

REVIEW OF CURRENT AND POTENTIAL LANGUAGE FOR STATUTORY DEFINITIONS RELATED TO CHARTER SCHOOLS

“SCHOOL DISTRICT”			
<i>Public School Code</i>	Other Provisions of New Mexico Law	Potential Issues	Example Language
<p>“[A]n area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.” <i>NMSA §22-1-2 (PSC)</i></p>	<p>§6-15-19 "[S]chool district" shall mean and include all municipal independent union high school of rural districts, whether the same shall be under the jurisdiction of a county board of education or municipal boards of education, and shall include districts organized for high school purposes.”</p> <p>§§6-15A-3(E), 6-21D-2(F), largely identical to PSC definition. (Limited to the <i>Education Technology Equipment Act</i> and the <i>Energy Efficiency and Renewable Energy Bonding Act</i>, respectively.)</p> <p>§6-25-3(S) "[S]chool district" means a school district where a</p>	<p>Some definitions explicitly include state-chartered charter schools, while others do not. The question with regard to state charters is of particular concern. In some instances, state charters are subject to requirements of LEAs; in others they are not.</p> <p>If a state-chartered charter school is its own LEA, should it be subject to requirements of both schools and school districts? If it is not a school district, what organization stands in that position? The PEC? PED? The local school district?</p>	<i>Model Legislation</i> ¹
			<i>Colorado Revised Statutes</i>
			<p>"School district" means a school district organized and existing pursuant to law; except that "school district" does not include a junior college district. (<u>CO Revised Statutes, §22-30-103, School District Organization Act of 1992</u>)</p> <p>"School district" means a school district organized and existing</p>

¹ The Term “model legislation” refers to statutory language that is meant to serve as a guide for subsequent, related legislation. Generally, it is not meant to be adopted *in toto* or verbatim, but rather acts as suggested language for the legislatures of various jurisdictions to consult when constructing their own laws. Typically, originally, such legislation was drafted by the Uniform Law Commission, although other bodies, particularly focused on a certain area of law, may draft their own. These groups may either be impartial jurisprudential organizations, such as bar associations, or advocacy groups, such as the National Alliance for Public Charter Schools.

² Please see: <https://www.edreform.com/wp-content/uploads/2012/10/CER-ModelCharterLegislation.pdf>.

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	<p>project is located that is exempt from property taxes pursuant to the <i>Statewide Economic Development Finance Act.</i> (Limited to that Act.)</p> <p>§§22-15-2(G) and 22-15C-2(J) “includes state-chartered charter schools,” but is limited in application to respective Acts (<i>Instructional Material Law</i> and <i>School Library Material Act</i>, resp.)</p> <p>§22-23-2(D) “[D]istrict” means a public school or any combination of public schools in a district or a charter school. (Limited to <i>Bilingual Multicultural Education Act.</i>)</p> <p>§22-24-3(F) “[S]chool district” includes state-chartered charter schools and the constitutional special schools. (Limited to the <i>Public School Capital Outlay Act.</i>)</p> <p>§22-29-3(J) cross-references the PSC definition, but excludes</p>		<p>under the laws of Colorado, except a junior college district. (<u>CRS §22-30.5-502</u>)</p> <p>“School district” or “district” means a school district organized and existing pursuant to law or a joint taxation district organized and existing pursuant to part 2 of article 30 of this title (Joint Taxation Districts). (<u>CRS § 22-40-101</u>)</p>
			<i>Arizona Revised Statutes</i>
			<p>“School district” means a political subdivision of this state with geographic boundaries organized for the purpose of the administration, support and maintenance of the public schools or an accommodation school. (<u>AZ Revised Statutes §15-101.</u>)</p>

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	districts with an enrollment of greater than 60k students. (Limited to the <i>Public School Insurance Authority Act.</i>)		<p align="center"><i>Revised Code of Washington</i></p> <p>"School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors. (<u>Revised Code of WA 28A.315.025</u>)</p>

