

SCHOOL CHOICE MATTERS

# New Mexico Policy Report

# Introduction

## PURPOSE

A combination of well-designed policies give all students access to the broadest range of educational opportunities, including key core policies and helpful policy enhancers. The purpose of this document is to provide insight to how well your state is doing at implementing the Ecosystem of School Choice Policies. This state report summarizes evidence across the seven policy buckets, with each policy component detailed in individual cells.

## CORE POLICIES

Key policies expand student opportunities.



[Open Enrollment](#)



[Charter Schools](#)



[Private School Choice](#)



[Homeschooling](#)

## POLICY ENHANCERS

Supporting policies enhance those opportunities.



[Part-time Enrollment/Course Access](#)



[Learn Everywhere](#)



[Transportation](#)



CORE POLICIES



## Open Enrollment in New Mexico

POLICY	RATING	POLICY OVERVIEW
<p>Transfers Between Districts</p>	<p><b>LIMITED</b></p> <p>Sending and/or receiving districts have discretion over transfers</p>	<p>New Mexico statute establishes that, with limited exceptions, “a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.” In addition, “courses already offered” to such school-age persons, are to be made available to any person who is a resident of the state and has received a high school diploma or its equivalent if there is available space in such courses. Statute also establishes that a person so entitled may enroll or re-enroll in a public school at any time.</p> <p>Even with this broad statement of entitlement, local school boards are required to adopt and promulgate rules concerning the enrollment of students transferring from a home school or private school to the public schools, in addition to rules governing enrollment and re-enrollment at public schools other than charter schools within the school district. In doing so, the local board establishes priorities for enrollment of students which give first priority to students residing within the school district, or who will be residing within the school district if the student is in a military family, followed by students who previously attended the public school, and then all other applicants. A board may establish additional enrollment preferences for rules admitting students in accordance with the second and third tiers of priority.</p> <p>“As long as the maximum allowable class size established by law or by rule of a local school board, whichever is lower, is not met or exceeded in a public school by enrollment of first- and second-priority persons, the public school shall enroll other persons applying in the priorities stated in the school district rules...” If the maximum would be exceeded by enrollment of a second or third priority student, the school is required to establish a waiting list.</p> <p><a href="#">(N.M. Stat. Ann. §22-1-4 Free public schools; exceptions; withdrawing and enrolling; open enrollment)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-1-4 does not require or specifically authorize the adoption of administrative rules.</li> </ul>

<p><b>Transfers Within Districts</b></p>	<p><b>LIMITED</b></p> <p>School officials can block transfers</p>	<p>In general, public schools are required to enroll students across district lines, including nonpublic and home school students. However, the access afforded such students is largely left to the discretion of local school board rules and the state statutory prioritization of students residing within the district, as well as class size limitations.</p> <p>New Mexico statute establishes that, with limited exceptions, “a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.” As described in the row above, local school boards are required to adopt and promulgate rules concerning the enrollment of students transferring from a home school or private school to the public schools, in addition to rules governing enrollment and re-enrollment at public schools other than charter schools within the school district. In doing so, the local board establishes priorities for enrollment of students which give first priority to students residing within the school district.</p> <p><a href="#">(N.M. Stat. Ann. §22-1-4 Free public schools; exceptions; withdrawing and enrolling; open enrollment)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-1-4 does not require or specifically authorize the adoption of administrative rules.</li> </ul>
<p><b>Year-round Transfer Window</b></p>	<p><b>NO</b></p> <p>No policy</p>	<p>State statute does not specify an application window nor require that local school board policies include information on an application window.</p>
<p><b>Tuition-Free Public Schools</b></p>	<p><b>YES</b></p> <p>Prohibition on parent tuition</p>	<p>New Mexico statute establishes that, with limited exceptions, “a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.” In addition, “courses already offered” to such school-age persons, are to be made available to any person who is a resident of the state and has received a high school diploma or its equivalent if there is available space in such courses. Statute also establishes that a person so entitled may enroll or re-enroll in a public school at any time.</p> <p>A board may establish enrollment preferences for rules admitting students, beyond the three preference groups identified in statute; however, state statute does not authorize any charge of tuition.</p> <p><a href="#">(N.M. Stat. Ann. §22-1-4 Free public schools; exceptions; withdrawing and enrolling; open enrollment)</a></p> <ul style="list-style-type: none"> <li>• N.M. Stat. Ann. §22-1-4 does not require or specifically authorize the adoption of administrative rules.</li> </ul>
<p><b>School Capacity Transparency</b></p>	<p><b>NO</b></p> <p>No transparency policy</p>	<p>New Mexico statute does not require school districts to publicly report capacity by school and grade level.</p>

Transfer Data Transparency	 <p><b>NO</b> No transparency in data reporting</p>	New Mexico statute does not require state agency collection and reporting on district-level open enrollment data.
Transparent Appeal Process	 <p><b>NO</b></p>	New Mexico statute does not require a local school board to include an appeals process within its policy or to otherwise offer parents a right to appeal a district’s denial of transfer.

