

Proposed Rule Abstract

1. **Agency:** Public Education Department
2. **Rule Citation:** 6.19.1 NMAC, Public School Accountability General Provisions and 6.19.8 NMAC, Grading of Public Schools
3. **Rulemaking Action:** Repeal and Replace
4. **Register Issue and Date of Notice of Proposed Rulemaking:** Volume 29, Issue 20, October 30, 2018
5. **Effective Date:** December 31, 2018
6. **Citation to Specific Legal Authority:** Sections 22-2-1, 22-2-2, 22-2E-1 to 22-2E-4, 22-2C-4, 22-2C-5, and 22-2C-11 NMSA 1978
7. **Short Explanation of the Rule's Purpose:** Implement the A-B-C-D-F Schools Rating Act using provisions compliant with the federal Every Student Succeeds Act, and establish criteria for the identification and support of struggling or failing schools.
8. **Link to Full Text of the Rule:** <https://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>
9. **How Information on the Rule Can Be Obtained:** <http://webnew.ped.state.nm.us/bureaus/policy-innovationmeasurement/rule-notification/>, or from the Policy Division at (505)-827-6452.
10. **Comment Period and Deadlines:** October 30, 2018 to December 3, 2018 at 5:00 p.m. Written comments may be submitted to the Policy Division, New Mexico Public Education Department, Room 101, 300 Don Gaspar Avenue, Santa Fe, NM 87501, rule.feedback@state.nm.us, or by fax to (505) 827-6520.
11. **Rule Hearing:** December 3, 2018, from 9:00 a.m. to 12:00 p.m. at 300 Don Gaspar Avenue in Mabry Hall, Santa Fe, NM 87501.
12. **Link to Permanent Agency Rulemaking Record:** http://statenm.force.com/public/SSP_RuleHearingSearchPublic

Summary of Proposed Rule

The October 30, 2018 issue of the *New Mexico Register* contained the Public Education Department's (PED) proposed repeal of 6.19.1 NMAC, "Public School Accountability General Provisions," and the repeal and replace of 6.19.8 NMAC "Grading of Public Schools." See **Attachment 1, Proposed Repeal of 6.19.1 NMAC and Repeal and Replace of 6.19.8 NMAC**. The proposed rule would align New Mexico's school grading system with the federal Every Student Succeeds Act (ESSA) by eliminating general provisions related to the No Child Left Behind Act (NCLB); create new and modify existing indicators used to calculate school grades; reassign weights to indicators within school grades including separate weights for schools designated supplemental accountability model (SAM) schools; and codify criteria for the identification of targeted support and improvement (TSI), comprehensive support and improvement (CSI), and more rigorous intervention (MRI) schools.

Analysis

General Provisions in 6.19.1 NMAC

PED proposed to repeal 6.19.1 NMAC, which contains general provisions for public school accountability that New Mexico used under NCLB. Among the eliminated provisions are definitions for terms related to NCLB like adequate yearly progress, criterion and norm reference tests, and safe harbors. Prior to the passage of the state's A-B-C-D-F Schools Rating Act, PED relied on provisions within 6.19.1 to assign schools ratings of "exemplary," "exceeds expectations," "meets standards," or "probationary." These ratings took into account student achievement, attendance, dropout rates, school safety, parent and community involvement, and high school graduation rates. When the state began assigning school grades, PED stopped using the provisions in 6.19.1 NMAC to assign ratings.

Changes to School Grading Criteria

The proposed repeal and replace of 6.19.8 creates new criteria and modifies existing criteria used to calculate school grades. The proposed rule would shift the attendance indicator to chronic absenteeism, modify the college and career readiness indicator, and create indicators for English learner progress and science, technology, engineering, and mathematics (STEM) readiness.

Chronic Absenteeism. "Chronic absenteeism," as defined in the proposed rule, refers to the percentage of students who missed 10 percent or more of school days, whether excused or unexcused. The current school grading system contains an indicator of student attendance that is based only on unexcused absences. Multiple studies have shown students who are chronically absent show lower levels of academic achievement, less social engagement, and are more likely to drop out of school. The Learning Policy Institute (LPI) indicates 37 states and Washington D.C. use a measure of chronic absenteeism in their school accountability systems. While chronic absenteeism highlights a more accurate picture of student attendance, LPI notes states should adopt a specific definition of chronic absenteeism that clearly delineates what constitutes an absence and recommends that the definition include in-school and out-of-school suspensions.

ESSA requires states to measure at least one indicator of school quality and student success. Currently, student attendance falls under the "opportunity to learn" indicator in New Mexico's school grading system, which, under the New Mexico ESSA state plan, is used to measure school quality and student success.

College and Career Readiness. The proposed rule would eliminate a large number of college and career readiness definitions and replace them with a less specific college and career readiness indicator. The current rule defines "college readiness" as an indicator of student performance based on dual credit or advanced placement courses or on ACT, PSAT, SAT, Accuplacer, or International Baccalaureate assessments. "Career readiness" is currently defined as organized programs offering a sequence of courses designed to result in an industry-recognized credential, certificate, or degree. Both of these definitions are eliminated in the proposed rule, which instead defines "college and career readiness" as the percentage of students who participated and the percentage of those students who were successful in "college and career readiness opportunities as defined by the department." This suggests the department will release guidance noting which types of opportunities



will be measured and used to calculate the indicator. However, because the specific elements of the indicator are not defined anywhere in the rule, the requirements and weights of each college and career opportunity may change year to year, creating inconsistent expectations for school districts and charter schools.

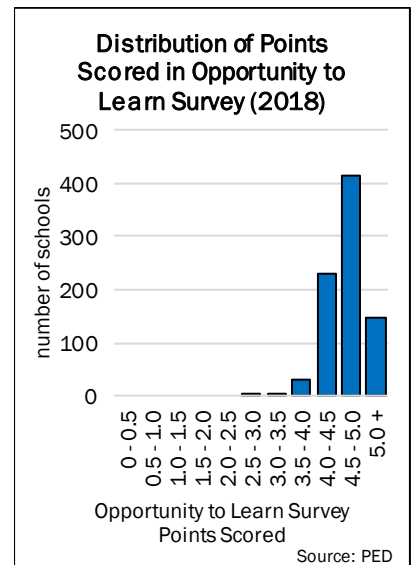
The rule also proposes to measure college and career readiness by tracking whether students are successful in institutions of higher education based on college remediation, enrollment, persistence, or completion. This is a significant deviation from current practice and would require a longitudinal approach to student data that follows students well after they leave the public education system. It is unclear what type of data or reporting requirements this will institute, but may require substantial communication and collaboration between PED, the Higher Education Department, and even institutions of higher education outside of New Mexico.

English Learner Progress. To continue receiving federal Title I funding from the United States Department of Education (USDE), ESSA requires states to hold schools accountable for English learners’ progress toward English language proficiency. The rule proposes to determine an annual growth-to-proficiency target for each English learner based on the student’s grade level and the student’s initial English language proficiency on a department-approved English language assessment. The English learner progress indicator would measure the combined progress of all English learners at each school toward their respective growth-to-proficiency targets.

School Surveys. The proposed rule would expand the number of school climate indicators included in the current “opportunity to learn” survey. The proposed rule defines the school survey, noting it will include student and family engagement, educator collaboration, and other components of school quality in domains of school climate, rigorous expectations, student-teacher relationships, belonging, and safety. In the 2017-2018 school year, a majority of schools earned 90 percent of the possible points on the opportunity to learn survey, suggesting the current survey lacks the depth and rigor to meaningfully differentiate school quality. Additionally, while the current survey only measures certain aspects of school climate that center on teaching and learning practices and personal relationships, the survey defined in the proposed rule may highlight additional useful school climate information to include school climate, rigorous expectations, student-teacher relationships, belonging, and safety. However, the new survey will need to be carefully designed to be comprehensive and provide timely and actionable feedback to teachers, administrators, and policymakers.