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<p>“[A] conversion school or start-up school authorized by the chartering authority to operate as a public school.” <i>NMSA 22-8B-2 (CSA)</i></p> <p>"[C]harter school" means a school organized as a charter school pursuant to the provisions of the Charter Schools Act. Public School Insurance Authority Act 22-29-3</p>	<p>§22-29-3 "[C]harter school" means a school organized as a charter school pursuant to the provisions of the <i>Charter Schools Act</i>. (Limited to the <i>Public School Insurance authority Act</i>.)</p>	<p>Is one definition sufficient to cover most issues, or should two definitions be crafted; one for state-chartered charters, and the other for locally chartered charter schools? This question is closely related to the discussion of whether to include state-chartered schools within the definition of “school district.” Charter schools, as alternative public schools with a particular mission, are already exempt from many of the standard requirements of the <i>Public School Code</i>.</p> <p>State-chartered charter schools are sometimes, as a result of their status as their own LEAs, are sometimes further exempted from requirements that apply to locally chartered charter schools, or at least are affected differently by the pertinent statutes. See, e.g., transportation funding for the two different types of schools,</p>	<i>Model Legislation</i>
			<p>“Charter school” means:</p> <ul style="list-style-type: none"> • Any new school, including online schools, which is not currently being operated as a public or private school that is approved by a charter authorizer to operate as a public school under the Charter Schools Act; and • Any school converted from an existing school and approved by a charter authorizer to operate as a public charter school under the Charter Schools Act. ((Center for Education Reform [CER] Model Law) <p>‘Public charter school’ means a public school that:</p> <ul style="list-style-type: none"> • Has autonomy over decisions including, but not --limited to, matters concerning finance, personnel, scheduling, curriculum and

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		<p>or requirements under the bullying statutes and rules, where state-charters are subject to the requirements affecting school districts, but not those affecting schools, per se.</p>	<p>instruction;</p> <ul style="list-style-type: none"> • Is governed by an independent governing board; • Is established, operating, and accountable under the terms of a charter contract between the school’s board and its authorizer; • Is a school to which parents choose to send their children; • Is a school that admits students on the basis of a lottery if more students apply for admission than can be accommodated; • Provides a program of education that includes one or more of the following: pre-school, pre-kindergarten, any grades from kindergarten through 12th grade, and adult community, continuing, and vocational education programs; • Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and

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			<ul style="list-style-type: none"> Operates under the oversight of its authorizer in accordance with its charter contract. (<u>National Alliance for Public Charter Schools [NAPC] Model Law³</u>)
			<i>Colorado Revised Statutes</i>
			<p>“A charter school is a public school that operates pursuant to a charter contract entered into pursuant to the provisions of article 30.5 (Charter schools) of this title. As used in this title, unless the context otherwise requires, "charter school" includes any type of charter school created pursuant to the provisions of article 30.5 of this title.” (<u>CRS 22-1-101</u>)</p> <p>"District charter school" means a charter school that is authorized by a school district pursuant to the provisions of [the <i>Charter</i></p>

³ Please see: http://www.publiccharters.org/wp-content/uploads/2014/01/ModelLaw_P7-wCVR_20110402T222341.pdf.

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			<p><i>Schools Act</i>]. (<u>CRS 22-11-103</u>)</p> <p>"Charter school" means a public school that enters into a charter contract pursuant to the provisions of [the <i>Charter Schools Act</i>]. (<u>CRS22-30.5-103</u>)</p> <p>"Independent charter school" means a charter school approved pursuant to this part 3 (<i>Independent Charter Schools</i>) that is a public school of a school district. (<u>CRS 22-30.5-302</u>)⁴</p> <p>"Institute charter school" means a charter school authorized pursuant to this part 5 (<i>Institute Charter Schools</i>). (<u>CRS 22-30.5-502</u>)⁵</p>

⁴ “Independent charter schools” are those charter schools that have been reorganized as a result of poor performance, and are still considered public schools under the authority of their local school district. New charter schools may also be authorized by a local school board. These schools are roughly analogous to locally chartered charter schools in New Mexico.

⁵ “Institute charter schools” are those charter schools that are authorized by the Colorado State Charter School Institute, a body whose responsibilities and duties exclusively are concerned with the approval, review and oversight of the schools that apply to it for charters. It is similar in function to New Mexico’s Public Education Commission.