SOURCE CITATIONS

**Statutes**

[N.M. Stat. Ann. §22-1-4 Free public schools; exceptions; withdrawing and enrolling; open enrollment](#)



## Charter Schools in New Mexico

POLICY	RATING	POLICY OVERVIEW
<p>Multiple Charter Authorizers</p>	<p><b>YES</b></p> <p>Multiple authorizers</p>	<p>State statute establishes that a local school board or the state’s public education commission (PEC) may authorize a charter school. Schools authorized by the public education commission are referred to as “state charter schools”. There are provisions for both start-up and conversion charter schools.</p> <p><a href="#">(N.M. Stat. Ann. Chapter 22, Article 8B, Charter Schools)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul> <p>New Mexico statute also authorizes “charter school districts” which may operate under a charter approved by the state department of education.</p> <p><a href="#">(N.M. Stat. Ann. §22-8E-2 Definition)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul> <p>New Mexico statute establishes that if a charter school applicant wants to open a charter school on tribal land, it shall negotiate with and receive the tribal government's approval for the public school before the charter school authorizer acts on the application.</p> <p><a href="#">(N.M. Stat. Ann. §22-8B-12.2 Charter schools; proposals to open or close a public school on tribal land; consultation with tribal leaders and members and families of students)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul>

		<p>Section 6.2.9 of the New Mexico Administrative Code governs the PEC’s processes regarding the schools it authorizes.</p> <p><a href="#">(NMAC, Title 6, Chapter 80, Alternative Education – Charter Schools)</a></p>
<p><b>Charter Appeal Process</b></p>	<p><b>YES</b></p> <p>Independent appeals process</p>	<p>New Mexico statute establishes that a charter school that has received a notice from the chartering authority denying approval of the charter shall have a right to a hearing by the secretary.</p> <p><a href="#">(N.M. Stat. Ann. § 22-8B-6 Charter school requirements; application process; authorization; state board of finance designation required; public hearings; subcommittees)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul> <p>“A charter applicant or governing body that wishes to appeal a decision of the chartering authority concerning the denial, nonrenewal, suspension or revocation of a charter school or the imposition of conditions that are unacceptable to the charter school or charter school applicant shall provide the secretary with a notice of appeal within thirty days after the chartering authority's decision.” With some exceptions, within sixty days after receipt of an appeal, the secretary, at a public hearing, is required to review the decision of the chartering authority and make findings. “If the secretary finds that the chartering authority acted arbitrarily or capriciously, rendered a decision not supported by substantial evidence or did not act in accordance with law, the secretary may reverse the decision of the chartering authority and order the approval of the charter with or without conditions. The decision of the secretary shall be final.”</p> <p><a href="#">(N.M. Stat. Ann. §22-8B-7 Appeal of denial, nonrenewal, suspension or revocation; procedures)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul>

Charter  
Regulatory  
Flexibility

**LIMITED**

Some or no exemptions

New Mexico statute, in a statement of Purpose within the Charter Schools Act, provides that, among other things: “The Charter Schools Act is enacted to enable individual schools to structure their educational curriculum to encourage the use of different and innovative teaching methods...; to allow the development of different and innovative forms of measuring student learning and achievement; ... to create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; to improve student achievement; to provide parents and students with an educational alternative to create new, innovative and more flexible ways of educating children within the public school system...”

[\(N.M. Stat. Ann. §22-8B-3 Purpose\)](#)

- New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.

State statute establishes waiver and exemption provisions that include:

- The local school board may waive only locally imposed school district requirements for locally chartered charter schools.
- A state-chartered charter school is exempt from school district requirements.
- A state-chartered charter school is responsible for developing its own written policies and procedures (in accordance with this section of state code).
- The department shall waive requirements or rules and provisions of the Public School Code [Chapter 22 [except Article 5A] NMSA 1978] pertaining to individual class load, teaching load, length of the school day, staffing patterns, subject areas, purchase of instructional material, evaluation standards for school personnel, school principal duties and driver education. The department may waive requirements or rules and provisions of the Public School Code pertaining to graduation requirements.
- A local school board shall not require any employee of the school district to be employed in a charter school.

[\(N.M. Stat. Ann. §22-8B-5 Charter schools; status; local school board authority\)](#)

- New Mexico statutes relating to charter schools not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.

