

AN ANALYSIS OF THE CHARTER SCHOOL FACILITY LANDSCAPE IN ALBUQUERQUE

OCTOBER 2017



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EXECUTIVE SUMMARY

IN THE SPRING OF 2016, THE NATIONAL CHARTER SCHOOL RESOURCE CENTER (NCSRC), the Colorado League of Charter Schools (the League), the New Mexico Coalition for Charter Schools (NMCCS), and the National Alliance for Public Charter Schools (the Alliance) collaborated to collect data and information about charter school facilities and facilities expenditures in the city of Albuquerque. The data collection in Albuquerque was supported by the Charter School Facilities Initiative (CSFI), which is a national project developed by the League to research charter school facilities and facilities expenditures across the country.

The CSFI team identified 50 brick and mortar Albuquerque charter school facilities that were eligible to participate in this project. Seventy-eight percent (78%) of eligible charter school facilities (39 out of 50) completed the Charter School Facilities Survey.¹ The survey methodology used for the report was designed to address Albuquerque-specific charter school facility and policy related issues, including shared use information, facility amenities, ownership, financing, grade levels and waiting lists. For more information on survey methodology please see [Appendix A](#).

The information contained in this report is based on survey and enrollment data collected in the 2015-16 school year.² Policy conclusions are based on the charter school facility landscape in Albuquerque, the national facility landscape, and the collective expertise of the NCSRC, the League, NMCCS, and the Alliance.

¹ The number of charter facilities does not necessarily equal the number of charter schools. For example, some charter schools have multiple campuses operating as one school, such as an elementary and middle school that are not on the same facility site. Also, multiple separate schools may operate in one common facility.

² Enrollment data was obtained from the New Mexico Public Education Department (2015-16 Enrollment by District by School Data File).



Key findings include:

1. Meeting demand for Albuquerque’s charter schools may require new facilities solutions.

- **62 percent** of charter schools did not have space for their projected enrollment in five years.
- Prior to their first year in operation, **33 percent** of charter schools had to delay their opening date due to facilities-related issues such as financing, acquisition of property or land, construction, or the lack of available facilities in the desired geographic area.
- **77 percent** of charter schools were in buildings that were not originally designed to be a school.

2. Albuquerque charter schools spend Student Equalization Guarantee (SEG) funds on facilities and this spending varies across different ownership situations.³

- Charter schools renting from for-profit organizations (**36 percent**) paid an average of \$617 per pupil or 7.2% of their SEG funds – after accounting for lease reimbursement assistance.
- Charter schools utilizing Lease Purchase Agreements (**23 percent**) paid an average of \$304 per pupil or 3.6% of their SEG funds – after accounting for lease reimbursement assistance.
- Charter schools renting from non-profit organizations (**15 percent**) paid an average of \$148 per pupil or 1.7% of their SEG funds – after accounting for lease reimbursement assistance.
- Charter schools renting from government entities other than Albuquerque Public Schools (**13 percent**) paid an average of \$296 per pupil or 3.5% of their SEG funds – after accounting for lease reimbursement assistance.

³ Five percent of Albuquerque charter schools had a mixed ownership situation.

3. Many Albuquerque charter schools do without important amenities.

- Only **51 percent** of charter schools reported that their facility had the ideal amenities and desired specialized classrooms to best implement their educational program.
- **71 percent** of charter schools serving high school students did not have a dedicated science lab.
- **54 percent** of charter schools did not have a dedicated library/media center.
- **51 percent** of charter schools did not have a dedicated art room.
- **26 percent** of charter schools did not have a dedicated music room.

4. Serving meals can be a challenge for many Albuquerque charter schools.

- **87 percent** of charter schools did not have a full-preparatory kitchen facility.
- **33 percent** of charter schools did not have the ability to keep food for students warm.
- **21 percent** of charter schools did not have the ability to keep food for students cold.
- As a result, **72 percent** of charter schools purchased lunches from outside caterers (including Albuquerque Public Schools).
- In addition, **23 percent** of charter schools did not have a lunch room.

5. Physical education and recreational options may be limited for Albuquerque charter school students.

- **27 percent** of charter schools serving elementary students did not have a playground on campus.
- **77 percent** of charter schools did not have an athletic field on campus.
- **82 percent** of charter schools did not have a gym on campus.