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			<i>Arizona Revised Statutes</i>
			"Charter school" means a public school established by contract with a district governing board, the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district with enrollment of more than fifteen thousand full-time equivalent students or a group of community college districts with a combined enrollment of more than fifteen thousand full-time equivalent students pursuant to article 8 of this chapter to provide learning that will improve pupil achievement. (<u>ARS 15-101</u>)
			<i>Revised Code of Washington</i>

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			"Charter school" or "public charter school" means a public school governed by a charter school board and operated according to the terms of a charter contract executed under this chapter and includes a new charter school and a conversion charter school. (<u>RCW 28A.710.010</u>)

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“VIRTUAL/ONLINE/CYBER SCHOOL”			
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N/A	<p>According to the <i>Statewide Cyber Academy Act</i>, the following are defined thus (limited to the Act, Chapter 22, Article 30 NMSA):</p> <p>§22-30-2 "[C]ourse provider" means a person that supplies educational course content for distance learning courses.</p> <p>"[D]istance learning course" means an educational course that is taught where the student and primary instructor are separated by time or space and linked by technology.</p> <p>"[L]ocal distance learning site" means a school district or charter school that offers and grants credit for distance learning courses to distance learning students enrolled in the school district or charter school.</p>	<p>Aside from the <i>Statewide Cyber Academy Act</i>, New Mexico law does not address the subject of virtual schools and the many issues related to the topic.</p>	<p style="text-align: center;"><i>Model Legislation</i></p> <p>“Virtual School” means a stand-alone, full-time public charter school governed by an independent governing board of education offering course credit to students within the State. A Virtual School shall function independently from existing local school districts. A Virtual School may be a new, multi-district collaboration, a non-profit charter school, a university or college sponsored program, or other alternative granted the ability to enter into a charter agreement under State law. (<u>National Education Policy Center [NEPC] Model Legislation Related to Online Learning Opportunities for Students in Public Elementary and Secondary Education Schools⁶</u>)</p> <p>“Virtual school” shall mean an independent public school in which the school uses technology</p>

⁶ Please see: <http://nepc.colorado.edu/files/NEPC-VirtSchool-2-LB-Bathon.pdf>.

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	<p>"[P]rimary enrolling district" means the school district or charter school in which the distance learning student is enrolled.</p> <p>"[S]ervice center" means the single central facility where administrative and management functions of the statewide cyber academy are physically located in New Mexico.</p> <p>"[S]tatewide cyber academy" means the department's collaborative program that offers distance learning courses to all local distance learning sites.</p>		<p>in order to deliver a significant portion of instruction to its students via the Internet in a virtual or remote setting. (<u>American Legislative Exchange Council [ALEC] <i>Virtual Public Schools Act</i>⁷</u>)</p>
			<i>Colorado Revised Statutes</i>
			<p>"Multi-district on-line school" means an on-line school that serves a student population drawn from two or more school districts.</p> <p>"On-line program" means a full-time, on-line education program authorized pursuant to this article that delivers a sequential program of synchronous or asynchronous instruction from a teacher to a student primarily through the use of the internet <u>directed by a teacher, primarily through on-line digital learning strategies that provide students choice over</u></p>

⁷ Please see: <http://www.alec.org/model-legislation/the-virtual-public-schools-act>.

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			<p><u>time, place, and path, and teacher-guided modality, of learning.</u> "On-line program" does not include a supplemental program. Accountability for each student in an on-line program is attributed back to a designated school that houses the on-line program. Notwithstanding any other provision of this subsection to the contrary, any an on-line program with one hundred or more students shall be considered is an on-line school and not an on-line program.*</p> <p>"On-line school" means a full-time, on-line education school authorized pursuant to this article that delivers a sequential program of synchronous or asynchronous instruction from a teacher to a student primarily through the use of the internet <u>directed by a teacher, primarily through on-line digital learning strategies that provide students choice over time, place, and path, and teacher-guided modality, of</u></p>

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			<p><u>learning</u>. An on-line school has an assigned school code and operates with its own administrator, a separate budget, and a complete instructional program. An on-line school is responsible for fulfilling all reporting requirements and will <u>be</u> <u>is</u> held to state and federally mandated accountability processes.*</p> <p>"Single-district on-line program" or "single-district on-line school" means an on-line program or on-line school that serves only students who reside within a single school district. (<u>CRS 22-30.7-102</u>)</p> <p><i>*Strikeout/underline reflects changes adopted by the CO General Assembly, in the 2nd Regular Session of the 69th Assembly, House Bill 1382 (2014), that have not yet been compiled.</i></p>

