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Purpose: Evaluate the federal and state frameworks for targeted support and improvement (TSI) schools, comprehensive support and improvement (CSI) schools, and CSI schools designated for more rigorous interventions.

Witnesses: PED Staff (invited), Raquel Reedy, Superintendent, Albuquerque Public Schools (APS); Dr. Gabriella Blakey, Associate Superintendent for Leadership and Learning – Zone 1, APS; Dr. Antonio Gonzales, Associate Superintendent for Leadership and Learning – Zone 2, APS.

Expected Outcome: Understand PED's implementation of New Mexico's school turnaround efforts pursuant to New Mexico's Every Student Succeeds Act State Plan.

More Rigorous Interventions Designation and School Turnaround Efforts

The federal Every Student Succeeds Act (ESSA) requires states to support their lowest performing schools, but is designed to give states flexibility in how they meet those requirements. In 2017, the Public Education Department (PED) submitted and the United States Department of Education approved New Mexico's ESSA state plan, which outlines how PED will identify and support low-performing schools. ESSA leaves issues of implementation up to the states, but due to a recent repeal of provisions related to the No Child Left Behind Act, New Mexico lacks a statutory framework for the implementation of school improvement plans.

In the absence of a statutory framework for school improvement plans, PED relied on New Mexico's ESSA state plan to initiate the immediate implementation of more rigorous interventions. ESSA contemplates a period of comprehensive support before schools are required to pursue more rigorous interventions, but in the first year of ESSA implementation, PED required four schools with five to six consecutive years F school grades to apply for Title I funding and submit a plan to significantly redesign the schools. PED subsequently denied all four applications, substantially changed the criteria for eligibility for funding, and even created conditions that, if unmet, would result in significant staffing changes at each school and potential closure of the schools. It is unclear that PED has the explicit statutory authority to enforce plans for more rigorous interventions for anything beyond providing Title I funding. The Legislature should consider reestablishing a framework for school improvement plans that clarifies the roles and responsibilities of PED, school districts, and schools in need of improvement.

PED identified the following schools for more rigorous interventions to begin in the 2018-2019 school year:

Albuquerque Public Schools:

- Hawthorne Elementary School
- Los Padillas Elementary School
- Whittier Elementary School

Dulce Independent School District:

- Dulce Elementary School

Requirements of the Every Student Succeeds Act

Under ESSA, state education agencies (SEAs) are required to work with local education agencies (LEAs) to publish a plan detailing how two types of struggling schools will be supported:

- Targeted support and improvement (TSI) schools are those with at least one subgroup of students that consistently underperforms. For these schools, LEAs independently develop and monitor a turnaround plan with little intervention from the SEA; and

- Comprehensive support and improvement (CSI) schools are those that underperform overall. LEAs are required to develop a school turnaround plan to improve student outcomes, and the SEA is required to approve and periodically monitor the plan and provide technical assistance and financial support for the duration of the implementation of plan.

Upon being designated TSI or CSI, ESSA creates an expectation that LEAs and SEAs will support these schools for a state-determined number of years – three years in New Mexico. In the case of CSI schools, ESSA also requires the SEA to support school turnaround plans with Title I funds that are specifically set aside to support school improvement. ESSA requires the SEA to establish criteria for schools to exit from TSI and CSI status. If, after receiving targeted support from the LEA for a state-determined number of years, a TSI school fails to improve its performance, the school will become a CSI school. If, after the same period of time, a CSI school fails to improve its performance, ESSA requires the SEA to implement “more rigorous interventions.”

New Mexico’s ESSA State Plan

Pursuant to New Mexico’s ESSA state plan, PED will designate schools for TSI or CSI once every three years. For the three year period from FY19 through FY21, PED identified 111 TSI schools with one student subgroup scoring below 26.6 overall points in the school grading system, and 86 CSI schools, 34 of which were in the lowest 5 percent of Title I schools and 52 high schools with a graduation rate below 67 percent. To comply with the school improvement requirements of ESSA, New Mexico established a three-year period of technical assistance and financial support for schools to exit TSI and CSI status.

ESSA requires state plans to include how school accountability metrics and designations for TSI will be disaggregated by the following subgroups of students:

- *Caucasian;*
- *African American;*
- *Hispanic;*
- *Asian/Pacific Islander;*
- *American Indian;*
- *Economically Disadvantaged;*
- *Students with Disabilities;* and
- *English Learners.*

Targeted Support and Improvement. Schools will be designated TSI if any subgroup of students meets ESSA’s criteria for CSI designation: a subgroup that is performing as poorly as all students in the lowest performing 5 percent of Title I schools in the state based on overall school grade points earned, or a subgroup that has a graduation rate below 67 percent. TSI schools are expected to complete the NM DASH 90-day plan with hands-on support from the LEA; TSI schools will not receive intensive support from PED.

Comprehensive Support and Improvement. Schools will be designated CSI if they are in the lowest performing 5 percent of Title I schools in the state based on the overall score from the state’s school grading system, if they have a four-year graduation rate below 67 percent, or if they have been a TSI school for three years. During the three-year support period, CSI schools can choose from four PED-led improvement options: NM DASH Plus, state-sponsored school-based interventions, an application for a competitive Title I grant for school improvement, or a high school transformation partnership with PED.

- *NM DASH Plus.* New Mexico Data Accountability, Sustainability, and High Achievement (NM DASH) is a school improvement platform that replaced PED’s Web Electronic Performance Support System (Web EPSS) and is a tool used in the University of Virginia (UVA) school turnaround program. PED requires NM DASH school plans to be completed in all schools. NM DASH requires LEAs to



complete a rubric used to identify and address specific problem areas within schools, like curriculum, leadership, or effective teacher professional development. CSI schools may elect to use a more intensive version of the plan called NM DASH Plus. NM DASH Plus includes additional focus areas for monitoring, including effective professional development and increased student learning time. PED Priority Schools Bureau staff will meet with CSI school staff and school district leadership three times each year to monitor progress towards meeting the goals of the school's plan.

- *State-Sponsored School-Based Interventions.* This category includes supplemental support initiatives like PED's principals and teachers pursuing excellence, programs designed to train school leaders in best practices for teaching and school management. The state plan is unclear whether this category also includes programs like K-3 Plus, prekindergarten, or Reads to Lead.
- *Application for Competitive Grants for School Improvement.* CSI schools may apply for competitive Title I grants to support participation in "an evidence-based school improvement program." The state plan notes these funds can be used to supplement funding for current state-sponsored programs like those available in the state-sponsored school-based interventions category.
- *High School Transformation in Partnership with PED.* Ten high schools are selected each three-year CSI identification cycle to work directly with PED's College and Career Readiness Bureau to implement evidence-based reforms to raise graduation rates. In the cycle beginning in the 2018-2019 school year, these 10 schools were invited to join a high school redesign network administered by the PED, though PED stated only nine accepted this invitation.

New Mexico's state plan notes the 10 schools selected for high school transformation are part of a high school redesign network, and may also become preferential applicants for New Mexico Graduates Now funding for advanced placement or other allocations.

Schools are able to exit CSI status by improving the metric that originally identified the school for comprehensive support. If schools fail to exit CSI status after three years, ESSA requires these schools to receive more rigorous interventions.

While the federal law mentions TSI and CSI schools several times, ESSA only mentions more rigorous interventions once. Section 1111(d)(3) of the federal law states that CSI schools that fail to respond to comprehensive support within a state-defined period of time shall become subject to "more rigorous State-determined action, such as the implementation of interventions." ESSA does not consider more rigorous interventions to be a separate subgroup of schools like CSI and TSI.

More Rigorous Interventions. New Mexico's ESSA state plan lists the options for LEAs to pursue for schools identified as needing "more rigorous interventions," but provides little explanation of how these options will be implemented. See **Attachment 1**. Options include closing the school, restarting the school as a charter school, championing and providing choice to the students at the school, or significantly restructuring and redesigning the school. Within this section of the state plan, PED stated it would consider school performance from the 2016-2017 school year to make determinations about the immediate designation of schools for more rigorous interventions. However, the state plan does not specify the metrics that would be used to immediately identify schools for more rigorous interventions. This section of the plan also notes if a school district refuses to identify an intervention, PED will select an intervention for the school.

Bellwether Education Partners Review of State ESSA Plans

While New Mexico's plan is somewhat vague regarding how the state will specifically implement more rigorous interventions, an independent review of ESSA state plans by the nonprofit Bellwether Education Partners notes other states' ESSA plans generally define school improvement plans far less explicitly than New Mexico's. Bellwether praised New Mexico's plan for its specificity in listing more rigorous interventions for schools that fail to improve within the state's three year timeline. Bellwether noted other state plans are "vague and non-specific" regarding supports and interventions, while New Mexico and Tennessee were the only two states to "adequately address how they plan to use federal funds to...intervene in chronically low-performing schools."

In Tennessee, priority schools that are not on Alpha Track 1 may choose to submit plans for other types of interventions. These include participation in current evidence-based interventions like Tennessee's innovation zone model, working to develop a partnership with the state for enhanced oversight, and applying for school-level Title I grants.

According to Tennessee state law, a charter agreement must be revoked or denied renewal if the Tennessee Department of Education identifies a charter school as a priority school. The charter school must close at the end of the school year following the year it was identified.

The Tennessee Plan. Tennessee also employs an A through F school grading system to identify and support low performing schools, which the state calls "priority schools" in its state plan. Tennessee priority schools are given three years of comprehensive support to meet the state's exit criteria. Tennessee immediately identified schools for its most rigorous intervention for the 2018-2019 school year: the lowest performing schools in Tennessee are placed on "Alpha Track 1" for immediate governance by the Achievement School District (ASD), a statewide school district established by Tennessee state law in 2010 that is designed to improve student achievement in the lowest performing schools in the state with a rigorous performance framework, governance, and financial reviews. Tennessee schools were identified in the 2017-2018 school year to immediately begin planning for transition to governance by ASD in the 2018-2019 school year. In Alpha Track 1, the lowest performing schools in the state will be given three years with a high-performing charter school management organization to improve student achievement before any further remedial action is taken. Under Tennessee's plan, closure of the school is only an option if a school district chooses to do so.

More Rigorous Interventions in New Mexico

Though ESSA clearly intends for schools to be given a period of technical assistance and financial support in CSI status before they receive more rigorous interventions, PED designated four schools for more rigorous interventions in the 2018-2019 school year. It is unclear what level of technical assistance and financial support these schools received from PED over the last three years.

Applications for More Rigorous Interventions

PED identified four elementary schools for the immediate application of more rigorous interventions because they received five to six consecutive years of a school grade of F: Hawthorne, Los Padillas, and Whittier elementary schools in Albuquerque and Dulce Elementary School in Dulce. Students at these schools demonstrate lower proficiency and growth than students statewide, but their student populations face significant challenges, like higher mobility rates and larger populations of English learners (ELs) and students eligible for free and reduced-fee lunch (FRL).



Demographics of Students at Schools Designated for More Rigorous Interventions

FY16

	Statewide Average	Hawthorne Elementary	Los Padillas Elementary	Whittier Elementary	Dulce Elementary
Student Mobility Rate	Not Available	37%	42%	60%	Not Available
Percent FRL	76%	100%	100%	100%	100%
Percent EL	14%	38%	32%	30%	21%
Percent Homeless	2%	6%	7%	2%	0%
School Grade of F Since		2012	2013	2012	2013

Source: PED

APS and Dulce chose to submit plans to “significantly restructure and redesign” all four schools. In December 2017, PED published a request for applications (RFA) asking both school districts to apply for a Title I grant to implement their significant redesign. **See Attachment 2.** The RFA includes specific metrics the school districts were required to address:

- *Leadership.* The LEA must describe how it will use evidence-based techniques and an incentive plan to identify, recruit, and retain strong school leaders.
- *Human Capital.* The LEA must describe how it will incentivize the recruitment and retention of effective, highly effective, and exemplary teachers, including a description of the compensation structure. The LEA must also describe how it will provide increased time for job-embedded professional development.
- *School Program.* The LEA must describe the school’s mission and vision, how the school will ensure equity, how the school will use data to reform curricula and instruction, and how the school will increase instructional time, including enrichment activities that contribute to a well-rounded education.
- *Budget.* The LEA must draft a budget that allocates sufficient funding for the plan’s priorities
- *Evidence-Based Interventions.* The LEA must show a commitment to strategies with promising, moderate, or strong evidence of successful impacts on student outcomes.

While the first plans submitted by the school districts met the general requirements of the original RFA, PED’s March letter contained additional detailed guidance that was not included in the RFA. The letter noted:

- Schools should have only highly effective and exemplary teachers, eliminating effective teachers;
- Teacher and school leader compensation should be dramatically higher at the school than other schools in the school district;
- Increased instructional time must be with teachers, not with community organizations.
- The budget should not exceed \$100 thousand for FY18 and \$675 thousand for FY19 through FY21.

The school districts submitted their initial plans on February 26, 2018, which generally met the guidelines PED required in the RFA. The APS plans revolved around adopting a community schools model and contained evidence that community schools had a significant impact on student achievement. APS hired principals at each of the three schools that had a track record of success at low-performing schools. APS also planned to increase the school year by 10 days and the school day by one hour to

APS initially requested \$229 thousand for each school during the planning phase in FY18, and \$1.2 million per school per year for FY19 through FY21.

Dulce initially requested \$290 thousand in FY18, \$2.4 million in FY19, \$1.6 million in FY20, and \$1.5 million in FY21.