Student STEM Readiness. ESSA also requires states to assess students in science once in third through fifth grade, once in sixth through ninth grade, and once in 10th through 12th grade, and to use the results of those assessments in the statewide accountability system. The proposed rule would, for the first time since school grades were introduced, create an indicator of student proficiency on the statewide science assessment.

The New Mexico ESSA state plan notes PED will measure English learner progress toward growth targets using the WIDA ACCESS for ELs 2.0 assessment.



With the adoption of the New Mexico STEM-Ready Science Standards, PED plans to implement a new science assessment in the 2019-2020 school year. If the proposed rule is approved, school grades for the 2018-2019 school year will be based on results on the New Mexico Standards-Based Assessment for science, which is not aligned with the recently adopted science standards.

Proposed New Weights for Indicators

In addition to introducing new indicators with discrete point values, the proposed rule would also reassign point values to existing elements of the current school grading system. As shown in Table 1, the proposed rule would make minor changes to overall point totals in proficiency-related and growth-related measures to account for the new STEM readiness and English learner progress indicators. However, within the changes to point totals, the proposed rule redefines how each indicator is calculated. Current standing, which currently contains both proficiency and growth in proficiency, would be eliminated in favor of only baseline proficiency in English, mathematics, and science.

Table 1. Weights of School Grade Indicators in Current System and Proposed 6.19.8 NMAC

Current System		Proposed 6.19.8 NMAC		SAM			
Elementary and Middle Schools							
Current Standing (Proficiency and growth in proficiency)	40	→	English and Math Proficiency	33	38	25	30
			STEM Readiness	5		5	
School Growth	10		Q4 Growth (Highest Performing Students)	5		5	
Growth of Lowest Performing Students	20	→	Q3 & Q2 Growth	12	42	15	50
Growth of Higher Performing Students	20		Q1 Growth (Lowest Performing Students)	25		30	
Opportunity to Learn (Attendance and OTL surveys)	10	→	Chronic Absenteeism	5		5	
			School Survey	5		5	
			English Learner Progress	10		10	
Bonus Points	5						
Total Points Possible	105		Total Points Possible	100		100	
High Schools							
Current Standing (Proficiency and growth in proficiency)	30	→	English and Math Proficiency	25	30	20	25
			STEM Readiness	5		5	
School Growth	10		Q4 Growth (Highest Performing Students)	5		5	
Growth of Lowest Performing Students	10	→	Q3 & Q2 Growth	10	30	15	35
Growth of Higher Performing Students	10		Q1 Growth (Lowest Performing Students)	15		15	
Opportunity to Learn (Attendance and OTL surveys)	8	→	Chronic Absenteeism	5		5	
			School Survey	5		5	
College and Career Readiness	15	→	College and Career Readiness*	12		12	
Graduation Rate	17	→	Four-year graduation rate	6	13	6**	13
			Growth in four-year graduation rate	4		4	
			Five-year graduation rate	2		2	
			Six-year graduation rate	1		1	
			English Learner Progress	5		5	
Bonus Points	5						
Total Points Possible	105		Total Points Possible	100		100	

* The proposed rule states a greater weight will be assigned to the percentage of students successful in CCR opportunities than to the percentage of students who attempt CCR opportunities.

** The four-year graduation rate for SAM schools would also include a calculation of the "rate of senior completion, which consists of students who are not members of the four-year graduation cohort." The proposed rule does not specify how this rate will be calculated, and it is unclear whether this rate will double-count students in the five- and six-year graduation cohorts.

Source: PED

The current growth metrics would be redefined to measure only student growth, rather than both school and student growth. The proposed rule assigns a higher point value to the lowest-performing quartile of students, combining the two middle quartiles of students, and assigning a lower point value for the growth of the highest performing quartile of students. As in the current system, the elementary and middle school model places a higher emphasis on student growth, while the high school model emphasizes graduation rates and college and career readiness. Bonus points awarded in the current system for parent involvement and student extracurricular activity participation would be eliminated for all schools, but may become part of the school survey indicator.

The proposed rule also contains discrete weights for SAM schools that place a heavier emphasis on student growth than proficiency. The proposed rule defines SAM schools as schools in which 50 percent of the students are 19 years old or older or in which 50 percent of students are non-gifted students that qualify for level C or D special education. Recognizing the challenges of these schools' populations, the proposed rule places a larger emphasis on student growth, particularly among the lower performing quartiles of students. Additionally, for high schools under the SAM designation, PED would include additional approved assessments under the college and career readiness indicator and would calculate a "rate of senior completion" in the calculation of the four-year graduation rate, though neither of these components are defined in the proposed rule.

The proposed rule would eliminate the use of a value-added model (VAM) calculation of school growth in proficiency year over year. Neither the current rule nor the proposed rule requires any particular growth model to be used to calculate student growth.

Though the department already does so in practice, the proposed rule explicitly breaks graduation rates into four-, five-, and six-year graduation rates. Graduation growth points are only given for the four-year graduation rate, accentuating the expectation that high schools graduate their students in four years.

While the current rule contains a definition of SAM schools similar to the proposed definition, it does not specify weights of school grade indicators in rule. Under the proposed rule, SAM schools would, in fact, be subject to a supplemental accountability model.

Designations for Support, Improvement, and Intervention

The proposed rule would codify elements of the New Mexico ESSA state plan that provide for the identification of TSI, CSI, and MRI schools. The rule also establishes exit criteria for identified schools to exit their support and improvement status which are specific to the metric used to identify the school for support and improvement.

Table 2. Identification and Exit Criteria of Schools Identified for Support, Improvement, and Intervention under Proposed 6.19.8 NMAC

Status	Identification Criteria	Exit Criteria
TSI	A school with one or more subgroups of students with an index score at or below the level of all students at the lowest-performing 5 percent of Title I schools.	The school improves index scores for all subgroups above the score used to identify the lowest-performing 5 percent of Title I schools.
CSI	A school is in the lowest-performing 5 percent of Title I schools based on overall points in school grades.	The school improves its overall school grade points so it is above the overall score used to identify the lowest-performing 5 percent of Title I schools; or the school earns a grade of C or better.
	A high school with a four-year graduation rate less than 66.7 percent for two of the past three years.	The high school improves the four-year graduation rate above 66.7 percent.
	The school was previously identified for TSI but did not exit TSI status after three years.	The school improves index scores for all subgroups above the score used to identify the lowest-performing 5 percent of Title I schools.
MRI	A school was previously identified for CSI but did not exit CSI status after three years.	The school improves its overall school grade points so it is above the overall score used to identify the lowest-performing 5 percent of Title I schools; or the school earns a grade of C or better.
	A school with a school grade of F for four or more consecutive years.	

Source: LESC Files

More Rigorous Interventions. The proposed rule would require MRI schools to complete an MRI plan describing how the school will choose from one of four options: close; restart; champion and provide choice; or significantly restructure and redesign. A school that chooses to champion and provide choice would be required to show evidence that the school has “championed a range of choices in an open system that focuses on new approaches to learning.” A school that chooses to significantly restructure or redesign would be required to expand instructional time, significantly change staffing to only include highly effective and exemplary teachers, adopt state-selected curriculum approaches, and, if the school or school district choose to do so, implement personalized learning models for all students. The proposed rule states if a school district refuses to identify a more rigorous intervention, the department will select an intervention for the school. It further states the department reserves the right to approve or deny any MRI plan, though consistent criteria for approval or denial are not listed in the rule.

