

1 AN ACT

2 RELATING TO PUBLIC SCHOOLS; REQUIRING SCHOOL DISTRICTS AND
3 CHARTER SCHOOLS TO CONSULT WITH TRIBAL LEADERS AND MEMBERS
4 AND FAMILIES OF STUDENTS WHEN CONSIDERING OPENING A PUBLIC
5 SCHOOL ON TRIBAL LAND; REQUIRING THAT CONSULTATION MUST
6 INCLUDE NOT JUST LAND USE BUT CULTURALLY RELEVANT
7 PROGRAMMING, LANGUAGE IMMERSION, SCHOOL CALENDARS,
8 ACCOUNTABILITY, PROFESSIONAL DEVELOPMENT FOR SCHOOL PERSONNEL
9 THAT FOCUSES ON IMPROVING EDUCATIONAL OUTCOMES FOR INDIAN
10 STUDENTS AND OTHER MATTERS IMPORTANT TO TRIBES; REQUIRING
11 CONSULTATION WITH TRIBAL LEADERS AND MEMBERS AND FAMILIES OF
12 STUDENTS WHEN THE PUBLIC EDUCATION DEPARTMENT, A SCHOOL
13 DISTRICT OR A CHARTER SCHOOL IS CONSIDERING CLOSING A SCHOOL
14 ON TRIBAL LAND, INCLUDING PLANS FOR WHERE STUDENTS WILL
15 ATTEND SCHOOL AND HOW CULTURAL NEEDS AND EDUCATIONAL OUTCOMES
16 FOR INDIAN STUDENTS ATTENDING NEW SCHOOLS WILL BE SATISFIED.

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

19 SECTION 1. A new section of the Public School Code is
20 enacted to read:

21 "DEPARTMENT--ADDITIONAL DUTIES--CLOSING A SCHOOL--
22 CONSULTATIONS WITH TRIBAL LEADERS AND MEMBERS AND FAMILIES OF
23 STUDENTS.--

24 A. Whenever the department is contemplating
25 closing a public school on tribal land for any reason, it

1 shall consult with tribal leaders and members and families of
2 students attending the public school.

3 B. Consultation shall include, among other
4 actions, meetings in which the department explains:

5 (1) the reasons for closing the public
6 school;

7 (2) the reasons why the department has not
8 or cannot provide additional resources to keep the public
9 school open;

10 (3) locations of other public schools in the
11 vicinity to which students will be sent and the plan to
12 transport students to those schools;

13 (4) how the public school receiving new
14 students will consult with tribal leaders and members and
15 families of students attending the public school related to:

16 (a) culturally and linguistically
17 responsive school policies;

18 (b) rigorous and culturally meaningful
19 curricula and instructional materials;

20 (c) sensitivity to the tribe's calendar
21 of religious and other tribal obligations when making the
22 school calendar; and

23 (d) professional development for school
24 personnel at the public school to ensure that the best
25 practices used in teaching, mentoring, counseling and

1 administration are culturally and linguistically responsive
2 to students;

3 (5) how the educational outcomes for the
4 Indian students will be improved by attending another public
5 school;

6 (6) plans for the public school buildings
7 that will be left empty by the closure; and

8 (7) any other matters the department
9 believes provide an adequate explanation of the reasons for
10 closing the public school on tribal lands."

11 SECTION 2. A new section of the Public School Code is
12 enacted to read:

13 "LOCAL SCHOOL BOARD--CONSIDERATION OF OPENING OR CLOSING
14 A PUBLIC SCHOOL ON TRIBAL LAND--CONSULTATION WITH TRIBAL
15 LEADERS AND MEMBERS AND FAMILIES OF STUDENTS.--

16 A. Whenever a local school board is contemplating
17 opening a public school on tribal land, in addition to
18 negotiations involving land or buildings, the local school
19 board and the local superintendent shall consult with tribal
20 leaders and members and families of students who will be
21 eligible to attend the public school on the design of the
22 school's programming.