The contents of PED's first guidance letter were not specific to the individual plans, and listed some guidance that the school districts appeared to have already met. For example, PED asked that school districts clearly delineate how community partnerships in the plan were expected to address the root causes of underperformance, while APS's initial plan contained several citations and diagrams of the components of the community schools model and the expected outcomes of the Genius Hour.

offer a community-led Genius Hour, during which time students would explore enrichment content like coding, engineering, and art through community organizations. Dulce's initial plan addressed the general issues of the RFA, but did not lay out specific plans for incentivizing high quality school leaders and teachers or developing a data analysis and intervention system. Dulce planned to contract with consultants for the development of a system and increase instructional time by 45 minutes per day.

PED denied the applications for all four schools in March, stating the plans lacked urgency, clarity, and cohesiveness, and sent a letter enumerating guidance about what the department expected in the plans. **See Attachment 3.** The guidance letter sent to both districts was identical for all four schools and contained criteria that were not present in the original RFA. For example, PED amended the requirement that teachers were rated effective or better to require teachers be rated highly effective or better. PED limited the budget for each plan to \$675 thousand per school, effectively requiring the school districts to eliminate elements of the plan that were not contained within PED's guidance letter.

Amended Plans. In the second round of applications, APS and Dulce relied on PED's guidance letter to specifically note how each element of the plan would operate. Highlights from the most recently published version of each plan are noted in the plan profiles below.

More Rigorous Interventions Plan Profile:

Albuquerque Public Schools Plan for Hawthorne, Los Padillas, and Whittier

(As submitted April 11, 2018)

Philosophy: Use the community schools model to integrate instruction, student supports, and family and community engagement.

Leadership: APS hired a new "turnaround principal" at each school. All three principals have completed PED's principals pursuing excellence program, and were recruited based on their experience working in low-performing schools. The principals are already working at the schools, and are being paid \$20 thousand more than principals at other schools in the district.

Teaching: APS is recruiting highly effective and exemplary teachers from their district and elsewhere in the state, with a goal of 100 percent of the teachers teaching in the three schools having an evaluation rating of highly effective or exemplary by December 2018. Teachers at the three schools will make \$13 thousand more than other APS teachers. National Board certified teachers will receive a stipend in addition to the stipend provided by state law, for a total incentive of \$10 thousand. An additional \$1,000 stipend will be given to every staff member at each school if student standardized test scores increase by 10 percent. Professional development will include weekly observation of teachers by other teachers and collaborative planning and lesson design.

Curricula and Assessments: APS will identify and purchase instructional materials that are aligned with Common Core State Standards. The district will use formative assessments along with iStation, ACCESS for ELs, and PARCC to assess students. APS will use the NM DASH plan and Harvard's Data Wise project to analyze student data to inform and guide individualized instruction. Using a blended learning rotational model, teachers at the school will rotate students through



stations of small group instruction, independent or group work, and online learning, allowing teachers to have more time for personalized interventions for students.

Instructional Time: Students will be involved in a daily “Genius Hour,” during which community organizations will facilitate an applied study in subjects like robotics, sports and wellness, engineering, computer science, art, and history. The school year at each school will be extended by 10 days, and will include an additional hour of instructional time each day. The block schedule will include 120 minutes per day for English language arts, 90 minutes for math, and 60 minutes for personalized intervention.

Budget and Finance: For each school, APS budgeted \$100 thousand for the initial planning period, plus \$675 thousand per year for FY19 through FY21. The main priority for APS’s budgets is recruiting the human capital to execute the plan, followed by supporting quality teaching and extended learning time, supporting the instructional programming in the plan, and finally supporting monetary incentives for personnel.

More Rigorous Interventions Plan Profile

Dulce Independent School District Plan for Dulce Elementary School

(As submitted April 16, 2018)

Philosophy: Use data-driven instruction, consistency, and collaboration from all stakeholders to provide a safe learning environment and inspire life-long learners.

Leadership: Dulce proposed a recruitment plan, including stipends and competitive benefits, for strong school leaders. Dulce will subsidize rent for recruited administrators that choose to live in school district-owned housing. The principal will receive up to \$3,000 annually for a “significant increase” in proficiency. The incentives listed in the plan are contingent on approval by the Dulce Board of Education. Until a new principal is recruited, Dulce will retain the current principal.

Teaching: Dulce plans to aggressively recruit highly effective and exemplary teachers by the beginning of the 2018-2019 school year, but notes the school district faces challenges due to its rural location on the Jicarilla Apache Reservation. The school district states that property cannot be purchased on the reservation and health care for non-Native Americans is not available. Incentives for teachers will equal \$4,000 over a three-year period for newly hired teachers, as well as subsidized rent in school-district owned housing. The incentives listed are contingent on approval from the Dulce Board of Education. Professional development will consist of a week-long boot camp before the beginning of the school year, 30 minute daily meetings between teachers at each grade level, plus an additional professional development day each month. Professional development will be culturally relevant and include presentations from tribal elders, artists, and other speakers. The final calendar included in Dulce’s plan is contingent on board approval.

Curricula and Assessments: Dulce will implement PED-approved instructional programs aligned with Common Core State Standards. The school district proposed a set of curricula to current Dulce Elementary School teachers, who rated each curriculum. The final decision reflected the reading and math programs that teachers rated highest and felt best reflected the diversity of Dulce’s population. Students and teachers will use a student data portfolio to track the results of formative assessments aligned to Common Core State Standards, which will feed into the school’s “What I Need” model, designed to provide individualized interventions.

Instructional Time: Dulce Elementary School will extend its school day by 75 minutes, which equates to 1,245 instructional hours per year, or 255 hours more than the statutorily required 990 instructional hours per year. The schedule includes 90 minutes for English language arts, 90 minutes for math, 60 minutes for interventions, and 60 minutes for Jicarilla Apache language. However, the final school calendar requires board approval.

Budget and Finance: Dulce requested \$100 thousand for the initial planning period, and \$675 thousand per year from FY19 through FY21. The school district attached a detailed budget listing the estimated cost of each element of the plan over the next three years.

PED Response to Applications. After both districts submitted their amended plans to PED based on the department's guidance, PED conditionally approved the plans for Los Padillas and Whittier, but denied the plans for Hawthorne and Dulce.

Los Padillas and Whittier Conditions. The secretary-designate wrote Title I funding for APS's two approved plans would be contingent on the school district's ability to comply with PED's conditions and deadlines. **See Attachment 4.**

1. By May 15, 2018, APS was required to submit:
 - The formula used to determine the \$1,000 group award for an increase in student achievement;
 - A final schedule that increases instructional time by one hour, clarifying that the additional instructional time is in addition to the schools' Genius Hour. The schedule will have uninterrupted blocks for ELA and Math and include time for professional development;
 - Clarification as to which assessments will be administered to students in which content areas and at which grade levels;
 - An updated school calendar to reflect additional days for teacher training on the school strategy; and
 - A detailed budget that meets all of PED's conditions that does not exceed \$675 thousand per year.
2. By June 1, 2018, APS will be required to submit:
 - A schedule of interim assessments to be administered no less frequently than every six to eight weeks; and
 - Clear metrics for development of the "whole child" through the community schools model.
3. By July 1, 2018, APS will be required to submit:
 - A schedule of observation and one-on-one meetings for all teachers; and
 - The protocol for analyzing teacher data.
4. By the first day of school in the 2018-2019 school year, APS will provide staff with a data system that delivers reports on benchmark and interim assessments including
 - Item analysis;
 - Standards-level analysis; and
 - Bottom-line results.
5. By the first teacher professional development day in the 2018-2019 school year:

- 100 percent of the teachers at each school must have a rating of highly effective or exemplary in 2016-2017 school year. Teachers that drop below highly effective in the 2017-2108 school year must be placed on the district's peer assistance review (PAR) program;
 - APS must provide staff with a scope and sequence of daily lessons, standards, assessments, and examples of strong student work in ELA and math; and
 - APS must provide staff with common benchmark assessments to be administered no less frequently than every two to three weeks.
6. By September 1, 2018, APS shall ensure that progress monitoring occurs weekly for students below benchmark.
 7. If APS's growth target of "one year of growth per semester for every student that is not on grade level" is not met by the end of the 2018-2019 school year
 - Teachers who are placed on PAR for falling below a rating of highly effective must not be renewed at that school; and
 - The assigned support principal must be removed.
 8. If the APS's growth target is not met by the end of 2019-2020 school year, the zone associate superintendent must be removed.
 9. If a school earns a school grade of C or better for three consecutive years, it will exit MRI status.

At a meeting in early May, the APS Board of Education discussed whether to accept or refuse these conditions, and the potential consequences of rejecting the conditions. The board expressed concerns that many of the conditions contained in PED's two guidance letters were not included in the original request for applications. While the board believed some of the latest conditions were acceptable, they found some to be impractical and unreasonable. In the cases of Los Padillas and Whittier, the board was hopeful that APS would be able to productively work with PED to create more reasonable goals. The APS board voted to send a response to PED conditionally accepting the department's conditions, qualifying some conditions by asking for more time and better collaboration with the department. **See Attachment 5.** PED has not yet responded to APS's most recent letter.

Hawthorne Denial. Though Hawthorne's application was virtually identical to those of Los Padillas and Whittier, PED denied Hawthorne's application without providing a detailed justification. **See Attachment 6.** Based on the fact that Hawthorne earned a school grade of F for six consecutive years, PED indicated Hawthorne must champion and provide choice. This intervention would require APS to make a list of other schools that Hawthorne students could attend, have weekly school choice communications with parents, match students with higher-performing schools, and provide transportation to those students that choose to attend another school. APS is expected to collect a signed form from the parent or guardian of every student at Hawthorne by June 15, 2018 that clearly states they are aware of their right to send their children to other higher performing schools but are electing to send their children to Hawthorne. If Hawthorne does not receive a C every year between the 2017-2018 school year through the 2019-2020 school year, PED wrote the school will have to close.

In a presentation to the APS Board of Education, APS Superintendent Raquel Reedy noted she had extended an invitation to the secretary designate to visit the schools identified for more rigorous interventions. She stated the secretary denied the invitation seven times.

Subsection D of 22-2E-4 NMSA 1978 states the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student to any public school not rated F. While this is a right defined in statute, it remains the parent's choice to exercise this right.

It is unclear why PED is moving to close Hawthorne if it does not receive C grade in the currently ending 2017-2018 school year. Hawthorne will not begin its more rigorous interventions until the 2018-2019 school year.

Championing and providing choice does not appear to be an intervention for students that choose to stay at Hawthorne. The APS Board of Education noted their concern that PED has been unable to judge the plans objectively and voted to send a separate response to PED regarding Hawthorne, stating the school will execute its original MRI plan while simultaneously championing and providing choice as required by PED. **See Attachment 7.** The letter notes APS is prepared to do this without support from PED.

Dulce Denial. Dulce’s plan was also denied, with PED citing a lack of sufficient support from the Dulce Board of Education. **See Attachment 8.** PED gave Dulce until May 7 to resubmit their plan, which should clearly indicate the full support of the Dulce Board of Education. Dulce indicated to LESC staff that while the school district has every intention of improving its plan, repeated requests for better collaboration with and support from PED have been met with silence from the department. The school district continues to struggle with challenges of recruiting and retaining highly effective and exemplary teachers. LESC staff requested but has not received Dulce’s resubmitted plan.

Provisions in New Mexico State Law

ESSA provides a general framework for identifying low-performing schools and providing technical assistance and financial support, but leaves issues of implementation up to individual states. However, there are gaps in New Mexico state law that make it unclear that PED has the authority to require, approve, conditionally approve, or disapprove school district plans for more rigorous interventions.

Subsection D of Section 6 of Article XII of the Constitution of the State of New Mexico states “the secretary of public education shall have administrative powers and duties, including all functions relating to the distribution of school funds and financial accounting for the public schools to be performed as provided by law.” Three separate state statutes give PED and the secretary authority to assume control of schools or school district finances, but there must be a violation of law, regulation, or department standards for PED to intervene. **See Attachment 9.**

Section 22-2E-4 NMSA 1978 of the A-B-C-D-F Schools Rating Act requires PED to ensure that resources of D or F schools are being prioritized toward “proven programs and methods designed to improve student achievement,” but the law does not explicitly define what constitutes a proven program or method.

- Section 22-2-2 NMSA 1978 authorizes PED to take control of a school or school district that has failed to meet the requirements of law or department regulations or standards. The term “standard” is not defined in state law.
- Section 22-8-39 NMSA 1978 allows the department to suspend a local school board if there is reason to believe there is financial mismanagement.
- Section 9-24-8 NMSA 1978 allows the secretary to issue orders and instructions to ensure compliance with the provisions of law, so long as the instructions issued are consistent with law.

None of the four schools designated for more rigorous interventions appear to have violated a law, regulation, or published PED standard, making it unclear that PED has the authority to require the conditions placed on the schools for anything other than

eligibility for a Title I grant from the discretionary funds set aside for school turnaround plans.

New Mexico state law does not currently authorize PED to enforce school improvement plans. Laws 2015, Chapter 58 (House Bill 165), which was endorsed by LESC and unanimously supported through the legislative process, eliminated statutory references to the federal No Child Left Behind Act and adequate yearly progress. Laws 2015, Chapter 58 also repealed Section 22-2C-7 NMSA 1978, which contained statutory authority for the development of turnaround plans for schools identified as needing improvement. **See Attachment 10.** Section 22-2C-7 NMSA 1978 outlined processes for school districts to apply for funding, as well as corrective actions the department would take in schools that failed to improve as a result of the plans. The repealed statute included provisions for replacing staff, extending the school day or year, and changing the school's internal organizational structure.

Because of an incomplete framework in state law, it does not appear that PED has explicit statutory authority to require, enforce, or place conditions on the four schools' plans for more rigorous interventions except as a condition of providing Title I funds. Additionally, because these schools have not violated state law or department regulations or standards, it remains unclear whether PED has the authority to require specific management, governance, or staffing decisions made at the school district and school levels. The Legislature should consider reestablishing a framework for the implementation of school improvement plans to provide a set of consistent expectations for the department, LEAs, and schools in need of improvement that clearly delineates the responsibilities of LEAs and the authority of the department to require, approve, conditionally approve, or deny school improvement plans.

