



Attorneys and Counselors at Law

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May 6, 2020

Dan Busse, General Manager
The ASK Academy
4550 Sundt Road NE
Albuquerque, NM 87124

Re: Enclosed 2020-2021 Professional Services Agreement for Legal Services

Dear Mr. Busse:

Enclosed is a Professional Services Agreement for the 2020-2021 fiscal year. If approved, the agreement will be effective from the date signed by the school through June 30, 2021, unless terminated prior to that time pursuant to its terms. Your school may issue a purchase order on an as needed basis; however, an agreement in place establishes an attorney-client relationship and often facilitates a quick turnaround on unexpected legal issues presented to the school's administration. If you anticipate needing our legal services prior to the receipt of signatures on the Agreement, please issue a purchase order to cover those services in the interim.

We have traditionally put the Procurement Code small purchases maximum¹ for professional services agreements in the "not to exceed" clause, however, if you prefer, the amount can be reduced. In any event, the school has no obligation to use our firm's services during the year, even if the enclosed professional services agreement is signed and returned to us. Please feel free to ask questions about the agreement or to request that the maximum amount be restated, in which case a new agreement will be prepared and sent to you.


We are also enclosing a copy of "Working With An Attorney" and ask that you provide this guide to your governing body members. It is important that your council members are fully informed and that the School and the council have representation. If you or your council members have questions about our role as legal counsel, please do not hesitate to contact us.

¹ The maximum pursuant to NMSA 1978, §13-1-125 (2013) is \$60,000 (sixty thousand dollars).

Dan Busse
May 6, 2020
Page 2 of 2

We look forward to working with ASK. If our contract is approved, please send a signed copy to us for our files.

Sincerely,
MATTHEWS FOX, P.C.

By: 
Susan B. Fox *for*

Enclosures: Professional Services Agreement
"Working With An Attorney"

PROFESSIONAL SERVICES AGREEMENT
(LEGAL SERVICES)

This Professional Services Agreement is entered into between The ASK Academy, a New Mexico public charter school, and Matthews Fox, P.C., a New Mexico professional corporation, this ____ day of _____, 2020. The parties agree as follows:

1. The ASK Academy ("School") hereby retains Matthews Fox, P.C. (hereinafter "Counsel"), when approved by the School's designee, as legal counsel for the purpose of representing the School in legal matters relating to the charter school's relationship with its authorizer or such other matters. Counsel is retained on an as-requested, as-assigned basis for particular matters referred to it by the School's representative, and not as general counsel to the School. Matters to be worked on by Counsel shall be referred by the designated member of the School's governing body or other designee. Counsel will not be expected to work on any matter not so referred to them, although in an emergency, if issues of importance arise before authorization can be obtained from the School designee, Counsel is authorized to act so as to protect the interests of the School to the extent necessary and reasonable in the circumstances.

2. For their services, Counsel will bill partners at the rate of \$250.00 per hour (Matthews) and \$250.00 per hour (Fox), and associates at \$175.00 per hour for standard legal services, and will bill partners at \$300.00 per hour and associates at \$200.00 per hour for services related to private bond transactions, plus applicable gross receipts taxes. To the extent reasonable and necessary, counsel may utilize the services of contract attorneys at \$190.00 per hour and/or paralegals at \$110.00 per hour, plus applicable gross receipts taxes. Monthly statements shall be sent in care of the School's Accounting Office at the address stated in paragraph 19 or as otherwise directed by the head administrator. In addition to attorney fees, Counsel's statements may include reasonable and necessary expenses of representation, including but not necessarily limited to extraordinary clerical services and supplies, conference call charges, travel at coach or government rates, on-line research expenses, copying, postage, and express mail service costs. Ordinary overhead of Counsel will not be charged. If Counsel is required to travel to the school's location or any other out-of-Santa Fe location, the Firm will charge the applicable hourly rate for travel time, plus mileage at the State of New Mexico's approved rate or air travel at actual coach rates.

3. Counsel will submit a detailed statement accounting for all services performed and expenses incurred. If the School does not dispute the statement within thirty days, client shall make payment in full. If the School finds that the services are not acceptable, within thirty days from receipt of Counsel's invoice, School shall provide Counsel a letter of exception explaining its objection to the services, and outlining steps Counsel may take to provide remedial action. Thereafter, if the satisfactory correction is made by Counsel to the invoice, then School shall pay Counsel the total amount of the invoice within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. Counsel may charge interest and/or penalties for failure to make payment within the time specified herein.

4. Upon request, Counsel will give a verbal estimate of the fees and costs which may result from the firm's efforts. It is understood that estimating legal costs is notoriously difficult and, therefore, Counsel may upon request of the School periodically advise of any changes in the initial estimate that may be necessary.

5. **The School agrees to make every effort to avoid entering binding contractual or other legal obligations without prior review of Counsel, and is advised to notify Counsel immediately upon any possible claims against the school or any of its personnel for which the School intends to retain Counsel's services.**

6. Counsel shall be empowered to file law suits or administrative claims only upon resolution or prior written approval of the School's governing body.

7. The term of this agreement shall begin July 1, 2020 and be for the fiscal year ending June 30, 2021 or as otherwise agreed to by Counsel and the School. Either party may terminate the agreement by notifying the other in writing. Counsel shall be entitled to collect unpaid fees and expenses to the date of termination, plus reasonable fees and expenses for winding up and transition costs.