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INTRODUCTION

Charter School Facilities Initiative Background

Since 2011, the League's work through the CSFI has been supported by the U.S. Department of Education's Charter School Program through a subcontract with the NCSRC.⁴ This work is the result of a Task Force launched by the League in 2007.⁵ The League and the CSFI have currently collected charter school facility data in 17 states. The goal of the CSFI is to encourage public policy and private sector changes leading to a comprehensive, sustainable, and adequate public school facilities system.

The Charter School Facilities Survey (Survey) was developed as a means of collecting reliable charter school facilities data for research and policy development purposes. Over time, the Survey has evolved to account for changes in public school facilities design and construction, charter school financing, and other relevant policy developments and trends. This Survey is customized for use in each participating state to include state-specific questions that capture the local charter school facilities context. For more information on survey methodology, please see Appendix A.

New Mexico Charter Schools

New Mexico passed its initial charter school law in 1993, which authorized school districts to convert traditional public schools into charter public schools. In 1999, New Mexico implemented the Charter School Act (Act) which allowed for start-up charter schools with local school districts as the primary authorizers. In 2007, the Act was amended to include a statewide authorizer, the Public Education Commission (PEC). The PEC began authorizing charter schools in 2007-08. During the 2011 Legislative Session, the Act was again amended to incorporate performance contracts and performance frameworks for all charter schools to increase charter school and authorizer accountability standards.

In 2015-16, there were 99 operating charter schools in New Mexico. In 2015-16, charter schools enrolled 23,865 students – or seven percent of all public school students statewide.⁶ In 2015-16, there were 16 local school district authorizers who oversaw 40 charter schools while the PEC authorized the remaining 59 charter schools across the state.⁷ Across New Mexico, 67 percent of charter schools are located in urban areas, 20 percent are located in suburban areas, and 12 percent are located in rural areas.⁸ The Act did not originally address facility issues for charter schools. The Act was amended in 2005 and again in 2009 to impose specific facility standards

⁴ <http://www.charterschoolcenter.ed.gov>

⁵ In 2007, the League developed the Colorado Charter School Facilities Survey in partnership with a national leader in school facilities, Paul Hutton, AIA, of Cuningham Group Architecture, and experts in school planning, Wayne Eckerling, Ph.D. and Allen Balczarek.

⁶ Enrollment data was obtained from the New Mexico Public Education Department (2015-16 Enrollment by District by School Data File).

⁷ This information was obtained from the NMCCS Charter School Database. In 2015-16, there were two virtual schools in New Mexico – one was authorized by a local school district and one was authorized by the PEC.

⁸ NMCCS Charter School Database.

for charter schools that required charter schools to be located in “public buildings.”⁹ In the 2009 amendment to §22-8B-4.2, a Lease Purchase Agreement (LPA) was included as a means for charter schools to meet the public facility requirements.¹⁰

As of 2015-16, the LPA process has been utilized by 18 charter schools throughout New Mexico. According to the NMCCS, as of the date of publication of this Report, the LPAs for several schools are being held up by the Public Education Department (PED) due to a change in their interpretation of the LPA statute over the positioning of a lien for the “costs of improvements” to the school’s facility. The PED asserts that the lien for improvements must take priority over all other liens and if a lien for improvements is made a subordinate lien, such lien will violate the State Constitution’s “Anti-Donation Clause.” Attorneys for the schools impacted by the decision of the PED take the position that there is no provision in the law that requires the lien for improvements to be a first priority lien nor is there a violation of the “Anti-Donation Clause”¹¹ if such lien is a subordinate lien. The schools made an inquiry to the New Mexico Attorney General to get a ruling on the PED’s interpretation. The Attorney General ruled that there is no positioning requirement of the lien for improvements in §22-26A-5(H) or an anti-donation violation of Article IX, Section 14 of the New Mexico Constitution. The NMPED has delayed the approval of charter school LPAs due to numerous legal and procedural issues. They plan to move forward in the LPA process for charter school buildings during the 2017-18 school year.

Albuquerque Charter School Overview

Albuquerque is the largest urban area in the state of New Mexico. However, there are pockets of unincorporated land where a few of the Albuquerque charter schools are located. In 2015-16, there were 54 schools that resided within the Albuquerque Public Schools geographic area.¹² In 2015-16, the total charter school enrollment in Albuquerque was 14,735 students (or 60 percent of total New Mexico charter school enrollment).¹³

⁹ §22-8B-4.2 (D) NMSA

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 [Chapter 22 Article 26A NMSA 1978]; 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.

