

State of New Mexico  
Public School Facilities Authority

Robert A. Gorrell, Director



Rocky Kearney, Deputy Director

1312 Basehart Road, SE, Suite 200  
Albuquerque, NM 87106  
(505) 843-6272 (Phone); (505) 843-9681 (Fax)  
Website: [www.nmpsfa.org](http://www.nmpsfa.org)

October 7, 2016

Dear Charter School Authorizer,

This letter is written to you as a Charter School Authorizer (“Authorizer”). As an Authorizer, your organization processes and approves new and renewal charter school applications, and you are therefore responsible that your charters meet the requirement of Paragraph D of Section 22-8B-4.2 NMSA 1978 that a new charter school shall not be allowed to open and an existing charter school shall not be renewed unless the charter school has demonstrated, among other things, that it is in compliance with one of the following “public building” requirements prior to opening or renewal of the charter school:

1. **Public Facility.** Be housed in a public facility that is owned by the charter school, the school district, the state, an institution of the state, another political subdivision of the state, the federal government, or one of its agencies or a tribal government; or
2. **PED Approved Lease Purchase Agreement.** Be subject to a Public Education Department (PED) approved lease purchase agreement; or
3. **Private Facility.** Be in a facility that meets the statewide adequacy standards where the owner of the facility is contractually obligated to maintain those standards at no additional cost to the charter school or the state, and demonstrate that public buildings are not available or adequate for the educational program of the charter school; or
4. **Nonprofit Facility.** Be in a facility that meets the statewide adequacy standards where the owner of the facility is contractually obligated to maintain those standards at no additional cost to the charter school or the state, and demonstrate that the owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility for the charter school.

Under Paragraph F of Section 22-8B-4.2 NMSA 1978, the Public School Capital Outlay Council (“PSCOC”) is vested with the authority to ensure the requirements of Paragraph D of Section 22-8B-4.2 NMSA 1978 are met.<sup>1</sup> To that end, the Public School Facilities Authority (PSFA) is working to

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<sup>1</sup> Section 22-8B-4.2 NMSA 1978 anticipates local Authorizers and the Public Education Commission will coordinate with PSCOC to ensure PSCOC has made a determination that each charter school up for renewal and any new charter school being considered is in compliance with Paragraph D of Section 22-8B-4.2 NMSA 1978 prior to an Authorizers decision to renew an existing charter school or authorize a new charter school. Furthermore, without PSCOC determining whether the facilities of a charter school comply with the “public building” requirements of Paragraph D of Section 22-8B-4.2 NMSA 1978, statute prohibits an Authorizer from renewing or authorizing that school. Section 22-8B-7 NMSA 1978 specifically notes that

establish standard procedures to ensure compliance with Section 22-8B-4.2 NMSA 1978. This is necessarily an inter-agency effort and PSFA thanks you in advance for your cooperation in building efficient inter-agency procedures which will ensure compliance with Section 22-8B-4.2 NMSA 1978. At this time it is anticipated that the procedures will include requirements that

(i) Authorizers notify PSCOC of new or renewal charter school applications at the time of receipt;

(ii) Authorizers require as part of their approval process a determination of statutory compliance from PSCOC prior to approving a new or renewal charter; and

(iii) PSCOC provide Authorizer's a timely determination of the charter school applicant's compliance or non-compliance with Section 22-8B-4.2 NMSA 1978.

In the meantime, and to ensure that all charters in the 2016 renewal and authorization cycle will be compliant and be eligible for PSCOC lease assistance funding, the PSCOC requests that each Authorizer notify and instruct their charters being considered for a charter term beginning on July 1, 2017 to complete the attached package (cover letter included) and return to PSFA prior to October 17, 2016. The PSCOC's next meeting is tentatively scheduled for November 10, 2016 and it is the PSCOC's intent to address any new or renewing charter schools 2016 renewals at that meeting.

Required documentation and information is to be submitted by each charter individually, or by you the authorizer, to PSFA no later than **October 17, 2016** to :

Ms. Denise A. Irion, CFO  
Public School Facilities Authority  
1312 Basehart, SE - Suite 200  
Albuquerque, NM 87106

**PUBLIC SCHOOL FACILITIES AUTHORITY**

Sincerely,

Robert A. Gorrell, Director

**DOCUMENTS NOT RECEIVED BY OCTOBER 17, 2016  
WILL NOT BE CONSIDERED BY THE PSCOC AT ITS NOVEMBER 10, 2016 MEETING**

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determinations by PSCOC that charter school facilities do not meet the requirements of Section 22-8B-4.2 NMSA 1978 are grounds for an Authorizer to deny a new application or refuse to renew an existing charter.

*Partnering with New Mexico's communities to provide quality, sustainable school facilities for our students and educators*

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October 7, 2016

Dear Charter School,

This letter is notification that as a charter school either chartered after July 1, 2015, or will be a new or renewed charter school after that date, your charter school is required to demonstrate that it meets the requirements of Subsection D of Section 22-8B-4.2 NMSA 1978. For your reference, the full text of Section 22-8B-4.2 NMSA 1978 has been attached.

Please provide to PSFA documents required to demonstrate that the charter school is in compliance with statute and is eligible to be considered for lease assistance funding by the Public School Capital Outlay Council (PSCOC).