8. This letter agreement is contingent upon sufficient appropriations and authorization being made by the State of New Mexico Legislature for the performance of this agreement. If sufficient appropriations and authorization are not made by the Legislature, this agreement shall terminate upon written notice by the School to Counsel.

9. Counsel's status shall be at all times as an independent contractor performing professional services for the School, and shall not be considered an employee of the School. Counsel agrees that the services provided pursuant to this agreement are personal and, consequently, this agreement is not assignable. Counsel also agrees that the firm may not subcontract any services requested pursuant to this agreement without prior written consent of the School.

10. Counsel agrees to maintain, for at least three years, detailed time records that indicate the date time and nature of services rendered. These records shall be subject to inspection by the School upon reasonable notice. Counsel will request a written release from the School in the event that such records and documents are to be provided to the School district's auditor or the New Mexico's State Auditor.

11. Any confidential information provided to or developed by the Counsel in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Counsel without the prior written approval of the School.

12. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

13. The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

14. Counsel agrees to abide by all applicable federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Counsel assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Counsel is found not to be in compliance with these requirements during the life of this Agreement, Counsel agrees to take appropriate steps to correct these deficiencies.

15. The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1 (G). By execution of this Agreement, Counsel acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

16. Counsel agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If Counsel fails to comply with the Workers

Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the School.

17. If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

18. A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

19. Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

THE ASK ACADEMY	MATTHEWS FOX, P.C.
c/o Head Administrator	
4550 Sundt Road NE Albuquerque, NM 87124	1925 Aspen Dr., Suite 301A Santa Fe, NM 87505
Tel: 505.891.0757	Tel: 505.473.3020
Email: dbarbour@theASKacademy.org	Email: pmatthews@matthewsfox.com or sfox@matthewsfox.com
Fax: 505.891.2115	Fax: 505.474.3727

20. If Client is other than a natural person, the individual(s) signing this Agreement on behalf of Client represents and warrants that he or she has the power and authority to bind Client, and that no further action, resolution, or approval from Client is necessary to enter into a binding contract.

21. The total compensation under this Agreement shall not exceed \$60,000 excluding gross receipts taxes.

The parties have executed this Agreement as of the date of signature by the School below.

AGREED:

MATTHEWS FOX, P.C.

Patricia Matthews or Susan B. Fox

Date: _____

THE ASK ACADEMY

Governing Council President

Date: _____

EMAIL ADDRESS: _____

Phone No.: _____

Head Administrator

Date: _____



Attorneys and Counselors at Law

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pmatthews@matthewsfox.com

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Susan Barger Fox
sfox@matthewsfox.com

WORKING WITH AN ATTORNEY

A charter school's guide to effective communication and use of legal counsel.

There are myriad state and federal laws and rules that affect nearly every aspect of public school operations, in addition to the unique concerns for charter schools. Laws govern nearly every detail of a school's operation, for example: employment, students, charter performance and implementation, facilities, discipline (students and employees), governance, finances, and a host of other matters.

Charter school budgets are always tight, and carving out a sum for attorneys can seem painful. However, not anticipating legal expenses that may be used to cover an opportunity to seek timely advice upfront can result in higher legal and related costs down the line (e.g. disputes over onerous contracts). Significantly, violation of laws such as the Open Meetings Act and the Procurement Code can result in criminal penalties and violations. An experienced and competent school attorney can help guide the governing body and the school's administration in the business of operating a school and help minimize disruption caused by threatened legal actions or unintended missteps.

THIS GUIDE COVERS:

1. Contracting the services of an attorney
2. Roles of the school attorney
3. Defining the client
4. Effective communication/Attorney-client privilege

I. CONTRACTING THE SERVICES OF AN ATTORNEY

New Mexico law permits charter schools to contract for professional services. Who signs the contract and the defined scope of work should be discussed with the attorney prior to signing a professional services agreement. It is common for charter school administrators to execute these agreements, but it is just as common for the agreement to be presented to the governing body ("GB") for approval. Unless there is an emergency, it is recommended that the head administrator raise the necessity for hiring counsel at an open meeting of the GB. Some schools sign contracts annually as a preventative measure, which is recommended to avoid a delay when urgent responses are needed.

The New Mexico Procurement Code limits the total amount of a professional services contract to \$60,000 per year. If you anticipate needing legal counsel, it is critical to consider this when creating your annual budget. You must have budget authority to enter into a contract for services of any kind. It is important to remember that schools cannot prepay for services rendered, and thus paying a retainer is inappropriate. Moreover, it is obviously inappropriate to pay an

attorney for services not rendered. In short, the school is not and should not be charged for services unless the attorney is consulted and performs requested services.

Most attorneys bill monthly. Attorney bills should include sufficient detail to apprise the school's administration of the services rendered and that the services provided were within the scope of the contract. Should you have any questions about your attorney's bill, you can and should contact the attorney immediately for clarification and discussion. The New Mexico Procurement Code requires a public entity to either dispute or pay invoices within a certain amount of time after receipt of the invoice. If you have questions, ask!

Finally, public school law is fairly specialized, but includes areas of even greater specialty, such as bond matters and litigation. Both the administrator and the GB should feel comfortable asking for references, credentials and the experience of the attorneys who are being considered to represent the school in the context of the issue at hand.

