



June 5, 2013

Secretary Tom Clifford
Office of the Secretary
Department of Finance and Administration
180 Bataan Memorial Building
Santa Fe, NM 87501

RE: Joint Powers Agreement to Establish the New Mexico Charter School Educational Service Association

Dear Secretary Clifford:

The Boards of many charter schools in New Mexico have realized the need to collaborate in furthering services to support the educationally related services that sustain their students and institutions. To address this need a proposed Joint Powers Agreement (JPA) has been drafted, reviewed by legal counsel, revised, distributed to several interested charter schools, and already approved by the boards of eight charter schools. It is now submitted to you as Secretary of the Department of Finance and Administration for your approval as to the terms and conditions of this proposed JPA.

The JPA we submit for your approval incorporates the revisions suggested by Mr. Greg Shaffer. We greatly appreciate his time and energy in reviewing the JPA and his recommendations on this document.

The New Mexico Coalition for Charter Schools (NMCCS) is also involved to ensure the success for charter schools. Its Executive Committee has passed a resolution supporting and cooperating with the proposed JPA. As the Executive Director of the NMCCS I have taken the initiative to handle the preliminary paperwork and upon your approval of the JPA I will call a meeting of the JPA Board of Directors to select its Executive Director. Until such an individual is identified by the JPA Board I am acting as its Executive Director. Please call me immediately if you have any concerns regarding the terms and conditions of the proposed JPA. I also request that you mail to me the signed documents as soon as they are approved by you. I will provide signed copies to the parties to the Agreement.

Thank you for your immediate assistance in this matter.

Respectfully,

Dr. Bruce Hegwer
Executive Director, NMCCS

Enclosures: Original and two copies of Joint Powers Agreement to Establish the New Mexico Charter School Educational Service Association

CC: Ron Van Amberg, Attorney at Law
Greg Shaffer, Chief Legal Counsel, Department of Finance and Administration
Doug Turner, Board President, New Mexico Coalition for Charter Schools

We lead and support public charter school quality, growth, and autonomy in New Mexico.
610 Gold Ave. SW Suite 102 Albuquerque, NM 87102 505-842-8203 www.nmccs.org

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE and ADMINISTRATION (DFA)
JOINT POWERS AGREEMENT (JPA) BRIEF

DFA Office of the Secretary
Bataan Memorial Bldg., Suite 180
Santa Fe, New Mexico 87501
(505) 827-4985

Agencies must complete and transmit this form along with all backup documentation to the DFA.

PRIMARY PARTY: New Mexico Coalition for Charter Schools

SECONDARY PARTY: _____

OTHER PARTY: _____

CONTACT NAME: Bruce Hegwer, Ed.D. PHONE: 505-842-8203

CONTACT ADDRESS: 610 Gold Ave. SW, Ste 102 Albuquerque, NM 87102

DOCUMENTS ENCLOSED:		AMOUNT:	
<input checked="" type="checkbox"/>	JPA	Federal Funds	\$ _____
<input type="checkbox"/>	JPA Amendment	General Fund	\$ _____
<input type="checkbox"/>	Purchase Document	Other State Funds	\$ _____
<input type="checkbox"/>	Written Justification	Local Gov. Funds	\$ _____
<input checked="" type="checkbox"/>	Other Governing Council Resolutions	TOTAL	\$ _____

Purpose: Cooperative Purchasing Agreement

Term: Perpetual From: Approval by DFA To: Termination by members

FOR AN AMENDMENT, LIST THE ORIGINAL JPA EXPIRATION DATE:

Statutory Requirements- Agencies must check each blank CERTIFYING to DFA that the JPA:

<u>X</u>	jointly exercises a power common to the parties (<i>Transferring funds from one agency to another does not constitute the joint exercise of power.</i>);
<u>X</u>	clearly specifies its purpose;
<u>X</u>	establishes the method by which its purpose will be accomplished;
<u>X</u>	establishes the manner in which the joint power will exercised;
<u>X</u>	provides for strict accountability of all receipts and disbursement;
<u>X</u>	addresses disposition, division, distribution and ownership of any property acquired as the result of the joint exercise of power; and
<u>X</u>	specifies that any surplus money shall be returned in proportion to the contributions made.