¹⁰ 22-26A-5.1B. A building or other real property subject to a lease purchase arrangement that has been entered into and approved pursuant to the Public School Lease Purchase Act shall be considered to be a public property.

¹¹ NM Constitution, Article IX, §14 Neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation or in aid of any private enterprise for the construction of any railroad except as provided in Subsections A through G of this section.

¹² Albuquerque Public Schools (APS) authorizes 20 schools while the PEC authorizes 34 schools.

¹³ Enrollment data was obtained from the New Mexico Public Education Department (2015-16 Enrollment by District by School Data File).

CASE STUDIES

In 2006, Montessori of the Rio Grande Charter School (MRGC) began working with its authorizer, Albuquerque Public Schools (APS), to create a pathway for the school to meet the statutory requirement of accessing public school facilities. (Pursuant to NMSA 22-8B-4.2[D]). MRGC was one of five pilot charter schools to partner with APS on the path to secure a facility. MRGC entered into a Memorandum of Understanding with APS after the district purchased a facility for MRGC's use in 2009. This required the school to send the lease reimbursement funds from the Public School Capital Outlay Council and the HB33 funds to the district. In return, the school receives support for the needs of the facility through the APS



MRGC developed a partnership with APS to build their new school buildings. Through this arrangement, APS made MRGC part of their overall facilities master plan.

Maintenance and Operations Division. In 2010, the school began the process for the first phase of building a new facility utilizing funding from the APS Bond/Mill Levy. The first phase of the new facility opened in August 2012 with four new classrooms, an enrichment classroom, and new parking areas. In February 2016, the school was included in another APS Bond/Mill Levy and the funding from this election will support the second phase of an APS-built facility to include nine new classrooms and an administration building. Construction on this project should begin in August 2017. Future consideration for MRGC facility needs will be a multipurpose building for physical education and community outreach.

Mission Achievement and Success (MAS) Charter School is a PEC-authorized charter school and has been fortunate when it comes to leased space. The space utilized by MAS Charter School was previously occupied by a school leaving little to no renovation necessary for its immediate occupancy. In addition, the minor changes required to make the structure more conducive to MAS Charter School's needs were completed by the landlord at no direct cost to the school.

There has been a growing debate about state or locally funded charters occupying or purchasing public space. Though there can be an argument that the mandated purchase or use of public buildings might benefit some schools or school districts, at MAS Charter School, the relationship between the landlord and tenant, coupled with the maintenance of the structure and the costs associated, makes ownership contrary to their overall goals. Leasing the building leaves large repairs, renovations and certain insurance premiums under the purview of landlord and results in cost savings to the school. In addition, expertise in certain areas like fire alarms, electricity, plumbing and other requirements are mandated through the landlord, alleviating the school from having to secure expert services on the school's behalf.

Another advantage MAS Charter School maintains by leasing over purchasing or utilizing a publically owned building is escaping the homogenous school purchasing environment. Public dollars are generally dedicated dollars. Whereas the landlord, through private funding, can

expediently make improvements, renovations and additions as needed, during the operational year, as opposed to using a prolonged procurement process.

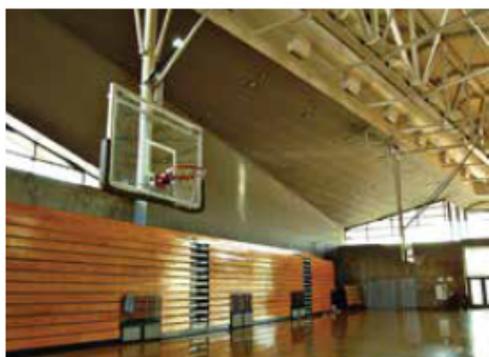
MAS Charter School had their first renewal in fall 2016. To meet the terms of 22-8B-4.2(D) NMSA of being in a public building, the school utilized the stipulation of 22-8B-4.2 (D)(2) (a) about having a lease that meets statewide adequacy standards and an acknowledgment that the owner of the facility is obligated to maintain the adequacy standards at no cost to the charter school or the state.