2. ROLES OF THE SCHOOL ATTORNEY

Ultimately, an effective attorney's role is to assist the school in achieving its goals; obviously, within legal parameters. It is important that "prevention" does not create "inertia." It is the attorney's role to advise the client of legal ramifications of decisions and to assist in shaping outcomes in the most favorable way, within the bounds of the law. The ultimate decision as to whether or not to take a particular action, however, remains with the client.

Generally, school counsel will act as an advisor to school officials on an 'as-requested' or 'on-call' basis; that is, unless your attorney is 'in-house' (e.g. an employee of the school), he/she is not and should not be presumed to know everything about your school's situation – you must proactively seek legal assistance from your lawyer when you think you might need it for particular situations. Some of the situations that may give rise to attorney involvement are listed below. These situations typically arise within the context of school administration and, thus, are examples where the head administrator is likely to need to consult counsel directly.

However, governing bodies also need the freedom to contact the school's lawyers. Frequently questions arise about open meetings, facilities, relationships with the charter's authorizer, and other questions concerning implementation of the charter.

The role of a school attorney includes that of an advisor-counselor, educator, facilitator or mediator, advisor to management/administration, draftsman (policies, etc.), advocate in disputes, spokesperson and negotiator. Here are some specific instances where schools should consider attorney involvement:

- ❖ Providing legal opinions;
- ❖ Creating, updating and advising on school policies and procedures (employment, student and others);
- ❖ Attending governing body meetings (when necessary and requested);
- ❖ Drafting and reviewing contracts;
- ❖ Assuring compliance with state and federal laws affecting, finance, personnel, student rights, etc.;
- ❖ Negotiating and assisting with charter authorizer relationships;
- ❖ Faculty and staff discipline, reductions in force and dismissals;
- ❖ Assistance with Open Meetings Act and Inspection of Public Records compliance;
- ❖ Review circumstances that may give rise to legal actions;

- ❖ Conduct in-service seminars or training for GB members, faculty and staff:
- IN THESE CIRCUMSTANCES IT IS STRONGLY RECOMMENDED THAT YOU CONTACT COUNSEL AS SOON AS POSSIBLE to allow for scheduling;**
- ❖ Served with a legal demand letter, court order (includes subpoenas) or a lawsuit;
 - ❖ Threat or suggestion of revocation or nonrenewal of charter contract;
 - ❖ Accident or incident involving a student or employee resulting in bodily injury;
 - ❖ Contemplating discharge of a contracted employee.

This list is not exhaustive, and you should contact your attorney whenever you believe that his/her advice, counsel and involvement would assist or be beneficial to the School.

3. DEFINING THE CLIENT

It is important to understand that if retained by the charter school, the attorney represents the institution, not any single member of the faculty, staff or the GB. An attorney often establishes a relationship with the administrator because the administrator deals with the day-to-day running of the school, and this can be confusing to GB members. It is critical to understand, however, that an attorney is ethically obligated to clarify his or her role in this regard should a situation arise. It is essential that the head administrator be transparent with the GB about his/her contacts with the attorney to avoid any misunderstanding about the attorney's role.

4. EFFECTIVE COMMUNICATIONS/ATTORNEY-CLIENT PRIVILEGE

- ❖ To avoid confusion, and escalating legal fees, it is important to identify the "authorized" school representatives who may contact the attorney directly. This will avoid misunderstandings by both counsel and the client. Generally, experience shows that for charter schools the head administrator and GB chair are the primary initiators of contact. For budget reasons, the frequency of these contacts should be considered.

- ❖ Occasionally, it may be appropriate for other school personnel or GB members to directly contact the attorney; however, advise your lawyer if you have previously established authorized contacts and that others have been given permission to contact counsel.

- ❖ The attorney-client privilege allows clients to speak freely to their attorney. It is the "client's right to refuse to disclose and to prevent any other person from disclosing confidential communications between the client and the attorney." This privilege can be waived, and because there are multiple persons who serve the school, it is important that the privilege be protected.

NOTE: This guide is intended to give a brief overview of how to work with your school's attorney; it does not contemplate every scenario that may arise where legal assistance or advice may be recommended or advisable. If you are unsure whether the matter demands legal attention, it is better to contact your lawyer out of an abundance of caution and determine that you've handled the situation correctly, rather than to later learn that earlier legal intervention would have simplified the outcome.



Student Diabetes Management Policy

Policy 313

A. Definitions. As used in this Policy:

1. “diabetes” means a metabolic disorder of type one or type two diabetes mellitus; complications related to diabetes mellitus; or prediabetes;
2. “diabetes care personnel” means a School employee who volunteers to be trained and is trained in accordance with the Student Diabetes Management Act, NMSA 1978, §§22-34-1 et seq. and NMPED rule; the employee need not be a health care practitioner;
3. “diabetes medical management plan” means a document that the student’s personal health care practitioner and parent/guardian develops that sets out the health services that the student needs at school and that is signed by the student’s health care practitioner and the parent/guardian;
4. “health care practitioner” means a person licensed to provide health care in the ordinary course of business;
5. “school employee” means a person employed by the School, a person employed by the department of health or a local health department or by the public education department who is assigned to a school, or a contractor designated to provide diabetes management services at the School.

