

EL PASO COUNTY COMMISSIONERS COURT ORDER



Charter School/TEFRA Certificate Policy

Adopted Date: July 20, 2017

Revised Date:

Since 1995 when the Texas Legislature authorized the establishment of charter schools, the County Judge and Commissioners Court have been asked by said schools to sign an IRS certificate approving the issuance of tax-exempt bonds in the County, even though the bonds are not considered a County debt or liability. The tax-exempt bonds are used by the Charter schools to build and equip the school buildings and are repaid by the Charter school.

The IRS' Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which governs the issuance of tax-exempt bonds by Charter schools, requires approval of the issuance of the tax-exempt bonds from the "highest ranking elected official" of where the school will be built; otherwise the Charter school cannot issue tax-exempt bonds.

The Commissioners Court will consider signing all federally-mandated TEFRA certificates for Charter schools as long as the bonds continue to **NOT** be a debt or liability to El Paso County; and the request is only for the purposes of complying with the 1986 federal tax law.

Before Commissioners Court consideration, the school must:

- a. Be a qualified 501(c)(3) charitable organization, and therefore eligible to participate in tax-exempt financings.
- b. Be built in an unincorporated area of the county;
- c. Conduct a public hearing and provide proof to the County that a public meeting was held.

Commissioners Court

Approval of the TEFRA certificate does not constitute an endorsement of the Charter school or an affirmation that such school is needed. Per Commissioners Court Order, upon receiving a request from a Charter school, the request will be sent to the County Administrator, who will:

- a. Send the request to the County Attorney for legal review;
- b. Inform County Commissioners on whether all federal, state and local requirements have been met;

- c. Work with County Judge to defer the decision to sign the TEFRA certificate to a municipality if the school is being built within the city limits of a municipality, i.e. the City of El Paso, Horizon City, Socorro, San Elizario, the towns of Anthony and Clint, and the Village of Vinton;
- d. Work with County Judge to notify the pertinent local public school district that a request to issue tax-exempt bonds to build a Charter school within its school boundary lines has been received;
- e. Ensure that the TEFRA certificate being requested is solely for the purpose of satisfying the requirements of Section 147(f) of the Internal Revenue Code.
- f. Place the request on the Consent Agenda for approval.

If all of the above guidelines are met, the County Judge, upon approval from Commissioners Court, will sign the IRS TEFRA certificate.