The proposed rule does not provide specific recommendations about how a school could champion and provide choice, but the New Mexico ESSA state plan suggests schools and school districts could satisfy this requirement by expanding access to charter schools, magnet schools, private schools, online learning, homeschooling, or school voucher programs.

During the spring and summer of 2018, PED denied the applications for four MRI schools using criteria not present in the initial request for applications. Without a consistent framework in law, PED changed the criteria for the application several times and added additional consequences for noncompliance, none of which were based in PED’s statutory authority.

PED does not appear to have explicit statutory authority to require schools to submit plans for more rigorous interventions. Laws 2015, Chapter 58 (House Bill 165) eliminated the section of law that granted statutory authority to PED to require and enforce school improvement plans. In the absence of a statutory framework for school improvement, PED relied on New Mexico’s ESSA state plan to require four schools to submit applications for Title I funding to implement more rigorous interventions. However, the PED-authored ESSA state plan is not law; it is a description of how New Mexico intends to comply with federal statutes to continue to receive Title I funding. None of the statutes cited in Part 3 of Section 6.19.8 NMAC give PED the explicit authority to require or enforce MRI plans.

School Support and Improvement Activities and Prioritization of Resources.

While the proposed rule attempts to qualify how low performing schools should prioritize their resources, it does not define the specific interventions to be offered to TSI and CSI schools. Subsection A of the proposed 6.19.8.10 NMAC states “the department shall ensure that a local school board or governing body of a charter school is prioritizing resources of public schools identified pursuant to 6.19.8.11 NMAC.” However, there are no provisions in Section 6.19.8.11 NMAC that direct TSI and CSI schools to allocate resources toward any particular program. Subsection D of Section 22-2E-4 NMSA 1978 states “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.” The department does not appear to have the statutory authority to require CSI, TSI, or MRI schools to prioritize their resources.

Timeline of Support and Improvement Status. The proposed rule does not state how often schools will be identified as CSI, TSI, and MRI. ESSA requires states to identify schools for TSI and CSI once every state-determined number of years and contemplates the application of more rigorous interventions for schools that fail to improve as a result of comprehensive support. New Mexico’s ESSA state plan, approved by USDE, states PED will use overall points on the school grading system to

identify schools for TSI, CSI, and MRI once every three years. However, the proposed rule does not state how often PED will identify schools for TSI, CSI, and MRI.

If PED identifies schools every year for TSI, CSI, and MRI, schools may experience significant mobility among the tiers of support. Similarly, it appears the exit criteria allow for a school identified for TSI or CSI to exit support status after only one year of support without establishing a trend of continuous improvement. Such schools could be re-identified for support and improvement in subsequent years if their improvement plans and department support are halted prematurely. PED should clarify in the proposed rule how often schools will be identified for support, and the timelines should provide consistent expectations of support for and improvement from each school.

Under the proposed rule, a TSI school that falls below the “lowest 5 percent” criteria for a CSI school in its next year will move immediately from TSI to CSI without three years of targeted support. If that school earns its fourth consecutive F grade in the next year, it would move from CSI to MRI without three years of comprehensive support.

Technical Issues

Paragraph 1 of Subsection E of proposed 6.19.8.11 NMAC contains a typographical error and should be corrected as follows: “the school has ~~been~~ not exited CSI status in three years after identification.”

Subsection G of the proposed 6.19.8.11 NMAC, which permits PED to select an MRI plan for school districts that do not identify an MRI plan, should be amended to correctly apply to all local education agencies, rather than only to school districts.

One of the exit criteria for CSI schools in the lowest 5 percent of Title I schools and MRI schools is subsumed by the other. Schools can exit CSI and MRI if they earn a school grade of C or if they earn total points above the lowest 5 percent of Title I schools. For schools identified as CSI in FY19-FY21, the lowest 5 percent of Title I schools scored below a threshold 26.6 overall school grades points. However, the system requires schools to receive 50 overall points for a grade of C. It is unclear why PED would allow two different point thresholds constitute exit criteria from the same status.

PROPOSED REPEAL

PART 1
PUBLIC SCHOOL ACCOUNTABILITY: GENERAL PROVISIONS

6.19.1.1 ISSUING AGENCY: Public Education Department
~~{6.19.1.1 NMAC N, 03 29 02; A, 08 31 04}~~

6.19.1.2 SCOPE: All public schools, including charter schools.
~~{6.19.1.2 NMAC N, 03 29 02}~~

6.19.1.3 STATUTORY AUTHORITY: Subsections A and B of Section ~~22 2 1~~ NMSA 1978, Section ~~22 2 2~~ NMSA 1978, and Section ~~22 2 14~~ NMSA 1978.
~~{6.19.1.3 NMAC N, 03 29 02; A, 08 31 04}~~

6.19.1.4 DURATION: Permanent
~~{6.19.1.4 NMAC N, 03 29 02}~~

6.19.1.5 EFFECTIVE DATE: March 29, 2002, unless a later date is cited at the end of a section.
~~{6.19.1.5 NMAC N, 03 29 02}~~

6.19.1.6 OBJECTIVE: The rule establishes the definitions, school ratings, indicators, and measurements applicable to public school accountability.
~~{6.19.1.6 NMAC N, 03 29 02}~~

6.19.1.7 DEFINITIONS:

_____ A. _____ “Accountability rating system” means the categories of performance ratings and the methodology for determining these categories established by the public education department (“department”):

(1) “Exemplary” means a district/school rating on the five statewide indicators demonstrating that the district/school has at least 50% of its data points in exemplary and 0% of its data points in probationary.

(2) “Exceeds standards” means a district/school rating on the five statewide indicators demonstrating that the school/district has at least 50% of its data points in exceeds standards or higher, allowing the greater of up to 5% or one (1) probationary data point.

(3) “Meets standards” means a district/school rating on the five statewide indicators demonstrating that the district/school has more than 50% of all data points in meets standards or higher.

(4) “Probationary” means a district/school rating on the five statewide indicators demonstrating that the district/school has 50% or more of all data points in probationary.

_____ B. _____ “Adequate yearly progress” (“AYP”) means the percent of students that must be proficient from year to year within a subject area, grade, whole group and subgroup as specified by state defined annual measurable objectives.

(1) AYP is based primarily on academic assessments. All whole groups and subgroups will have the same starting points and are required to make the same amount of progress each year. In the norm referenced accountability system there are five (5) academic assessments (reading, language arts, mathematics, science, and social studies) in the English language for which data points are assigned. There are three (3) academic assessments (reading, language arts, and mathematics) in the Spanish language for which status accountability indicators or data points are assigned. Starting in 2004 2005, AYP will be based on the criterion referenced test in grades 3 through 9 and 11. Criterion referenced tests in either language will contain reading/language arts, mathematics, and science assessments.

(2) As it applies to meeting annual measurable objectives on the criterion referenced test, AYP will apply to grades 4, 8, and 11 in school year 2003 2004 and to grades three through 9 and 11 in school year 2004 2005 and every year thereafter. If a school fails to meet the specified amount of AYP for two (2) consecutive years in the same grade, same subject in any group, or subgroups, that school will be placed in the school improvement cycle.

_____ C. _____ “Annual measurable objectives” (“AMO”) means the minimum annual percentage required for all students in the same grade, same subject, and any group to be proficient and be considered to have made AYP. Also, intermediate objectives are expected in consecutive years. In New Mexico, annual measurable objectives and intermediate objectives will be the same such that each school, grade, subject area, group and subgroup will have the same required percent proficient from year to year as determined by the starting point based on baseline percentages of proficient.

_____ D. _____ “Attendance” means students who are in class or in a school approved activity. If a student is in attendance up to one half the total instructional time during a school day, the student will be counted as having attended one half of a school day. If the student attends school for more than one half of the total instructional time, the student will be counted as having attended for the full day.