The LEA and TSI and school are responsible for monitoring and implementation of their 90-day plan. The PED will review alignment between LEA plan goals and TSI school plan annually via a desktop review of their NM DASH.

References

Rand Corporation (2016) School Leadership Interventions under the Every Student Succeeds Act: Evidence Review. Santa Monica, CA. Available or download at:
http://www.rand.org/pubs/research_reports/RR1550-2.html

More Rigorous Interventions

Describe the more rigorous interventions required for schools identified for comprehensive support and improvement that fail to meet the State's exit criteria within a State-determined number of years consistent with section 1111(d)(3)(A)(i) of the ESEA and 34 C.F.R. § 200.21(f)(3)(iii).

Under New Mexico's previously-approved ESEA waiver, the state committed to the following plan for chronically failing schools: "If after four years of intervention there is not consistent and sustainable growth within a Priority School, or school with an overall grade of F, the PED may consider other options such as school closure, reconstitution, or other external management providers to completely redesign a school." At present, New Mexico has schools that fall under this legacy policy: Five elementary schools have earned four straight failing (F) ratings while another thirteen have earned three failing ratings (F) in the last four years. It cannot be ignored that schools in this category have failed generations of kids, and the measures outlined below will be immediately considered for action if approved by USED. The PED will consider school performance in the 2016-17 school year in making determinations about the immediate application of more rigorous

"When schools cannot pull themselves out the "D" or "F" range after three years, a change of administration is a must, and teachers who cannot increase their students' performance must be terminated."

interventions.

Under ESSA, New Mexico is committed to supporting LEAs and their Comprehensive Schools to meet exit criteria in the form of providing additional accountability, progress monitoring tools, evidence-based interventions and additional federal funding and targeted investment opportunities. For those schools identified for comprehensive support that fail to meet exit criteria, as outlined above, within three years, the SEA will require more rigorous interventions for LEAs and their CSI schools. New Mexico is thus taking the opportunity provided by ESSA to further define and explain what is intended under each of the four options for persistently failing schools. After three years of not meeting one of the exit opportunities, LEAs would be required to identify one of the following more rigorous interventions:

- 1) **Closure**: Close the school and enroll the students who attended that school in other schools in the surrounding area that are higher performing
- 2) **Restart**: Close the school and reopen it under a charter school operator that has been selected through a rigorous state or local authorizer review process

3) **Champion & Provide Choice**: Champion a range of choices in an open system that focuses on new approaches to learning; one that keeps the individual student(s) at the center of accessing options that best support their learning path. There must be clear evidence that choice has been championed for the impacted students. Choices may include public charter schools, magnet schools, private schools, online learning or homeschooling. This may also include the creation and expansion of state or local school voucher programs.

4) **Significantly restructure and redesign** the vision and systems at a school including extending instructional time, significantly changing staffing to include only educators earning highly effective ratings and above, state-selected curriculum approaches, and/or personalized learning models for all students. This option may also include a hybrid approach of the three options outlined above. The PED will approve all elements and sub-elements of the school's plan.

If the district refuses to identify a more rigorous intervention to participate in, the PED will select the intervention for the school.

Periodic Resource Review

Describe how the SEA will periodically review, identify, and, to the extent practicable, address any identified inequities in resources to ensure sufficient support for school improvement in each LEA in the State serving a significant number or percentage of schools identified for comprehensive or targeted support and improvement consistent with the requirements in section 1111(d)(3)(A)(ii) of the ESEA and 34 C.F.R. § 200.23(a).

The SEA will address any identified inequities in resources by hosting annual program and budget reviews with any LEA that have Comprehensive and Support and Improvement schools. Academic and non-academic expenditures will be discussed to identify areas where the LEA can leverage funds to address priorities established in school needs assessments and the alignment of existing resources to support improvement efforts.

Direct Student Services Opportunity.

The Every Student Succeeds Act provides states with a unique opportunity to partner with districts to re-think the use of Title I funds to provide innovative approaches directly to educators, families, and students. The PED will provide preference to schools that are classified as either “Comprehensive Support and Improvement” or “Targeted Support and Improvement”. In addition, the PED will align funding opportunities with the broader human capital strategies currently underway at the state level, including programs such as Principals Pursuing Excellence and Teachers Pursuing Excellence, as well as our Title II, Part A strategy of expanding access to great teachers and leaders under the Excellent Educators for All Plan.

New Mexico will focus its Direct Student Services approach primarily on five areas, and will preference (via competitive grant) those that are most aligned to the state's academic needs, including:

- Extended learning time opportunities for identified students
- AP Course Access through both our virtual platform (IDEAL-NM) and other online course providers
- Other Course Access (CTE, dual credit, credit recovery)
- K-3 Literacy and Mathematics
- Pre-K Services
- Personalized Learning (Linking to Title II and IV funds to support opportunity culture)
- Student transportation (school choice)



**Request for Application (RFA) for
More Rigorous Intervention (MRI) Schools
Significantly Restructure & Redesign**

Title I Sec.1003 [a]

**Every Student Succeeds Act
CFDA Number: 84.010A**

**Deadline to Submit RFA:
February 26, 2018**

*This is only a Request for Application (RFA) and does **NOT** constitute an award. Should this RFA result in an award, the LEA Superintendent/Charter Director, will be notified by an official award letter. Only upon receipt of an award letter, signed by Secretary Designate Ruszkowski may the LEA/charter school submit a Budget Adjustment Request (BAR).*

**New Mexico Public Education Department
300 Don Gaspar Ave,
Santa Fe, NM
87501**

I. Background

Under New Mexico's previously-approved ESEA waiver, the state committed to the following plan for chronically failing schools:

"If after four years of intervention there is not consistent and sustainable growth within a Priority School, or school with an overall grade of F, the PED may consider other options such as school closure, reconstitution, or other external management providers to completely redesign a school."

At present, New Mexico has schools that fall under this legacy policy: Five elementary schools have earned four straight failing (F) ratings while another thirteen have earned three failing ratings (F) in the last four years. It cannot be ignored that schools in this category have failed generations of children¹.

New Mexico has identified a total of four schools for More Rigorous Interventions (MRI), two schools that are chronically failing and have earned six continuous "F" grades since 2012 and two schools that have earned five continuous "F" grades since 2013. LEAs with identified chronically failing schools are required to select one of the following more rigorous interventions:

1. **Closure:** Close the school and enroll the students who attended that school in other schools in the surrounding area that are higher performing.
2. **Restart:** Close the school and reopen it under a charter school operator that has been selected through a rigorous state or local authorizer review process.
3. **Champion & Provide Choice:** Champion a range of choices in an open system that focuses on new approaches to learning; one that keeps the individual student(s) at the center of accessing options that best support their learning path. There must be clear evidence that choice has been championed for the impacted students.
Choices may include:
 - public charter schools
 - magnet schools
 - private schools
 - online learning
 - homeschooling
4. **Significantly restructure and redesign the vision and systems at a school** including extending instructional time, significantly changing staffing to include only educators earning highly effective ratings and above, state-selected curriculum approaches, and/or personalized learning models for all students.

¹ New Mexico Rising: New Mexico's State Plan for the Every Student Succeeds Act, pg. 107 (2017). New Mexico Public Education Department, Santa Fe, NM.

This option may also include a hybrid approach of the three options outlined above. The PED will approve all elements and sub-elements of the school’s plan.

II. Purpose

The primary purpose of the MRI Request for Application process is to provide LEAs with schools identified as MRI the opportunity to apply for additional funding through a competitive grant process to support participation in an evidence-based school improvement program or innovative school interventions. This may be in addition to or in support of state-sponsored programs funded via targeted investments.

LEAs may submit multiple applications in response to this RFA; however, **only separate and complete applications for each MRI school will be accepted.**

III. Eligibility

Grant funding is available to LEAs with state identified MRI Schools. LEAs are to submit **separate and complete applications for each MRI school in response to this RFA.**

A full list of MRI schools is available on the NM PED ESSA in New Mexico page: <http://www.ped.state.nm.us/ped/ESSA.html>

IV. Project Period

For applications, the full project period for this grant is three years. Continuation funding after each period of the project is contingent upon progress toward meeting achievement goals, leading indicators, fidelity of implementation of required model actions, and maintenance of all grant requirements.

Project Period Timeline	
Applications Released by PED	December 5, 2017
Letter of Intent Commitment due to PED (Appendix A)	January 26, 2018
Applications Due to PED	February 26, 2018
Announcement of Awards	March 2018
Planning Period for LEA/Schools	March 2018 to June 30, 2018
Year-One Implementation Period	July 1, 2018 to June 30, 2019
Year-Two Implementation Period	July 1, 2019 to June 30, 2020
Year-Three Implementation Period	July 1, 2020 to June 30, 2021

V. Review and Approval

PED will review the proposed MRI and either approve or deny the plan. If the plan is denied, PED reserves the right to select the MRI for the school.

If the district refuses to identify an MRI to participate in, the PED will select the MRI for the school.

Proposal Requirements: Significantly Restructure and Redesign

If the LEA selects the Significantly Restructure and Redesign the vision and systems at the school, they commit to:

1. School Leadership

Recruiting and Sustaining High-Quality Personnel

The LEA must develop and increase school leader effectiveness.

- a. The LEA describes where and how they will recruit school leaders and how the LEA will differ from its standard recruitment practices to ensure the school is led by an effective leader with a track record of success in changing outcomes for students in struggling schools.
- b. The LEA utilizes evidence-based practices for identifying strong leaders, including multiple points of knowledge and skills assessment.
- c. The LEA describes the incentive plan for recruitment and timeline for hiring a school leader.
- d. The LEAs plan includes a sequence of event and decision-making that is likely to produce a strong leader within the appropriate timeline.

Leadership Hiring

The LEA has a comprehensive plan that covers the hiring process from applicant pool to nomination, that focuses equally on experience, knowledge, and skills, capacity to do the work, and alignment with the vision for exceptional student achievement and success for all children in the school community.

The LEA describes:

- a. The leadership competencies that are most important for the school to improve outcomes for students.
- b. How the LEA will use competency-based interviews as a component of hiring.

The LEA must indicate its plan for recruitment of a principal with a prior success record of turning around a low-performing school, the minimum qualifications that must be met by the new principal, and the timelines for placement. Principals who have exhibited performance outcomes specified in (i-iii) cannot be placed at the school.

2. Human Capital

Staff Hiring

Provide additional compensation to attract and retain instructional staff with the skills necessary to meet the needs of the students in a transformation school.

The LEA describes:

- a. The comprehensive plan that covers the hiring process from applicant pool to nomination, that focuses equally on experience, knowledge and skills, capacity to do the work, and alignment with the vision of exceptional student achievement and success for all children in the school community.
- b. The hiring process that is based on the competencies critical to achieving the mission and vision of the school.

- c. The compensation structure to attract and retain staff.
- d. The process used to ensure that 100% of the staff are identified as Effective, Highly Effective, or Exemplary on NM TEACH.

Professional Development

The LEA describes:

- a. How it will provide staff ongoing, high-quality, job-embedded professional development (e.g. regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed to ensure staff are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies.
- b. The frequency and duration of such professional development, including professional development on lesson study.
- c. How common planning time has been established within the master schedule to allow grade level meetings to occur daily in elementary schools and by subject area at the secondary level. It must be scheduled so that all grade level and subject area teachers participate at the same time and include lesson study.

If the master schedule prevents this from occurring, the district must establish weekly lesson study implementation after school for a minimum of one hour a week on the same day.

Incentives

The LEA describes how it will implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the school.

The LEA describes:

- a. How it will include information on stipends for professional development, signing bonuses, and/or performance pay as a part of recruitment activities.
- b. How they will implement performance pay for, at a minimum, ELA/reading and mathematics teachers in grades 3 – 12 based on PARCC learning gains.
- c. A system for measuring changes in instructional practices resulting from professional development.
- d. The monitoring and measurement system and how the LEA will work with the union (if applicable) to implement such a system.
- e. The process the LEA will use to work with the union (if applicable) and the anticipated timelines for such negotiations.

3. School Program

The LEA details a comprehensive, explicit theory of action that supports a culture of achievement and will lead to greater results for children and provides a clearly

articulated summary of the school's plan that meaningfully links the work of staff, program, and community towards a common mission and vision.

Mission, Vision, and Theory of Action

The LEA must:

- a. Develop a mission and vision that identifies the goals of the school community as well as the way in which those goals will be achieved.
- b. Ensure that the philosophical and visionary components of the school plan are clearly identified in a condensed (no more than two pages) and accessible format that can be easily reviewed and communicated by school stakeholders.
- c. Clear emphasis is placed on students throughout the mission and the vision, in a way that drives a student-centered, achievement-oriented culture.
- d. Ensure there is an emphasis on change and growth that clearly highlights the results from the current system and the ways in which the school will make changes to those approaches to drive student outcomes.
- e. A theory of action that clearly addresses the methods and philosophy by which it will grow student achievement, improve school culture, and build sustainability for continued performance.

Equity

The LEA must:

- a. Detail a specific plan for how it will address the needs of subgroups, using strategies that are more likely to be successful and that align with the mission, vision, and Theory of Action.
- b. Ensure that all students are included an aligned, comprehensive, and interwoven plan of how the school will achieve its goals.
- c. Considers the performance (proficiency, growth, and trend data) for all of the ethnic, racial, gender, language, and special needs groups at the school, and develops a strategy that will promote gains for each of them and is aligned to the Theory of Action.
- d. Addresses the needs of any subgroup that has a population of more than 10 students at the school. Subgroups to consider include those listed above, as well as special populations of students (e.g. foster, homeless, migrant).
 - i. How will the school address an engagement plan for each subgroup?
 - ii. How will the school know if each subgroup is learning the skills, concepts, and habits of mind deemed the most essential?
 - iii. How will the school respond if a specific subgroup is not showing the intended or desired progress?
 - iv. How will the school enrich and extend the learning for subgroups when they meet and exceed the stated targets?