The CSFI team collected data on Albuquerque charter schools and those schools are the focus of this Report. While Albuquerque charter schools are the focus of the data collection and analysis, the New Mexico Coalition for Charter Schools confirms that, all of New Mexico's charter schools face similar challenges related to facility acquisition and expenditures. Albuquerque is the largest urban area in the state; while charter schools in Albuquerque face many facilities challenges, there is more available real estate for charter schools to choose from and generally better financing options due to increased economies of scale. One of the most challenging issues facing New Mexico charter schools is finding adequate facilities for schools that operate in rural areas. Limited building availability and the fact that rural charter schools are small – make finding and funding facilities very challenging. **Accordingly, any policy improvements or statutory changes should be done so at the statewide level.**

KEY FINDINGS

Key Finding #1: Meeting demand for Albuquerque’s charter schools may require new facilities solutions.

The demand for charter schools is a nationwide issue. The first charter school law was passed 25 years ago in Minnesota. According to the National Alliance for Public Charter Schools, between 1992 and 2016, the number of charter public schools has increased from zero to nearly 7,000. Charter schools serve an estimated 3.1 million students across 42 states and the District of Columbia. Despite this growth, charter schools comprise less than seven percent of the 100,000 public schools in the U.S. and only six percent of the nearly 50 million public school students.¹⁴ Currently, there are not enough charter schools to meet the demand from parents who want to choose them, because each year hundreds of thousands of students end up on wait lists, particularly in underperforming urban school districts.



¹⁴ <http://www.publiccharters.org/wp-content/uploads/2016/04/Parent-Survey-Report.pdf>

The Survey results indicate that a majority of Albuquerque charter schools plan to increase their enrollment over the next five years to meet the demand for additional charter school seats. In addition, a majority of the charter schools in Albuquerque will need to make facilities changes to meet the growing demand for charter school seats by acquiring a new facility or renovating and expanding their current facility. Acquiring low cost facility space and accessing facilities funding is a major challenge for charter school operators. As a result of these challenges, students wishing to enroll in an Albuquerque charter school may not have the opportunity.

- **72 percent** of charters schools planned to increase their enrollment over the next five years.
- **62 percent** of charter schools did not have space for their projected enrollment in five years.

Facilities challenges can also impact a charter school's ability to open its doors and serve students. In addition to designing and planning academic and instructional programs, developing staffing plans and meeting federal, state and local operational and governance regulations and requirements, among other responsibilities, charter schools administrators must also navigate the increasingly complex arena of facility acquisition, operation and maintenance. This can include such areas as the real estate search and identification process, the zoning, land use, or permitting processes – as well as the renovation process and cost needed to make a nontraditional educational facility space school ready.

- **42 percent** of charter schools that did not have space for their projected enrollment – did not have plans to acquire new space within the next five years.
- Prior to their first year in operation, **33 percent** of charter schools reported that they had to delay their opening date due to facilities-related issues such as financing, acquisition of property or land, construction, or the lack of available facilities in the desired geographic area.
- **77 percent** of charter schools were in buildings that were not originally designed to be a school.
- **26 percent** of charter schools reported moving from one facility to another and 31 percent reported moving two or more times.¹⁵

Additional funds, creative financing, and facility access solutions may be needed to address facilities-related issues as the Albuquerque charter school student population continues to grow.

¹⁵ 15 Forty-three percent of charter schools reported that they have never moved and have remained in the same facility since their inception.

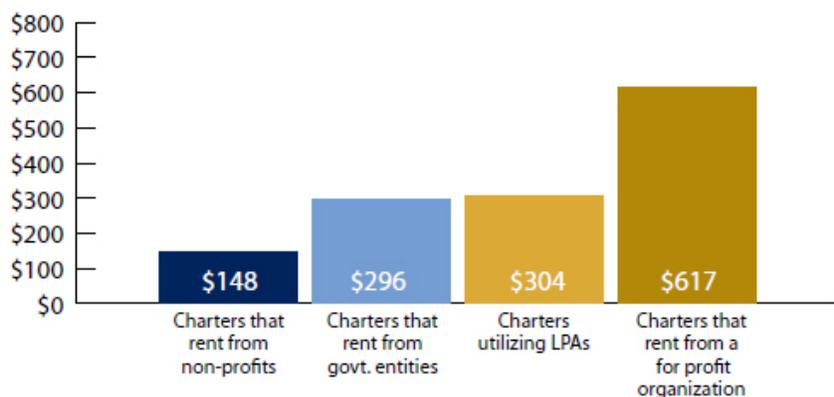
Key Finding #2: Albuquerque charter schools spend SEG funds on facilities and this spending varies across different ownership situations.

