

NMFA Public Lending Programs	Charter School Facility Revolving Fund Policy	Original Effective Date: 10/31/2024
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Charter School Facility Revolving Fund Policy

This Charter School Facility Revolving Fund Policy (“Policy”) was adopted on the 31st day of October 2024 by the Board of Directors of the New Mexico Finance Authority (“NMFA”), a public body politic and corporate, separate and apart from the State of New Mexico constituting a governmental instrumentality, created by the New Mexico Finance Authority Act, Section 6-21-1 et. seq., NMSA 1978.

I. PURPOSE

A. Statutory Purpose

The Charter School Facility Revolving Fund was created in 2022 to provide affordable financing to charter schools in New Mexico seeking to improve their facilities to better serve their students.

B. Policy Objectives

The goal of this Policy is to provide guidance to NMFA staff and potential charter school applicants regarding program implementation including financing parameters, terms and conditions of financing agreements, and reporting requirements. This policy is intended to provide a foundation for standards of discipline guiding the administration of the Charter School Facility Revolving Fund.

This Policy shall be implemented by the NMFA Board and may, at times, be waived by the Board if the Board determines that a deviation regarding certain Policy provisions is advisable. Such waiver will be reflected in the minutes of the meeting at which the waiver is considered.

II. DEFINITIONS

A. “Applicant” means an Eligible Entity that submits an Application for Financial Assistance from the Fund;

B. “Application” means a written document filed with the NMFA for the purpose of obtaining Financial Assistance from the Fund; an Application may include a form prescribed by the NMFA, written responses to requests for information by the NMFA, or other format as determined by the NMFA;

C. **“Board”** means the NMFA Board of Directors;

D. **“Chartering Authority”** means, as defined in the Charter Schools Act, Section 22-8B-2.B, NMFA 1978, either a local school board or the Public Education Commission;

E. **“Charter School Facilities Revolving Fund Policy”** or **“Fund Policy”** means a policy established by the Board specifying underwriting criterion and financing terms and conditions Applicants must demonstrate in order to qualify for Financial Assistance from the Fund;

F. **“Charter School”** means, as defined in the Charter Schools Act, Section 22-8B-2.A, NMFA 1978, a conversion school or start-up school authorized by the chartering authority to operate as a public school;

G. **“Eligible Entity”** means a Charter School whose charter has been renewed at least once pursuant to Section 22-8B-12, NMSA 1978, or a Chartering Authority acting on behalf of a Charter School;

H. **“Eligible Project”** means the purchase, construction, expansion or renovation of charter school facilities or to pay off a Lease-Purchase Agreement;

I. **“Financial Assistance”** means a financing agreement in the form of a lease-purchase agreement with an Eligible Entity made by the NMFA for Eligible Projects;

J. **“Fund”** means the Charter School Facility Revolving Fund, created pursuant to the New Mexico Finance Authority Act, §§ 6-21-6.16, NMSA 1978;

K. **“Lease-Purchase Agreement”** has the meaning set forth in the Public School Lease Purchase Act, Section 22-26A-3(A), NMSA 1978;

L. **“NMFA”** means the New Mexico Finance Authority; and

M. **“Rural”** means a continuously built-up area with a population of less than 60,000 and may include one or more municipalities or census designated places.

III. APPLICATION REQUIREMENTS

A. Application forms will be available electronically on the NMFA website and will require submission of documentation including but not limited to the following:

1. Current charter contract.
2. Current school business plan including:
 - a) Mission and history of the school.
 - b) Description of school pedagogy/educational objectives.

- c) Anticipated educational and local community impact.
- d) Biographies of school leadership.
- e) Staffing plan.
- f) Current annual operating budget.
- g) At least three (3) years of complete financial statement projections.
- h) Fundraising plan and activities.

3. Audited financial statements of the charter school and chartering authority for which the charter school is a component unit for the most recent three (3) years.

4. Unaudited complete financial statements for the current fiscal year, and performance YTD relative to annual budget.

5. Listing of any outstanding obligations and terms of obligations.

6. Student demographic breakdown.

7. Enrollment trends, student attendance and attrition rates, and teacher attrition rates for the last five (5) years.

8. A current waitlist, if available, by grade levels.

9. School Safety Plan, if available.

10. Transportation Plan, if available.

11. Letter of recommendation from the Applicant's Chartering Authority, if available.

12. Most recent review by the Applicant's Chartering Authority.

13. If the Applicant is currently in designation from the Public Education Department, detail of all current designations.

14. Facility documentation including:

- a) Description of current facility and needs assessment.
- b) Current facility master plan.

c) Facility maintenance budget.

d) Reports from the last two inspections conducted by the public school facilities authority

15. Project documentation including:

a) Detailed project description.

b) Status of site (if leased, under site control, purchase option, etc.).

c) Planning documents including design, engineering, and environmental.

d) Property appraisals, zoning and permits applied for or obtained.

e) Certificate of e-occupancy, if available.

f) Sources and uses, and list of all funding sources obtained or in progress.