Other Requirements – Agencies must enter Y (Yes), N (No), or N/A (Not Applicable) to each of the following:

<u>Y</u>	Is one original and at least two copies of the JPA or amendment attached? (<i>DFA will forward copies to the contact.</i>)
<u>Y</u>	Does the JPA or amendment have original signatures executed by authorized officers, employees or other representatives empowered to bind their respective entities?
<u>N/A</u>	Are all exhibits referred to in the JPA attached?
<u>N</u>	Does the JPA provide for the expenditure or transfer of public funds by a state agency? (<i>All public money must be budgeted.</i>)
<u>N</u>	Does the JPA provide for the transfer of local, state or federal funds to a state agency? If the answer is yes, cite or attach the legislative authority permitting the receiving state agency to increase its budget from such a transfer.
<u>N/A</u>	If the JPA or amendment start date is prior to the date submitted to DFA or, if the original JPA has expired, is a justification letter requesting retroactive approval attached? (<i>A detailed, letter explaining the circumstances must be signed by the agency head of one of the parties.</i>)
<u>Y</u>	Has the JPA or amendment been reviewed by legal counsel? If yes, state Who <u>Ron Van Amberg</u>

Agency Head Signature Bruce Hegwer, Ed.D Title EXECUTIVE DIRECTOR

**JOINT POWERS AGREEMENT
TO ESTABLISH THE
NEW MEXICO CHARTER SCHOOL EDUCATIONAL SERVICE ASSOCIATION**

This Joint Powers Agreement to Establish the New Mexico Charter School Educational Service Association (hereinafter referred to as the “Joint Powers Agreement”) is entered into by and among the signatory parties, hereinafter referred to as the “member” or “members”, as of the date it is approved by the Secretary of Finance and Administration.

RECITALS: The parties are public charter schools within the State of New Mexico as defined in NMSA § 22-8B. Each public charter school is authorized by its governing body and the Procurement Code 13-1-135 NMSA 1978 to enter into cooperative purchasing agreements. Pursuant to NMSA Sec. 11-1-1 et seq. NMSA 1978 and NMSA 13.1.21 et seq. NMSA 1978 they are desirous of entering into this Joint Powers Agreement for the purpose of pooling their efforts and resources in order to bring additional, necessary educational services and items of tangible personal property to their respective institutions at an affordable cost. The members enter into this Joint Powers Agreement to exercise this common power. This Joint Powers Agreement to establish the New Mexico Charter School Educational Service Association, (sometimes “Association”), a public entity created through the member charter schools, is subject to the legal restrictions, including statutory and regulatory requirements, imposed upon its member charter schools. A party to the JPA is not liable for the contracts and debts of the Association beyond any contributions or payments expressly and unanimously agreed to by the members. The members agree that the terms and conditions of this Joint Powers Agreement shall not be effective until authorized by appropriate resolutions of their respective boards and formal approval by the Secretary of the Department of Finance and Administration (DFA).

IN CONSIDERATION OF THE RECITALS AND FOR OTHER VALUABLE CONSIDERATION, IT IS AGREED AS FOLLOWS:

1. **INCORPORATION OF RECITALS.** By this reference, the Recitals set forth above are incorporated into and made part of this Joint Powers Agreement as if fully set forth herein.
2. **ASSOCIATION CREATED.** The New Mexico Charter School Educational Service Association is created, to be governed in accordance with and exercise the powers set forth in this Joint Powers Agreement.

3. PURPOSE: The participating members may cooperate on an equitable cost basis in establishing the Association to fulfill the following purposes:

Services and Items of Tangible Personal Property. All services and items of tangible personal property shall be secured by the Association in accordance with the requirements of the Procurement Code and the policy, procedures and guidelines established by the Governing Board of this Joint Powers Agreement. Each participating member shall have the option to purchase those services and items of tangible personal property established through the Association's procurement activities, which include, but are not limited to, the following:

- (a.) Business management services and training.
- (b.) Student management services and training.
- (c.) Technology assistance, services and training.
- (d.) Data and performance management services and training.
- (e.) Special education student's services.
- (f.) Teachers, administrators and council members training.
- (g.) Public Education Department compliance assistance.
- (h.) Grant writing and securing of external funding sources.
- (i.) Cooperative purchase of insurance coverage.
- (j.) Purchase of professional services, construction services, and tangible personal property.
- (k.) Purchase of professional services, construction services and tangible personal property for local public bodies and state agencies, when so requested and in accordance with the requirements of the Procurement Code.