B. Diabetes Care Personnel Training.

1. School shall ensure that annual diabetes training programs are provided for all School nurses and diabetes care personnel.
2. Training shall be in accordance with NMPED rule 6.12.11 NMAC for the training of school employees for the care of students with diabetes.
3. At minimum, the training shall address:
 - a. Identification and treatment of hypo- and hyperglycemia;
 - b. Understanding the appropriate actions to take when blood glucose levels are outside of the target ranges indicated by a student’s diabetes medical management plan;
 - c. Understanding the interpretation of health care practitioner instructions regarding diabetes medication drug dosage, frequency and manner of administration;
 - d. Performance of finger stick blood glucose testing and ketone testing and recording of results;
 - e. The administration of glucagon and insulin and the recording of results;

- f. Understanding how to administer glucagon and insulin through the insulin delivery system;
 - g. Recognizing diabetes-related complications that require emergency assistance; and
 - h. Understanding recommended schedules and food intake for meals and snacks, the effect of physical activity upon blood glucose levels and actions to be implemented in the case of schedule disruption.
4. The training shall be provided by a health care practitioner with expertise in diabetes.
 5. The training shall be provided to a minimum of two School employees willing to act as diabetes care personnel; the employees acting as diabetes care personnel need not be health care practitioners.
 6. If at any time fewer than two School employees are available to be trained as diabetes care personnel, the Principal/Head Administrator shall distribute to all School staff a written notice stating that the School is seeking volunteers to serve as diabetes care personnel.

The notice shall inform the staff that:

- a. The School is required to provide diabetes care to one or more students with diabetes and is seeking personnel willing to be trained to provide that care;
 - b. The tasks to be performed by diabetes care personnel;
 - c. That participation is voluntary and the School will not take action against any staff member who does not volunteer to be designated;
 - d. That training will be provided to employees who volunteer to provide care; and
 - e. The contact information of the person whom staff should contact in order to volunteer to be diabetes care personnel.
7. The annual training shall take place as soon as possible after the beginning of a new School year, and no later than September 15. Employees volunteering to replace trained individuals no longer acting as diabetes care personnel shall be trained within two weeks.
 8. The Principal/Head Administrator shall confirm that the training has occurred in an annual report to the Governing Council.

C. Training for School employees with primary responsibility for supervision of a student with diabetes.

1. All School employees who have primary responsibility for supervising a student with diabetes during some portion of the school day, including bus/school activity drivers responsible for the transportation of a student with diabetes, shall be trained annually on:
 - a. Recognition of hypoglycemia;
 - b. Recognition of hyperglycemia; and

c. Actions to take in response to diabetes related emergency situations.

2. This training shall be provided by the school nurse, or a health care practitioner with expertise in diabetes.
3. New employees with primary responsibility for supervising a student with diabetes hired after the annual training shall be trained within two weeks of hire.
4. The Principal/Head Administrator shall confirm that the training has occurred in an annual report to the Governing Council.

D. Parent/Guardian Responsibilities.

1. Upon enrollment at the School or at annual registration, the parent/guardian of each student with diabetes who seeks diabetes care while at school shall submit to the school a diabetes medical management plan.
2. Upon submission of the diabetes medical management plan, the School shall review the diabetes medical management plan with the parent/guardian, and shall implement the plan.
3. The School shall not require or compel parents/guardians to provide diabetes care for a student with diabetes at school or school-related activities.
4. Upon the written request of a parent/guardian of a student with diabetes and authorization by the student's diabetes medical management plan, and upon demonstrated proficiency, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin through the insulin delivery system that the student uses, treat hypoglycemia and hyperglycemia and other wise attend to the care and management of the student's diabetes in the classroom, in any area of the school or school grounds, and at any school-related activity.
 - a. The student shall be permitted to possess on the student's person at all times all necessary supplies and equipment to perform these monitoring/treatment functions; however, the student shall be responsible for keeping supplies/equipment safe, and shall not make it available to other students.
 - b. If the student or parent/guardian requests, the student shall have access to a private area for performing diabetes care tasks.
5. The parent/guardian of a student with diabetes may volunteer to assume the official responsibility of diabetes care for their student, should the parent/guardian be attending a school-sponsored activity, trip, extended offsite excursion, or extracurricular activity in which the student with diabetes is participating. The parent/guardian must prearrange with the principal to assume these responsibilities, if desired.

E. School Implementation of Diabetes Medical Management Plans.

1. The School shall ensure that all students with diabetes receive appropriate and needed diabetes care at school, as specified in the student's diabetes medical management plan.
2. In accordance with the request of a parent/guardian of a student with diabetes, and in accordance with the student's diabetes medical management plan, the school nurse or, in the absence of a school nurse, diabetes care personnel, shall perform diabetes care functions that shall include, at a minimum:
 - a. Checking and recording the student's blood glucose levels or ketone levels and assisting the student with checking and recording those levels;
 - b. Responding to blood glucose levels that are outside of the student's target range;
 - c. Administering glucagon and other emergency treatments as prescribed;
 - d. Administering insulin or assisting a student in administering insulin;
 - e. Providing oral diabetes medications as prescribed; and
 - f. Following instructions regarding meals, snacks and physical activity.
3. The school nurse, or at least one diabetes care personnel, shall be available at the School to provide care to each student with diabetes in accordance with subsections E.1 and E.2 above, during regular school hours and during all school-sponsored activities, trips, extended offsite excursions and extracurricular activities in which a student with diabetes is a participant, and on buses/activity vehicles where the bus/activity driver has not been trained in diabetes care and the student with diabetes is a passenger.
4. The School Nurse and/or diabetes care personnel shall safely store medical supplies and diabetes medication in the manner appropriate for the supplies/medication. The supplies/medication shall be stored in the nurse's office.