16. Lease-purchase agreement approved by the Public Education Department.

B. NMFA reserves the right to request additional information from Applicants during the underwriting process.

IV. APPLICATION PRIORITIZATION

If limited or insufficient funding is available in the Fund, NMFA may determine to prioritize Applications for Financial Assistance. At its sole discretion NMFA may consult external parties including the Public Education Department, Chartering Authorities, and/or education sector experts and consultants in assessing Applications for prioritization. Applications may be prioritized according to scoring across the following five criterion with a total of ten (10) points possible:

1) The Project is improving an existing public school facility not currently owned by the Applicant.	<ul style="list-style-type: none"> • 2 points
2) The Applicant’s academic performance as assessed by the statewide accountability system of the Public Education Department.	<ul style="list-style-type: none"> • 2 points if the school has been awarded a spotlight school designation • 1 point if school’s total score exceeds the statewide average in that year

3) The Applicant is in good standing with their Chartering Authority as evidenced by a letter from the Chartering Authority or the annual review conducted by the Chartering Authority.	<ul style="list-style-type: none"> • 2 points
4) Demand from the local community as evidenced by the Applicant’s enrollment trends and/or by a current waitlist.	<ul style="list-style-type: none"> • 2 points if enrollment > 89% capacity and the school has an existing waitlist • 1 point if enrollment is between 74% and 89% capacity
5) The Applicant is located in a Rural community.	<ul style="list-style-type: none"> • 2 points

V. FINANCING PARAMETERS

A. Charter School Performance and Sustainability. Applicants will be assessed for longer-term operating and financial sustainability. The following characteristics will be evaluated during the underwriting process:

- Charter contract renewal record
- Enrollment trends
- School leadership and staffing
- Governance
- School performance as measured by the statewide accountability system of the Public Education Department
- Budget adequacy; finance and operational capacity
- Facility maintenance capacity and budget
- Facilities project management capacity relative to proposed project

B. Project Size. Total costs for a single project financed may be between \$500,000 and \$5,000,000.

C. Uses of Financing. Financing proceeds may be utilized to reimburse for the following acquisition and construction costs relating to charter school facility acquisition, renovation and expansion projects:

- Pre-development costs such as facility planning, design, architectural, engineering and environmental assessments
- Buildings
- Land
- Construction costs
- Renovation costs
- Equipment (that falls within federal tax guidelines)

D. Lease-Purchase Financing Terms

- Construction financing may be extended for the duration of the construction period, expected to be up to three (3) years.
- Permanent financing may be offered for up to the useful life of the building being financed, not to exceed thirty (30) years.

E. Financing Costs

- During construction periods, financing is extended at fixed interest rates of three percent (3%) per annum.
- Permanent financing is offered at the prevailing Public Project Revolving Fund interest rates for junior lien projects.

F. Lease Cost Coverage Requirements. The school must demonstrate minimum cash flow coverage of 1.0x from annual lease assistance from public school capital outlay council, or 1.3x from all allowable general fund sources, to cover annual lease costs.

G. Collateral; Loan-to-Value Requirements. Lease-Purchase Agreements must be secured by all legally acceptable collateral including but not limited to real property and related improvements. Loan-to-value (LTV) will be calculated based on recent MAI appraisals acceptable to NMFA. Property zoning will be reviewed for adaptive and commercial use. Projects must meet the following:

- 75% LTV if the Applicant is a Charter School.
- 80% LTV if the Applicant is a Chartering Authority acting on behalf of the Charter School.

H. Financial Assistance Agreements. All agreements for Financial Assistance will be in the form of Lease-Purchase Agreements and must meet the following requirements:

- Must be approved by the Public Education Department
- Will require a Lease Purchase Security Deposit equivalent to one (1) year of rent payment.
- Financial Assistance secured by real property will require a first-lien mortgage, leasehold mortgage, or deed of trust and assignment of leases and rents, as applicable, which shall be recorded in the county where the property is located, and a title commitment and loan policy of title insurance issued by a title insurance company acceptable to NMFA and in form and content acceptable to NMFA.
- Financial Assistance secured by personal property will require a Uniform Commercial Code tax lien and judgment search to confirm the highest lien level

lien on the personal property attainable to accomplish a successful financing, security agreement and the filing of a Uniform Commercial Code Financing Statement in the appropriate county or state offices. The NMFA may, in its discretion, review and approve other encumbrances against the personal property that do not affect NMFA's security for the Financial Assistance.

- Unless waived by the NMFA, the Applicant shall obtain insurance coverage on all property securing the Financial Assistance from responsible companies in such amounts and against such risks as is satisfactory to NMFA.
- Financial Assistance documentation shall provide NMFA has all available remedies in the event of a default including, without limitation, rights to foreclose, repossess collateral, sell collateral at public or private sale, obtain deficiency judgments, and exercise all other remedies available at law or in equity.
- Financial Assistance agreements shall include forms required for disbursement of funds and reporting requirements. NMFA requires complete and timely submission of all forms and reporting requirements and reserves the right to request additional information for monitoring purposes at any time.

VI. REPORTING REQUIREMENTS

NMFA will require submission of quarterly and annual reporting information including but not limited to:

- Quarterly construction project updates.
- Annual facilities maintenance report.
- Annual audited financials.
- Copies of any reports submitted to the Public Education Department or the Public School Facilities Authority.
- Annual evidence of adequate insurance.
- Immediate notification of any adverse action taken by the charter school's authorizer, public education department or the Public School Facilities Authority.

VII. REFERENCES

- New Mexico Finance Authority Act, Section 6-21-1 et. seq., NMSA 1978
- Charter Schools Act, Section 22-8B-1 et. seq., NMSA 1978
- Public School Lease Purchase Act, Section 22-26A-1 et. seq., NMSA 1978