In 2015-16, 36 percent of Albuquerque’s charter schools rented from for-profit organizations, 23 utilized Lease Purchase Agreements, 15 percent rented from non-profit organizations, 13 percent rented from government entities other than Albuquerque Public Schools, eight percent rented from Albuquerque Public Schools and five percent had mixed ownership situations.

In 2015-16, the average Albuquerque charter school received \$8,513 in SEG funds.¹⁶ On average, Albuquerque charter schools reported facilities expenses of \$352 per pupil in 2015-16 – after accounting for lease reimbursement assistance. The amount being spent, however, varied depending on the type of entity that owned the facility:

- Charter schools renting from for-profit organizations (**36 percent**) paid an average of \$617 per pupil or 7.2% of their SEG funds – after accounting for lease reimbursement assistance.
- Charter schools utilizing Lease Purchase Agreements (**23 percent**) paid an average of \$304 per pupil or 3.6% of their SEG funds – after accounting for lease reimbursement assistance.
- Charter schools renting from non-profit organizations (**15 percent**) paid an average of \$148 per pupil or 1.7% of their SEG funds – after accounting for lease reimbursement assistance.
- Charter schools renting from government entities other than Albuquerque Public Schools (**13 percent**) paid an average of \$296 per pupil or 3.5% of their SEG funds – after accounting for lease reimbursement assistance.
- Charter schools renting from Albuquerque Public Schools (**8 percent**) paid an average of \$0 per pupil or 0.0% of their SEG funds – after accounting for lease reimbursement assistance.

Figure 1
Average Facilities Expenditures by Ownership Type



¹⁶ <http://ped.state.nm.us/div/fin/school.budget/SEG.html>

Key Finding #3: Many Albuquerque charter schools do without important amenities.

Most instruction during the school day takes place in general classrooms; however, specialized instructional spaces – such as science labs, libraries, art rooms and music rooms – are an important part of a comprehensive educational program. Albuquerque charter schools often have a limited number of these types of spaces. In fact, only 51 percent of Albuquerque charter schools reported that their facility had the ideal amenities and desired specialized classrooms to best implement their educational program.

- **71 percent** of charter schools serving high school students did not have a dedicated science lab.
- **54 percent** of charter schools did not have a dedicated library/media center.
- **51 percent** of charter schools did not have a dedicated art room.
- **26 percent** of charter schools did not have a dedicated music room.
- **13 percent** of charter schools reported that the installation of sufficient broadband to access high-quality digital content was a major challenge.

Being innovative with space is a hallmark of the charter sector, thus, charter schools frequently utilize alternative locations to provide specialized programming. Administrators and teachers continuously strive to generate optimal educational experiences for their students across a range of curriculum areas, including art, music, science, and technology. For many charter schools, however, tailoring space exclusively for specific instructional purposes can be cost prohibitive.



Key Finding #4: Serving meals can be a challenge for many Albuquerque charter schools.

Kitchen facilities are commonly considered standard in traditional public school buildings. However, kitchen facilities are an amenity that many charter schools do without. This is because adding a federally-compliant kitchen is often cost prohibitive when a charter school is building a new school facility or utilizing a non-traditional facility that has been converted into functional educational space.

While 77 percent of charter schools had either a dedicated lunch room or a combination lunch room, such as a cafetorium, 23 percent of charter schools had no lunch room space at all. Further, a majority of Albuquerque charter schools (87 percent) did not have a full-preparatory kitchen in which to prepare hot meals that qualify for reimbursement under the National School Lunch Program. As a result, charter schools that participate in the federally subsidized meal program regularly provide food services by using contracted caterers – which often has additional costs. Seventy-two percent (72 percent) of charter schools in Albuquerque reported that they met this need by purchasing meals from compliant external catering companies (including Albuquerque Public Schools). These outside service vendors often cost more than the federally subsidized reimbursement rate. Charter schools must often find other ways of covering this additional expense, either through operating funds or outside resources.

Key Finding #5: Physical education and recreational options may be limited for Albuquerque charter school students.