PROPOSED REPEAL

~~E. “Cohort group” means a group of students in one grade in one school who participated in statewide testing one year and the same exact group that participated in statewide testing in the following year(s).~~

~~F. “Corrective action” means action taken by or at the direction of the department intended to improve a corrective action school’s rating.~~

~~G. “Corrective action school” means a school improvement school that has failed to attain a performance rating of meets standards or higher for two consecutive years or fails to meet the criteria the department has for an additional year of school improvement.~~

~~H. “Criterion referenced test” (“CRT”) means a standardized test whose results are aligned with the content standards with benchmarks set forth in 6.30.2 NMAC (Standards for Excellence). This assessment will be given in grades 4, 8, and 11 in school year 2003-2004 and in grades 3 through 9 and 11 in school year 2004-2005 and thereafter.~~

~~I. “Disaggregate” means the division of a whole group into five subgroups. The No Child Left Behind Act (NCLB) and Section 22-2C-5, NMSA 1978 require student results by ethnic groups (Caucasian/White, not of Hispanic origin; Black, not of Hispanic origin; Hispanic; Asian/Pacific Islander; American Indian/Alaskan native) Economically Disadvantaged; Students with Disabilities; and English Language Learners (ELL.)~~

~~J. “District” means a public school district or a charter school district.~~

~~K. “Dropout” means an individual who:~~

~~(1) was enrolled in school at some time during the previous school year;~~

~~(2) was not enrolled at the beginning of the current year;~~

~~(3) has not graduated from high school or completed a state or district approved educational program; and~~

~~(4) does not meet any of the following two exclusionary conditions:~~

~~(a) transfers to another public school district, private school, or state or district approved education~~

~~program, or~~

~~(b) is temporarily absent due to suspension or illness, or death.~~

~~L. “Educational standards commission” means that commission created in 6.2.2 NMAC whose purpose shall be to advise the department on issues relating to educational standards and accountability for New Mexico public schools.~~

~~M. “Graduation rate” means the percentage of the students who graduated from a high school divided by the number of students who were enrolled in the schools 40th day of the same year. This calculation will be used until four-year cohort data can be collected. The 9th grade students from school year 2003-2004 will be the first cohorts, graduating in school year 2006-2007.~~

~~N. “Intervention” means the process established by the department to assist a public school that is rated probationary.~~

~~O. “New school” means a school not established for a sufficient time to have gathered two years of results on the five statewide indicators.~~

~~P. “95% participation rate” means all whole groups and subgroups are expected to test at least 95% of all students. To determine the 95% participation rate, the total students enrolled on the accountability data system transmission date closest to the assessment window will be used as the denominator. For the New Mexico high school competency examination and the New Mexico high school criterion referenced test, the 80th day will be used for whole groups and subgroups. For the New Mexico achievement assessment program, the 120th day will be used for whole groups and subgroups.~~

~~Q. “Norm referenced test” (“NRT”) means a standardized test whose results are based on a national group of like students. This assessment is given in grades where no criterion referenced test is available until a criterion referenced test is available.~~

~~R. “Rating cycle” means the annual rating that triggers performance warned action and culminates in corrective action or removes a school from intervention at any point in time.~~

~~S. “Rolling averages” means that all statewide test scores for the most current three consecutive school years in a subject area in a small school regardless of what grades they represent will be used to attain the median percentile rank for the NRT or the median scale score for the New Mexico high school competency examination. The median derived from this calculation will be used to determine the rating of each data point.~~

~~T. “Safe harbor” means a process that will be applied to a school in any year to determine if AYP has been met. Operationally, if the percentage of students in the subgroup meeting proficient levels of performance represents a decrease of at least 10 percent in the percent of students not meeting proficient levels of performance in the previous year, and the subgroup makes progress on one or more of the other indicator (s) or is at or above the target, the subgroup will be considered to have met AYP.~~

~~U. “School” means any public school, including a charter school.~~

~~V. “Standard deviation” means a quantitative measure that indicates how far away numbers on a list are from their average.~~

PROPOSED REPEAL

~~W. “Statewide indicators” are student achievement, attendance, dropout rate for middle and high schools, parent and community involvement, and school safety.~~

~~X. “Typical growth” means the typical increase in scale score points from one year to the next as established by the test publisher.~~

~~Y. “Whole groups” means population of students at a school who were assessed and “subgroups” means the whole group divided into the required subgroups. For the norm referenced test, whole group means all students at a school that took the norm referenced test. For the criterion referenced test, whole group means the specific grade level of all students that took the criterion referenced test or the test area.~~

~~[6.19.1.7 NMAC—N, 03-29-02; A, 08-31-04]~~

6.19.1.8 INDICATORS AND MEASUREMENTS:

~~The department shall annually measure public schools on the five statewide indicators (student achievement, attendance, dropout rate for middle and high schools, school safety, parent and community involvement) and high school graduation rate. All scores, rates, and other measures used in the accountability rating system shall be verified by the department. Groups of students are denoted by grade levels and subpopulations of grade levels. Assessment data shall be considered for accountability ratings only when a group represents 10 or more students for the norm referenced test and 25 for the criterion referenced test. Each school generates data points which have been identified as either exemplary, exceeds standards, meets standards, or probationary.~~

~~A. The student achievement indicator will utilize results from the state mandated norm referenced achievement test (s) (“NRT”) in Spanish or English. Students will be tested using the criterion referenced tests in Spanish or English or other assessments, when appropriate, as defined by federal guidelines. Likewise, all exemptions to statewide testing requirements and all accommodations provided in statewide testing must be in compliance with federal guidelines.~~

~~(1) The NRT will be represented at a rate proportionate to the number of students taking each of the subtests in English or Spanish. Each subtest—reading, language arts, mathematics, science, and social studies—will provide one data point per whole group or subgroup at the school for a total of five data points per group. These data points shall be referred to as “status data points.”~~

~~(a) The test results of the students who have been in attendance on or prior to the 40-day attendance count shall be used to determine the rating of each status data point.~~

~~(b) A status data point is rated exemplary if the median percentile rank is above the 70th percentile, exceeds standards if the percentile rank is above the 60th percentile to the 70th percentile, meets standards if it is at the 40th through the 60th percentile, and probationary if it is below the 40th percentile.~~

~~(2) The results of the NRT shall also be utilized to determine the growth in student performance.~~

~~(a) Growth is determined by the number of scale score points a cohort group within the same school achieves from one year to the next for whole group and subgroups.~~

~~(b) Growth shall be measured for one, two and three years when available in a school.~~

~~(c) “Typical growth” shall be utilized to determine if a cohort group has achieved the growth expectations set by the department. Each grade and each subject has varying scale score points to achieve in order to meet “typical growth.”~~

~~(d) When all of the growth data are configured, the number of data points for growth shall be weighted to equal the status data points. The number of students contributing to the growth data shall contribute proportionately to the growth data.~~

~~(e) Students who take the assessments with accommodations shall be considered as a proportion of the total number of students subgroups.~~

~~(f) Each growth data point shall be determined to be either high, middle, or low range, prior to measuring the growth, by the median percentile. If the median percentile is below the 40th percentile, the data point is considered low range. If it is at the 40th percentile through the 60th percentile, the data point is considered middle range. If the data point is above the 60th percentile, the data point is considered high range.~~

~~(g) Utilizing the standard determined by the test publisher to represent “typical growth” scales, a low range data point must increase:~~

~~(i) by 1.75 or higher times typical growth to achieve exemplary;~~

~~(ii) by 1.5 to 1.74 times typical growth to achieve exceeds standards;~~

~~(iii) by 1.25 to 1.4 times typical growth to achieve meets standards; and,~~

~~(iv) below 1.25 times typical growth to achieve probationary.~~

~~(h) Utilizing the same standard determined by the test publisher to represent “typical growth” scales, a middle range data point must achieve:~~