F. Right to Attend.

The School shall not restrict a student who has diabetes from attending the School on the basis that the student has diabetes, that the School does not have a full-time school nurse, or that the School does not have trained diabetes care personnel.

G. Governing Council Reporting.

The Governing Council shall provide a report to the New Mexico Public Education Department by October 15, 2020 and by each October 15 thereafter, as follows:

1. Stating how many students with diabetes are attending the School; and
2. Providing documentation regarding the School's compliance with the provisions of the Student Diabetes Management Act.
3. In accordance with the requirements of 6.12.11.13(B) NMAC.

H. Administrative Complaint.

Students with diabetes and their parents/guardians may bring an administrative complaint against the School before the NMPED for any School failure to meet its training obligations pursuant to the Student Diabetes Management Act, or for School's failure to permit self-management of diabetes pursuant to Subsection D.4 of this Policy. See 6.12.11.13 NMAC for the NMPED complaint procedure.

Ref: NMSA 1978 §§22-34-1 et seq.; 6.12.11 NMAC

The ASK Academy

Adopted: June 11, 2020

Revised:

Reviewed:



A New Mexico Public Charter School
The ASK Academy
21st Century Design Thinking

Medical Cannabis Policy & Procedure

Policy 314

Pursuant to the New Mexico Medical Cannabis in Schools Act (“Act”), qualified students certified for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act who require medical cannabis as a reasonable accommodation necessary for the student to attend school may be administered medical cannabis before attending school, or at The ASK Academy.

Medical cannabis may be administered at School only if:

1. A written treatment plan for the administration of the medical cannabis is agreed to and signed by the Principal or designee, and by the qualified student’s parent or legal guardian. The treatment plan must be on the written treatment plan form posted on the NMPED’s website, and must include:
 - a. An affirmation of diagnosis of a qualifying debilitating medical condition, and description of the qualified student’s debilitating medical condition per the Lynn and Erin Compassionate Use Act;
 - b. Description of the plan of treatment with medical cannabis, including:
 - i. Recommended dosage allotment;
 - ii. Recommended frequency of administration in a school setting; and
 - iii. Signature of the parent/guardian and the certifying practitioner;(treatment plan form may be found at <https://webnew.ped.state.nm.s/bureaus/safe-healthy-schools/medical-cannabis-in-schools/>); and
2. Before the first administration of medical cannabis in a school setting, the qualified student’s parent or legal guardian completes and submits documentation to the Principal that includes a:
 - a. Copy of the qualified student’s written certification for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act from a certifying practitioner;
 - b. A copy of the student’s New Mexico Department of Health (NMDOH)-issued ID card, which includes the name of the primary caregiver;
 - c. A signed Health Insurance Portability and Accountability Act (HIPAA) authorization, using the HIPAA authorization form posted on the NMDOH’s website (<http://nmhealth.org/publication/view/form/137/>), which shall be retained by the School as a medical record; and
 - d. Written statement from the qualified student’s parent or legal guardian releasing the school and school personnel from liability (see Principal for copy of required form), except in cases of willful or wanton misconduct or disregard of the qualified student’s treatment plan.

3. The written certification and written treatment plan shall be valid for no more than one year from the date of issuance and shall be presented to the School at or prior to the school year for which the certification and treatment plan shall apply.
4. In case of spillage or waste of medical cannabis on School premises, cleanup and destruction of spillage or waste shall be immediate and shall be documented by a School employee witness.
5. The parent/guardian shall provide the written certification and written treatment plan, a new release from liability, and a new package or container with clearly labeled identifiers including the qualified student's name, date of birth, and dosage allotment, upon enrollment in a new public school following disenrollment, withdrawal, transfer, or graduation from another school.
6. School personnel shall not administer medical cannabis on campus or at school-related activities; only a qualified student's parent/legal guardian may administer medical cannabis, in accordance with state law and this policy.
7. Parents/guardians administering medical cannabis to their student in the school setting may only do so in accordance with the student's written treatment plan and this Policy. The School shall not store medical cannabis administered by the parent/guardian. The School principal shall designate the School location at which parent/guardian administration of medical cannabis shall occur. Parent/guardians administering medical cannabis to their student must check in and out with the School principal prior to and after each administration of medical cannabis to their student. Administration of medical cannabis shall require staff supervision, by principal or designee, in a place where no other students are present.
8. **A student shall not possess, store, or self-administer medical cannabis at a school setting or at a School-related activity.** A parent, legal guardian, and/or designated school personnel shall not administer medical cannabis at a school setting or during a school-related activity in a manner that creates disruption to the educational environment or causes other students to be exposed to medical cannabis.
9. **Administration and use of medical cannabis in a school setting is *not* authorized, and being under the influence of cannabis in a school setting is not authorized, where the student is not a qualified student pursuant to the Lynn and Erin Compassionate Use Act who requires medical cannabis as a reasonable accommodation necessary for the student to attend school, where the student's performance/behavior at school/school activities is adversely affected by such use, where it may pose a danger to other students, and/or where it disrupts or has the potential to disrupt the educational process.**
10. Student possession, use, distribution, sale or being under the influence of a cannabis product in a manner inconsistent with this Policy, inconsistent with the Medical Marijuana in Schools Act, and/or inconsistent with the Lynn and Erin Compassionate Use Act, is banned and will be considered a violation of the School's policies against distribution/possession/use of an unlawful substance on campus, and shall be disciplined accordingly.
11. The School shall not discipline a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school, or deny eligibility to attend school to a qualified student on the basis that the qualified student requires

medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.