Physical education options may be limited for Albuquerque charter school students due to a lack of dedicated indoor facility amenities and outdoor spaces. Although the majority of Albuquerque charter schools serving elementary students reported the presence of a playground (73 percent), many Albuquerque charter schools reported that their facility did not have a gymnasium or an athletic field on campus. While it is true that not all public schools have the need for a full range of athletic facilities – for some charter schools – the lack of these amenities may make it harder to offer a variety of physical education programs and organized athletic activities for their students.

- **77 percent** of charter schools did not have an athletic field on campus.
- **82 percent** of charter schools did not have a gym on campus.

ADDITIONAL EVIDENCE AND FINDINGS

School Environment

Studies conducted by Uline and Tschannen-Moran,¹⁷ Tanner,¹⁸ Nielson and Zimmerman,¹⁹ and Lumpkin²⁰ demonstrate a link between the quality of the physical environment within a school facility and students' educational outcomes. Facility characteristics that are believed to have an impact on student learning are: windows and lighting, thermal comfort, acoustics, and indoor air quality. The Survey asked Albuquerque charter school leaders to rate the physical environment of their school. Many of the schools reported deficiencies with the quality of the school facility and a belief that those deficiencies negatively impact the learning environment for their students.

- **54 percent** of charter schools reported that noise generated in other classrooms or corridors was disruptive to learning.
- **49 percent** of charter schools reported that they did not have insulated (thermal pane) windows.
- **31 percent** of charter schools reported that classroom temperatures were not reasonably comfortable throughout the school year.
- **31 percent** of charter schools reported that the school has experienced air quality problems.

¹⁷ Cynthia Uline and Megan Tschannen-Moran, (2008) "The walls speak: the interplay of quality facilities, school climate, and student achievement," *Journal of Educational Administration*, Vol. 46 Issue: 1, pp. 55–73.

¹⁸ C. Kenneth Tanner, (2009) "Effects of school design on student outcomes," *Journal of Educational Administration*, Vol. 47 Issue: 3, pp. 381–399

¹⁹ Christopher Nielson and Seth Zimmerman, (2014) "The effect of school construction on test scores, school enrollment, and home prices," *Journal of Public Economics*, Vol 120, pp. 18-31.

²⁰ Ronald B. Lumpkin, (2013) "School Facility Condition and Academic Outcomes," *International Journal of Facility Management*, Vol. 4, No. 3.

CONCLUSIONS

Due to demonstrated student and community demand, **72 percent of Albuquerque charter schools reported that they plan to increase their enrollment over the next five years.**

Meeting this demand with the current facilities situation will be difficult as 62 percent of Albuquerque charter schools reported utilizing buildings that are not adequate for their planned enrollment in five years. Charter schools in Albuquerque are addressing the limited access to traditional school facilities by locating in non-traditional spaces. In 2015-16, 77 percent of Albuquerque charter schools were located in structures that were not originally designed to be a school.

Attaining facilities equity between Albuquerque's charter public schools and its traditional public schools will require both legislative initiatives and funding models to support the expenses required for acquisition and renovation. While survey data was only gathered from charter schools located in Albuquerque, charter schools across New Mexico struggle with facilities issues. This section offers a menu of statewide changes that can be considered to better assist all of New Mexico's charter schools. By helping charter schools meet their facilities challenges, New Mexico lawmakers will be directly responding to the diverse needs of the New Mexico public school community. Providing facilities solutions will enable charter schools to better serve their students by allocating more operational dollars toward core educational outcomes – rather than direct these critical funds to the continual economic demands of facility modification and improvement.



New Mexico currently provides some facilities support to charter schools. However, there is no single way to resolve the facilities challenges that Albuquerque charter schools face. A report by the National Alliance for Public Charter Schools entitled “*A New Model Law for Supporting the Growth of High-Quality Public Charter Schools*”²¹ provides a menu of solutions that can be considered to help mitigate these challenges:

1. A per pupil facilities allowance that annually reflects actual average district capital costs.
2. A state grant program for charter school facilities.
3. A state loan program for charter school facilities.
4. Equal access to tax-exempt bonding authorities or allowing charter schools to have their own bonding authority.
5. A mechanism to provide credit enhancement for charter schools.
6. Equal access to existing facilities funding programs available to traditional public schools.
7. Right of refusal to purchase or lease at or below fair market value a closed, unused, or underused public school facility or property.
8. Prohibition of facility-related requirements that are stricter than those applied to traditional public schools.