23 B. Consultation shall include, among other
24 actions, meetings in which the local school board and local
25 superintendent explain:

1 (1) how and why they reached the decision to
2 approach the tribe about opening a public school on tribal
3 land; and

4 (2) the level of their commitment to
5 improving educational outcomes for Indian students by opening
6 a public school and how that commitment will be manifested
7 through:

8 (a) culturally and linguistically
9 responsive school policies;

10 (b) rigorous and culturally meaningful
11 curricula and instructional materials;

12 (c) sensitivity to the tribe's calendar
13 of religious and tribal obligations when making the school
14 calendar; and

15 (d) professional development for school
16 personnel at the public school to ensure that the best
17 practices used in teaching, mentoring, counseling and
18 administration are culturally and linguistically responsive
19 to students.

20 C. Whenever a local school board is contemplating
21 closing a public school on tribal land for any reason, it
22 shall consult with tribal leaders and members and families of
23 students attending the public school.

24 D. Consultation shall include, among other
25 actions, meetings in which the local board and the local

1 superintendent explain:

2 (1) the reasons for closing the public
3 school;

4 (2) the reasons why the local school board
5 has not or cannot provide additional resources to keep the
6 public school open;

7 (3) locations of other public schools in the
8 vicinity to which students will be sent and the plan to
9 transport students to those schools;

10 (4) how the public school receiving new
11 students will consult with tribal leaders and members and
12 families of students attending the public school related to:

13 (a) culturally and linguistically
14 responsive school policies;

15 (b) rigorous and culturally meaningful
16 curricula and instructional materials;

17 (c) sensitivity to the tribe's calendar
18 of religious and other tribal obligations when making the
19 school calendar; and

20 (d) professional development for school
21 personnel at the public school to ensure that the best
22 practices used in teaching, mentoring, counseling and
23 administration are culturally and linguistically responsive
24 to students;

25 (5) how the educational outcomes for the

1 Indian students will be improved by attending another public
2 school;

3 (6) plans for the public school buildings
4 that will be left empty by the closure; and

5 (7) any other matters the local school board
6 believes provide an adequate explanation of the reasons for
7 closing the public school on tribal lands."

8 SECTION 3. A new section of the Charter Schools Act is
9 enacted to read:

10 "CHARTER SCHOOLS--PROPOSALS TO OPEN OR CLOSE A PUBLIC
11 SCHOOL ON TRIBAL LAND--CONSULTATION WITH TRIBAL LEADERS AND
12 MEMBERS AND FAMILIES OF STUDENTS.--

13 A. If a charter school applicant wants to open a
14 charter school on tribal land, it shall negotiate with and
15 receive the tribal government's approval for the public
16 school before the charter school authorizer acts on the
17 application. The applicant shall also consult with tribal
18 leaders and members and families of students who will be
19 eligible to attend the public school.

20 B. Consultation shall include, among other
21 actions, meetings in which the charter school applicant shall
22 explain:

23 (1) how and why the applicant reached the
24 decision to approach the tribe about opening a public school
25 on tribal land; and

1 (2) the level of the charter school
2 applicant's commitment to improving educational outcomes for
3 Indian students by opening a public school and how that
4 commitment will be manifested through:

5 (a) culturally and linguistically
6 responsive school policies;

7 (b) rigorous and culturally meaningful
8 curricula and instructional materials;

9 (c) sensitivity to the tribe's calendar
10 of religious and tribal obligations when making the school
11 calendar; and

12 (d) professional development for school
13 personnel at the public school to ensure that the best
14 practices used in teaching, mentoring, counseling and
15 administration are culturally and linguistically responsive
16 to students.

17 C. Whenever a charter school authorizer is
18 contemplating closing a charter school on tribal land, for
19 any reason, it shall consult with tribal leaders and members
20 and families of students attending the charter school.

21 D. Consultation shall include, among other
22 actions, open meetings in which the charter school authorizer
23 and the head administrator of the charter school explain:

24 (1) the reasons for closing the charter
25 school;

1 (2) the reasons why the charter school has
2 not or cannot provide additional resources to keep the
3 charter school open;

4 (3) locations of other public schools in the
5 vicinity to which students will be sent and the plan to
6 transport students to those schools;

7 (4) how the public school receiving new
8 students will consult with tribal leaders and members and
9 families of students attending the public school related to:

10 (a) culturally and linguistically
11 responsive school policies;

12 (b) rigorous and culturally meaningful
13 curricula and instructional materials;

14 (c) sensitivity to the tribe's calendar
15 of religious and other tribal obligations when making the
16 school calendar; and

17 (d) professional development for school
18 personnel at the public school to ensure that the best
19 practices used in teaching, mentoring, counseling and
20 administration are culturally and linguistically responsive
21 to students;

22 (5) how the educational outcomes for the
23 Indian students will be improved by attending another public
24 school;

25 (6) plans for the public school buildings

1 that will be left empty by the closure; and

2 (7) any other matters the charter school
3 governing body and head administrator believe provide an
4 adequate explanation of the reasons for closing the charter
5 school."