State statute establishes that a charter school application must include, among other things:

- “a description of both the discretionary waivers and the waivers provided for in Section 22-8B-5 NMSA 1978 that the charter school is requesting or that will be provided from the local school board or the department and the charter school's plan for addressing and using these waiver requests.”

[\(N.M. Stat. Ann. §22-8B-8 Charter application; contents\)](#)

- New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.

State statute establishes that a charter contract must include:

- “(1) all agreements regarding the release of the charter school from department and local school board rules and policies, including discretionary waivers provided for in Section 22-8B-5 NMSA 19 ... (6) signed assurances from the charter school's governing body members regarding compliance with all federal and state laws governing organizational, programmatic and financial requirements applicable to charter schools; ... (15) all requests for release of the charter school from department rules or the Public School Code...”

[\(N.M. Stat. Ann. § 22-8B-9 Charter school contract; contents; rules\)](#)

- New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.

New Mexico statute establishes that a charter school application must include, among other things:

- “...an explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment will be addressed with affected employees and their recognized representatives, if any...”

[\(N.M. Stat. Ann. §22-8B-8 Charter application; contents\)](#)

- New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.

		<p>State statute also establishes that, although a charter school is required to hire its own employees, with specific authorization of the head administrator to employ, fix the salaries of, assign, terminate, and discharge all charter school employees, “[The provisions of the School Personnel Act [<a href="#">Chapter 22, Article 10A NMSA 1978</a>] shall apply to such employees.”</p> <p>(<a href="#">N.M. Stat. Ann. §22-8B-10 Charter schools; employees</a>)</p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul>
<p><b>Equitable Charter Funding</b></p>	<p><b>YES</b></p> <p>Students are funded as in a traditional district school</p>	<p>New Mexico statute requires that funding allocated to charter schools “shall be not less than ninety-eight percent of the school-generated program cost.” The school district or division may withhold and use two percent of the school-generated program cost for its administrative support of a charter school. In addition, a charter school must be allocated the portion of state or federal program funds generated by the students it serves who are eligible for such aid.</p> <p>(<a href="#">N.M. Stat. Ann. §22-8B-13 Charter school financing</a>)</p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul>
<p><b>Charter Facilities Funding</b></p>	<p><b>LIMITED</b></p> <p>Some or no facilities funding</p>	<p>New Mexico statute establishes that locally-chartered charter school facilities are eligible for state and local capital outlay funds and shall be included in the school district's five-year facilities plan.</p> <p>There is no similar provision providing facilities funding for state charter schools.</p> <p>(<a href="#">N.M. Stat. Ann. §22-8B-4 Charter schools' rights and responsibilities; operation</a>)</p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul> <p>New Mexico statute establishes the "charter schools stimulus fund" with money appropriated to the state department of education “to provide financial support to charter schools, whether start-up or conversion, for initial start-up costs and initial costs associated with renovating or remodeling existing buildings and structures for expenditure in fiscal year 2000 and subsequent fiscal years.” The department is required to administer the</p>

		<p>fund in accordance with rules it adopts. Money in the fund does not revert to the general fund at the end of a fiscal year.</p> <p><a href="#">(N.M. Stat. Ann. §22-8B-14 Charter schools stimulus fund created)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul>
<p>Options for High-Performing Charters</p>	<p><b>LIMITED</b></p> <p>No opportunities for high-performing charter schools</p>	<p>No laws on high-performing charter schools.</p>
<p>Charter Zoning Exemptions</p>	<p><b>LIMITED</b></p> <p>Less than full protections</p>	<p>New Mexico statutes relating to charter school facilities provides as follows:</p> <ol style="list-style-type: none"> <li>A. The facilities of a charter school that is approved on or after July 1, 2005 and before July 1, 2015 shall meet educational occupancy standards required by applicable New Mexico construction codes.</li> <li>B. The facilities of a charter school whose charter has been renewed at least once shall be evaluated, prioritized and eligible for grants pursuant to the Public School Capital Outlay Act [Chapter 22, Article 24 NMSA 1978] in the same manner as all other public schools in the state; provided that for charter school facilities in leased facilities, grants may be used to provide additional lease payments for leasehold improvements made by the lessor.</li> <li>C. On or after July 1, 2011, a new charter school shall not open and an existing charter school shall not relocate unless the facilities of the new or relocated charter school, as measured by the New Mexico condition index, receive a condition rating equal to or better than the average condition for all New Mexico public schools for that year or the charter school demonstrates, within eighteen months of occupancy or relocation of the charter, the way in which the facilities will achieve a rating equal to or better than the average New Mexico condition index.</li> <li>D. 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:             <ol style="list-style-type: none"> <li>(1) is housed in a building that is:                 <ol style="list-style-type: none"> <li>(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</li> </ol> </li> </ol> </li> </ol>