Not all of these solutions are equal in their importance. The most important solutions are those that provide revenue directly to charter schools for their facilities expenses. Points #1, #2, and #6 above provide facility revenue options for New Mexico to consider. While not as critical as revenue, the other policy solutions listed above (#3, #4, #5, #7, and #8) may prove helpful to all charter schools in New Mexico and should be seriously considered. It is important to note that the states that have helped charter schools the most with their facilities challenges are those that have enacted both revenue and non-revenue related policies.

According to a January 2016 report by the National Alliance for Public Charter Schools entitled “*Measuring Up to the Model: A Ranking of State Charter School Laws, Seventh Edition*”²² (which analyzes and ranks each state’s public charter school law against the Model Law), New Mexico law addresses some of the facilities components in the Model Law. The bullets below provide an overview of the relevant provisions New Mexico law. In the following section, we describe some of the challenges with these provisions and offer recommendations for addressing them.

- In 2015-16, New Mexico law provided lease reimbursement assistance to charter schools of **\$736 per pupil**. The law ties this amount to an inflation index to determine future allotments.
- The law allows the New Mexico Finance Authority to use **public bond funds to construct charter facilities** in a pilot program for up to seven charter schools. It allows funds loaned by the Finance Authority to be used for the acquisition of buildings, land, and facilities.
- The law allows charter schools to **access tax-exempt debt** from counties.

²¹ http://www.publiccharters.org/wp-content/uploads/2016/01/Model-Law-Final_2016.pdf

²² http://www.publiccharters.org/wp-content/uploads/2016/01/Model-Law-Final_2016.pdf

- The law requires school districts to **share local facilities funds with charter schools** in a proportionate share to a charter's enrollment. It allows these funds to be used as payments for approved lease purchase agreements.
- The law requires tax levy resolutions submitted by a district to the voters for approval to **contain capital improvement funding for charter schools** that have an approved facility plan and that have been renewed at least one time.



New Mexico could better support the demand and anticipated growth of its charter school sector over the next few years by focusing on the following components:

- **Improve access to surplus district and other public spaces.** New Mexico law currently includes some provisions to try to provide charter schools with access to school district space. While these provisions are helpful, they should be strengthened. Indiana law, for example, requires school districts to provide a list of buildings that are closed, unused, or unoccupied to the State Department of Education and to make them available for lease or purchase to any charter school. If a charter school wishes to use a school building on the list, the school district must lease the building for \$1 a year for a term at the charter school's discretion or sell the building to the charter school for \$1.
- **Improve the functionality of the lease reimbursement program.** The 2015-16 Lease Reimbursement Award covered only 70 percent of the actual lease payments for New Mexico charter schools. In addition, lease grants cannot be used for maintenance, repairs, or janitorial services. One option for improving the functionality of this program is to increase the amount of the lease reimbursement. A second option is to expand the types of expenses that it can cover.
- **Provide loans to charter schools for their facilities costs.** One option is to create a state loan program for charter school facilities. Utah law provides a charter school revolving loan fund that provides loans to charter schools for the costs of constructing, renovating, and purchasing public charter school facilities. This fund is capitalized at \$6,000,000.
- **Create a mechanism to provide credit enhancement for public charter school facilities.** Colorado, for example, provides a mechanism for limited credit enhancement for eligible, highly-rated bond transactions for charter schools by using the state's moral obligation to back up to \$500 million in debt. In addition, Texas allows high-performing, open-enrollment charter schools that have an investment grade rating and that meet certain financial criteria to apply to have their bonds guaranteed by the Permanent School Fund. Such backing will result in charter bonds being backed by the full faith and credit of the state, putting charter schools on par with school districts and allowing them to achieve AAA ratings.



- **Improve charter school access to Public School Capital Outlay Council funding programs.** Although charter schools are eligible for grants made available to all public schools from the Public School Capital Outlay Council, these grants require charter schools to be ranked according to “adequacy standards.” Even if a charter school’s facility was ranked deficient, capital outlay grants are out of reach for most charter schools. 90 days after the list is posted, including public disclosure of reasons for any disapproval.

To be eligible to receive a grant, a charter school must not be in a privately leased facility and must match the state’s contribution in an amount equal to the same percentage of match required by the school district in which the charter school is located. The local match is calculated based on the amount of money the local districts could access through bonding and property taxes. Charter schools, however, cannot control the amount of these funds they may receive (and typically only receive a small portion unrelated to their actual facility acquisition cost). Unless a local district agrees to contribute a large portion of a mill levy or bond issuance, the school cannot access sufficient funds to assist it in the payment of the match. Where a local district does contribute matching funds, the district has retained ownership of the property. The district is then paid lease payments by the charter school. Often, the charter school must agree for the district to retain all future revenues a charter might receive through local mill levy impositions.