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			<p align="center"><i>Arizona Revised Statutes</i></p> <p>"Online course provider" means a school other than an online school that is selected by the state board of education or the state board for charter schools to participate in Arizona online instruction pursuant to this section and that provides at least one online academic course that is approved by the state board of education.</p> <p>"Online school" means a school that provides at least four online academic courses or one or more online courses for the equivalent of at least five hours each day for one hundred eighty school days and that is a charter school that is sponsored by the state board for charter schools or a traditional public school that is selected by the state board of education to participate in Arizona online instruction. (<u>ARS 15-808</u>)</p>

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			<p style="text-align: center;"><i>Revised Code of Washington</i></p> <p>"Multidistrict online provider" means:</p> <ul style="list-style-type: none"> • A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district; • A private or nonprofit organization that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or • Except as provided [below], a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district. <p>"Multidistrict online provider" does not include:</p> <ul style="list-style-type: none"> • A school district online learning program in which fewer than

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			<p>ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions; and</p> <ul style="list-style-type: none"> • Regional online learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students. <p>"Online course" means a course or grade-level coursework where:</p> <ul style="list-style-type: none"> • More than half of the course content is delivered electronically using the internet or other computer-based

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			<p>methods;</p> <ul style="list-style-type: none"> • More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools; • A certificated teacher has the primary responsibility for the student's instructional interaction. Instructional interaction between the teacher and the student includes, but is not limited to, direct instruction, review of assignments, assessment, testing, progress monitoring, and educational facilitation; and • Students have access to the teacher synchronously, asynchronously, or both. <p>"Online school program" means a school program that offers a sequential set of online courses or grade-level coursework that may be taken in a single school term or throughout the school year in a</p>

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			<p>manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students.</p> <p>An online course or online school program may be delivered to students at school as part of the regularly scheduled school day. An online course or online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses or programs must comply with RCW [rules on alternative learning course experience courses] and associated rules adopted by the superintendent of public instruction to qualify for state basic education funding.</p> <p>"Online provider" means any provider of an online course or program, including multidistrict online providers, all school district online learning programs, and all</p>

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			regional online learning programs. (<u>RCW 28A.250.010</u>)

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<p>"Public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school.</p> <p>"School" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area.</p> <p>"School building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district. <i>NMSA 22-1-2 (PSC)</i></p>	<p>§ 22-5A-2 "[S]chool grounds" means public elementary and secondary schools, including charter schools and facilities owned or leased by the school district in or on which public school-related and sanctioned activities are performed, but does not include other commercial properties owned by a school district but not related to the functions of a public school. "School grounds" includes the buildings, playing fields, parking lots and other facilities located on a school's premises. (Limited to the <i>School Alcohol Free Zone Act</i>.)</p> <p>§ 6-21D-2 "[S]chool district building" means a building, the title to which is held by a school district. (Limited to the <i>Energy Efficiency and Renewable Energy Bonding Act</i>.)</p>	<p>Because virtual schools may exist only online, with either no physical presence or merely an office or learning center, it may not meet these definitions in the <i>Public School Code</i>. There are conflicting PED counsel and AG opinions on this issue, so clarity, at least, is necessary.</p>	<i>Colorado Revised Statutes</i>
			<p>A public school is a school that derives its support, in whole or in part, from moneys raised by a general state, county, or district tax. (<u>CRS 22-2-101</u>)</p> <p>"Public school" means a school maintained and operated by a school district. (<u>CRS 22-2-102</u>, <u>State Department of Education Act of 1964</u>)</p> <p>"Public school" means a public school as provided in [General Provisions], including a charter school authorized by a school district pursuant to the <i>Charter Schools Act</i>, or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title. (<u>CRS 22-2-303</u>, limited to the <u>Data Reporting and Technology Act</u>)</p> <p>"District public school" means a</p>

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			<p>public school of a school district, including but not limited to a district charter school. (<u>CRS 22-11-103</u>)</p> <p>"Public school" shall have <u>has</u> the same meaning as provided in [General Provisions] and includes, but is not limited to, a district charter school, an institute charter school, an on-line program, as defined in section 22-30.7-102 (9), and an on-line school, as defined in section 22-30.7-102 (9.5). (<u>CRS 22-11-103</u>)</p> <p>"Public school" means a school that receives a majority of its funding from moneys raised by a general state, county, or district tax and whose property is operated by a political subdivision of the state or a charter school established pursuant to article 30.5 of this title. (<u>CRS 22-7-602, limited to 'School Accountability Reports.'</u>)</p> <p><i>*Strikeout/underline reflects</i></p>