4. GOVERNANCE: The governance of the New Mexico Charter School Educational Service Association shall be provided by two bodies, the Governing Board and the Executive Committee.

(a.) Legal Status The governance of the New Mexico Charter School Educational Service Association shall be vested in the Governing Board, in accordance with this Agreement and Joint Powers Agreement Bylaws and Policy.

(b.) Governing Board The Governing Board is the legal body through which the functions governing the New Mexico Charter School Educational Service Association are exercised. It shall retain full authority over the New Mexico Charter School Educational Service Association. The Governing Board shall be composed of the chief executive officer or the designee of each member and

shall assign the administrative function of the New Mexico Charter School Educational Service Association to the Executive Director. Certain duties may be delegated by the Governing Board through resolution to the Executive Committee. Among those duties which shall not be delegated are election of the President and Vice President, establishing of Bylaws and Policy, and dissolution of the New Mexico Charter School Educational Service Association.

(c.) Officers The Officers of the New Mexico Charter School Educational Service Association shall be the president, vice-president, secretary and treasurer, and shall have such powers and shall perform such duties as may from time to time be specified in Bylaws, Policy, resolutions or other directives of the Governing Board or Executive Committee.

(d.) Executive Committee The Executive Committee shall function in the tradition of a board of directors and shall retain control of the management decision common to a board of directors including but not limited to strategic planning, Association evaluation, financial oversight, and setting of staff salaries. The Executive Committee shall also exercise such other functions as may be delegated to it by the Governing Board. The Executive Committee shall be composed of the Association president and vice-president, three at large Joint Powers Agreement members selected by the Governing Board, three at large members from the Board of Directors of the New Mexico Charter School Coalition which is a private non-profit corporation, and an ex-officio representative the Public Education Department selected by the Secretary of Education.

(e.) Meetings All meetings shall be held in accordance with the New Mexico Open Meetings Act. Notice of all meetings of the participating members shall be sent at least ten days in advance of the meeting date to all participating members. Meetings may be conducted in person or electronically. The Governing Board shall meet at least annually. The Executive Committee shall meet at least quarterly.

5. FUNDING: Contributions from the funds of participating members may be made for the purpose set forth in Paragraph 3 above. Funding will be from administrative fees imposed on property and services purchased through the Association, and if determined by unanimous approval by all members, a periodic assessment.

6. ADMINISTRATION AND DISBURSEMENT OF FUNDS: This Agreement establishes an Association that is a public entity with a corporate existence. The Association shall be able to employ and discharge staff; acquire, lease and dispose of real and personal property; sue and be sued; establish

access to services and items of tangible personal property, subject to the Procurement Code; adopt rules pertaining to the administration of all powers and duties of the Association and accept or reject charitable gifts or bequests. The Association is solely responsible for its own debts and obligations. The Association is subject to the Procurement Code and Audit Act. The Association shall be an entity to whom funds shall be paid and from whom funds shall be disbursed for the purposes of procuring the services and property under the terms of this Agreement. All decisions relating to the purposes in Paragraph 1, above, and all procurements of services and property shall be pursuant to, and strictly in accordance with, the Bylaws and Policy as determined by the Governing Board which is composed of a representative from each member. All disbursements shall be by check executed by at least two signatories as authorized by the Executive Committee.

7. ACCOUNTING AND BILLING: The Association shall invoice each participating member for the cost of services or property which has been provided to the member according to the Procurement Code. Also included will be an administrative fee as determined by the Governing Board. At least semi-annually all participating members shall be furnished with a detailed accounting showing all receipts and disbursements by the Association regarding this Joint Powers Agreement. No later than 1 October of each year each participating member shall be furnished with a certified audit report of the previous year's fiscal operations. Copies of such reports shall also be furnished to such agencies as required by law.

8. TERM: This Joint Powers Agreement shall continue until it is rescinded or terminated by a majority vote of the participating members. Any member may unilaterally terminate its participation in this Joint Powers Agreement by giving 30 days written notice of its intention to do so.