6 SECTION 4. Section 22-8B-6 NMSA 1978 (being Laws 1999,
7 Chapter 281, Section 6, as amended) is amended to read:

8 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION
9 PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION
10 REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES.--

11 A. A local school board has the authority to
12 approve the establishment of a locally chartered charter
13 school within that local school board's district.

14 B. No later than the second Tuesday of January of
15 the year in which an application will be filed, the
16 organizers of a proposed charter school shall provide written
17 notification to the commission and the school district in
18 which the charter school is proposed to be located of their
19 intent to establish a charter school. Failure to notify may
20 result in an application not being accepted.

21 C. A charter school applicant shall apply to
22 either a local school board or the commission for a charter.
23 If an application is submitted to a chartering authority, it
24 must process the application. Applications for initial
25 charters shall be submitted by June 1 to be eligible for

1 consideration for the following fiscal year; provided that
2 the June 1 deadline may be waived upon agreement of the
3 applicant and the chartering authority.

4 D. An application shall include the total number
5 of grades the charter school proposes to provide, either
6 immediately or phased. A charter school may decrease the
7 number of grades it eventually offers, but it shall not
8 increase the number of grades or the total number of students
9 proposed to be served in each grade.

10 E. An application shall include a detailed
11 description of the charter school's projected facility needs,
12 including projected requests for capital outlay assistance
13 that have been approved by the director of the public school
14 facilities authority or the director's designee. The
15 director shall respond to a written request for review from a
16 charter applicant within forty-five days of the request.

17 F. An application may be made by one or more
18 teachers, parents or community members or by a public
19 post-secondary educational institution or nonprofit
20 organization. Municipalities, counties, private post-
21 secondary educational institutions and for-profit business
22 entities are not eligible to apply for or receive a charter.

23 G. An initial application for a charter school
24 shall not be made after June 30, 2007 if the proposed charter
25 school's proposed enrollment for all grades or the proposed

1 charter school's proposed enrollment for all grades in
2 combination with any other charter school's enrollment for
3 all grades would equal or exceed ten percent of the total MEM
4 of the school district in which the charter school will be
5 geographically located and that school district has a total
6 enrollment of not more than one thousand three hundred
7 students.

8 H. A state-chartered charter school shall not be
9 approved for operation unless its governing body has
10 qualified to be a board of finance.

11 I. The chartering authority shall receive and
12 review all applications for charter schools submitted to it.
13 The chartering authority shall not charge application fees.

14 J. The chartering authority shall hold at least
15 one public hearing in the school district in which the
16 charter school is proposed to be located to obtain
17 information and community input to assist it in its decision
18 whether to grant a charter school application. The
19 chartering authority may designate a subcommittee of no fewer
20 than three members to hold the public hearing, and, if so,
21 the hearing shall be transcribed for later review by other
22 members of the chartering authority. Community input may
23 include written or oral comments in favor of or in opposition
24 to the application from the applicant, the local community
25 and, for state-chartered charter schools, the local school

1 board and school district in whose geographical boundaries
2 the charter school is proposed to be located.

3 K. The chartering authority shall rule on the
4 application for a charter school in a public meeting by
5 September 1 of the year the application was received;
6 provided, however, that prior to ruling on the application
7 for which a designated subcommittee was used, any member of
8 the chartering authority who was not present at the public
9 hearing shall receive the transcript of the public hearing
10 together with documents submitted for the public hearing. If
11 not ruled upon by that date, the charter application shall be
12 automatically reviewed by the secretary in accordance with
13 the provisions of Section 22-8B-7 NMSA 1978. The charter
14 school applicant and the chartering authority may, however,
15 jointly waive the deadlines set forth in this section.