- (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.
- E. Without the approval of the public school facilities authority pursuant to Section 22-20-1 NMSA 1978, a charter school shall not enter into a lease-purchase agreement.
- F. The public school capital outlay council:
  - (1) shall determine whether facilities of a charter school meet the educational occupancy standards pursuant to the requirements of Subsection A of this section or the requirements of Subsections B, C and D of this section, as applicable; and
  - (2) upon a determination that specific requirements are not appropriate or reasonable for a charter school, may grant a variance from those requirements for that charter school

SOURCE CITATIONS

**Statutes**

[N.M. Stat. Ann. Title 22, Article 8B Charter Schools Act](#)

**Administrative Code**

[NMAC, Title 6, Chapter 80, Alternative Education – Charter Schools](#)

Note: In annotation provided within statute ([N.M. Stat. Ann. §22-8B-5.3. Chartering authority; powers; duties; liability.](#)) is it explained that: “Public education commission's implied authority to issues rules and regulations governing the operation and oversight of state-chartered charter schools. — Agencies are created by statute, and are limited to the power and authority expressly granted or necessarily implied by those statutes, and although the legislature did not grant the public education commission express authority to issue rules and regulations governing the operation and oversight of state-chartered charter schools, a court could reasonably find that its authority to do so may be fairly implied from the "powers and duties" expressly set forth in 22-8B-16 NMSA 1978 and those "functions" specified in 22-8B-5.3 NMSA 1978. Public Education Commission Required by Law to Follow State Rules Act (12/6/2022), Att’y Gen. Adv. Ltr. 2022-19.”

**State Department of Education**

[NM PED, Charter School Policies and Processes](#)



## Private School Choice in New Mexico

POLICY	OVERALL RATING	PROGRAM OVERVIEW
Universal Eligibility	<p><b>NO</b></p> <p>No choice program</p>	<p>New Mexico does not have a private school choice program.</p>
Comparable Student Funding	<p><b>NO</b></p> <p>No choice program</p>	
Uncapped Student Access	<p><b>NO</b></p> <p>No choice program</p>	
Extended Application Window	<p><b>NO</b></p> <p>No choice program</p>	
Student Testing Options	<p><b>NO</b></p> <p>No choice program</p>	
School Autonomy	<p><b>NO</b></p> <p>No choice program</p>	

<p>Accessible School Participation</p>	<p><b>NO</b> No choice program</p>	
<p><b>ESAs and Parent-Directed Spending</b></p>		
<p>Freedom to Customize</p>	<p><b>NO</b> No ESA or microgrant program</p>	<p>New Mexico does not have an education scholarship account or microgrant program.</p>
<p>Freedom to Access</p>	<p><b>NO</b> No ESA or microgrant program</p>	
<p>Carry-Over Funding</p>	<p><b>NO</b> No ESA or microgrant program</p>	
<p><b>Tax Credits</b></p>		
<p>Full Tax Credit</p>	<p><b>NO</b> No choice program</p>	<p>While the state does not have an education tax credit program, New Mexico does allow its residents to deduct contributions to New Mexico’s 529 Education Savings Program from state taxable income. A bill enacted in 2023 allows 529 accounts to be used to pay for K-12 tuition.</p> <p><a href="#">(New Mexico Education Trust Board, 529 Plans)</a></p> <p>Recently enacted legislation expands the allowable use of contributions to “a wider range of federally qualified education expenses, including: Up to \$10,000 a year to cover expenses for tuition in private K-12 schools...”</p> <p><a href="#">(House Bill 342, New Mexico Legislature (2023); see also The Education Plan, 2023 Legislation Expands Qualified Education Expenses for New Mexico Taxpayers)</a></p>

New Mexico statute establishes that a “taxpayer may claim a deduction from net income in an amount equal to the payments made by the taxpayer into the education trust fund pursuant to an education investment agreement or prepaid tuition contract under the Education Trust Act ... The amount of payments made on behalf of any one beneficiary that may be deducted shall not exceed in the aggregate the cost of attendance at the applicable institution of higher education, as determined by the education trust board.”