Curriculum, Instruction, and Assessment

Describe the comprehensive instructional reform strategies that will be implemented. The LEA must describe how it will:

More Rigorous Intervention | Significantly Restructure and Redesign | 2017-2018

- a. Use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with state academic standards.
- b. Include a description of the research base that supports its effectiveness with high-poverty, at risk students and how school staff will be involved in the vertical and horizontal alignment of the instructional program and the use of High Quality Instructional Materials.
- c. Promote the continuous use of individualized student data (such as formative, interim, and summative assessments) to inform and differentiate instruction to meet individual needs.
- d. Describe how the school will use data (formative, interim, and summative assessments), the frequency of such assessments, how the data will be analyzed, and how changes in instruction will be monitored.
- e. Describe how instruction will be differentiated to meet the individual needs of students and how such differentiation will be monitored. Include strategies for push-in, pull-out, and tutorials.
- f. Conduct reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective. Describe the frequency of such reviews and who will be responsible for monitoring implementation and conducting data analysis.
- g. Implement a school wide Multi-Tiered System of Support (MTSS). Describe how the MTSS will be implemented and the professional development that will be provided to school staff to include new teacher's year over year.
- h. Provide additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited English proficient students acquire language skills to master academic content.
- i. Use and integrate technology-based supports and interventions as part of the instructional program.

Instructional Time

The LEA must provide more time for instruction in other subjects and enrichment activities that contribute to a well-rounded education.

The LEA must describe:

- a. How it will provide more time for instruction in core academic subjects including English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.
- b. How they identified the amount of time the school day or year will be expanded or the amount of instructional time that will be increased, identify the specific activities that will be carried out, and how the LEA will facilitate contract negotiations or other strategies it will employ to expand the school day or year.
- c. The specific enrichment activities that will be offered, the community or business partnerships for mentoring, tutoring, and volunteering that will be negotiated, their purpose, and the expected outcomes.

- d. How the school will provide more time for teachers to collaborate, plan, and engage in professional development within and across grades and subjects. Include the frequency and duration of such collaboration.

4. Budget and Operations

The LEA drafts a three-year budget that aligned to the programmatic initiatives and priorities outlined in the Significantly Restructure & Redesign Plan. To demonstrate alignment, the budget allocates sufficient funding towards the priorities and programs identified in the plan.

- a. The budget allocates sufficient funding towards the priorities and evidence-based interventions (based on data analysis) identified in the plan.
- b. The budget clearly utilizes all available funding, in alignment with the priorities of the plan, over the course of three years.
- c. Priorities in the plan are linked to specific financial requirements and then prioritized to clarify what can and cannot be included in the final budget, and plan.
- d. The plan clearly identifies the governance structure of the school, consistent with regulatory requirements, statute, and law.
- e. The plan clearly outlines the management structure, both within the school and related to the school.

5. Evidence-based Interventions

LEAs are charged with implementing ESSA, including utilizing evidence-based strategies, activities, and interventions in schools in need of significant improvement. While some ESSA programs allow the use of all four levels of evidence, Section 1003a of New Mexico's ESSA Plan requires that MRI, Comprehensive Support and Improvement (CSI) and Targeted Support and Improvement (TSI) schools use these funds only for interventions reflecting one of the highest three levels of evidence (Strong, Moderate, and/or Promising).

- Strong: at least one well-designed and well-implemented experimental study (i.e., a randomized controlled trial).
- Moderate: at least one well-designed and well-implemented quasi-experimental study.
- Promising: at least one well-designed and well-implemented correlation study with statistical controls for selection bias.

It is incumbent upon the LEA to demonstrate that the selected provider and the supporting intervention falls into one of the three ESSA tiers of evidence in Category 1 (see table1).

Table 1: Tiers of Evidence in ESSA

Category 1:	Tier 1	Tier 2	Tier 3
“demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on.”	“strong evidence from at least 1 well-designed and well-implemented experimental study”	“moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study”	“promising evidence from at least 1 well-designed and well-implemented correlational study with statistical controls for selection bias”

I. Full Application Submission

Complete applications **must** be submitted electronically through the Priority Schools Bureau portal available at the following link: ped.psb@state.nm.us.

In addition, one original application plus one hardcopy **must** be mailed by postal service to:
 New Mexico Public Education Department
 Attn: Debbie M. Rael
 Deputy Cabinet Secretary, School Transformation
 Room 123
 300 Don Gaspar Avenue
 Santa Fe, New Mexico 85701

Complete hardcopy applications **must** be postmarked by February 12, 2018 and complete electronic copies must be submitted through the Priority Schools email portal (ped.psb@state.nm.us.) no later than 4:00 p.m. on February 26, 2018.

II. Review and Approval

PED will review the proposed MRI and either approve or deny the plan. If the plan is denied, PED reserves the right to select the MRI for the school.

If the district refuses to identify a MRI to participate in, the PED will select the MRI for the school.

Project Period

For MRI proposals the full project period is three years with the first year of implementation the 2018-2019 SY.

Project Period Timeline	
Applications Released by PED	December 5, 2017
Commitment Letter to PED (Example Appendix B)	January 26, 2018
Applications Due to PED	February 26, 2018
Announcement of Awards	March 2018
Planning Period for LEA/Schools	March 2018 to June 30, 2018
Year-One Implementation	July 1, 2018 to June 30, 2019
Year-Two Implementation Period	July 1, 2019 to June 30, 2020
Year-Three Implementation Period	July 1, 2020 to June 30, 2021

III. Reporting Requirements

The lead points of contact at the LEA responsible for oversight, monitoring, and support of the MRI School are required to participate in progress site visits and monitoring telephone calls with PED. In addition, LEAs will be responsible for submitting monthly, quarterly and/or annual reports on school progress that may include, but are not limited to:

NM DASH

- NM DASH Feedback Tool for each school (2x a year)

Leading Indicators

- Student attendance and school average daily attendance
- Attendance by instructional staff and staff average daily attendance
- Interim assessment data
- Student course completion data
- Instructional staff turnover rate
- NM TEACH information
- In-school and out-of-school suspension rates and average in-school and out-of-school suspension rates by total school and broken down by sub-group
- Chronic absenteeism rates
- Dropout rates
- Number of students completing advanced coursework by subgroup (e.g., advanced Placement/ International Baccalaureate, college pathways or dual enrollment classes [high schools only])
- Other program evaluation and indicator data as needed

Lagging indicators

- Student achievement rates
- State assessment data disaggregated by sub-group
- Student achievement rates compared to the State

- Student achievement rates compared to the LEA
- Student growth data
- College readiness data
- Graduation and transition data

Behavioral and Academic Data

- Evidence that the LEA has a multi-tiered framework with proven evidence-based practices that improve behavioral and academic outcomes for students.
- Evidence that the school implements the practices that support student in a Multi-Tier System of Supports (MTSS) model to ensure that struggling students receive the targeted and intensive supports they need.
- PED-approved K-3 assessment used to measure student growth, inform instructional practice, and identify professional development needs.
- School-developed and/or LEA-directed formative/interim assessments used by the school to determine the likelihood of meeting academic achievement targets.
- School-developed and/or LEA-directed formative/interim assessments used to determine the impact of instructional practice.

VI. Review and Ranking of Applications

Only complete applications from eligible LEAs received at PED by the due date will be accepted. LEAs must clearly identify in the application cover page the specific MRI schools for which they are applying or the application will be rejected as incomplete.

All complete applications will be reviewed and rated by at least two external reviewers.

1. The scores of the first two reviewers will be totaled and then averaged to arrive at the final score for each application using the percentage.
2. If there is a difference of 7 points or more between the two reviewers' scores, a third reviewer will review the application.
3. The two scores mathematically closest to each other will be averaged for the final score unless the difference between the third review score and the first two are equidistant; in which case the third reviewer's score will solely be used.
4. Total scores will be rank ordered using the final score on the application.
5. LEAs will be selected in order of rank; however, not all applying schools in a LEA may be selected dependent on funding availability.

VII. Continuation or Redistribution of Funding

Continuation funding after each period of the project is contingent upon progress toward meeting achievement goals, leading indicators, fidelity of implementation of required model actions, and maintenance of all grant requirements.

If a subgrantee fails to comply with Federal statutes, regulations or the terms and conditions of this award, the State Education Agency (SEA) may impose additional conditions, as described in §200.207 Special Conditions (below).

More Rigorous Intervention | Significantly Restructure and Redesign | 2017-2018

If the SEA determines that noncompliance cannot be remedied by imposing additional conditions, the SEA may take one or more of the following actions, as appropriate in the circumstances:

- a) Temporarily withhold cash payments pending correction of the deficiency by the subgrantee or more severe enforcement action by the SEA.
- b) Disallow all or part of the cost of the activity or action not in compliance.
- c) Wholly or partly suspend or terminate the award.
- d) Recommend the USED initiate suspension or department proceedings as authorized under 2 CFR part 180.
- e) Withhold further Federal awards to the project or program².

The SEA may impose additional award conditions³ as needed, which may include the following:

- 1) Requiring payments as reimbursements rather than advance payments;
- 2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- 3) Requiring additional, more detailed financial reports;
- 4) Requiring additional project monitoring;
- 5) Requiring the subgrantee to obtain technical or management assistance; or
- 6) Establishing additional prior approvals.

If any funded LEAs withdraw or become ineligible within the first year of funding due to not progressing toward meeting achievement goals, leading indicators, fidelity of implementation of required model actions, and maintenance of all grant requirements, the leftover funds may be used to fund the next highest-ranking applications.

² 2 CFR Part 200 §200.338 Remedies for Noncompliance

³ §200.207 Special Conditions



STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT
300 DON GASPAR
SANTA FE, NEW MEXICO 87501-2786
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CHRISTOPHER N. RUSZKOWSKI
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

March 21, 2018

Superintendent Raquel Reedy
6400 Uptown Blvd. NE
Albuquerque, NM 87110

Dear Superintendent Reedy:

At present, and upon review by the New Mexico Public Education Department (PED), the district's request for application for Hawthorne Elementary School, as a school that has selected *Significantly Restructure & Redesign* for the purposes of transforming the school and dramatically improving student achievement, is denied. The school was designated for More Rigorous Intervention (MRI) under New Mexico's federally-approved Every Student Succeeds Act (ESSA) State Plan. As previously noted, the identification of only four schools statewide was in response to chronic low school performance. Hawthorne Elementary School has earned a school grade of "F" in each of the last six academic years.

As such, we can all agree that an entire generation of students has been underserved. I know that we all fundamentally believe that this need not be the case for any student in APS, or for any student across the state of New Mexico. It is a moral imperative that no student be underserved in this manner and for such a long period of time.

Overall, the request for application for Hawthorne Elementary School lacks the requisite urgency, clarity, and cohesiveness to dramatically improve student achievement outcomes. It fails to fully embrace best practices from across New Mexico, undervalues the immediate importance of outstanding educators, underappreciates the importance of increasing instructional time with high-performing educators, fails to implement meaningful, regular measurement of student progress, and does not fully seize this unique opportunity to boldly and courageously redesign our students' learning experiences. While the district's application recognizes the need for dual language education, strong school leadership, and extending the hours in a school day, it does not significantly redesign and restructure in every way. The plan does not fully prioritize the needs of our students.

However, the PED has determined that the district and school leadership shall be afforded an additional three weeks to fully and completely respond to this feedback. Final submission under the *Significantly Restructure & Redesign* option should be submitted to the PED no later than three weeks from today, Wednesday, April 11, 2018.

The following eight overarching areas of focus must be adequately addressed for consideration:

- 1) **Ensuring that every teacher at the school has a track record of Highly Effective or Exemplary performance by the beginning of the 2018-19 school year.** Clear evidence (Kane, 2008; Chetty, Rivkin, and Rockoff, 2014, Hanushek, 2017 e.g.) exists that prioritizing access to a high-performing teacher will eliminate the opportunity gap for traditionally underserved students. Given the district's stated commitment to equity for our students, this should be the minimum standard for students in a high-need school.
- 2) **Ensuring that the school-based teacher compensation system proposed is designed as a means to recruit, champion, reward, and retain teachers demonstrating substantial impact on student achievement growth. Teacher compensation should be dramatically higher at this school than anywhere else in the district, in order to address the students' unequal access to effective education.** Note: It is an expectation that the district align and allocate all available state and federal funds to promote stronger student performance. The core compensation system should reward outcomes, not inputs, and be in full alignment with state statute and regulation. Additional state funds will also be made available by the PED for those teachers who earn an Exemplary distinction (in New Mexico such teacher achieves 25 months of learning in a single school year) in the current school year.
- 3) **Ensuring significantly more instructional time with the school's highest performing teachers, not with outside entities or consultants.** Enrichment opportunities should be in addition to, not a substitute for, increased instructional time with the school's highest performing teachers. Further, the school should ensure that it has strong protocols in place to communicate student progress and provide students and families the option of additional years of instruction.
- 4) **Ensuring that the selected school principal has a multi-year track record of increasing student performance and is compensated at a higher salary than any other school principal in the district.** Our students need more support, which starts with our leaders. Given the district's stated commitment to equity for our students, it would reason that the principals at MRI schools be compensated in alignment with the expectation of more services leading to rapid improvement in student performance.
- 5) **Ensuring that curriculum, instruction, and assessment are evidence-based, vertically aligned, and standards-aligned.** This includes utilizing state-approved rigorous, and common formative and interim assessments, with clear structures for data-driven analysis and instructional planning, and evaluating effectiveness of curriculum. Our students and families deserve to know how they are doing in school at all times, which requires embracing meaningful assessment as the foundation of

instructional decision-making. The district's commitment to this for this school is unclear.