12. The School shall annually provide appropriate training on this Medical Cannabis Policy to all school personnel.

As used in this section:

- i. “certifying practitioner” means a health care practitioner who is licensed in New Mexico to diagnose a qualified patient and recommend medical cannabis as a course of treatment;
- ii. “medical cannabis” means cannabis that is:
 - a. Recommended for treatment of a debilitating medical condition as defined in the Lynn and Erin Compassionate Use Act, in a written certification by a certified practitioner; and
 - b. Dispensed by a cannabis producer that has received approval from the New Mexico Department of Health (NMDOH) to conduct sales of medical cannabis; and
 - c. Is in the form of a capsule, extract, or concentrate to be ingested through the mouth that:
 - i. May be safely divided into measurable doses;
 - ii. is not an aerosol product consumable through smoking or in particulate form as a vapor or by burning;
 - iii. is not a food or a beverage product;
 - iv. is not a salve, balm, or other topical product;
 - v. does not require refrigerated storage; and
- iii. “qualified student” means a student who demonstrates evidence to the Principal that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis in accordance with the provisions of that Act, 6.12.10 NMAC, the Lynn and Erin Compassionate Use Act, and New Mexico department of health rules regarding the Lynn and Erin Compassionate Use Act. **Note: a qualified student is prohibited from possessing any form of cannabis in a school setting;**
- iv. “school setting” means any of the following locations during a school day:
 - a. A school building;
 - b. A school bus or activity vehicle used within the state during, in transit to or in transit from a school-sponsored activity;
 - c. A public vehicle used within the state during, in transit to or in transit from a school-sponsored activity in the state; or
 - d. A public site in the state where a school-sponsored activity takes place;
- v. “written certification” means a statement written by a qualified student’s certifying practitioner in a qualified student’s medical records or in the written treatment plan statement; certifying that the qualified student has a debilitating medical condition pursuant to the Lynn and Erin Compassionate Use Act; certifying that the certifying practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for

the qualified student; and signed by the certifying practitioner. A written certification is not valid for more than one year from the date signed by the certifying practitioner.

- vi. “written treatment plan” means a document developed by the parent/guardian in collaboration with the certifying practitioner that:
 - a. Includes the certifying practitioner’s diagnosis and description of the qualified student’s debilitating medical condition per the Lynn and Erin Compassionate Use Act;
 - b. Describes the plan for recommended treatment with medical cannabis, including:
 - i. The recommended dosage allotment;
 - ii. the recommended frequency of administration of medical cannabis in a school setting; and
 - iii. is signed by the parent/guardian and the certifying practitioner.

This Policy is not applicable to any School-related activity taking place outside of the state of New Mexico. **Hemp products are not covered by this policy.**

Ref: NMSA 1978 §22-33-5
NMSA 1978 §§26-2B-1 et seq.
6.12.10 NMAC

The ASK Academy
Adopted: June 11, 2020
Revised:
Reviewed:

MEDICAL CANNABIS POLICY/PROCEDURE

Pursuant to the New Mexico Medical Cannabis in Schools Act ("Act"), qualified students certified for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act who require medical cannabis as a reasonable accommodation necessary for the student to attend school may be administered medical cannabis before attending school, or at [NAME OF SCHOOL]. **Medical cannabis may be administered at School only if:**

1. A written treatment plan for the administration of the medical cannabis is agreed to and signed by the Principal or designee, and by the qualified student's parent or legal guardian. The treatment plan must be on the written treatment plan form posted on the NMPED's website, and must include:
 - a. An affirmation of diagnosis of a qualifying debilitating medical condition, and description of the qualified student's debilitating medical condition per the Lynn and Erin Compassionate Use Act;
 - b. Description of the plan of treatment with medical cannabis, including:
 - i. Recommended dosage allotment;
 - ii. Recommended frequency of administration in a school setting; and
 - iii. Signature of the parent/guardian and the certifying practitioner;(treatment plan form may be found at <https://webnew.ped.state.nm.s/bureaus/safe-healthy-schools/medical-cannabis-in-schools/>); and
2. Before the first administration of medical cannabis in a school setting, the qualified student's parent or legal guardian completes and submits documentation to the Principal that includes a:
 - a. Copy of the qualified student's written certification for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act from a certifying practitioner;
 - b. A copy of the student's New Mexico Department of Health (NMDOH)-issued ID card, which includes the name of the primary caregiver;
 - c. A signed Health Insurance Portability and Accountability Act (HIPAA) authorization, using the HIPAA authorization form posted on the NMDOH's website (<http://nmhealth.org/publication/view/form/137/>), which shall be retained by the School as a medical record; and
 - d. Written statement from the qualified student's parent or legal guardian releasing the school and school personnel from liability (see Principal for copy of required form), except in cases of willful or wanton misconduct or disregard of the qualified student's treatment plan.
3. The written certification and written treatment plan shall be valid for no more than one year from the date of issuance and shall be presented to the School at or prior to the school year for which the certification and treatment plan shall apply.
4. In case of spillage or waste of medical cannabis on School premises, cleanup and destruction of spillage or waste shall be immediate and shall be documented by a School employee witness. **[Delete next sentence if School does not administer medical**

cannabis.] If the School is administering the medical cannabis when spillage or waste occurs, the student's parent/guardian must be notified the same day the spillage or waste occurs.

