

1 SENATE BILL 214

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 Craig W. Brandt and Candace Gould

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10 AN ACT

11 RELATING TO CHARTER SCHOOLS; REQUIRING THAT IF A CHARTER SCHOOL
12 APPLICANT OR GOVERNING BODY WINS ITS APPEAL OF CHARTER DENIAL
13 OR REFUSAL TO RENEW A CHARTER BY A LOCAL CHARTERING AUTHORITY,
14 IT MUST BECOME A STATE-CHARTERED CHARTER SCHOOL.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 22-8B-7 NMSA 1978 (being Laws 1999,
18 Chapter 281, Section 7, as amended) is amended to read:

19 "22-8B-7. APPEAL OF DENIAL, NONRENEWAL, SUSPENSION OR
20 REVOCATION--PROCEDURES.--

21 A. The secretary, upon receipt of a notice of
22 appeal or upon the secretary's own motion, shall review
23 decisions of a chartering authority concerning charter schools
24 in accordance with the provisions of this section.

25 B. A charter applicant or governing body that

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1 wishes to appeal a decision of the chartering authority
2 concerning the denial, nonrenewal, suspension or revocation of
3 a charter school or the imposition of conditions that are
4 unacceptable to the charter school or charter school applicant
5 shall provide the secretary with a notice of appeal within
6 thirty days after the chartering authority's decision. The
7 charter school applicant or governing body bringing the appeal
8 shall limit the grounds of the appeal to the grounds for
9 denial, nonrenewal, suspension or revocation or the imposition
10 of conditions that were specified by the chartering authority.
11 The notice shall include a brief statement of the reasons the
12 charter school applicant or governing body contends the
13 chartering authority's decision was in error. Except as
14 provided in Subsection E of this section, [~~the appeal and~~
15 ~~review process shall be as follows~~] within sixty days after
16 receipt of the notice of appeal, the secretary, at a public
17 hearing that may be held in the school district in which the
18 charter school is located or in which the proposed charter
19 school has applied for a charter, shall review the decision of
20 the chartering authority and make findings. If the secretary
21 finds that the chartering authority acted arbitrarily or
22 capriciously, rendered a decision not supported by substantial
23 evidence or did not act in accordance with law, the secretary
24 may reverse the decision of the chartering authority and order
25 the approval of the charter with or without conditions. The

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1 decision of the secretary shall be final.

2 C. The secretary, on the secretary's own motion,
3 may review a chartering authority's decision to grant a
4 charter. Within sixty days after the making of a motion to
5 review by the secretary, the secretary, at a public hearing
6 that may be held in the school district in which the proposed
7 charter school that has applied for a charter will be located,
8 shall review the decision of the chartering authority and
9 determine whether the decision was arbitrary or capricious or
10 whether the establishment or operation of the proposed charter
11 school would:

- 12 (1) violate any federal or state laws
- 13 concerning civil rights;
- 14 (2) violate any court order; or
- 15 (3) threaten the health and safety of students
- 16 within the school district.

17 D. If the secretary determines that the charter
18 would violate the provisions set forth in Subsection C of this
19 section, the secretary shall deny the charter application. The
20 secretary may extend the time lines established in this section
21 for good cause. The decision of the secretary shall be final.

22 E. If a chartering authority denies an application
23 or refuses to renew a charter because the public school capital
24 outlay council has determined that the facilities do not meet
25 the standards required by Section 22-8B-4.2 NMSA 1978, the

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1 charter school applicant or charter school may appeal the
2 decision to the secretary as otherwise provided in this
3 section; provided that the secretary shall reverse the decision
4 of the chartering authority only if the secretary determines
5 that the decision was arbitrary, capricious, not supported by
6 substantial evidence or otherwise not in accordance with the
7 law.

8 F. A person aggrieved by a final decision of the
9 secretary may appeal the decision to the district court
10 pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

11 G. A charter school applicant or governing body
12 that wins its appeal of a local chartering authority's denial
13 of or refusal to renew a charter shall charter through the
14 commission as a state-chartered charter school."