- 6) **Eliminating any parallel or redundant assessment or accountability systems that duplicate effort at the school and district level, which causes confusion among stakeholders.** Unnecessarily creating parallel structures compromises student equity by potentially lowering common statewide expectations for students at Hawthorne Elementary.
- 7) **Clearly delineating the expected outcomes of any community partnerships, external resources, and national partnerships that the district and school plan to access and coordinate with, as well as a direct connection to the root cause(s) of school underperformance.** To be a true community school and to leverage all resources, the plan should identify clear metrics for development of the whole child—academic, cultural, social emotional, etc. Ensuring equitable access to content paired with more resources to meet students' needs at this school is imperative, and the plan structure should allow for innovative deployment of resources available to the community.
- 8) **Revising the budgetary request to not exceed \$100,000 for the planning period and \$675,000 per implementation year for the school via this submission for supplemental funds and denoting all areas where state (SEG) funds, federal funds, grant funds, and all other funding are being utilized to fuel this plan.** This additional application for funding is *supplemental* to the substantial funding that the district and school already receives for its highest-need schools. Further, the district or school should plan to immediately apply for additional funding through proven targeted investments made possible at the state level.

In order to fully facilitate each of the mission-critical items above, and to create the necessary flexibility and innovation at this school, the PED also suggests the suspension of the district's collective bargaining agreement for the next three years for this school. This is a suggestion, not a requirement, for approval. Per the section in your application titled, "Describe the process the LEA will use to work with the union (if applicable) and the anticipated timelines for such negotiations," it states that that, "Any provision of the APS/ATF Negotiated Agreement may be waived or altered with the written consent of both the District and the Federation (Article 31 C.)." In an urgent school turnaround situation with our students' futures at stake, the superintendent and school principal will need the freedom to manage all aspects of the district and school, and the freedom to make student-centered decisions pertaining to scheduling and staffing.

Further, the PED will appoint a five-member NM Educator Advisory Council (EAC) to monitor adherence to the school's MRI plan and provide oversight oversight, if the revised application merits approval. It will be comprised of educators with a track record of substantial student achievement growth (e.g., Highly Effective/Exemplary teachers, high-performing principals and district leaders). In order to facilitate continuous improvement and the sharing of best practices statewide, the EAC will be comprised of educators from schools outside

of the district's jurisdiction. The Chair and the members of the EAC will be appointed by the PED and shall commit to serving the full three-year term. The EAC will visit the school on a regular basis, hold quarterly meetings and report to the community, the district, and the PED.

The eight categories of feedback included herein constitute the minimum level of responsiveness from the district and school. In many instances, the language provided was the same from school to school, indicating that the applications are not reflective of individual circumstances and challenges at each school. As detailed in the State Plan under the Every Student Succeeds Act, if the plan is denied, New Mexico reserves the right to select another option for the MRI school. The three remaining options include Closure, Restart, and Champion & Provide Choice.

It must be noted that, after six years of underserving students, this submission should have reflected an intensive, robust, and comprehensive plan. The plan must reflect the challenging of status quo policies and extreme urgency toward student achievement.

In addition to the feedback herein, we are open to arranging a meeting on April 4th, 5th or 6th (or another date that works for all parties) prior to final submission. Please contact us at your earliest convenience if you would like to arrange. While the original intent was to approve/deny the plan upon this review, we would like to provide the district and school yet another opportunity to put something transformative in place for our students.

Please note that this letter, alongside the application, will be posted publicly.

Respectfully,



Christopher N. Ruszkowski
Cabinet Secretary, NM Public Education Department

cc: APS Board of Education
Judy Martin-Tafoya, Principal, Hawthorne Elementary School
Dr. Gabriella Blakey, Associate Superintendent for Leadership and Learning - Zone 1
Debbie Rael, Deputy Secretary of School Transformation, NMPED
Matt Montano, Deputy Secretary of Teaching & Learning, NMPED
Marian Rael, Deputy Secretary of Finance & Operations, NMPED
Ashley Eden, Deputy Chief-of-Staff, NMPED
Elisabeth Peterson, Director of Priority Schools Bureau, NMPED



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CHRISTOPHER N. RUSZKOWSKI
 SECRETARY OF EDUCATION

SUSANA MARTINEZ
 GOVERNOR

April 27, 2018

Superintendent Raquel Reedy
 6400 Uptown Blvd. NE
 Albuquerque, NM 87110

Dear Superintendent Reedy:

Upon review by the New Mexico Public Education Department (NMPED), the district’s plan for Los Padillas Elementary School, which selected *Significantly Restructure and Redesign* for the purposes of transforming the school and dramatically improving student achievement, is conditionally approved.

Los Padillas Elementary School has earned five consecutive “F” grades. Hundreds of families have entrusted the school with their children’s future—and the school has not delivered. Thus, additional safeguards must be put into place so that another generation of students in your district is not underserved.

If the school earns a 7th and 8th “F” grade in the 2017-18 and 2018-19 school years, then the federal grant allocation for 2019-20 and 2020-21 will be withheld and repurposed for School Closure during the 2019-20 school year. If the school earns a combination of “D” and “F” grades over the next three school years, the school shall close at the end of the 2021-22 school year.

Federal funding to support this plan is contingent upon the district fully meeting the conditions outlined below, aligned to the eight overarching areas of focus, by the date indicated:

- 1) **Ensuring that every teacher at the school has a multi-year track record of Highly Effective or Exemplary performance by the beginning of the 2018-19 school year.**
 - By the first day of teacher professional development for the 2018-19 school year, 100% of teachers at Los Padillas Elementary School will have earned a summative rating of Highly Effective or Exemplary during the 2016-17 school year.

- If a teacher who currently teaches at the school earned a rating of Highly Effective or Exemplary for the 2016-17 school year but then earns a rating of lower than Highly Effective for the 2017-18 school year, the teacher will be placed on the district's Peer Assistance Review (PAR), which is subject to review by NMPED.
 - Any teacher placed on PAR that does not meet the district's identified target of "1 year of growth within each semester for an increase of two grade levels per year for every student who is not on grade level" on page 9 of the APS MRI Response during the 2018-19 school year, the teacher will not be renewed at Los Padillas Elementary School for the following academic year. NMPED must approve all assessments and methodology utilized to make these decisions, and reserves the right to determine the assessments and methodologies at the state level.
- 2) **Ensuring that the school-based teacher compensation system proposed is designed as a means to recruit, champion, reward, and retain teachers demonstrating substantial impact on student achievement growth. Teacher compensation should be significantly higher at this school than anywhere else in the district, in order to address the students' unequal access to effective education.**
- By May 15, 2018, the district will submit to NMPED for review the formula that will be used to determine the \$1,000 group award for increase in student achievement ("1 year of growth within each semester for an increase of two grade levels per year for every student who is not on grade level"). NMPED must approve all assessments and methodologies utilized to make these decisions, and reserves the right to determine the assessments and methodologies at the state level.
- 3) **Ensuring significantly more instructional time with the school's highest performing teachers, not with outside entities or consultants.**
- By May 15, 2018, the district will submit the finalized schedule for Los Padillas Elementary School that reflects the increase in instructional minutes/hours indicated in the APS MRI Response:
 - The schedule will include uninterrupted blocks for ELA and math.
 - The schedule will include an extra hour of core content instruction.
 - The schedule will reflect that the Genius Hour is in addition to the extra hour of core content instruction.
 - The schedule will reflect the time protected during the day for meaningful collaboration around data analysis and instructional planning.
- 4) **Ensuring that the selected school principal has a multi-year track record of increasing student performance and is compensated at a higher salary than any other school principal in the district.**
- By June 1, 2019, if students have not demonstrated on average "1 year of growth within each semester for an increase of two grade levels per year for every student who is not on grade level," the principal and the assigned support principal will be removed. NMPED must approve all assessments and methodology utilized to make these decisions, and reserves the right to determine the assessments and methodologies at the state level.

- By June 1, 2020, if students have not demonstrated on average “1 year of growth within each semester for an increase of two grade levels per year for every student who is not on grade level,” the Zone associate superintendent will be removed. NMPED must approve all assessments and methodology utilized to make these decisions, and reserves the right to determine the assessments and methodologies at the state level.
- 5) **Ensuring that curriculum, instruction, and assessment are research-based, vertically aligned, and standards-aligned.**
- *Curriculum:*
 - By the first day of teacher professional development for the 2018-19 school year, the district will provide staff at Los Padillas Elementary School with a scope and sequence that includes daily lesson objectives; vertical articulation of standards; daily formative assessments; and exemplary student work for ELA and math.
 - By the first day of teacher professional development for the 2019-20 school year, the district will provide staff at Los Padillas Elementary School with a scope and sequence that includes daily lesson objectives; vertical articulation of standards; daily formative assessments; and exemplar student work for writing and science.
 - *Instruction:*
 - By July 1, 2018, the district will provide a schedule of observation and one-on-one feedback meetings for all teachers to occur biweekly (Driven by Data, pg. 88-90). Teachers must be continuously observed and coached on their instruction.
 - *Assessment:*
 - By May 15, 2018, the district will provide clarification in writing as to which assessments identified on page 36 of the request for application and page 9 of the APS MRI Response will be administered to students, in which content areas, and at which grade levels. NMPED must approve all assessments and methodology utilized to make these decisions, and reserves the right to determine the assessments and methodologies at the state level.
 - By June 1, 2018, the district will provide a schedule of interim assessments to be administered and analyzed no less frequently than every six to eight weeks.
 - By the first day of teacher professional development for the 2018-19 school year, the district will provide staff at Los Padillas Elementary School with common benchmark assessments to be administered no less frequently than every two to three weeks.
 - By September 1, 2018, the district will ensure that progress monitoring occurs weekly for students well below benchmark and bi-weekly for students below benchmark as measured by the assessments identified on page 9 of the APS MRI Response. NMPED must approve all assessments and methodology utilized to make these decisions, and reserves the right to determine the assessments and methodologies at the state level.
 - *Data-Driven Instruction:*
 - By May 15, 2018, the district will provide an updated school calendar to reflect additional professional days to train teachers on the scope and sequence, assessment strategy, data system, and data analysis protocols and tools.
 - By July 1, 2018, the district will submit for review and approval the protocol for teacher data analysis, the template for teacher action planning, and the protocol

for one-on-one teacher-leader data analysis meetings to follow each administration of the benchmark assessment.

- By the first day of school of the 2018-19 school year, the district will provide staff at Los Padillas Elementary School with a data system that delivers user-friendly reports following benchmark and interim assessments within 48 hours of the administration of the assessment. The reports will include:
 - Item analysis;
 - Standards-level analysis; and
 - Bottom-line results (Driven by Data, pg. 43).
- 6) **Clearly delineating the expected outcomes of any community partnerships, external resources, and national partnerships that the district and school plan to access and coordinate with, as well as a direct connection to the root cause(s) of school underperformance.**
- By June 1, 2018, the district will identify and submit clear metrics for development of the “whole child” (academic, cultural, social emotional, etc.) through the Community Schools model within the categories articulated on page 12 of the APS MRI Response.
- 7) **Revising the budgetary request to not exceed \$100,000 for the planning period and \$675,000 per implementation year for the school via this submission for supplemental funds and denoting all areas where SEG funds, federal funds, grant funds, and all other funding are being utilized to fuel this plan.**
- By May 15, 2018, the district will submit a detailed budget that aligns to Los Padillas Elementary School’s plan and reflects meeting all conditions outlined in this letter, to indicate funding streams for all budget line items and comprehensive descriptions of each line item. NMPED must approve all budgetary decisions throughout plan implementation.
- 8) **School Performance: Exit Criteria**
- An identified school is expected to exit MRI status. School performance will be evaluated annually and final exit criteria will be provided by June 1, 2018. A draft of the exit criteria is below:
 - Earning more than 50 total points (“C” grade or better) for three consecutive years, which could include the 2017-2018 school year.

Upon acceptance of these conditions by the district, NMPED will commence monitoring of the initial implementation of the Los Padillas Elementary School’s MRI Plan to include all conditions outlined above. Further, the PED will appoint a five-member Educator Advisory Council (EAC) by July 1, 2018 to monitor adherence to the school’s MRI plan, assess the quality of instruction and implementation and provide outside input, counsel, and oversight. The EAC will make recommendations to NMPED (and APS), however NMPED will retain sole decision making authority relating to all compliance and enforcement issues that arise as it pertains to the interpretation, implementation, and enforcement of this plan.

In accepting the above conditions, the district acknowledges that failure to meet one or more conditions may subject them to further review by NMPED, which could result in NMPED selecting another school turnaround option. A determination that such failure constitutes grounds will result in NMPED taking appropriate action. Such action may include, but is not limited to, suspending the Board of Finance (NMSBA Sections 22-8-39 and 22-2-1) for the district, redirecting Title I funds, suspension of funding, and/or revocation of the conditional approval of the plan which will result in the imminent closure of the school.

The district is required to formally notify NMPED of the acceptance of the above conditions by 5 pm on Friday, May 4, 2018. If the district does not accept all of the above conditions, NMPED will take any and all available and appropriate actions, which may include taking the necessary steps to close the school.

Please note that this letter, alongside the resubmitted application and APS MRI Response, will be posted publicly.