~~(i) 1.5 or higher times typical growth to achieve exemplary;~~

~~(ii) 1.25 to 1.4 times typical growth to achieve exceeds standards;~~

PROPOSED REPEAL

- (iii) ~~1.0 to 1.24 times typical growth to achieve meets standards; and,~~
- (iv) ~~less than typical growth to achieve probationary.~~

(i) ~~Utilizing the same standard determined by the test publisher to represent “typical growth” scales, a high range data point must achieve:~~

- (i) ~~1.25 or higher times typical growth to achieve exemplary;~~
- (ii) ~~1.0 to 1.24 times typical growth to achieve exceeds standards,~~
- (iii) ~~less than typical growth to achieve meets standards;~~
- (iv) ~~and show a decline for probationary.~~

(3) ~~Achievement results for small schools shall be rated by utilizing the concept of “rolling averages.” For purposes of rating schools, a school is considered to be a small school if it has any one grade level with fewer than a total of 10 students enrolled. Once identified as a small school, a school will continue to be rated as a small school for three years before considering whether to rate it as a larger school. These data are configured by using all the students in attendance at the school that have statewide test results. All the scores for all the students for the past three years are considered as if they represented one class. The median percentile is then determined and a status data point assigned based on this median. There are no growth data points for small schools.~~

(4) ~~In addition to the results from the required testing described in Subsection A of 6.19.1.8 NMAC, the New Mexico high school competency examination shall be used to provide achievement data points for schools that have 10th grade in attendance. There are five subtests that shall be used—reading, language arts, mathematics, science, and social studies. Each subtest shall generate a data point by using results of tenth grade first time test takers by whole group and subgroup as follows:~~

- (a) ~~A data point shall be exemplary if it has an average scale score value of 205 or higher.~~
- (b) ~~A data point shall be exceeds standards if the average scale score is 180 to 204.9.~~
- (c) ~~A data point shall be meets—standards if the average scale score is 175 to 179.9.~~
- (d) ~~A data point shall be probationary if the average scale score is below 175.~~

~~B. The attendance indicator utilizes the definition of a full day of attendance as established in the accountability data system (“ADS”) and data will be collected through the ADS mechanism to establish an attendance rate for each public school.~~

- (1) ~~Attendance is assigned one data point per school.~~
- (2) ~~The department defines:~~
 - (a) ~~exemplary attendance as 94% or higher;~~
 - (b) ~~exceeds standards attendance as 93% to 93.9%;~~
 - (c) ~~meets standards attendance as 92% to 92.9%; and,~~
 - (d) ~~probationary attendance as below 92%.~~

~~C. The dropout indicator utilizes the National Center for Education Statistics (“NCES”) definition and includes grades 7 through 12.~~

- (1) ~~Dropout rate is assigned one data point per school.~~
- (2) ~~The department delineates dropout data for grade levels 9—12 as:~~
 - (a) ~~exemplary when it is 1.0% or less;~~
 - (b) ~~exceeds standards when it is 1.1 % to 4.0%;~~
 - (c) ~~meets standards when it is 4.1% to 7.0%; and,~~
 - (d) ~~probationary when it is higher than 7.0%.~~
- (3) ~~For grades seven and eight, the dropout data is:~~
 - (a) ~~exemplary when it is less than 0.1%;~~
 - (b) ~~exceeds standards when it is 0.1% to 1.0%;~~
 - (c) ~~meets standards when it is 1.1% to 2.5%; and,~~
 - (d) ~~probationary when it is higher than 2.5%.~~

(4) ~~When a school has a rate for 7th and/or 8th grade, and also has a rate for grade 9 or higher, the data point rating will be determined by an average of the two rates.~~

~~D. The parent and community involvement indicator will utilize the school’s department approved parent and community involvement plan and the six national standards for parent community involvement.~~

~~E. The safe school indicator will utilize the school’s department approved safe school plan.~~

~~[6.19.1.8 NMAC N, 03-29-02; A, 12-30-02; A, 08-31-04]~~

6.19.1.9 SCHOOL RATINGS:

~~A. A school’s rating will determine when intervention is appropriate.~~

~~B. A school’s rating is determined by the percentage of data points that are rated as exemplary, exceeds standards, meets standards, and probationary.~~

PROPOSED REPEAL

~~_____ C. _____ The ratings shall be publicized each year and provided by the department to districts and to schools.~~

~~_____ D. _____ New schools are not rated.~~

~~_____ E. _____ With regard to the accountability system utilizing the norm referenced or criterion referenced assessments or any combination thereof, a school that receives an overall rating of probationary for a first or second time and will enter either the performance warned or the first year of school improvement categories may appeal the rating to the educational standards commission. The appeal must be made to the department in writing within twenty days of the school's receipt of official notice of the school rating. If the department determines that additional data substantiates the appeal, a recommendation that the school should be rated meets standards will be forwarded to the secretary. The secretary will have final approval of the possible change of a school's rating from probationary to meets standards.~~

~~{6.19.1.9 NMAC N, 03 29 02; A, 12 30 02; A, 08 31 04}~~

6.19.1.10 SEVERABILITY:

If any part or application of this rule is held invalid, the remainder or its application to other situations shall not be affected.

~~{6.19.1.10 NMAC N, 03 29 02}~~

HISTORY OF 6.19.1 NMAC: [Reserved]

DRAFT

PROPOSED STRIKETHROUGH

~~**TITLE 6 — PRIMARY AND SECONDARY EDUCATION**~~
~~**CHAPTER 19 — PUBLIC SCHOOL ACCOUNTABILITY**~~
~~**PART 8 — GRADING OF PUBLIC SCHOOLS**~~

~~**6.19.8.1 — ISSUING AGENCY:** Public Education Department
[6.19.8.1 NMAC — N, 12/15/2011]~~

~~**6.19.8.2 — SCOPE:** This rule shall apply to all public schools in New Mexico.
[6.19.8.2 NMAC — N, 12/15/2011]~~

~~**6.19.8.3 — STATUTORY AUTHORITY:** Sections 22-2-1, 22-2-2, and 22-2E-1 to 22-2E-4, being the A-B-C-D-F Schools Rating Act.
[6.19.8.3 NMAC — N, 12/15/2011]~~

~~**6.19.8.4 — DURATION:** Permanent.
[6.19.8.4 NMAC — N, 12/15/2011]~~

~~**6.19.8.5 — EFFECTIVE DATE:** December 15, 2011, unless a later date is cited at the end of a section.
[6.19.8.5 NMAC — N, 12/15/2011]~~

~~**6.19.8.6 — OBJECTIVE:** The purpose of this rule is to implement the A-B-C-D-F Schools Rating Act and to establish a rating system for grading public schools in a way that the ratings are meaningful to parents, school personnel and the interested community. Additionally, this rule establishes criteria for rating public schools that includes charter schools and provides options for students in a failing school.
[6.19.8.6 NMAC — N, 12/15/2011; A, 5/31/2012]~~

~~**6.19.8.7 — DEFINITIONS:**~~

~~**A. — “ACT”** means American college testing and is a standardized test offered by ACT, inc. for high school achievement and college admissions in the United States.~~

~~**B. — “Accuplacer”** means a standardized test offered by the college board that provides information about academic skills in math, English and reading. The assessment is used for community college admissions and for placement in core college courses.~~

~~**C. — “AP”** means advanced placement which is a curriculum based program sponsored by the college board that offers standardized courses to high school students that are generally recognized to be equivalent to undergraduate courses in college and for which participating colleges may grant college credit to students who obtained high enough scores on the exams to qualify.~~