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			<p><i>changes adopted by the CO General Assembly, in the 2nd Regular Session of the 69th Assembly, House Bill 1078 (2014), that have not yet been compiled.</i></p>
			<i>Arizona Revised Statutes</i>
			<p>"School" or "public school" means any public institution established for the purposes of offering instruction to pupils in programs for preschool children with disabilities, kindergarten programs or any combination of elementary grades or secondary grades one through twelve. (<u>ARS 15-101</u>)</p>
			<i>Revised Code of Washington</i>
			<p>“Public schools” means the common schools as referred to in Article IX of the state Constitution, including charter schools . . . and those schools and</p>

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			<p>institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense. (<u>RCW 28A.150.010</u>)</p> <p>"Common schools" means schools maintained at public expense in each school district and carrying on a program from kindergarten through the twelfth grade or any part thereof including vocational educational courses otherwise permitted by law. (<u>RCW 28A.150.020</u>)</p>

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“LOCAL SCHOOL BOARD”			
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<p>"[L]ocal school board" means the policy-setting body of a school district. <i>NMSA 22-1-2 (PSC)</i></p>	<p>§ 6-15A-3 "[L]ocal school board" means the governing body of a school district.</p>	<p>Again, what is the relationship between local school boards and state-chartered charter schools? In some provisions, 'local school board' includes state-chartered schools, while in others a state-charter is considered its own district.</p>	<i>Colorado Revised Statutes</i>
			<p>"District school board" means the board of education of a school district existing pursuant to law. (<u>CRS 22-7-602, limited to the part of the law addressing 'school accountability reports.'</u>)</p>
			<p>"Local board of education" means the school district board of education. (<u>CRS 22-30.5-103, Charter Schools Act</u>)</p>
			<p>"Local board of education" means the board of education of the school district in which the independent charter school is or is proposed to be located. (<u>CRS 22-30.7-302, limited to that section of the law addressing 'independent charter schools.'</u>)</p>
			<i>Arizona Revised Statutes</i>
			<p>"Governing board" means a body organized for the government and</p>

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			management of the schools within a school district or a county school superintendent in the conduct of an accommodation school. (<u>ARS 15-101</u>)

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“GOVERNING BODY”			
<i>Public School Code</i>	Other Provisions of New Mexico Law	Potential Issues	Example Language
<p>"[G]overning body" means the governing structure of a charter school as set forth in the school's charter. <i>22-8B-2 NMSA (Charter Schools Act)</i></p>	<p>§ 6-15-19 "[G]overning body" shall mean the board of county commissioners, city council, board of trustees, board of commissioners or similar legislative bodies of municipalities, and shall mean the board of education or similar board having control of school affairs.</p>	<p>Care should be taken to ensure that the appropriate terminology is being used in the correct way. In some provisions, "local school board" may be defined using the term "governing body" (see, e.g.: §6-15-19), when the two are not interchangeable. A charter school's governing body is not the local school district, for either state- or locally chartered charter schools, or vice versa. However, it is possible that the governing council of a state-chartered charter school may be <i>treated</i> as an LEA, as state charters are often considered such.</p>	<i>Model Legislation</i>
			<p>"Board of directors" means the governing body of a public charter school. (<u>CER Model Law</u>)</p>
			<p>"[Go]verning board" means the independent board of a public charter school that is party to the charter contract with the authorizer and whose members have been elected or selected pursuant to the school's application. (<u>NEPC Model Legislation Related to Online Learning Opportunities for Students in Public Elementary and Secondary Education Schools</u>)</p>
			<i>Colorado Revised Statutes</i>
			<p>"Institute board" means the governing board of the state charter school institute that is appointed pursuant to [Institute Charter Schools]. (<u>CRS 22-11-103</u>)</p>

REVIEW OF CURRENT AND POTENTIAL LANGUAGE FOR STATUTORY DEFINITIONS RELATED TO CHARTER SCHOOLS

“GOVERNING BODY”			
<i>Public School Code</i>	Other Provisions of New Mexico Law	Potential Issues	Example Language
			and <u>22-30.5-502</u>)
			<i>Revised Code of Washington</i>
			"Charter school board" means the board of directors appointed or selected under the terms of a charter application to manage and operate the charter school. (<u>RCW 28A-710-010</u>)