Respectfully,



Christopher N. Ruszkowski
Cabinet Secretary, NM Public Education Department

cc: APS Board of Education
Cesar Hernandez, Principal, Los Padillas Elementary School
Antonio Gonzales, Associate Superintendent for Leadership and Learning - Zone 2
Debbie Rael, Deputy Secretary of School Transformation, NMPED
Matt Montano, Deputy Secretary of Teaching & Learning, NMPED
Marian Rael, Deputy Secretary of Finance & Operations, NMPED
Ashley Eden, Deputy Chief-of-Staff, NMPED
Elisabeth Peterson, Director of Priority Schools Bureau, NMPED



May 4, 2018

Christopher N. Ruszkowski
Secretary-Designate
State of New Mexico Public Education Department
300 Don Gaspar
Santa Fe, NM 87501

Re: Whittier Elementary School

Dear Secretary-Designate Ruszkowski:

We acknowledge receipt of your April 27, 2018, letter wherein you approved the Albuquerque Public Schools' (APS) MRI plan for Whittier Elementary School with conditions. This letter serves to notify you of our acceptance of the conditions with the understandings set forth below, which correspond with the numbered conditions in your April 27 letter:

1. Accepted with the understanding that every reasonable effort will be made to staff the school by the first day of the 2018-2019 school year with Highly Effective or Exemplary teachers, but that to the extent this has not been 100 percent accomplished APS will continue its aggressive recruiting efforts to complete staffing as soon as possible while complying with the Section 22-5-14 NMSA 1978, the School Personnel Act and applicable Regulations related to staffing and supervisory personnel. APS will monitor the status of State of New Mexico Ex Rel., the Honorable Mimi Stewart et al. v. New Mexico Public Education Department et al. Cause No. D-101-CV-2015-00409 to ensure compliance with the pending injunction.

APS continues to believe that every classroom should be staffed with a licensed teacher over a substitute, if unable to fill positions with Highly Effective or Exemplary rated teachers. APS also continues to place high value in National Board Teachers and Accomplished Teaching and will continue to recruit these teachers.

2. Accepted

3. Accepted with the understanding that uninterrupted blocks for ELA and math will be developed as soon as possible, but some additional time beyond the May 15, 2018 deadline may be required to fulfill this part of the condition while complying with Section 22-10A-18 NMSA 1978. The school will make every effort to have uninterrupted blocks of time for ELA and math; however, it also will need to create a schedule that serves all students and provides common planning time for grade level teachers.

4. Accepted with the understanding that the newly hired principal at Whittier was given a multi-year contract to assure continuity, and any change in the principal and support

principal by June 1, 2019, will be done in accordance with the Principal Evaluation System required by the PED. APS has hired a principal with a multi-year track year of success, therefore, finds it unreasonable that one year of data would determine her employment status. APS will utilize the PED evaluation system for the principal, which includes multi-measures of effective leadership. With regard to support personnel, including the associate superintendent, APS will comply with the School Personnel Act.

5. Accepted with the understanding that APS working with PED and our classroom teachers will ensure that curriculum, instruction and assessment are research-based, vertically aligned and standards-aligned. It is envisioned that a collaborative effort with PED and our teachers will be undertaken to assure the requirement is properly implemented. As described in the recent resubmission to the PED, Whittier will work with WestEd/Dana Center to align standards. Instructional materials for ELA are currently being adopted.

6. Accepted

7. Accepted

8. Accepted with the understanding that APS believes that PED's intention was for Whittier to achieve a C grade for three consecutive years beginning with the 2018-2019 school year, which would be the first year for Whittier to be under the MRI plan. If this understanding is not correct, we look forward to clarification from PED.

It cannot go without noting that all along in this application process there has been changing PED criteria, which gives APS real concern that its efforts will not be judged objectively. One example of the changing criteria is the following relating to staffing the MRI schools:

In the initial RFA the requirement was that the MRI schools be staffed by "Effective" "Highly Effective" and "Exemplary" teachers. APS submitted an application, which comported with the requested criteria. This application was denied. PED in denying the initial application advised APS that it could submit an updated application that specifically addressed eight areas of focus that the Secretary-Designate identified. One of the eight areas of focus related to staffing the MRI schools. PED stated that the updated application should provide that the MRI schools would be staffed with "Highly Effective" and "Exemplary" teachers. The Effective classification was deleted. In the spirit of good faith and cooperation, to assure that the MRI school could operate in accordance with the proposed APS plan, APS agreed to recruit aggressively to staff the MRI schools with Highly Effective and Exemplary teachers. APS, relying on the statement that PED would assist in achieving the MRI plans, requested assistance from PED in identifying teachers statewide who had the required status, because this information was only available to PED. This request was met with silence from PED. The deafening silence from PED made it clear to APS that it would be left to its own devices to recruit teachers with the required status of Highly Effective and Exemplary. APS has begun the hiring process of teachers who meet the qualifications included in the APS updated plan.

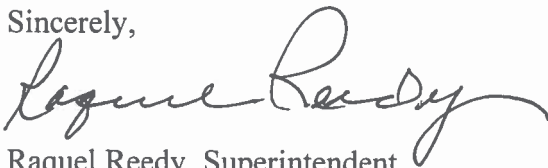
On April 27, 2018, in approving conditionally the APS MRI Application for Los Padillas Elementary School and Whittier Elementary School the Secretary-Designate and PED shifted again the criteria regarding staffing. The new April 27, 2018, criteria requires that the teachers staffing the MRI schools not only have the designation of Highly Effective or Exemplary, but that these teachers have a “multi-year” track record of having the designation of Highly Effective or Exemplary.

APS is left to only guess what new criteria will be used by the Secretary-Designate and PED in providing the assistance that was originally promised in the RFA. APS, and reasonably informed observers of the process, agree that we are justified in our skepticism and lack of confidence in the Secretary-Designate and PED.

Given the shifting criteria in the staffing area of focus, which is only one of the eight areas, and without detailing changes in criteria in each of the other seven areas of focus, APS believes that its best course of action is to proceed with implementation of its MRI plans for Los Padillas, Whittier and Hawthorne elementary schools.

While APS will move forward to implement its plan, developed collaboratively by stakeholders and backed by in-depth research, for Whittier Elementary School and will make a good faith effort to implement the conditions imposed by the Secretary-Designate, APS does not waive, and in fact reserves the right to stop or change implementation of the plan or the conditions, if it determines that parts of or all of the plan or the conditions are legally impermissible or the timelines prove to be impractical, or not in the best interest of children. Should it appear that the timelines are not readily achievable; APS will work cooperatively with PED to set achievable timelines so as to implement its plan.

Sincerely,

A handwritten signature in cursive script that reads "Raquel Reedy". The signature is written in black ink and is positioned above the printed name.

Raquel Reedy, Superintendent



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CHRISTOPHER N. RUSZKOWSKI
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

April 27, 2018

Superintendent Raquel Reedy
6400 Uptown Blvd. NE
Albuquerque, NM 87110

Dear Superintendent Reedy:

As you know, Hawthorne Elementary School was identified for More Rigorous Intervention as part of New Mexico's State Plan under the Every Student Succeeds Act (ESSA). Hawthorne Elementary School earned six (6) consecutive "F" grades in the state's accountability system.

We can all agree that an entire generation of students in your district has been underserved—and that we must provide high-quality school choices for every child. Every family deserves choices and the freedom and ability to make those choices—and Albuquerque Public Schools (APS) should be facilitating that for every student and every family in their district, but particularly for students attending chronically low-performing schools.

Upon review by the New Mexico Public Education Department (NMPED), the district's plan for Hawthorne Elementary School, as a school that selected Significantly Restructure and Redesign for the purposes of transforming the school and dramatically improving student achievement, has been denied. In order to ensure that Hawthorne students are receiving a high quality education, NMPED is, pursuant to New Mexico's federally-approved State Plan under ESSA, selecting the More Rigorous Intervention of *Champion and Provide Choice* for the students and families attending this school.

There are at least ten elementary schools within five miles of Hawthorne Elementary School that earned a better school grade than an "F" in the last year, and many other higher-performing schools across the city.

Based on the fact that Hawthorne Elementary School earned six consecutive "F" grades, there is a moral imperative to deliver for students and families in new ways. Effective immediately, APS, with oversight from NMPED, must champion a wide range of choices in an open system

that focuses on student access and student learning, one that keeps the individual student(s) at the center of accessing school options that best support their learning. There must be clear evidence that choice has been championed for every student at this school. Further, there must be clear evidence that students from this school receive higher preference than any other students when transferring or enrolling in another higher-performing school.

APS, with the approval of NMPED for each component, will work closely with students and families in the community to ensure the following:

1. APS shall create the infrastructure, which must be approved by NMPED, necessary to:
 - Clearly communicate with parents about options available
 - Fully support receiving schools
 - Fully support all higher-performing schools in promoting their school community
2. APS and Hawthorne Elementary School shall co-host, with NMPED, four school choice expos between now and the first day of the 2018-19 school year to provide information to parents, families and community members regarding the process and system for school choice (“School Choice System”). Events must be hosted at or near Hawthorne Elementary School and families must be given the clear and immediate right for their child to attend another school. Citywide school options will be presented in partnership with NMPED and other partners.
3. APS shall make public a list of schools that current Hawthorne students may attend. The list must be approved by NMPED and will be published by both parties.
4. The school shall have weekly school choice communications to families. This should always include access to applications for high performing charter schools.
5. The district shall match students from this school to higher-performing schools based on student and family preferences, and must provide transportation to any student who selects another school within APS. The School Choice System designed by APS must maximize the number of students who are placed in preferred schools, which could be any higher-performing school.
6. APS shall facilitate the transfer and transportation (at no cost to the family) of any student, for their entire elementary school experience, who attended Hawthorne Elementary School in the 2017-18 school year and elects to attend a different school within the district in any subsequent years.
7. As a part of the ongoing open enrollment process, by July 15, 2018, the school shall have collected a form signed by a parent or guardian for each student registered at Hawthorne Elementary School for the 2018-19 school year (and for any future enrollees) that clearly states they are electing to send their child to that school even when there are other, higher-performing school choices available, and that they are aware of those other options. The form for achieving this must be approved by NMPED.

8. APS shall track all parent choices and school enrollment. The district must also survey all families about their satisfaction and the reason for their choices. APS must provide all information to NMPED, having obtained any and all necessary permissions to do so.

APS must submit a plan to NMPED detailing actions and proposed costs by May 11, 2018 for review. The district should apply for Title I 1003[a] funds to support the reasonable and necessary costs associated with *Championing and Providing Choice* for families at Hawthorne Elementary School. The Champion and Provide Choice Application can be found on the NMPED webpage at: <https://webnew.ped.state.nm.us/wp-content/uploads/2018/01/MRI-Champion-and-Provide-Choice-Application-FINAL.docx>.

NMPED will appoint a five-member Educator Advisory Council (EAC) to monitor adherence to the school's MRI plan, if approved, and assess the quality of implementation. The EAC will make recommendations to NMPED and APS, however NMPED will retain sole decision making authority relating to all compliance and enforcement issues that arise as it pertains to the interpretation, implementation, and enforcement of this plan, if approved.

Given the selection of this option, Hawthorne Elementary School will remain open, but will close at the end of the 2020-21 school year unless the school earns a "C" grade or better in the 2017-18, 2018-19, and 2019-20 school years. This opportunity is contingent upon clear evidence that APS has met all requirements of the *Champion and Provide Choice* plan, which would include clear and substantial data that student enrollment has grown at other higher-performing schools. However, if the school earns a 7th consecutive "F" at the end of the 2017-18 school year or earns an "F" at the end of the 2018-19 school year, an updated school closure plan must be submitted within one month of earning that mark, and the school shall close at the end of the subsequent year.

Please note that this letter, alongside the resubmitted application and APS MRI Response, will be posted publicly.

Respectfully,



Christopher N. Ruskowski
Cabinet Secretary, New Mexico Public Education Department

cc: APS Board of Education
Judy Martin-Tafoya, Principal, Hawthorne Elementary School
Dr. Gabriella Blakey, Associate Superintendent for Leadership and Learning - Zone 1
Debbie Rael, Deputy Secretary of School Transformation, NMPED
Matt Montano, Deputy Secretary of Teaching & Learning, NMPED
Marian Rael, Deputy Secretary of Finance & Operations, NMPED
Ashley Eden, Deputy Chief-of-Staff, NMPED
Elisabeth Peterson, Director of Priority Schools Bureau, NMPED



May 4, 2018

Christopher N. Ruszkowski
Secretary-Designate
State of New Mexico Public Education Department
300 Don Gaspar
Santa Fe, NM 87501

Re: Hawthorne Elementary School

Dear Secretary-Designate Ruszkowski:

APS acknowledges receipt of your April 27, 2018, letter denying the Albuquerque Public Schools' (APS) MRI Plan for Hawthorne Elementary School. Nevertheless, APS intends to implement its Redesign Plan for Hawthorne while also giving school attendance choice options to parents and students as provided in your April 27, 2018, letter.

As you might expect, APS is very disappointed that the substantial effort expended to develop the Restructure and Redesign Plan for Hawthorne Elementary School was not accepted. Even more disappointing is that there was no explanation given for your denial decision.

With regard to the imposition of the "Champion & Provide Choice" contained in your decision letter, APS wants to highlight the arbitrariness of the denial of the Hawthorne Elementary School plan when the virtually identical plan was approved for Los Padillas and Whittier elementary schools. APS learned not by direct communication from you, but from your statement in the April 28 edition of the Albuquerque Journal that you lacked confidence in the ability of APS to implement the virtually identical plans approved by you for Los Padillas and Whittier elementary schools. Interestingly the PED did have confidence that the virtually identical plans could be implemented at Los Padillas and Whittier elementary schools.