~~**D. — “Career readiness”** means organized programs offering a sequence of courses, including technical education and applied technology education, which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring an industry recognized credential, certificate or degree which can be applied towards their graduation from high school. To be considered successfully career ready, students must also graduate with a New Mexico diploma of excellence.~~

~~**E. — “Cohort graduation rate”** means the percentage of students who graduate high school in four years with a New Mexico diploma of excellence. The four year cohort consists of all first time ninth graders in the first year, joined by incoming tenth graders in the second year, eleventh graders in the third year, and twelfth graders in the fourth year. The members of the five year cohort shall be followed by the PED for one additional year to form the five year cohort graduation rate, and two additional years to form the six year graduation rate. Students are excused from cohort membership if they transfer out, emigrate to another country, or die during that same period.~~

~~**F. — “College readiness”** means the readiness of New Mexico high school students for success in higher education based on their dual credit, ACT, PSAT, SAT, PLAN, accuplacer, international baccalaureate or IB, AP test scores, or other measurements approved by the PED.~~

~~**G. — “Department”** means the New Mexico public education department and is identified by the acronym, “PED”.~~

~~**H. — “Dual credit”** means a program that allows high school students to enroll in college level courses offered by a postsecondary institution that may be academic or career technical but not remedial or developmental, and simultaneously to earn credit toward high school graduation and a postsecondary degree or certificate.~~

PROPOSED STRIKETHROUGH

- ~~_____ I. “International baccalaureate” or “IB” means an educational foundation that requires the use of and monitors a standardized curriculum leading to internationally recognized certification.~~
- ~~_____ J. “Opportunity to learn survey” means a brief survey that asks students about their teacher’s predominant instructional practices in the classroom.~~
- ~~_____ K. “Performance level” means a level of performance as indicated by scale scores on the New Mexico standards based assessment.~~
- ~~_____ L. “PLAN” means a 10th grade assessment published by ACT that is designed to guide a student’s review of their progress towards college and career readiness.~~
- ~~_____ M. “Proficiency in reading and mathematics” means a student’s score of proficient or advanced on the New Mexico standards based assessments.~~
- ~~_____ N. “PSAT” or “PSAT/NMSQT” means the preliminary SAT/national merit scholarship qualifying test which is a standardized test offered by the college board for both preliminary and primary selection to determine a student’s eligibility and qualification for the national merit scholarship program.~~
- ~~_____ O. “RtI framework” means a multi-tiered intervention model that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a framework for making educational programming and eligibility decisions. The model includes primary, secondary and tertiary levels of intervention based on progress monitoring to determine the student’s response or lack of response to the instruction/intervention.~~
- ~~_____ P. “SAT” means a standardized test offered by the college board for college admissions in the United States.~~
- ~~_____ Q. “School growth” means growth of a school performance over a three year period, as calculated by value added modeling (VAM).~~
- ~~_____ R. “School options” means a right to transfer to any public school not rated an F in the state or have children continue their schooling through distance learning offered through the statewide or a local cyber academy.~~
- ~~_____ S. “Secretary” means the secretary of public education of the PED.~~
- ~~_____ T. “Standards based assessments” means the collection of instruments that assess student academic performance and the students’ progress toward meeting the New Mexico content standards with benchmarks and performance standards, and are administered annually in grades three, four, five, six, seven, eight, 10 and 11.~~
- ~~_____ U. “Status” means a single year measurement of a school.~~
- ~~_____ V. “Student growth” means learning a year’s worth of knowledge in one year’s time, which is demonstrated by a student’s performance on New Mexico standards based assessments that shows the student:~~
- ~~_____ (1) moving from one performance level to a higher performance level; or~~
- ~~_____ (2) maintaining a proficient or advanced proficient performance level; or~~
- ~~_____ (3) remaining in beginning step or nearing proficient performance level but improving a number of scale score points.~~
- ~~_____ W. “Supplemental accountability model” or “SAM” refers to any schools that qualify for a modified accountability calculation. To be eligible as a SAM school, the school must serve a student population where ten percent or more of the students are 19 years of age or older, or where twenty percent or more of the non-gifted students qualify for special educational services. Additionally the school, when established, must have the primary mission to address the needs of students who are at risk of educational failure as indicated by poor grades, truancy, disruptive behavior, eligibility for special education services, or other factors associated with temporary or permanent withdrawal from school.~~
- ~~_____ X. “VAM or “value added model” means estimating conditional school growth and conditional status, where “conditional” refers to taking student background characteristics into account. [6.19.8.7 NMAC – N, 12/15/2011; A, 5/31/2012]~~

6.19.8.8 REQUIREMENTS:

- ~~_____ A. The department shall grade all public schools annually by assigning a letter grade of either A, B, C, D or F to each school. Assessment results of all students, including students with a disability and students who are English language learners, shall be considered in assigning schools a letter grade.~~
- ~~_____ B. Elementary and middle schools shall be graded based on:~~
- ~~_____ (1) student performance, including achievement on the New Mexico standards based assessments;~~
- ~~_____ (2) student growth in achievement based on the New Mexico standards based assessment;~~
- ~~_____ (3) student growth of the lowest twenty fifth percentile of students in the public school based on the New Mexico standards based assessments;~~
- ~~_____ (4) school growth based on the New Mexico standards based assessments;~~

PROPOSED STRIKETHROUGH

- ~~(5) school attendance; and~~
- ~~(6) the results of an opportunity to learn survey.~~
- ~~C. High schools shall be graded based on:~~
- ~~(1) student performance, including achievement on the New Mexico standards-based assessments;~~
- ~~(2) student growth in achievement based on the New Mexico standards-based assessments;~~
- ~~(3) student growth of the lowest twenty-fifth percentile of students in the public school based on the New Mexico standards-based assessments;~~
- ~~(4) school growth based on the New Mexico standards-based assessments;~~
- ~~(5) four-year and five-year cohort graduation rate, and beginning with the 2012-2013 school year, a six-year cohort graduation rate;~~
- ~~(6) school growth in the four-year cohort graduation rate;~~
- ~~(7) college readiness (i.e., ACT, PSAT, dual credit, SAT, PLAN, accuplacer, international baccalaureate or IB, or AP scores) or career readiness (i.e., pre-apprenticeship programs, and cooperative education programs);~~
- ~~(8) school attendance; and~~
- ~~(9) the results of an opportunity to learn survey.~~
- ~~D. The department shall annually publish disaggregated school grading data on its website.~~
- ~~E. The parent of a student enrolled in a public school rated F for two of the last four school years shall have a right to either:~~
- ~~(1) transfer the student in the same grade to any public school in the state not rated F; or~~
- ~~(2) continue their schooling by means of distance learning through the statewide cyber academy or distance learning offered by any New Mexico school district or charter school, provided that the entire cost of distance learning shall be paid by the school that was rated F and in which student is still enrolled.~~
- ~~F. The transfer of any student pursuant to the A-B-C-D-F Schools Rating Act shall be conducted pursuant to the open enrollment provisions of Section 22-1-4 NMSA 1978, provided that no school district or charter school shall adopt enrollment policies that exclude the enrollment of a student from a school rated F for two of the last four school years, and provided further that students seeking to enroll in a charter school must participate in that school's lottery unless the school has not exceeded its enrollment limit and in any event the enrollment procedures set forth in Section 22-8B-4.1 NMSA 1978 shall apply. A school district shall not be responsible for the transportation cost or transportation of a student who transfers to a charter school or to a school in another New Mexico school district. A school district shall, however, be responsible for the transportation and transportation cost of a student who transfers to another school within the same district even where that school is outside of the student's attendance zone.~~
- ~~G. The options available pursuant to Subsection E of Section 6.19.8.8 NMAC, which shall be available to students with a disability and students who are English language learners, shall be 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.~~
- ~~[6.19.8.8 NMAC – N, 12/15/2011; A, 5/31/2012]~~