[\(N.M. Stat. Ann. §7-2-32 Deduction; payments into education trust fund; see also N.M. Stat. Ann. Chapter 21, State and Private Education Institutions, Article 21K Education Trusts\)](#)

- This section references regulations of the secretary. (See [NMAC 5.7.30 Education Trust Board and College Savings Program](#)) These regulations do not establish additional requirements relevant to this section

**SOURCE CITATIONS**

**Statutes**

[N.M. Stat. Ann. §7-2-32 Deduction; payments into education trust fund](#)

[N.M. Stat. Ann. Chapter 21, State and Private Education Institutions, Article 21K Education Trusts](#)

[House Bill 342, New Mexico Legislature \(2023\)](#)

**Administrative Code**

[NMAC 5.7.30 Education Trust Board and College Savings Program](#)

**Other Resources**

[New Mexico Higher Education Department, The Education Plan](#)

[New Mexico Education Trust Board, 529 Plans](#)

[The Education Plan, 2023 Legislation Expands Qualified Education Expenses for New Mexico Taxpayers](#)

[NM Taxation and Revenue, Child Tax Credit Webpage](#)



## Homeschooling in New Mexico

POLICY	RATING	POLICY OVERVIEW
<p>Homeschool without Prior Approval</p>	<p><b>YES</b></p> <p>No permission required</p>	<p>New Mexico law does not require that families receive permission from a local school board or administrative body to practice homeschooling.</p> <p>New Mexico statute establishes requirements for home schools, including that any person operating or intending to operate a home school shall submit a home school registration form to the department within 30 days of the establishment of the home school. Subsequent annual notification (on or before August 1 of each year) is also required.</p> <p><a href="#">(N.M. Stat. Ann. §22-1-2.1 Home school; requirements)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-1-2.1 does not require or specifically authorize the adoption of administrative rules.</li> </ul> <p>Home school is an approved alternative to public school attendance.</p> <p><a href="#">(N.M. Stat. Ann. §22-12A-4 School attendance; responsibility; private school attendance policies)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-12A-4 does not require or specifically authorize the adoption of administrative rules.</li> </ul> <p>New Mexico statute establishes that the department of education may order a home school student to attend a public school or private school “[U]pon finding that a home school is not in compliance with law...”</p> <p><a href="#">(N.M. Stat. Ann. § 22-2-2 Department; general duties)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-2-2 does not require or specifically authorize the adoption of administrative rules.</li> </ul>

<p>No Extra Homeschool Notifications</p>	<p><b>YES</b> One-time or no notification</p>	<p>New Mexico statute establishes requirements for home schools, including that any person operating or intending to operate a home school shall submit a home school registration form to the department within 30 days of the establishment of the home school. Subsequent annual notification (on or before August 1 of each year) is also required.</p> <p><a href="#">(N.M. Stat. Ann. §22-1-2.1 Home school; requirements)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-1-2.1 does not require or specifically authorize the adoption of administrative rules.</li> </ul> <p>As described by the Department of Education (NMPED), the <a href="#">NMPED Home School System</a> is the online database where families can notify the NMPED of the enrollment and disenrollment of children in home schooling. This online registration replaces the Letter of Intent to the Secretary of Public Education.</p> <p><a href="#">(NMPED, Home Schooling)</a></p>
<p>No Certification to Homeschool</p>	<p><b>YES</b> No certification requirement</p>	<p>Home school parents are not required to possess state teacher certification. State statute defines “home school” as “the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;”</p> <p><a href="#">(N.M. Stat. Ann. § 22-1-2 Definitions)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-1-2 does not require or specifically authorize the adoption of administrative rules.</li> </ul> <p>Statutory home school requirements include the provision of “instruction by a person possessing at least a high school diploma or its equivalent.”</p> <p><a href="#">(N.M. Stat. Ann. §22-1-2.1 Home school; requirements)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-1-2.1 does not require or specifically authorize the adoption of administrative rules.</li> </ul>
<p>Flexible Assessment Options</p>	<p><b>YES</b> Flexible academic accountability</p>	<p>State statute does not address homeschool students’ access to and participation in the state’s system of academic assessments for K-12 public schools.</p>

SOURCE CITATIONS

**Statutes**

[N.M. Stat. Ann. § 22-1-2 Definitions](#)

[N.M. Stat. Ann. §22-1-2.1 Home school; requirements](#)

**State Department of Education**

[NMPED, Home Schooling](#)

[NMPED, Parent Portal](#)

[NMPED, Statutes Pertaining to Home School](#)

