New Mexico Charter School Law Overview

New Mexico’s initial charter law was passed in 1993, but revisions made in 1999 began to allow start-up schools for the first time. Current law has a rolling cap—it allows up to 100 charter schools in a five-year period (75 start-up and 25 conversions). Thus, the cap doesn’t really limit the total number, but rather the rate by which they appear. Applicants must seek approval from their local school board and, if denied, may appeal to the State Board. The State Board, in turn, can order the local board to approve the charter school.

As of Fall 2002, 27 charter schools were operating in 13 districts, with nine of those schools being authorized only after winning an appeal at the state level.

State Policy Environment

Support for Charter Schools: New Mexico earned a D– from survey respondents for its support of charter schools. They gave very low marks for a well-developed charter network. (A New Mexico coalition of charter schools has foundered for lack of leadership, although a newly hired Executive Director may change the situation.) The state also received low ratings for access to technical assistance and contracting services. (Some technical assistance comes from the State Board though it is supposed to be the role of local authorizers.)

Survey respondents gave low marks for charter acceptance by local districts, and for public understanding of charter schools. As a whole, New Mexico has a contentious charter policy environment. While the State Board is supportive, local districts are not, perhaps because the law’s mechanics are somewhat vague. It requires districts and their charters to form contracts but does not define roles or how funding should work. Contention over funding creates conflict between charters and authorizers, the more so when a charter has been forced upon a resistant district by the State Board.

Charters must follow all district policies unless negotiated in the contract between the two parties. They do, however, receive automatic waivers from some specific state regulations. Charter schools can request waivers from other state regulations, though these must be requested in the charter contract and filed by the local board on behalf of the charter school.
The state also received low marks for access to one or more authorizers that make decisions based on merit, not politics. Respondents indicate that, with few exceptions (such as when a school is established for at risk students), charters have poor relations with their district authorizers. One option being considered by policymakers is to add an authorizer that is independent of districts and the State Board.

Support and External Accountability for Authorizers: New Mexico received a C– in this category. Survey respondents conferred low scores for adequate funding. Local districts may keep some of the charter school’s funding to support authorizing activities (2% of state per capita funds). Respondents report that tension over funding is a serious issue. For example, one said that “Charter School authorizers focus upon the fiscal impact of charter schools upon other district schools rather than alternative educational opportunities for students.”

The state also received low marks for making periodic reports to the legislature, external review of chartering practices, and watchful media.

New Mexico received high marks for its appeals process—so far the State Board has upheld the denial of three appellants and reversed the denial of nine charters—and for having in place a comprehensive school-based accountability system.

Authorizer Practices

Application Processes: Survey respondents gave New Mexico a D– here, with particularly low scores for efforts to disseminate applications, holding informational meetings, and giving applicants an indication of how their applications will be evaluated (i.e. written rubric or scoring scale). The only information available to applicants on-line is a handbook on the State Board’s website.

Approval Processes: New Mexico received a D for approval processes, with a particularly low score for striking the right balance between a rigorous process and giving schools the chance to open and succeed.

Performance Contracts: The state received a B– for its performance contracts. Overall, it received high marks for specific criteria related to contract content but a low mark on whether the overall quality of the contract is good enough to hold schools accountable.

Oversight: New Mexico was given a D for authorizers’ oversight practices. Respondents report little district activity in terms of site visits, clearly defined actions when problems are found in schools, shielding schools from red tape, and having a good oversight system that collects essential data. However, the state did receive high marks for requiring annual financial audits and progress reports from schools.

It should be noted that New Mexico’s statewide public-school accountability rating system includes charters. In the 2001–02 school year, two charter schools were rated “exempt,” one was put on probation and the rest were rated as “met standard.”

Renewal and Revocation Processes: Survey respondents gave the state a D here. Earning especially low scores were independent reviews of school performance data, notifying poor schools with enough time to remedy problems, and having specific provisions for closing a school.

To date, no schools have closed or had their charters revoked, although four conversion schools reverted back to regular public school status before the law was amended in 1999.

Transparency and Internal Accountability: New Mexico is the only state in this study to receive an F for this category. Survey respondents gave low scores for providing public access to authorizer decisions, publishing progress reports for schools, making formal evaluations of their own practices, and being fully accountable for and transparent about their decisions.

Overall Grade

Based on scores for 56 criteria, New Mexico earned a D+ for its policy environment and a D for authorizer practices, resulting in overall grade of D. When observer and school operator survey respondents were asked to provide a single “holistic” grade, the average grade given was C–.

There is obvious tension between local districts and charter schools, which have been viewed as a nuisance at best and a competitor for funding at
worst. Thus, districts tend simply to treat charters the same as regular public schools, with little freedom from red tape and bureaucracy and little assistance or advocacy—although there is some evidence that this is improving. Meanwhile, authorizers and policymakers are urged to review specific criteria in Appendix A of this report, and on the web at http://www.edexcellence.net/tbfinstitute/authorizers.html.

Note: The grades for New Mexico are based upon survey data received from four authorizer respondents (including the three largest in the state, overseeing 59% of operating schools); three observer respondents; and 17 charter operator respondents (of 27 total operating charter schools, or 63% if only one response per school was received).