from any accredited source or from a qualified attorney. An accredited source is one that [need input from NMCCS (Doug Wine) and NMSBA (Joe Guillen)].
Non-discretionary Waivers	22-8B-8(N)	Schools are required by the Department to request and receive approval on all waivers; whether the Act makes them discretionary or not.	This leaves the potential for a waiver the legislature intended to be automatic to be denied by the Department (eg teacher evaluation) thereby violating the intent and spirit of the Act.	A wavier of the requirements or rules and provisions of the Public School Code that shall be granted by the Department according to the Act under § 22-8B-5(C). Because these waivers are a non-discretionary duty of the Department the school shall only be required to inform the Department of its justification for and intent to utilize these waivers and need not get approval of the Department to execute such waivers.

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Material Terms	22-8B-9(B)(2)	Disagreement among lawyers about whether or not the Performance Frameworks are material terms.	The Frameworks as part of the Contract operates differently in the field than if they are not. If the legislature intended for the Performance Frameworks to be Material Terms, thereby being part of the Contract under 22-8B-9, clarification is needed to settle the disagreement in the field.	Terms of the approval or contract that the authorizer deems relevant to the authorizer’s accountability decisions, including but not limited, to decisions about whether to renew or non-renew or revoke a charter. Source: National Association of Charter Schools Authorizers.
Performance Indicators, Measures, and Metrics	22-8B-9.1(A)	The statute uses these terms without defining them. Without such definitions, it is difficult to tell if each of these is meant to be an individual idea or if they are unintentionally repetitive of each other.	The Chartering Authority needs direction from the statute on what is intended to be contained in the Performance Frameworks.	<ul style="list-style-type: none"> <li>• Propose defining Performance Indicator as “ a measurement tool that enables selected issues or conditions to be monitored over time for the purposes of evaluating progress towards or away from a desired direction” Source: Julia Barnes, Esq.</li> <li>• Propose defining Measures as “the specific ratings or targets by which a school shall be measured to determine whether the school exceeds, meets, does not meet or falls far below the standard set forth in a Performance Indicator” Source: Julia Barnes, Esq.</li> <li>• Eliminate the use of the word “Metrics”</li> </ul>

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Performance Targets	22-8B-9.1(B)	<p>Statute requires that the Chartering Authority set these in consultation with its schools. However, it is unknown if these are the same as Performance Indicators, Measures, and Metrics or a fourth idea altogether.</p> <p>The PEC as a Chartering Authority presently defines “Performance Targets” as synonymous with “Performance Indicators” in its contract</p>	This effect of this lack of clarity is that the Chartering Authority does not know on what it is supposed to be consulting with its schools.	Need to know the intent of what the legislature wanted the Authority to consult the school on before proposing a definition.
Planning Year	22-8B-12(A)	Some schools take more than one. Statute doesn't seem to allow but is being done.	If the legislature only intended the Planning Year to be one year suggest defining it as such.	The period of time between the Chartering Authority's approval or renewal of a charter and the date the school seeks approval from the Authority to commence operations.

<b>Term</b>	<b>Statutory Cite</b>	<b>Problem Experience</b>	<b>Why is this Important?</b>	<b>Proposed Definition</b>
Material Violation	22-8B-12(K)(1)	One of the statutorily provided reasons for revocation is a Material Violation. However, this term is not defined and leads to disagreement among the lawyers in this field.	The intent of the Act may not be being fulfilled without the Chartering Authority having clear direction on this reason for revocation, suspension or non-renewal.	A violation is the act of doing something or not doing something that is required by law, rule or contract. This includes the bylaws of the school. A violation is material if it (significantly) (substantially) impacts the school's employees' or students' rights or privileges under law, rule or contract.
Minimum Educational Standards	22-8B-12(K)(2)	Charters that have not been renewed by the PEC have successfully, on appeal to the Secretary, used the argument that this term is not defined to gain renewal.	Two of three of these schools did not improve and have since had their charters revoked by the PEC. In the meantime much public money was spent and many students denied the free education they are entitled to. With this term being defined it will hopefully avoid the PEC being overturned in its rightful decisions under 22-8B(K)(2).	Except where they conflict with applicable law, Minimum Educational Standards are the benchmarks and performance standards to which the students of New Mexico are held under law.

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Support Staff	22-8B-17(A)	A lack of definition of this term, among other things has allowed a situation where the PEC had experienced and is continuing to experience under and improper staffing in the Charter Schools Division for at least two years.	This under and improper staffing makes it difficult, if not impossible, for the PEC to accomplish everything required of it by the statute.	Employees hired and managed by the Chartering Authority who are charged with performing duties as delegated to them by the Authority in order to support the Authority's obligations and responsibilities under the law.

\*Prepared for the Committee by Abby Lewis, Assistant Attorney General.

\*\*Any proposed definition not bearing a source is attributable to Abby Lewis, Assistant Attorney General.