POLICY ENHANCERS



## Part-time Enrollment in New Mexico

POLICY	RATING	POLICY OVERVIEW
<p>Resident Course Access</p>	<p><b>LIMITED</b></p> <p>By type of student, type of course, or district policy</p>	<p>New Mexico statute establishes that “home school students may take one or more classes at public schools and, if so, shall generate program units as provided in this section ... The home school student program units shall be paid to the school district in which they are generated. A homeschool student is eligible to enroll in a public school in the attendance zone in which the student resides or in another public school outside the attendance zone as provided in Section <a href="#">22-1-4</a> NMSA 1978. The school district shall verify each home school student's academic and other eligibility to enroll in the class.”</p> <p>There is no corresponding statutory language requiring access to courses for nonpublic students.</p> <p><a href="#">(N.M. Stat. Ann. §22-8-23.9 Home school student program units)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-8-23.9 does not require or specifically authorize the adoption of administrative rules.</li> </ul> <p>The New Mexico Public Education Department FAQs on home schooling explain that:</p> <ul style="list-style-type: none"> <li>• “The local public school district is <i>required</i> to allow home school students to participate in sports and extracurricular activities if they meet certain requirements. <b>Participating part-time in courses at the local school is at the discretion of the district.</b> If the district has a policy that allows home school students to participate, your child would need to enroll with his/her/their assigned STARS ID – and would likely be considered a part-time student, funded by the state proportionately.” (Emphasis added)</li> </ul> <p>No corresponding guidance is provided by the New Mexico Public Education Department regarding the part-time participation of nonpublic school students in courses at the local school district.</p>

		<p><a href="#">(NMPED, FAQs on Home Schooling)</a></p> <p>The New Mexico Public Education Department’s FAQs on Dual Credit explain that home school and private school students may participate in dual credit courses without the need to pay postsecondary tuition:</p> <ul style="list-style-type: none"> <li>• “BIE-funded, homeschool, private and public school* dual credit students <b>do not pay tuition at the postsecondary public college or university</b>. Dual credit courses also guarantee both high school and college credit upon successful completion. Concurrent enrollment, by contrast, may result in a student earning college credit while in high school, but does not result in a student earning high school credits.” (Emphasis added)</li> </ul> <p><a href="#">(NMPED, Dual Credit Frequently Asked Questions (FAQs))</a></p> <p>Note, however, that the New Mexico Public Education Department’s rules on Dual Credit Programs is in direct conflict with the FAQs in that it provides:</p> <ul style="list-style-type: none"> <li>• “A home school or private school student who meets the eligibility criteria may receive both high school and college credit, provided that the student pays the full cost of the college courses.”</li> </ul> <p><a href="#">(NMAC 6.30.7.13 Home School or Private School Students)</a></p> <p>State statute limits dual credit program participation by private school and home school students to those “receiving at least one-half of the student’s instruction at the student’s high school.” For purposes of this section, “high school” is defined as a school offering one or more of grades nine through twelve or their equivalent and that is a school district, charter school, state-supported school, bureau of Indian education school, private school or home school.</p> <p><a href="#">(N.M. Stat. Ann. §21-1-1.2 Dual credit for high school and post-secondary classes)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-1-1.2 does not require or specifically authorize the adoption of administrative rules.</li> </ul>
<p><b>Nonresident Course Access</b></p>	<p><b>LIMITED</b></p> <p>Districts only serve resident students or can impose other restrictions</p>	<p>New Mexico statute establishes that “home school students may take one or more classes at public schools and, if so, shall generate program units as provided in this section ... The home school student program units shall be paid to the school district in which they are generated. A home school student is eligible to enroll in a public school in the attendance zone in which the student resides or in another public school outside the attendance zone as provided in Section <a href="#">22-1-4</a> NMSA 1978. The school district shall verify each home school student’s academic and other eligibility to enroll in the class.”</p>

		<p><a href="#">(N.M. Stat. Ann. §22-8-23.9 Home school student program units)</a></p> <p>New Mexico statute 22-8-23.9 does not require or specifically authorize the adoption of administrative rules.</p>
<p><b>Virtual Course Access</b></p>	<p><b>NO</b></p> <p>No virtual options provided by other entities than the school district in which a student resides</p>	<p>New Mexico statute establishes the statewide cyber academy -- a distance learning course delivery system that uses a statewide service center and regional hosts to provide approved distance learning courses. It gives first priority “to the delivery of distance learning courses for credit to distance learning students who have the greatest need because of geographic location or circumstances in which a school district may have difficulty delivering essential course instruction due to financial restraints or lack of highly qualified teachers...”</p> <p>A home school student may participate by enrolling for one-half or more of the minimum course requirements approved by the department for public school students in the school district in which the student resides; or, if the student is enrolled for less than one-half of the minimum course requirements, the student may participate in the statewide cyber academy by paying not more than thirty-five percent of the current unit value per curricular unit.</p> <p>A nonpublic school student may participate in the statewide cyber academy if the school in which the student is enrolled enters into a contract with the school district in which the nonpublic school is located.</p> <p><a href="#">(N.M. Stat. Ann. §22-30 Statewide Cyber Academy Act)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-30-4 requires the department to promulgate rules to carry out the provisions of the Statewide Cyber Academy Act.</li> </ul> <p>New Mexico Administrative Code confirms the requirements established in statute.</p> <p><a href="#">(NMAC, Title 6, Chapter 30, Part 8, Distance Learning)</a></p> <p>In addition to participation in courses provided by the Statewide Cyber Academy, as described above, Administrative Rules establish that students enrolled in nonpublic schools and home school students may participate in distance learning courses through IDEAL-NM, a statewide distance education services facility providing provide distance learning courses for, at a minimum, grades 6-12.</p> <p>Nonpublic school students may participate in IDEAL-NM distance learning courses if the school in which the student is enrolled enters into a contract with the school district in which the nonpublic school is located. Such students pay the same per-semester course fee that school districts must pay to IDEAL-NM.</p> <p>Home school students may participate in the distance learning courses offered by IDEAL-NM by enrolling for one-half or more of the minimum course requirements approved by the department for public school students</p>