Paragraph D of Section 22-8B-4.2 NMSA 1978 provides:

***D. On or after July 1, 2015, a new charter school shall not open and an existing charter shall not be renewed unless the charter school:***

- (1) is housed in a building that is:
  - (a) owned by the charter school, the school district, the state, an institution of the state, another political subdivision of the state, the federal government or one of its agencies or a tribal government; or
  - (b) subject to a lease-purchase arrangement that has been entered into and approved pursuant to the Public School Lease Purchase Act; or
- (2) if it is not housed in a building described in Paragraph (1) of this subsection, ***demonstrates*** that:
  - (a) the facility in which the charter school is housed meets the statewide adequacy standards developed pursuant to the Public School Capital Outlay Act and the owner of the facility is contractually obligated to maintain those standards at no additional cost to the charter school or the state; and
  - (b) either: 1) public buildings are not available or adequate for the educational program of the charter school; or 2) the owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility for the charter school.

Please note the first checkbox applies to all charters, and indicate from the remaining checkboxes below which other requirement applies to your charter school's lease. Return this completed document and all required information and documentation to PSFA by **October 17, 2016**.

Please submit the charter school's information and documentation directly to:

Ms. Denise Irion, CFO  
Public School Facilities Authority  
1312 Basehart, SE - Suite 200  
Albuquerque, NM 87106

**DOCUMENTS NOT RECEIVED BY OCTOBER 17, 2016  
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✓ **All Charters** must provide:

- a. A copy of the New Mexico Construction Industry's Division (CID) or Authority Having Jurisdiction (AHJ) Educational ('E') Occupancy Certificate for the facility(ies) that will house the charter school; and,
  - b. A copy of the PSFA wNMCI assessment letter for the facility(ies) that will house the charter school indicating that it has a wNMCI rating equal to, or better than, the average condition for all New Mexico public schools; or,
  - c. A letter from PSFA approving a plan that demonstrates that the facility will, within eighteen months of occupancy or relocation, have a wNMCI rating equal to or better than the average condition for all New Mexico public schools.
- If D(1)(a) [***public facility***] of Section 22-8B-4.2 NMSA 1978 applies to your charter facility, please complete and provide to PSFA **Exhibit 'A'**
- If D(1)(b) [***lease purchase agreement***] of Section 22-8B-4.2 NMSA 1978 applies to your charter facility, please provide to PSFA:
- a. Copy of the Public Education Department (PED) approval of your Lease Purchase Agreement pursuant to the Public School Lease Purchase Act [Chapter 22, Article 26A, NMSA 1978]; and,
  - b. Amortization schedule that includes principal, interest component and term of agreement; and,
  - c. Evidence that any required option to purchase has been exercised; or,
  - d. Evidence that a portion of payments reduce the principal as identified by your amortization schedule.
- If D(2)(a)(b)(1) [***standard lease***] of Section 22-8B-4.2 NMSA 1978 applies to your charter facility, please provide to PSFA:
- a. The PSFA approval letter that the facility in which the charter school is housed meets the statewide adequacy standards;
  - b. Public buildings are not available, please complete **Exhibit "B"**; or
  - c. The owner of the facility is contractually obligated to maintain statewide adequacy standards at no additional cost to the charter school. Please complete **Exhibit 'C'** and provide completed lease amendment to PSFA.
- If D(2)(a)(b)(2) [***standard lease - foundation***] [of Section 22-8B-4.2 NMSA 1978 applies to your charter facility, please forward to PSFA:
- a. The PSFA approval letter that the facility in which the charter school is housed meets the statewide adequacy standards.
  - b. The owner of the facility is contractually obligated to maintain statewide adequacy standards at no additional cost to the charter school. Please complete **Exhibit 'C'** and forward completed lease amendment to the PSFA.
  - c. The owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility for the charter school. Please complete **Exhibit 'D'**





**Exhibit C – Owner Maintenance of Adequacy Standards**  
**LEASE AMENDMENT**

\_\_\_\_\_ (FIRST, SECOND, ETC.) AMENDMENT to \_\_\_\_\_ (INSERT TITLE OF LEASE AGREEMENT)

This \_\_\_\_\_ (FIRST, SECOND, ETC.) AMENDMENT to the \_\_\_\_\_ (INSERT TITLE OF LEASE AGREEMENT) is entered into on \_\_\_\_\_ (DATE) by and between \_\_\_\_\_ (“Owner”) and \_\_\_\_\_ (“Lessee”)(collectively, the “parties”).

WHEREAS Owner and Lessee entered into a \_\_\_\_\_ (INSERT TITLE OF LEASE AGREEMENT) dated \_\_\_\_\_ (“Agreement”); and

WHEREAS Owner and Lessee desire to amend the Agreement to clarify Owner’s maintenance obligations pursuant to NMSA 1978 Section 22-8B-4.2(D)(2)(a);

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. The Owner of the facility shall be responsible for maintaining the facility to the statewide adequacy standards applicable to charter schools, at no additional cost to Lessee or to the state, as set forth in NMSA 1978 Section 22-8B-4.2(D)(2)(a), or a successor statute.
2. In the event of any conflict between this \_\_\_\_\_ (FIRST, SECOND, ETC.) AMENDMENT and the parties Agreement, this document will prevail over the parties Agreement.

IN WITNESS WHEREOF, the parties have executed this \_\_\_\_\_ (FIRST, SECOND, ETC.) AMENDMENT, effective as of the date indicted above.

**NAME OF LESSOR:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

**NAME OF LESSEE:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_