5. The parent/guardian shall provide the written certification and written treatment plan, a new release from liability, and a new package or container with clearly labeled identifiers including the qualified student's name, date of birth, and dosage allotment, upon enrollment in a new public school following disenrollment, withdrawal, transfer, or graduation from another school.
6. [Option #1][School may choose not to designate ANY staff to administer medical cannabis, and may instead require parent/guardian to come onto campus to administer. If you choose not to have staff administer, delete this paragraph] Only the following designated School personnel may administer medical cannabis to qualified students: _____ . A School employee who refuses to administer medical cannabis shall not be disciplined for such refusal. Medical cannabis prescribed to a qualified student to be administered by the School shall be provided to the School _____ by the qualified student's parent/guardian in its original prescription packaging, with clearly labeled identifiers including the qualified student's name, date of birth, dosage allotment, and administration instructions from the certifying practitioner, and shall be stored by the School in a secured location in a locked storage container, accessible only by designated school personnel. Medical cannabis administered to a qualified student at school by designated school personnel shall be administered only pursuant to the written treatment plan. Unless otherwise specified in the written treatment plan, medical cannabis shall be administered by designated school personnel at school only in the following location: _____. Medical cannabis used in a school setting outside of school premises shall be immediately returned to the locked storage container by the designated school personnel. The qualified student's parent/guardian must pick up from the designated School personnel any unused medical cannabis at the end of each school year or upon disenrollment, withdrawal, transfer or graduation of the qualified student, whichever occurs first.

[Option #2] [Include this paragraph if Option 1 is deleted] School personnel shall not administer medical cannabis on campus or at school-related activities; only a qualified student's parent/legal guardian may administer medical cannabis, in accordance with state law and this policy.

7. Parents/guardians administering medical cannabis to their student in the school setting may only do so in accordance with the student's written treatment plan and this Policy. The School shall not store medical cannabis administered by the parent/guardian. The School _____ shall designate the School location at which parent/guardian administration of medical cannabis shall occur. Parent/guardians administering medical cannabis to their student must check in and out with the School _____ prior to and after each administration of medical cannabis to their student.
8. **A student shall not possess, store, or self-administer medical cannabis at a school setting or at a School-related activity.** A parent, legal guardian, and/or designated school personnel shall not administer medical cannabis at a school setting or during a

Susan Fox 8/15/2019 10:35 AM

Comment [1]: School may choose to add other specific provisions as well, such as staff supervision, in place where no other students present, etc.

school-related activity in a manner that creates disruption to the educational environment or causes other students to be exposed to medical cannabis.

9. **Administration and use of medical cannabis in a school setting is not authorized, and being under the influence of cannabis in a school setting is not authorized, where the student is not a qualified student pursuant to the Lynn and Erin Compassionate Use Act who requires medical cannabis as a reasonable accommodation necessary for the student to attend school, where the student's performance/behavior at school/school activities is adversely affected by such use, where it may pose a danger to other students, and/or where it disrupts or has the potential to disrupt the educational process.**
10. Student possession, use, distribution, sale or being under the influence of a cannabis product in a manner inconsistent with this Policy, inconsistent with the Medical Marijuana in Schools Act, and/or inconsistent with the Lynn and Erin Compassionate Use Act, is banned and will be considered a violation of the School's policies against distribution/possession/use of an unlawful substance on campus, and shall be disciplined accordingly.
11. The School shall not discipline a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school, or deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.
12. The School shall annually provide appropriate training on this Medical Cannabis Policy to all school personnel.

As used in this section:

- i. "certifying practitioner" means a health care practitioner who is licensed in New Mexico to diagnose a qualified patient and recommend medical cannabis as a course of treatment;
- ii. [Omit if school does not administer] "designated school personnel" means a school employee whom the School specifically authorizes to possess, store and administer medical cannabis to a qualified student in accordance with the Act;
- iii. "medical cannabis" means cannabis that is:
 - a. Recommended for treatment of a debilitating medical condition as defined in the Lynn and Erin Compassionate Use Act, in a written certification by a certified practitioner; and
 - b. Dispensed by a cannabis producer that has received approval from the New Mexico Department of Health (NMDOH) to conduct sales of medical cannabis; and
 - c. Is in the form of a capsule, extract, or concentrate to be ingested through the mouth that:
 - i. May be safely divided into measurable doses;
 - ii. is not an aerosol product consumable through smoking or in particulate form as a vapor or by burning;