		<p>in the school district in which the student resides; or, if the student is enrolled for less than one-half of the minimum course requirements, the student may participate in distance learning courses offered by IDEAL-NM by paying to the public school district where the student is located, or directly to the department, not more than thirty-five percent of the current unit value per curricular unit.</p> <p><a href="#">(NMAC, Title 6, Chapter 30, Part 8, Distance Learning; see also N.M. Stat. Ann. §22-30 Statewide Cyber Academy Act)</a></p>
<p><b>Extracurricular Access</b></p>	<p><b>LIMITED</b></p> <p>Access denied to some resident students, or students must take at least one class in a public school</p>	<p><b>Charter School Students</b></p> <p>New Mexico statute establishes that the New Mexico activities association and the local school board in the school district in which a charter school is located shall allow charter school students in grades seven through twelve to participate in school district extracurricular activities sanctioned by the New Mexico activities association. Participation is subject to eligibility requirements and limited to students in a charter school that does not offer such activities sanctioned by the New Mexico activities association or any other association. A charter school student may participate in an extracurricular activity in a public school in the attendance zone in which the student lives, but a student is limited to participation in activities at only one public school.</p> <p><a href="#">(N.M. Stat. Ann. §22-8C-8 Charter school student participation in public school extracurricular activities)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-8C-8 does not require or specifically authorize the adoption of administrative rules.</li> </ul> <p><b>Non-public School Students</b></p> <p>State policy does not establish a requirement that public schools make athletics or extra/co-curricular activities at a public school open to participation by nonpublic school students.</p> <p><b>Homeschool Students</b></p> <p>New Mexico statute establishes that a homeschool student is eligible to participate in up to three school district activities at the public school in the attendance zone in which the student resides, such activities include athletics, co-curricular and extracurricular activities sanctioned by the New Mexico activities association.</p> <p><a href="#">(N.M. Stat. Ann. § 22-8-23.8 Home school student activities program unit)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-8-23.8 does not require or specifically authorize the adoption of administrative rules.</li> </ul>

SOURCE CITATIONS

**Statutes**

[N.M. Stat. Ann. § 22-8-23.8 Home school student activities program unit](#)

[N.M. Stat. Ann. §22-8-23.9 Home school student program units](#)

[N.M. Stat. Ann. §22-1-4 Free public schools; exceptions; withdrawing and enrolling; open enrollment](#)

[N.M. Stat. Ann. §21-1-1.2 Dual credit for high school and post-secondary classes](#)

[N.M. Stat. Ann. §22-30 Statewide Cyber Academy Act](#)

[N.M. Stat. Ann. §22-8C-8 Charter school student participation in public school extracurricular activities](#)

**Administrative Code**

[NMAC, Title 6, Chapter 81, Alternative Education – Nonpublic Schools](#)

[NMAC 6.30.7.13 Home School or Private School Students](#)

[NMAC, Title 6, Chapter 30, Part 8, Distance Learning](#)

**State Department of Education**

[NMPED, FAQs on Home Schooling](#)

[NMPED, Nonpublic Schools](#)

[NMPED, Dual Credit Frequently Asked Questions \(FAQs\)](#)



## Learn Everywhere in New Mexico

POLICY	RATING	POLICY OVERVIEW
Provider Qualification Standard	<b>NO</b> No program	New Mexico has not established a Learn Everywhere program.
Course Credit Standard	<b>NO</b> No program	
Core Course Opportunities	<b>NO</b> No program	
Central State List	<b>NO</b> No program	