6.19.8.9 DETERMINATION OF A SCHOOL'S GRADE:

- ~~A. For elementary and middle schools, the indicators shall be weighted by assigning up to a maximum of 100 points as follows:~~
- ~~(1) 40 points for student performance, including achievement on the New Mexico standards-based assessments of which 25 points shall be based on status proficiency and 15 points shall be based on VAM;~~
- ~~(2) 20 points for student growth based on the New Mexico standards-based assessments;~~
- ~~(3) 20 points for student growth of the lowest twenty-fifth percentile of students in the public school based on the New Mexico standards-based assessments;~~
- ~~(4) 10 points for school growth based on the New Mexico standards-based assessments;~~
- ~~(5) five points for school attendance;~~
- ~~(6) five points for results of an opportunity to learn survey; and~~
- ~~(7) in addition to the 100 points described above, an elementary or middle school may be assigned a total of five percent bonus points for either demonstrated parental involvement or demonstrated student participation in extracurricular activities, where:~~

PROPOSED STRIKETHROUGH

~~(a) parental involvement shall include but not be limited to innovative school programs involving parental input, detailed parental surveys on key educational initiatives, successful school and parent partnerships, increasing parental volunteerism, parental membership on audit committees pursuant to 22-8-12.3 NMSA 1978, and improvement of communication, all of which shall be verifiable;~~

~~(b) extracurricular activities shall include any single or combination of student participatory activities that include but are not limited to campus based academic and fine arts activities, campus based leadership activities, or any of the activities governed by the New Mexico activities association, all of which shall be verifiable.~~

~~**B.** For elementary and middle schools after totaling the points of each indicator, the following grade shall be assigned:~~

- ~~(1) a grade of A indicates a score of 75.0 points or higher;~~
- ~~(2) a grade of B indicates a score of 60.0 to less than 75.0 points;~~
- ~~(3) a grade of C indicates a score of 50.0 to less than 60.0 points;~~
- ~~(4) a grade of D indicates a score of 37.5 to less than 50.0 points; and~~
- ~~(5) a grade of F indicates a score of less than 37.5 points.~~

~~**C.** For high schools, the indicators shall be weighted by assigning up to a maximum of 100 points as follows:~~

- ~~(1) 30 points for student performance, including achievement on the New Mexico standards-based assessments of which 20 points shall be based on status proficiency and 10 points shall be based on VAM;~~
- ~~(2) 10 points for student growth based on the New Mexico standards-based assessment;~~
- ~~(3) 10 points for student growth of the lowest twenty fifth percentile of students in the high school based on the New Mexico standards-based assessment;~~
- ~~(4) 10 points for school growth based on the New Mexico standards-based assessment;~~
- ~~(5) eight points for the four-year cohort graduation rate;~~
- ~~(6) five points for school growth in the four-year cohort graduation rate; however, schools that do not have members of any cohort are exempted from the graduation component of school grading for that year; the exempted school's overall grade will be comprised of the remaining grading components and its overall points will be adjusted to the standardized scale;~~
- ~~(7) four points for the five-year and six-year graduation rates; however, schools that do not have members of any cohort are exempted from the graduation component of school grading for that year; the exempted school's overall grade will be comprised of the remaining grading components and its overall points will be adjusted to the standardized scale;~~
- ~~(8) five points for student participation in college or career readiness;~~
- ~~(9) 10 points for student success in college or career readiness;~~
- ~~(10) three points for school attendance;~~
- ~~(11) five points for the results of an opportunity to learn survey; and~~
- ~~(12) in addition to the 100 points described above, a high school may be assigned a total of five bonus points for either demonstrated parental involvement or demonstrated student participation in extracurricular activities where:~~

~~(a) parental involvement shall include but not be limited to verifiable innovative school programs involving parental input, detailed parental surveys on key educational initiatives, successful school and parent partnerships, increasing parental volunteerism, parental membership on audit committees pursuant to 22-8-12.3 NMSA 1978, and improvement of communication, all of which shall be verifiable;~~

~~(b) extracurricular activities shall include any single or combination of verifiable student participatory activities that include but are not limited to campus based academic and fine arts activities, campus based leadership activities, or any of the activities governed by the New Mexico activities association.~~

~~**D.** A school will qualify as a supplemental accountability model or SAM when they serve a higher proportion of returning dropouts or students with disabilities. Utilizing modifications for graduation, career and college readiness, and bonus points, SAM schools must meet all other indicators for high schools, with the exception of these modified indicators:~~

- ~~(1) graduation cohort assignments will be made at the time the student enters the SAM school, based on the student's grade at entry;~~
- ~~(2) career and college readiness participation and success may be demonstrated by meeting benchmark scores on career readiness assessments approved by the PED; and~~
- ~~(3) bonus points can include evidence that the school is meeting goals specialized for the non-traditional student population.~~

PROPOSED STRIKETHROUGH

~~E.~~ For high schools after totaling the percentage scores and corresponding points of each indicator, the following grade shall be assigned:

- ~~(1)~~ a grade of A indicates a score of 75.0 points or higher;
- ~~(2)~~ a grade of B indicates a score of 65.0 to less than 75.0 points;
- ~~(3)~~ a grade of C indicates a score of 50.0 to less than 65.0 points;
- ~~(4)~~ a grade of D indicates a score of 35.0 to less than 50.0 points; and
- ~~(5)~~ a grade of F indicates a score of less than 35.0 points.

~~F.~~ To determine the participation rate, schools and districts must test ninety five percent or more of students enrolled in tested grades, as well as ninety five percent of those students in the lowest quartile. In the event that either all students tested or those in the lowest quartile comprise fewer than 40 students, participation will be averaged across the current and prior two years for that group. A school or district's failure to meet ninety five percent in either all students tested or in the lowest quartile will result in their overall grade being reduced by one letter grade.

~~G.~~ Despite the grading of public schools as established by this rule, any school that meets adequate yearly progress pursuant to the federal No Child Left Behind Act of 2001 during the 2011-2012 school year shall not be assigned a grade lower than a C. This consideration shall not be available in subsequent school years.

[6.19.8.9 NMAC – N, 12/15/2011; A, 5/31/2012]

[The department maintains a school grading technical guide on its website, which can be accessed at <http://ped.state.nm.us/> and provides a description of the variables and formula used to determine school grading, as well as the assessments and measurements that can be used.]

~~6.19.8.10~~ ~~PRIORITIZATION OF SCHOOL RESOURCES:~~

~~A.~~ As part of the annual budget approval process pursuant to Section 22-8-11 NMSA 1978, on or before July 1 of each year, the department shall ensure that a local school board or governing body of a 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 school years.

~~B.~~ To determine the prioritization of resources of a public school rated D or F, the department shall examine any combination of:

- ~~(1)~~ a school's core curricula in reading and mathematics;
- ~~(2)~~ a school's intervention curricula in reading and mathematics;
- ~~(3)~~ a school's current professional development activities for licensed staff including any efforts or plans to align that professional development to the school's deficiencies in reading and mathematics;
- ~~(4)~~ a school's educational plan for student success;
- ~~(5)~~ the licensure and documented skill set of the school's teachers and administrators;
- ~~(6)~~ any short cycle assessments administered by the school in reading or mathematics;
- ~~(7)~~ any learning software used by the school to teach reading or mathematics;
- ~~(8)~~ any district or PED data related to student proficiency in reading or mathematics, high school graduation rates, advanced placement courses, growth in high school graduation rates, and ACT, PSAT, SAT, PLAN, accuplacer, international baccalaureate or IB, or AP scores; and

~~(9)~~ specific expenditures by the school related to teaching and assessing student proficiency in reading or mathematics; intervention programs under the state's RtI framework; alignment of curriculum, instruction and professional development to common core; alignment to cultural based education principles; and parental involvement.