- **Repeal or Revise Charter School Compliance with Statewide Adequacy Standards.** On July 1, 2015 NMSA 1978, §22-8B-4.2(c) was revised to prohibit a new charter school from opening, or a renewal of a current charter contract, unless the charter school is located in a building that meets the Statewide Adequacy Standards. These Standards exceed building code requirements for all schools. The practical effect of this change is an increase in the cost of initially securing and maintaining a facility, and an increase in facilities costs for charter schools existing prior to 2015 that are required to make facilities

changes to meet the Standards. While charter schools may apply for a waiver from some of the provisions of the Standards if their program doesn't require certain building spaces, in the long run the waiver process will financially inhibit a charter school from expanding its program to include services that require facilities improvements to meet the Standards. In addition to the practical effect of increasing facilities cost for charter schools, compliance to these Standards may prevent a charter school from accessing available district facilities pursuant to NMSA 1978, §22-8B-4(f) as school district facilities are only required to meet building code requirements, but a charter school wishing to utilize the facility would need to bring the facility up to the Statewide Adequacy Standards, a task that may prove insurmountable for a charter school with limited resources. Many traditional public schools are located in facilities that do not meet Statewide Adequacy Standards and are not required to do so to continue operating. Reliance on the Statewide Adequacy Standards for only charter schools is an inequitable use of state regulations and charter schools, like traditional public schools, should adhere to the health and safety requirements found in building codes used for all public schools, and the Statewide Adequacy Standards should be used as a guide and not a requirement.

- **Pursuant to NMSA 1978 22-24.4(I), the Lease Reimbursement “fund may be expended annually by the council for grants to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools.”** There is no provision in statute for the use of Lease Reimbursement funds for other ancillary facility-related expenses.

The results of the Survey indicate that Albuquerque charter schools face challenges in obtaining equitable access to facilities and facilities funding. Ensuring facilities equity for all New Mexico charter schools would directly benefit the students attending charter schools by allowing them to widen programming options, optimize educational experiences, and increase the number of available quality seats to meet growing demand.

APPENDIX A

Survey Methodology

All eligible Albuquerque charter schools were asked to complete the Charter School Facilities Survey (Survey). Although the Survey was carefully constructed to obtain data about a broad range of charter school facility related issues in Albuquerque – it was not designed to address each and every possible issue faced by charter schools in their search for high-quality and affordable facilities. NMCCS led the data collection effort and provided supplemental data, as necessary. Additional data on school enrollment and student demographics was obtained from the New Mexico Public Education Department. Survey data was collected between March and May of 2016. As necessary, NMCCS and the CSFI team provided technical assistance to schools completing the Survey and each Survey was reviewed for accuracy and completeness.

The original version of the Survey was created by the League’s facility task force, League staff, and others with expertise in school construction and education policy. Further revisions to the Survey have been made based on feedback from all participating charter schools and charter support organizations. The Survey administered in Albuquerque was revised through a collaborative effort of NMCCS and the League to address Albuquerque-specific facility and policy-related issues.

- Topics addressed include the following:
 - Grades served, year of inception, and waiting lists;
 - Future facility plans;
 - Shared use information;
 - Facility age and information technology resources;
 - Facility ownership, financing, and annual payments;
 - Facility amenities such as gymnasiums, lunchrooms, libraries, and playgrounds; and
 - Facility adequacy, condition, and maintainability.

Charter School Facilities Initiative: An Analysis of the Charter School Facility Landscape in Albuquerque, was prepared by the National Charter School Resource Center, the Colorado League of Charter Schools and the National Alliance for Public Charter Schools on behalf of the New Mexico Coalition for Charter Schools.

Additional copies of this report can be obtained by contacting the New Mexico Coalition for Charter Schools, the Colorado League of Charter Schools, the National Charter School Resource Center, or the Charter School Facilities Initiative. Please visit the Charter School Facilities Initiative website at (<http://www.FacilitiesInitiative.org>) to obtain additional state reports, additional information on data presented in this report, or for general charter school facilities questions.