9. REVIEW PERIOD: This Agreement shall be reviewed by the Governing Board at the end of the third year of this Agreement. If a majority of the Governing Board determines through a vote that continuation of this Agreement is not in the best interests of the membership, then this Agreement and the entity that it has formed shall be dissolved as set out in Paragraph 10. There shall be no further Review Process.

10. DISPOSITION OF PROPERTY: The Association will not make any cash or other distributions to its members, and no member has any vested right to any distributions, prior to dissolution of the JPA and the Association. Instead, all retained Association funds shall be used by the Association to provide additional services to its membership at the discretion of the Association. Upon dissolution of the JPA and the Association, net Association assets shall be distributed to the then current members in proportion to their contributions made to the Association, whether through administrative fees or periodic assessments, and in accordance with Joint Powers Agreement Bylaws and with state law and regulations, including but not limited to Section 13-6-1 et seq. NMSA 1978, the Sale of Public Property.

11. ADDITIONAL PARTICIPATING INSTITUTIONS: The Governing Board may admit a new member (hereinafter "New Member") to the Joint Powers Agreement provided:

- (a) The New Member furnish to the Governing Board a resolution of the proposed New Member's governing body authorizing joining the Joint Powers Agreement,
- (b) The New Member executes a counterpart Joint Powers Agreement document through an appropriate representative accepting the terms and conditions of the Joint Powers Agreement and all amendments thereto, and
- (c) The President of the Governing Board, as the designated representative of all current participating members, signs the same counterpart Joint Powers Agreement.
- (d) The Secretary of DFA signs the same counterpart Joint Powers Agreement.

12. COUNTERPARTS: This Agreement may be executed in several counterparts and each executed counterpart shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

Witness the signatures of the parties to this Counterpart Joint Powers Agreement effective on the date of the signature the Secretary of the Department of Finance and Administration.

Name of Institution Southwest Intermediate Learning Center

[Handwritten Signature]
Signature of Authorized Official

5-22-2013
Date

D. Scott Glasrud
Printed Name of Authorized Official

Name of Institution _____

Signature of Authorized Official

Date

Printed Name of Authorized Official

Name of Institution _____

Signature of Authorized Official

Date

Printed Name of Authorized Official

DEPARTMENT OF FINANCE AND ADMINISTRATION

Secretary

Date

Printed Name of Secretary

RESOLUTION OF CHARTER SCHOOL GOVERNING BOARD

This Resolution of the Governing Board of the Southwest Intermediate Learning Center, hereinafter called 'Charter School', a Charter School in New Mexico, is made on this 8th day of JANUARY, 2013.

Whereas, the Governing Board desires the Charter School to become a party to the *Joint Powers Agreement To Establish New Mexico Charter School Educational Service Association*, hereinafter called Joint Powers Agreement, among various New Mexico Charter Schools for the cooperative purchase of goods and services; and

Whereas, there will be occasions when modifications of the Joint Powers Agreement may be necessary which do not affect the fundamental interests of the Charter School, but which address the operations of the Joint Powers Agreement; and

Whereas, the efficient functioning of the Joint Powers Agreement is facilitated by delegating certain authority to the Principal or Chief Educational Officer of the Charter School to approve certain amendments.

Be it resolved that the Governing Board approves (1) becoming a party to this Joint Powers Agreement and (2) delegating to the Principal or Chief Educational Officer such modifications to the Joint Powers Agreement that relate to the scope of the purpose of the Joint Venture, the parties to the Joint Powers Agreement and such other matters that do not involve the non-delegable responsibilities of the Governing Board.

GOVERNING BOARD



President



Secretary

Name of Institution _____

Signature of Authorized Official _____

Date _____

Printed Name of Authorized Official _____

Name of Institution _____

Signature of Authorized Official _____

Date _____

Printed Name of Authorized Official _____

Name of Institution NEW MEXICO CHARTER SCHOOL Education ASSOCIATION

Jesús A. Moncada
Signature of Authorized Official

Date _____

Jesús A. Moncada
Printed Name of Authorized Official

DEPARTMENT OF FINANCE AND ADMINISTRATION

Thomas Clifford
Secretary

7/3/13
Date

Thomas Clifford
Printed Name of Secretary