With regard to the Hawthorne plan, it must be remembered, that it is the same Board of Education, the same Superintendent, the same Associate Superintendent specifically charged with implementing the plan, a staff of highly effective or exemplary teachers and a seasoned turn-around principal that will implement the plan at Hawthorne as is the case at Whittier. The irony of the denial is not lost on APS and has created a loss of confidence in the Secretary's ability to objectively fulfill his and the PED's commitments set out in the Request for Applications. APS, while remaining hopeful, but being without any level of confidence, is very doubtful that any support will ultimately be forthcoming from the Secretary or the PED for Los Padillas, Whittier and Hawthorne elementary schools. APS, therefore, intends to move forward with its plans for Los Padillas, Whittier and Hawthorne elementary schools with or without support from you or the PED.

It cannot go without noting that all along in this Application process there has been changing PED criteria, which gives APS real concern that its efforts will not be judged objectively. One example of the changing criteria is the following relating to staffing the MRI schools:

In the initial RFA the requirement was that the MRI schools be staffed by “Effective” “Highly Effective” and “Exemplary” teachers. APS submitted an application that comported with the requested criteria. This application was denied. PED in denying the initial application advised APS that it could submit an updated application that specifically addressed eight areas of focus that the Secretary-Designate identified. One of the eight areas of focus related to staffing of the MRI schools. PED stated that the updated application should provide that the MRI schools would be staffed with “Highly Effective” and “Exemplary” teachers. The Effective classification was deleted. In the spirit of good faith and cooperation, to assure that the MRI school could operate in accordance with the proposed APS plan, APS agreed to recruit aggressively to staff the MRI schools with Highly Effective and Exemplary teachers. APS, relying on the statement that PED would assist in achieving the MRI plans, requested assistance from PED in identifying teachers statewide who had the required status, because this information was only available to PED. This request was met with silence from PED. The deafening silence from PED made it clear to APS that it would be left to its own devices to recruit teachers with the required status of Highly Effective and Exemplary. APS has begun the hiring process of teachers who meet the qualifications included in the APS updated plan.

On April 27, 2018, in approving conditionally the APS MRI Application for Los Padillas Elementary School and Whittier Elementary School, the Secretary-Designate and PED shifted again the criteria regarding staffing. The new April 27, 2018, criteria requires that the teachers staffing the MRI Schools not only have the designation of Highly Effective or Exemplary, but that these teachers have a “multi-year” track record of having the designation of Highly Effective or Exemplary.

APS is left to only guess what new criteria will be used by the Secretary-Designate and PED in providing the assistance that was originally promised in the RFA. APS, and reasonably informed observers of the process, agree that we are justified in our skepticism and lack of confidence in the Secretary-Designate and PED.

Given the shifting criteria in the staffing area of focus, which is only one of the eight areas, and without detailing changes in criteria in each of the other seven areas of focus, APS believes that its best course of action is to proceed with implementation of its MRI plans for Los Padillas, Whittier and Hawthorne elementary schools.

Sincerely,

A handwritten signature in cursive script that reads "Raquel Reedy".

Raquel Reedy, Superintendent



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CHRISTOPHER N. RUSZKOWSKI
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

April 27, 2018

Superintendent Pamela Montoya
PO Box 547
Dulce, NM, 87528

Dear Superintendent Montoya:

The New Mexico Public Education Department (NMPED) has reviewed your resubmission of your *Significantly Restructure and Redesign* plan submitted on April 16, 2018, as part of the implementation of New Mexico's federally-approved Every Student Succeeds Act (ESSA) State Plan. Dulce Elementary School earned a School Grade of "F" in five of the last six academic years—and thus was one of only four schools statewide to be identified for More Rigorous Intervention (MRI). As such, Dulce district leaders were charged with choosing from one of four options to transform students' academic experiences. The district selected the Significantly Restructure and Redesign option and was therefore responsible for crafting a transformative plan that would increase student achievement. Upon initial submission of a plan that failed to do so, the district was charged with incorporating all input from the seven feedback categories provided by NMPED to the Dulce Independent Schools on March 21, 2018. The district was granted timeline extensions when requested.

In your district, an entire generation of students has been underserved. While we all fundamentally believe in every student's unlimited potential, that belief must be matched with action. It is a moral imperative to break down any barrier that stands in our children's way.

And yet, upon review of your resubmission, the plan does not indicate that the Board of Education for Dulce Independent Schools has approved all elements of the entire submitted plan. Instead, the resubmitted plan relies on contingencies, excuses and workarounds in order to avoid a clear commitment to addressing the educational needs of your students. This is unacceptable for our students who are in dire need of immediate change, and uncovers systemic operational and academic failures within the district.

More practically, the inadequacies of the plan limit NMPED's ability to review the plan in full and make any final determination. If this is Dulce's final plan submission, then NMPED will

select another option for the students in your district. It is discouraging that such a weak and tepid plan was delivered to NMPED on April 16th—one that does not demonstrate a genuine attempt to advance student achievement in a bold and purposeful manner. The resubmitted plan does not prioritize the needs of students and focuses instead on the needs of the adults—all this after an entire generation of students has been deprived of a high-quality education.

As the Superintendent, you have until May 7, 2018 to resubmit a complete plan in a manner that clearly indicates the Board of Education’s unconditional, full support and approval of all elements. If the district fails to submit a plan in this manner, NMPED will select another option for the school immediately and may take further action to address the systemic issues that have been uncovered through this process. The financial, operational, and academic health of your district is being called into question, and our students deserve better than more of the same.

Please note that this letter and your resubmission of your MRI Significantly Restructure and Redesign Application will be posted publicly.

Respectfully,



Christopher N. Ruszkowski
Cabinet Secretary, NM Public Education Department

- cc: Dulce Board of Education
- Debbie Rael, Deputy Secretary of School Transformation, NMPED
- Matt Montano, Deputy Secretary of Teaching & Learning, NMPED
- Marian Rael, Deputy Secretary of Finance & Operations, NMPED
- Ashley Eden, Deputy Chief-of-Staff, NMPED
- Elisabeth Peterson, Director of Priority Schools Bureau, NMPED

Constitution of the State of New Mexico, Article XII**Sec. 6. [Public education department; public education commission.]**

A. There is hereby created a “public education department” and a “public education commission” that shall have such powers and duties as provided by law. The department shall be a cabinet department headed by a secretary of public education who is a qualified, experienced educator who shall be appointed by the governor and confirmed by the senate.

B. Ten members of the public education commission shall be elected for staggered terms of four years as provided by law. Commission members shall be residents of the public education commission district from which they are elected. Change of residence of a commission member to a place outside the district from which he was elected shall automatically terminate the term of that member.

C. The governor shall fill vacancies on the commission by appointment of a resident from the district in which the vacancy occurs until the next regular election for membership on the commission.

D. The secretary of public education shall have administrative and regulatory powers and duties, including all functions relating to the distribution of school funds and financial accounting for the public schools to be performed as provided by law.

E. The elected members of the 2003 state board of education shall constitute the public education commission, if this amendment is approved, until their terms expire and the districts from which the state board of education were elected shall constitute the state public education commission districts until changed by law. (As amended November 4, 1958, effective January 1, 1959, November 4, 1986, and September 23, 2003.)

9-24-8. Secretary; duties and general powers.

A. The secretary is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which he or the department is charged.

B. To perform his duties, the secretary has every power expressly enumerated in the law, whether granted to the secretary, the department or any division of the department, except when any division is explicitly exempted from the secretary's power by statute. In accordance with these provisions, the secretary shall:

- (1) except as otherwise provided in the Public Education Department Act or the Public School Code [Chapter 22, Article 1 NMSA 1978], exercise general supervisory and appointing power over all department employees, subject to applicable personnel laws and rules;
- (2) delegate power to subordinates as he deems necessary and appropriate, clearly delineating such delegated power and the limitations to that power;
- (3) organize the department into organizational units as necessary to enable it to

function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge his duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with law, to ensure implementation of and compliance with the provisions of law for which administration or execution he is responsible and to enforce those orders and instructions by appropriate administrative action in the courts;

(6) conduct research and studies that will improve the operation of the department and the provision of services to the citizens of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objectives of improving the operations and efficiency of administration and of promoting comprehensive, coordinated and culturally sensitive services that address the education of the whole child;

(8) prepare an annual budget for the department; and

(9) provide cooperation, at the request of administratively attached agencies and adjunct agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern; and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, record keeping and related clerical assistance to administratively attached agencies.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. The secretary may make and adopt such reasonable and procedural rules as may be necessary to carry out the duties of the department and its divisions. No rule promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary. Unless otherwise provided by statute, no rule affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the secretary. The final public hearing on adoption, amendment or repeal of a rule shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule or proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for

advance notice of hearing. All rules shall be filed in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978].

22-2-2. Department; general duties.

The department shall:

A. properly and uniformly enforce the provisions of the Public School Code [Chapter 22 [except Article 5A] NMSA 1978];

B. determine policy for the operation of all public schools and vocational education programs in the state, including vocational programs that are part of a juvenile construction industries initiative for juveniles who are committed to the custody of the children, youth and families department;

C. 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;

D. prescribe courses of instruction to be taught in all public schools in the state, requirements for graduation and standards for all public schools, for private schools seeking state accreditation and for the educational programs conducted in state institutions other than the New Mexico military institute;

E. provide technical assistance to local school boards and school districts;

F. assess and evaluate public schools for accreditation purposes to determine the adequacy of student gain in standards-required subject matter, adequacy of student activities, functional feasibility of public school and school district organization, adequacy of staff preparation and other matters bearing upon the education of the students;

G. assess and evaluate all state institutions and those private schools that desire state accreditation;

H. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the department may order that a student attend a public school or a private school;

I. require periodic reports on forms prescribed by it from all public schools and attendance reports from private schools;

J. determine the qualifications for and issue licenses to teachers, instructional support providers and school administrators according to law and according to a system of classification adopted and promulgated by rules of the department;

K. deny, suspend or revoke a license according to law for incompetency, moral turpitude or any other good and just cause;

L. 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. The department shall require an association or organization attempting to regulate a public school activity to comply with the provisions of the Open Meetings Act [Chapter 10, Article 15 NMSA 1978] and be subject to the inspection provisions of the Public Records Act [Chapter 14, Article 3 NMSA 1978]. The department may require performance and financial audits of an association or organization attempting to regulate a public school activity. The department shall have no power or control over the rules or the bylaws governing the administration of the internal organization of the association or organization;

M. review decisions made by the governing board or officials of an organization or association regulating a public school activity, and any decision of the department shall be final in respect thereto;

N. require a public school under its jurisdiction that sponsors athletic programs involving sports to mandate that the participating student obtain catastrophic health and accident insurance coverage, such coverage to be offered through the school and issued by an insurance company duly licensed pursuant to the laws of New Mexico;

O. establish and maintain regional centers, at its discretion, for conducting cooperative services between public schools and school districts within and among those regions and for facilitating regulation and evaluation of school programs;

P. approve education curricula and programs offered in all two-year public post-secondary educational institutions, except those in Chapter 21, Article 12 NMSA 1978, that lead to alternative licenses for degreed persons pursuant to Section 22-10A-8 NMSA 1978 or licensure for educational assistants;

Q. withhold program approval from a college of education or teacher preparation program that fails to offer a course on teaching reading that:

- (1) is based upon current scientifically based reading research;
- (2) aligns with department-adopted reading standards;
- (3) includes strategies and assessment measures to ensure that beginning teachers are proficient in teaching reading; and
- (4) was designed after seeking input from experts in the education field;

R. annually, prior to December 1, prepare and publish a report on public and private education in the state and distribute the report to the governor and the legislature;

S. solicit input from local school boards and school districts in the formulation and implementation of department rules; and

T. report to the legislature or any of its committees as requested and report findings of any educational research study made with public money to the legislature through its appropriate interim or standing committees.

22-2E-4. Annual ratings; letter grades; ratings based on standards-based assessments; right to school choice; distance learning; responsibility for cost; use of funds; additional remedy.

A. All public schools shall be graded annually by the department.

B. The department shall assign a letter grade of A, B, C, D or F to each public school pursuant to criteria established by department rules, after input from the secretary's superintendents' council, that include as a minimum a combination of the following factors in a public school's grade:

(1) for elementary and middle schools:

(a) student proficiency, including achievement on the New Mexico standards-based assessments;

(b) student growth in reading and mathematics; and

(c) growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics; and

(2) for high schools:

(a) student proficiency, including achievement on the New Mexico standards-based assessments;

(b) student growth in reading and mathematics;

(c) growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics; and

(d) additional academic indicators such as high school graduation rates, growth in high school graduation rates, advanced placement and international baccalaureate courses, dual enrollment courses and SAT and ACT scores.

C. The New Mexico standards-based assessments used for rating a school are those administered annually to students in grades three, four, five, six, seven, eight, nine and eleven pursuant to Section 22-2C-4 NMSA 1978.

D. In addition to any rights a parent may have pursuant to federal law, the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student in the same grade to any public school in the state not rated F or the right to have the student continue schooling by means of distance learning offered through the statewide or a local cyber academy. The school district or charter school in which the student is enrolled is responsible for the cost of distance learning.

E. The department shall ensure that a local school board or, for a charter school, the governing body of the charter school is prioritizing resources of a public school rated D or F toward proven programs and methods linked to improved student achievement until the public

school earns a grade of C or better for two consecutive years.

F. The school options available pursuant to the A-B-C-D-F Schools Rating Act are in addition to any remedies provided for in the Assessment and Accountability Act [Chapter 22, Article 2C NMSA 1978] for students in schools in need of improvement or any other interventions prescribed by the federal No Child Left Behind Act of 2001.

G. When reporting a school's grade, the department shall include student data disaggregated by ethnicity, race, limited English proficiency, students with disabilities, poverty and gender; provided that ethnicity and race shall be reported using the following categories:

- (1) Caucasian, non-Hispanic;
- (2) Hispanic;
- (3) African American;
- (4) American Indian or Alaska Native;
- (5) Native Hawaiian or other Pacific Islander;
- (6) Asian;
- (7) two or more races; and

(8) other; provided that if the sample of students in any category enumerated in Paragraphs (1) through (7) of this subsection is so small that a student in the sample may be personally identifiable in violation of the federal Family Educational Rights and Privacy Act of 1974, the report may combine that sample into the "other" category.