16 L. A chartering authority may approve, approve
17 with conditions or deny an application. A chartering
18 authority may deny an application if:

19 (1) the application is incomplete or
20 inadequate;

21 (2) the application does not propose to
22 offer an educational program consistent with the requirements
23 and purposes of the Charter Schools Act;

24 (3) the proposed head administrator or other
25 administrative or fiscal staff was involved with another

1 charter school whose charter was denied or revoked for fiscal
2 mismanagement or the proposed head administrator or other
3 administrative or fiscal staff was discharged from a public
4 school for fiscal mismanagement;

5 (4) for a proposed state-chartered charter
6 school, it does not request to have the governing body of the
7 charter school designated as a board of finance or the
8 governing body does not qualify as a board of finance;

9 (5) for a proposed charter school on tribal
10 land, it fails to receive approval from the tribal
11 government; or

12 (6) the application is otherwise contrary to
13 the best interests of the charter school's projected
14 students, the local community or the school district in whose
15 geographic boundaries the charter school applies to operate.

16 M. If the chartering authority denies a charter
17 school application or approves the application with
18 conditions, it shall state its reasons for the denial or
19 conditions in writing within fourteen days of the meeting.
20 If the chartering authority grants a charter, the approved
21 charter shall be provided to the applicant together with any
22 imposed conditions.

23 N. A charter school that has received a notice
24 from the chartering authority denying approval of the charter
25 shall have a right to a hearing by the secretary as provided

1 in Section 22-8B-7 NMSA 1978."

2 SECTION 5. Section 22-8B-12 NMSA 1978 (being Laws 1999,
3 Chapter 281, Section 12, as amended) is amended to read:

4 "22-8B-12. CHARTER SCHOOLS--TERM--OVERSIGHT AND
5 CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUNDS
6 FOR NONRENEWAL OR REVOCATION.--

7 A. A charter school may be approved for an initial
8 term of six years; provided that the first year shall be used
9 exclusively for planning and not for completing the
10 application. A charter may be renewed for successive periods
11 of five years each. Approvals of less than five years may be
12 agreed to between the charter school and the chartering
13 authority.

14 B. During the planning year, the charter school
15 shall file a minimum of three status reports with the
16 chartering authority and the department for the purpose of
17 demonstrating that the charter school's implementation
18 progress is consistent with the conditions, standards and
19 procedures of its approved charter. The report content,
20 format and schedule for submission shall be agreed to by the
21 chartering authority and the charter school and become part
22 of the charter contract.

23 C. Prior to the end of the planning year, the
24 charter school shall demonstrate that its facilities meet the
25 requirements of Section 22-8B-4.2 NMSA 1978.

1 D. A chartering authority shall monitor the
2 fiscal, overall governance and student performance and legal
3 compliance of the charter schools that it oversees, including
4 reviewing the data provided by the charter school to support
5 ongoing evaluation according to the charter contract. Every
6 chartering authority may conduct or require oversight
7 activities that allow the chartering authority to fulfill its
8 responsibilities under the Charter Schools Act, including
9 conducting appropriate inquiries and investigations; provided
10 that the chartering authority complies with the provisions of
11 the Charter Schools Act and the terms of the charter contract
12 and does not unduly inhibit the autonomy granted to the
13 charter schools that it governs.

14 E. As part of its performance review of a charter
15 school, a chartering authority shall visit a charter school
16 under its authority at least once annually to provide
17 technical assistance to the charter school and to determine
18 the status of the charter school and the progress of the
19 charter school toward the performance framework goals in its
20 charter contract.

21 F. If, based on the performance review conducted
22 by the chartering authority pursuant to Subsection D of this
23 section, a charter school's fiscal, overall governance or
24 student performance or legal compliance appears
25 unsatisfactory, the chartering authority shall promptly

1 notify the governing body of the charter school of the
2 unsatisfactory review and provide reasonable opportunity for
3 the governing body to remedy the problem; provided that if
4 the unsatisfactory review warrants revocation, the revocation
5 procedures set forth in this section shall apply. A
6 chartering authority may take appropriate corrective actions
7 or exercise sanctions, as long as such sanctions do not
8 constitute revocation, in response to the unsatisfactory
9 review. Such actions or sanctions by the chartering
10 authority may include requiring a governing body to develop
11 and execute a corrective action plan with the chartering
12 authority that sets forth time frames for compliance.