- iii. is not a food or a beverage product;
 - iv. is not a salve, balm, or other topical product;
 - v. does not require refrigerated storage; and
 - d. If administered by designated school personnel, is provided to the school in package or container clearly labeled with the student's name, date of birth, and dosage allotment; if administered by the parent/guardian, is brought to the school for administration by the parent/guardian in a package or container clearly labeled with the student's name, date of birth, and dosage allotment.
- iv. "qualified student" means a student who demonstrates evidence to the Principal that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis in accordance with the provisions of that Act, 6.12.10 NMAC, the Lynn and Erin Compassionate Use Act, and New Mexico department of health rules regarding the Lynn and Erin Compassionate Use Act. **Note: a qualified student is prohibited from possessing any form of cannabis in a school setting;**
- v. "school setting" means any of the following locations during a school day:
 - a. A school building;
 - b. A school bus or activity vehicle used within the state during, in transit to or in transit from a school-sponsored activity;
 - c. A public vehicle used within the state during, in transit to or in transit from a school-sponsored activity in the state; or
 - d. A public site in the state where a school-sponsored activity takes place;
- vi. "written certification" means a statement written by a qualified student's certifying practitioner in a qualified student's medical records or in the written treatment plan statement; certifying that the qualified student has a debilitating medical condition pursuant to the Lynn and Erin Compassionate Use Act; certifying that the certifying practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified student; and signed by the certifying practitioner. A written certification is not valid for more than one year from the date signed by the certifying practitioner.
- vii. "written treatment plan" means a document developed by the parent/guardian in collaboration with the certifying practitioner that:
 - a. Includes the certifying practitioner's diagnosis and description of the qualified student's debilitating medical condition per the Lynn and Erin Compassionate Use Act;
 - b. Describes the plan for recommended treatment with medical cannabis, including:
 - i. The recommended dosage allotment;
 - ii. the recommended frequency of administration of medical cannabis in a school setting; and
 - iii. is signed by the parent/guardian and the certifying practitioner.

sfox@matthewsfo... 8/30/2019 10:59 AM

Comment [2]: Omit if school does not administer

This Policy is not applicable to any School-related activity taking place outside of the state of New Mexico. **Hemp products are not covered by this policy.**

Ref: NMSA 1978 §22-33-5
NMSA 1978 §§26-2B-1 et seq.
6.12.10 NMAC

Susan Fox 8/15/2019 10:47 AM

Comment [3]: You may wish to adopt a separate policy for hemp-based products, though the statute/regulation does not cover hemp products that are not prescribed, and you are not required to do so – however, the medical cannabis policy does beg the question of whether hemp products on campus are or are not allowed by the School.



A New Mexico Public Charter School
The ASK Academy
21st Century Design Thinking

Annual Resolution

Policy 104

WHEREAS, The ASK Academy Governing Council met in regular session virtually via Zoom on June 11, 2020, at 6:30 pm as required by law; and

WHEREAS, Section 10-15-1 (B) of the Open Meetings Act (NMSA 1978, Sections 10-15-1 to -4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission, administrative adjudicatory body or other policymaking body of any state or local public agency held for the purpose of formulating public policy, discussing public business or the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times: and

WHEREAS, any meeting subject to the Open Meetings Act requires The ASK Academy Governing Council to determine annually what constitutes reasonable notice of its public meetings;

NOW, THEREFORE, BE IT RESOLVED by The ASK Academy Governing Council that:

1. All meetings shall be held at 4550 Sundt Road NE, Rio Rancho, New Mexico, or as indicated in the meeting notice.
2. Unless otherwise specified, regular meetings shall be held each month on the second Thursday. The agenda will be available at least seventy-two hours prior to the meeting posted on the Academy website and on the front doors of The ASK Academy (when school is in session). Notice of any other regular meetings will be posted on The ASK Academy website www.theaskacademy.org and posted on the front doors of The ASK Academy (when school is in session) at least seventy-two hours in advance of the meeting date. The notice shall indicate how a copy of the agenda may be obtained.
3. All meetings may be held by telephone conference call or other similar telecommunications or electronic equipment by means of which all persons participating in the meeting can hear each other at the same time. Meetings may also be held with some Directors present, in person, and other directors present via telephonic, or other equipment, which allows all Directors participating to simultaneously hear each other during the meeting. A Director participating in the meeting by such means shall be deemed to be in person at the meeting, and any votes therein shall be deemed to carry the same force and validity as an in person vote.
4. Special meetings may be called by the Chair or a majority of the members. The notice shall include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda. The agenda shall be available to the public at least seventy-two hours before any special meeting.
5. For the purposes of regular meetings described in paragraph two of this resolution, notice requirements are met if notice of the date, time, place and agenda is provided by posting on The

ASK Academy website and on the front doors of The ASK Academy Academy (when school is in session).

6. *For the purposes of special meetings described in paragraph four of this resolution, notice requirements are met if notice of the date, time, place and agenda is provided by posting on The ASK Academy website and posting on the front doors of The ASK Academy (when school is in session).*
7. *In addition to the information specified above, all notices shall include the following language: If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Mackenzie Woods at 505.891.0757 at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various assessable formats. Please contact Mackenzie Woods at 505.891.0757 if a summary or other type of accessible format is needed.*
8. *The ASK Academy may close a meeting to the public only if the subject matter of such discussion or action is expected from the open meeting requirement under Section 10-15-1 (H) of the Open Meetings Act.*
 - (a) *If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of The ASK Academy Governing Council taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.*
 - (b) *If a closed meeting is conducted when The ASK Academy Governing Council is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity, is given to the members and to the general public.*
 - (c) *Following completion of n closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.*
 - (d) *Except as provided in Section 10-15-1 (H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of The ASK Academy Governing Council in an open public meeting.*

The ASK Academy

Adopted: October 13, 2011

Reviewed: June 11, 2020