22-8-39. Boards of finance; suspension.

The department may at any time suspend a local school board or governing body of a state-chartered charter school from acting as a board of finance if the department reasonably believes there is mismanagement, improper recording or improper reporting of public school funds under the local school board's or governing body of a state-chartered charter school's control. When a local school board or governing body of a state-chartered charter school is suspended from acting as a board of finance, the department shall:

A. immediately take control of all public school funds under the control of the local school board or governing body of a state-chartered charter school acting as a board of finance;

B. immediately have an audit made of all funds under the control of the local school board or governing body of a state-chartered charter school acting as a board of finance and charge the cost of the audit to the school district or state-chartered charter school;

C. act as a fiscal agent for the school district or state-chartered charter school and take any action necessary to conform the fiscal management of funds of the school district or state-chartered charter school to the requirements of law and good accounting practices;

D. report any violations of the law to the proper law enforcement officers;

E. act as fiscal agent for the school district or state-chartered charter school until the department determines that the local school board or governing body of a state-chartered charter school is capable of acting as a board of finance or until the department determines that the county treasurer should act as fiscal agent for the school district or state-chartered charter school;

F. inform the local school board or governing body of a state-chartered charter school in writing of the department's determination as to who is to act as board of finance or fiscal agent for the school district or state-chartered charter school and also inform the county treasurer in writing if it determines that the county treasurer should act as fiscal agent for the school district or state-chartered charter school; and

G. consider commencing proceedings before the commission to suspend, revoke or refuse to renew the charter of the state-chartered charter school in the case of a state-chartered charter school that has engaged in serious or repeated mismanagement, improper recording or improper reporting of public school funds under its control.

22-2C-7. Adequate yearly progress; school improvement plans; corrective action; restructuring.

A. A public school that fails to make adequate yearly progress for two consecutive school years shall be identified as a school in need of improvement. A school in need of improvement shall be ranked as:

- (1) school improvement 1;
- (2) school improvement 2;
- (3) corrective action;
- (4) restructuring 1; or
- (5) restructuring 2.

B. Within ninety days of being notified that a public school within the school district has been identified as a public school in need of improvement, the school district shall submit an improvement plan for that public school to the department. In developing the improvement plan, the local superintendent, the president of the local school board and the school principal of the public school in need of improvement shall hold a public meeting to inform parents and the public of the public school's rank. The meeting shall be used to elicit suggestions from parents and the public on how to improve the public school. After the public meeting, the school district shall develop the public school's improvement plan, and the local school board shall approve the improvement plan before it is submitted to the department. The improvement plan shall be approved by the department within thirty days of its submission.

C. The improvement plan shall include:

- (1) documentation of performance measures in which the public school failed to make adequate yearly progress;
- (2) measurable objectives to indicate the action that will be taken to address failed measures;
- (3) benchmarks to be used to indicate progress in meeting academic content and performance standards;
- (4) an estimate of the time and the resources needed to achieve each objective in the improvement plan;
- (5) the support services that shall be provided to students;
- (6) applications that have been made for federal and state funds; and
- (7) any other information that the public school that needs improvement, the local superintendent, the local school board or the department deems necessary.

D. A public school in need of improvement may apply to the department for financial or

other assistance in accordance with the improvement plan. The public school shall make application for assistance substantially in the form required by the department. The department shall evaluate applications for assistance and may recommend changes to an application or to an improvement plan if warranted by the final application. The department shall consider innovative methods to assist the public school in meeting its improvement plan, including department or other school employees serving as a mobile assistance team to provide administrative, classroom, human resource and other assistance to the public school that needs improvement as needed and as provided in applications approved by the department.

E. If a public school has failed to make adequate yearly progress for two consecutive school years, it shall be placed in school improvement 1 and shall provide transportation or pay the cost of transportation, within available funds, for students who choose to enroll in a higher ranked public school.

F. If a public school has failed to make adequate yearly progress for three consecutive school years, it shall be placed in school improvement 2 and shall provide supplemental services, including after-school programs, tutoring and summer services to its Title I-eligible students, within available funds.

G. The department shall adopt rules that govern the priority for students for whom supplemental services shall be provided and for students for whom transportation costs are paid. The rules shall include the adoption of a sliding-fee schedule based on the educational level of tutors in New Mexico and the establishment of a range of rates that providers may charge and the rules shall require that providers use a pre- and post-assessment instrument approved by the department to measure the gains that students achieve through supplemental services.

H. The department shall also adopt rules requiring that in its application, each provider of supplemental educational services include documentation, as prescribed by the department, that the tutoring services to be offered are consistent with the instructional program offered by the school district or charter school whose students the provider intends to serve. The department may consult with the school district or charter school to determine whether an applicant has met this requirement.

I. If a public school has failed to make adequate yearly progress for four consecutive school years, it shall be placed in corrective action and the school district, in conjunction with the department, shall take one or more of the following actions in addition to earlier improvements:

- (1) replace staff as allowed by law;
- (2) implement a new curriculum;
- (3) decrease management authority of the public school;
- (4) appoint an outside expert to advise the public school;
- (5) extend the school day or year; or
- (6) change the public school's internal organizational structure.

J. If a public school has failed to make adequate yearly progress for five consecutive school years, it shall be placed in restructuring 1 and shall continue the improvement measures implemented pursuant to Subsections B through I of this section and begin planning for restructuring of the public school if it fails to make adequate yearly progress in the sixth year.

K. If a public school has failed to make adequate yearly progress for six consecutive years, it shall be placed in restructuring 2. The school district, in conjunction with the department, shall take one or more of the following actions in addition to other improvements:

- (1) recommend reopening the public school as a state-chartered charter school as provided in Section 22-2C-7.1 NMSA 1978;
- (2) replace all or most of the staff as allowed by law;
- (3) turn over the management of the public school to the department; or
- (4) make other governance changes.

L. A school district that has failed to make adequate yearly progress for two consecutive school years may be subject to the same requirements as a public school subject to corrective action, as determined by the department. A school district that fails to make adequate yearly progress for four consecutive school years shall be subject to corrective action.

M. The state, a school district or a charter school shall not enter into management contracts with private entities for the management of a public school or a school district subject to corrective action.

N. If a public school that is identified as a school in need of improvement makes adequate yearly progress in the year that it has been placed in school improvement 1, school improvement 2, corrective action or restructuring 1, it shall not move to the next school improvement rank for one year. If the public school makes adequate yearly progress for a second consecutive year, it shall be removed from the ranks of schools in need of improvement.

O. Nothing in this section shall be construed to restrict the powers and duties of the secretary or the department under the Public School Code.

History: 1978 Comp., § 22-2A-7, enacted by Laws 2003, ch. 153, § 16; 2006, ch. 83, § 1; 2007, ch. 309, § 5; 2011, ch. 32, § 1.

Compiler's notes. — Laws 2003, ch. 153, §§ 10 to 20 was enacted as 22-2A-1 to 22-2A-11 NMSA 1978, but was relocated due to the existing Article 2A.

The 2011 amendment, effective June 17, 2011, in Subsection G, required the department to establish a range of rates that providers may charge; and added Subsection H to require providers to show that the tutoring services they offer are consistent with the instructional program offered by the school whose students the provider intends to serve.

The 2007 amendment, effective June 15, 2007, added Paragraphs (1) through (5) of Subsection A, Paragraph (6) of Subsection C, Paragraph (1) of Subsection J and Subsections M and N, and provided for the placement of schools in school improvement or restructuring ranks based on failure to achieve yearly

progress.

The 2006 amendment, effective May 17, 2006, provided in Subsection F that a school shall provide after school programs, tutoring and summer services to its Title I eligible students; added the second sentence of Subsection G to provide that the rules shall include the adoption of a sliding-fee schedule and required that providers measure the gains students achieve through supplemental services.

22-2C-7.1. Failing school subject to reopening as state-chartered charter school; requirements.

A. If, pursuant to Subsections I and J of Section 22-2C-7 NMSA 1978, the school district in which a public school that has failed to make adequate yearly progress for five consecutive years recommends that the public school be reopened as a state-chartered charter school, the department, after holding a public hearing in the school district, may take steps to have the public school reopened as a state-chartered charter school.

B. To reopen as a state-chartered charter school:

(1) the school's current enrollment for all grades cannot exceed ten percent of the total MEM of the school district where it is located when the school district has a total enrollment of less than one thousand three hundred students;

(2) the students enrolled at the time of its reopening as a state-chartered charter school, as well as those students' siblings, shall be given enrollment preference;

(3) the department, after obtaining information and community input during the public hearing, shall find at least five qualified persons willing to serve in an interim capacity as a governing body;

(4) the governing body shall employ a qualified school administrator within thirty days of its appointment by the department;

(5) the governing body shall qualify as a board of finance and satisfy any conditions imposed by the commission prior to commencing full operation;

(6) the governing body shall develop a written plan and proposed charter that is satisfactory to the commission and that at a minimum addresses the following issues:

(a) the employment, discharge, termination or displacement of current school employees, including the effect of employment decisions on current employment contracts and collective bargaining agreements;

(b) fiscal and records management;

(c) instructional and administrative facilities;

(d) student transportation;

(e) special education;

(f) curriculum;

- (g) education-related and other services;
 - (h) accreditation;
 - (i) food service;
 - (j) graduation requirements, if a waiver of state graduation requirements is sought;
 - (k) governance turnover; and
 - (l) student assessments and school accountability;
- (7) the governing body and the school shall comply with any other substantive or procedural requirements imposed on them by law or rule of the department; and
- (8) the department and the governing body shall have a plan to provide for an orderly transition.

C. If, within ninety days of its determination that the school should be reopened as a state-chartered charter school, the department is unable to constitute a qualified governing body or the governing body does not have its charter approved by the commission and does not find a qualified school administrator able to commence operation of the proposed state-chartered charter school, the failing school shall not be reopened as a state-chartered charter school. Failure to reopen the school as a state-chartered charter school does not affect other actions that may be taken to improve the school.

D. The provisions of the Charter Schools Act [Chapter 22, Article 8B NMSA 1978] shall apply to a public school that is reopened as a state-chartered charter school.

History: Laws 2007, ch. 309, § 6; 2011, ch. 66, § 1.

The 2011 amendment, effective June 17, 2011, in Subsection B, required that students who are enrolled at the time a state-chartered school is reopened and their siblings be given enrollment preference.

22-2C-12. Alternative school accountability system pilot project.

A. The "alternative school accountability system" is created as a six-year pilot project to provide an opportunity for public school districts and charter schools to participate in an accountability system, aligned with state academic content and performance standards, that demonstrates the usefulness of a student growth model of accountability for targeting resources to improve elementary and middle schools most in need, and for recognizing elementary and middle schools that make the greatest progress in increasing student academic performance.

B. The alternative school accountability system shall complement but be separate from the statewide assessment and accountability system established pursuant to federal law. It shall be based on:

- (1) a growth model that measures change in academic performance as demonstrated

on state standards-based assessments from year to year for each student in participating school districts and charter schools in grades four through eight;

(2) in cases of students with disabilities, demonstration of proficiency on the state standards-based assessments or alternative assessments as specified in their individualized education plans, without regard to any predetermined number or percentage of students that may be counted as proficient based on demonstration of proficiency on alternative assessments; and

(3) in cases of students with limited English proficiency, achievement of English language proficiency as demonstrated on the New Mexico English language proficiency assessment within a period to be specified by the department based on current scientific research.

C. The alternative school accountability system shall include annual reports for each participating school that:

(1) are easily understood by school personnel, parents, students and community members;

(2) report results for all students and for groups based on ethnicity, race, limited English proficiency, students with disabilities, poverty and gender; and

(3) report relative improvement in academic achievement of students in schools that have comparable levels of students at risk because of high mobility, poverty and limited English proficiency.

D. The alternative school accountability system shall be administered by the department and shall be phased in over two years.

E. During year one, the department shall convene an assessment and accountability work group composed of representatives of school district superintendents, assessment and accountability specialists, public school principals, public school teachers and teacher organizations, educators in federal bureau of Indian education schools, bilingual educators, special education teachers and administrators, parents and members of the public to assist the department in designing a uniform alternative accountability system for school districts and charter schools that voluntarily choose to participate in the pilot project. The design shall include:

(1) a value table based on four levels of academic proficiency, from beginning step through advanced, that compares the achievement level that a student earns to the level the student earned the previous year and assigns a numerical value to the change;

(2) a methodology for establishing peer groups among participating schools based on comparable levels of student mobility, poverty and percentage of English language learners;

(3) the timetable that the department will use to supply annual student growth calculations and any other necessary accountability data to school districts and charter schools that participate in the pilot project; a schedule for producing accountability reports; the information to be included in the report; and a process for disseminating reports to school

communities and the public; and

(4) a detailed application process with evaluation criteria for the pilot project, including a description of how the applicant proposes to use the results of the alternative school accountability system for school improvement and recognition.

F. During year two and subsequent years of the pilot project, depending on the availability of funds appropriated by the legislature or from other available sources, the department shall make awards to applicant school districts and charter schools to participate in the pilot project. Awarded funds may be used, as described in participants' applications, for school improvement activities, including initiatives to improve school district and charter school capacity to analyze and use assessment data for targeted school improvement and to improve student achievement through individualized instruction.

G. The department shall establish reporting and evaluation requirements for school districts and charter schools that participate in the pilot project.

History: Laws 2009, ch. 189, § 1.

Effective dates. — Laws 2009, ch. 189 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 19, 2009, 90 days after the adjournment of the legislature.