## Transportation in New Mexico

POLICY	RATING	POLICY OVERVIEW
Open Enrollment Transit	NO	<p>New Mexico statute does not require a local school district to provide transportation services for open enrollment students. However, a local board may reimburse a parent for travel costs incurred by having a child attend a school outside of the child’s attendance zone.</p> <p><a href="#">(N.M. Stat. Ann. §22-16-6 Reimbursement of parents or guardians)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statute 22-16-6 does not require the adoption of administrative rules.</li> </ul>
Fair Transportation Access	NO	<p>New Mexico statute requires a locally-chartered charter school to negotiate with a school district to provide transportation to students eligible for transportation under Chapter 22 of the N.M. Stat. Ann. In doing so, they may “establish a limit for student transportation to and from the charter school site not to extend beyond the school district boundary.”</p> <p>There is no comparable requirement for state chartered schools or students in nonpublic schools.</p> <p><a href="#">(N.M. Stat. Ann. §22-8B-4 Charter schools' rights and responsibilities; operation)</a></p> <ul style="list-style-type: none"> <li>• New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul> <p>New Mexico statute establishes that a charter school application must include, among other things:</p> <ul style="list-style-type: none"> <li>• “...a description of how the charter school plans to meet the transportation and food service needs of its students...”</li> </ul> <p><a href="#">(N.M. Stat. Ann. §22-8B-8 Charter application; contents)</a></p>

		<ul style="list-style-type: none"> <li>New Mexico statutes relating to charter schools do not require the adoption of administrative rules. Rules may be adopted in limited areas, such as regarding requirements for providing services to students with disabilities.</li> </ul>
<p><b>Vehicle Flexibility</b></p>	<p><b>YES</b></p>	<p>New Mexico statute provides that a school district with from one to six students whose residence, within the boundaries of the school district, is five or more miles from the student's or students' school or schools shall be able to provide transportation to and from school by means of a school-district-owned, minimum six-passenger, full-size, extended-length, sport utility vehicle.</p> <p><a href="#">(N.M. Stat. Ann. §22-16-4 School bus routes; limitations; exceptions; minimum requirements)</a></p> <ul style="list-style-type: none"> <li>New Mexico statute 22-16-4 does not require the adoption of administrative rules.</li> </ul> <p>Administrative rule establishes that local boards and charter school administrators are responsible for adopting transportation policies to ensure safe, timely and efficient transportation for all eligible students. It adds that “transportation services for eligible students shall be provided by use of a school bus, per capita feeder route, or SUVs or a combination of school bus, per capita feeder route, or SUVs. Additional options for transportation of children in foster care or homeless children and youth may be explored while ensuring the safety of students.”</p> <p>SUV “means a sport utility vehicle or a crew cab pickup truck. ... It must have four full-size doors and seat six to nine passengers. Vans and mini-vans are excluded from this definition.”</p> <p><a href="#">(6.41.4 NMAC 6.41.4 Standards for Providing Transportation for Eligible Students)</a></p>

**SOURCE CITATIONS**

**Statutes**

[N.M. Stat. Ann. Title 22, Article 16 Transportation of Students](#)

[N.M. Stat. Ann. Title 22, Article 17 Emergency Transportation](#)

[N.M. Stat. Ann. §22-8B-8 Charter application; contents](#)

[N.M. Stat. Ann. §22-8B-4 Charter schools' rights and responsibilities; operation](#)

**Administrative Code**

[NMAC 6.40 Transportation – School Bus Equipment](#)

[NMAC 6.41 Transportation – School Bus Safety](#)

[NMAC 6.42 Transportation – School Attendance and Service Areas](#)

[NMAC 6.43 Transportation – Operations and Funding](#)

## Note Regarding Administrative Rulemaking

New Mexico does not have a state board of education. State statutes ([N.M. Stat. Ann. §22-2-1. Secretary and department; general powers.](#) and [N.M. Stat. Ann. §22-2-2. Department; general duties.](#)) define the duties of the Secretary and Department of Education regarding the adoption, promulgation, and enforcement of rules, among other things, including the following:

The department may:

- adopt, promulgate and enforce rules to exercise its authority and the authority of the secretary;
- apply to the district court for an injunction, writ of mandamus or other appropriate relief to enforce the provisions of the Public School Code [Chapter 22 [except Article 5A] NMSA 1978] or rules promulgated pursuant to the Public School Code; and
- waive provisions of the Public School Code as authorized by law.

The department shall:

- determine policy for the operation of all public schools and vocational education programs in the state;
- supervise all schools and school officials coming under its jurisdiction, including taking over the control and management of a public school or school district that has failed to meet requirements of law or department rules or standards, and, until such time as requirements of law, standards or rules have been met and compliance is ensured, the powers and duties of the local school board and local superintendent shall be suspended;
- approve or disapprove all rules promulgated by an association or organization attempting to regulate a public school activity and invalidate any rule in conflict with any rule promulgated by the department; and
- solicit input from local school boards and school districts in the formulation and implementation of department rules.