13 G. Every chartering authority shall submit an
14 annual report to the division, including a performance report
15 for each charter school that it oversees, in accordance with
16 the performance framework set forth in the charter contract.

17 H. The department shall review the annual report
18 received from the chartering authority to determine if the
19 department or local school board rules and policies from
20 which the charter school was released pursuant to the
21 provisions of Section 22-8B-5 NMSA 1978 assisted or impeded
22 the charter school in meeting its stated goals and
23 objectives. The department shall use the annual reports
24 received from the chartering authorities as part of its
25 report to the governor, the legislative finance committee and

1 the legislative education study committee as required by the
2 Charter Schools Act.

3 I. No later than two hundred seventy days prior to
4 the date in which the charter expires, the governing body may
5 submit a renewal application to the chartering authority. A
6 charter school may apply to a different chartering authority
7 for renewal. The chartering authority shall rule in a public
8 hearing on the renewal application no later than one hundred
9 eighty days prior to the expiration of the charter.

10 J. A charter school renewal application submitted
11 to the chartering authority shall contain:

12 (1) a report on the progress of meeting the
13 academic performance, financial compliance and governance
14 responsibilities of the charter school, including achieving
15 the goals, objectives, student performance outcomes, state
16 standards of excellence and other terms of the charter
17 contract, including the accountability requirements set forth
18 in the Assessment and Accountability Act;

19 (2) a financial statement that discloses the
20 costs of administration, instruction and other spending
21 categories for the charter school that is understandable to
22 the general public, that allows comparison of costs to other
23 schools or comparable organizations and that is in a format
24 required by the department;

25 (3) a copy of the charter contract executed

1 in compliance with the provisions of Section 22-8B-9 NMSA
2 1978;

3 (4) a petition in support of the charter
4 school renewing its charter status signed by not less than
5 sixty-five percent of the employees in the charter school;

6 (5) a petition in support of the charter
7 school renewing its charter status signed by at least
8 seventy-five percent of the households whose children are
9 enrolled in the charter school;

10 (6) a description of the charter school
11 facilities and assurances that the facilities are in
12 compliance with the requirements of Section 22-8B-4.2 NMSA
13 1978; and

14 (7) for charter schools located on tribal
15 land, documentation of ongoing consultation pursuant to the
16 Indian Education Act.

17 K. A charter may be suspended, revoked or not
18 renewed by the chartering authority if the chartering
19 authority determines that the charter school did any of the
20 following:

21 (1) committed a material violation of any of
22 the conditions, standards or procedures set forth in the
23 charter contract;

24 (2) failed to meet or make substantial
25 progress toward achievement of the department's standards of

1 excellence or student performance standards identified in the
2 charter contract;

3 (3) failed to meet generally accepted
4 standards of fiscal management;

5 (4) for a charter school located on tribal
6 land, failed to comply with ongoing consultations pursuant to
7 the Indian Education Act; or

8 (5) violated any provision of law from which
9 the charter school was not specifically exempted.

10 L. The chartering authority shall develop
11 processes for suspension, revocation or nonrenewal of a
12 charter that:

13 (1) provide the charter school with timely
14 notification of the prospect of suspension, revocation or
15 nonrenewal of the charter and the reasons for such action;

16 (2) allow the charter school a reasonable
17 amount of time to prepare and submit a response to the
18 chartering authority's action; and

19 (3) require the final determination made by
20 the chartering authority to be submitted to the department.

21 M. If a chartering authority suspends, revokes or
22 does not renew a charter, the chartering authority shall
23 state in writing its reasons for the suspension, revocation
24 or nonrenewal.

25 N. If a chartering authority suspends, revokes or

1 does not renew the charter of a charter school located on
2 tribal land, the chartering authority and charter school
3 shall consult with the tribe pursuant to Subsections C and D
4 of Section 3 of this 2019 act.

5 O. A decision to suspend, revoke or not to renew a
6 charter may be appealed by the governing body pursuant to
7 Section 22-8B-7 NMSA 1978."

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