~~C.~~ The department shall recommend additional proven programs and methods to local school boards and charter school governing bodies that are linked to improved student achievement. Each local school board and charter school governing body shall carefully consider the implementation of one or more recommended program or method until their failing school earns a grade of C or better for two consecutive school years. If after two consecutive school years a school continues to earn a grade of F, the local school board and charter school governing body shall implement new proven programs or methods that will result in increased student achievement.

~~D.~~ A local school board or charter school governing body choosing not to implement PED recommended proven programs or methods must demonstrate with student achievement data and in writing to the department that they have already identified and implemented a proven program or method linked to improved student achievement in reading and mathematics.

[6.19.8.10 NMAC – N, 12/15/2011; A, 5/31/2012]

~~6.19.8.11~~ ~~SMALL SCHOOL AND NON-ASSESSMENT CONSIDERATIONS:~~

PROPOSED STRIKETHROUGH

~~_____ A. _____ A small school is a school with fewer than 30 students in the assessed grades. To calculate the school grade of a small school, the department shall where possible mitigate the impact of school size by using multiple years of data and consider the reliability of school estimates in calculations.~~

~~_____ B. _____ Schools such as kindergarten through grade two schools or ninth grade that are comprised of grades that are not included in the administration of standards based assessments, shall be assigned the assessment data using a reconstituted student group of alumnae from that school in their first tested grade. If no alumnae exist, the school's feeder pattern will be used to assign a grade from the receiving school. If no feeder pattern exists, the school will be assigned the grade from the parent district.~~

~~[6.19.8.11 NMAC - N, 12/15/2011; A, 5/31/2012]~~

HISTORY OF 6.19.8 NMAC: [RESERVED]

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY
PART 8 GRADING OF PUBLIC SCHOOLS

6.19.8.1 ISSUING AGENCY: Public Education Department, hereinafter the "department".

[6.19.8.1 NMAC - Rp, 6.19.8.1 NMAC, 12/31/2018]

6.19.8.2 SCOPE: This rule shall apply to all public schools in New Mexico. If any part or application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.

[6.19.8.2 NMAC - Rp, 6.19.8.2 NMAC, 12/31/2018]

6.19.8.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, and the A-B-C-D-F School Rating Act 22-2E-1 to 22-2E-4, 22-2C-4, 22-2C-5, and 22-2C-11 NMSA 1978.

[6.19.8.3 NMAC - Rp, 6.19.8.3 NMAC, 12/31/2018]

6.19.8.4 DURATION: Permanent.

[6.19.8.4 NMAC - Rp, 6.19.8.4 NMAC, 12/31/2018]

6.19.8.5 EFFECTIVE DATE: December 31, 2018, unless a later date is cited at the end of a section.

[6.19.8.5 NMAC - Rp, 6.19.8.5 NMAC, 12/31/2018]

6.19.8.6 OBJECTIVE: The purpose of this rule is to implement the A-B-C-D-F Schools Rating Act (Sections 22-2E-1 to 22-2E-4 NMSA 1978) and the New Mexico state plan under the Every Student Succeeds Act approved by the United States department of education in compliance with Section 1111 of the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act to establish a consistent school accountability system for public schools. Additionally, this rule establishes criteria for rating public schools and provides options for students in failing schools. This rule provides for the identification of, and support for, struggling or failing schools and the prioritization of funding.

[6.19.8.6 NMAC - Rp, 6.19.8.6 NMAC, 12/31/2018]

6.19.8.7 DEFINITIONS:

A. "Chronic absenteeism" means an indicator equal to the percentage of students who missed ten percent or more of school days in which they were enrolled during the school year.

B. "College and career readiness" or "CCR" means an indicator calculated for all high schools statewide, consisting of the following:

(1) the number of students who participated in CCR opportunities, as defined by the department, divided by the number of students in the four-year graduation cohort;

(2) the number of students who were successful in CCR opportunities, as defined by the department, divided by the number students who participated; and

(3) the number of students who are successful in institutions of higher education measured by at least one of the following:

(a) remediation;

(b) enrollment;

(c) persistence; or

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(d) completion.

C. “English learner” or “EL” means a student whose first or heritage language is not English and who does not yet understand, speak, read, or write English at a level comparable to grade-level English proficient peers and native English speakers.

D. “English learner progress” means a growth-to-proficiency indicator of the acquisition of English language proficiency for EL students.

(1) Each EL has an annual English language growth-to-proficiency target that is based on the student’s grade level at identification as an EL and the student’s initial English language proficiency level on the department-approved English language proficiency assessment.

(2) English language growth-to-proficiency targets are a measure of the extent to which students should be gaining English language proficiency within five years as measured by the department-approved English language proficiency assessment.

E. “Graduation growth” means an indicator equal to the annual increase in the four-year cohort graduation rate based on the three most recent years of data.

F. “Graduation rate” means an indicator equal to the percentage of students in a cohort who earned a New Mexico diploma of excellence within a specified number of years, with the cohort assigned based upon first-time entry into ninth grade.

(1) Four-year cohort graduation rate means the percentage of students in the four-year cohort who earned a New Mexico diploma of excellence within four years.

(2) Five-year cohort graduation rate means the percentage of students in the five-year cohort who earned a New Mexico diploma of excellence within five years.

(3) Six-year cohort graduation rate means the percentage of students in the six-year cohort who earned a New Mexico diploma of excellence within six years.

G. “Index score” means the score a school earns for each subgroup calculated using the same model as school grades using the indicators described in 6.19.8.8 NMAC that can be disaggregated by each of the following subgroups:

- (1) economically disadvantaged students;
- (2) students from major racial and ethnic groups;
- (3) children with disabilities; and
- (4) English learners.

H. “Local education agency” or “LEA” means a school district or a state-authorized charter school.

I. “Proficiency” means a student’s score of proficient or above as defined by the department on the New Mexico statewide assessment.

J. “Quartile” or “Q” means the student’s quartile status for school grading when calculating the following indicators:

- (1) Q1 means the lowest-performing quartile of students, based on previous years’ performance on the statewide assessment;
- (2) Q2 means the second-lowest-performing quartile of students, based on previous years’ performance on the statewide assessment;
- (3) Q3 means the second-highest-performing quartile of students, based on previous years’ performance on the statewide assessment; and
- (4) Q4 means the highest-performing quartile of students, based on previous years’ performance on the statewide assessment.

K. “School survey” means an indicator of student and family engagement, educator collaboration and engagement, and other critical components for quality schools as measured by a survey addressing the following domains:

- (1) school climate;
- (2) rigorous expectations;
- (3) student-teacher relationships;
- (4) belonging; and
- (5) safety.

L. “Statewide assessment” means the collection of instruments administered annually that assess student academic performance and students’ progress toward meeting New Mexico content standards in kindergarten

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M. “Student growth” means an indicator of the extent to which students are increasing their mastery of state content standards as measured by the New Mexico statewide assessment in kindergarten and grades one through 12.

N. “Student proficiency” means an indicator equal to the percentage of students who were proficient or above in the current reporting year.

O. “Student STEM readiness” means an indicator of student proficiency on the statewide assessment for science.

P. “Supplemental accountability model school” or “SAM school” means any public school in which, based on the fortieth day reporting, fifty percent or more of the student population is:

- (1) age 19 or older; or
- (2) non-gifted students who qualify for level C or level D special education.

[6.19.8.7 NMAC - Rp, 6.19.8.7 NMAC, 12/31/2018]

6.19.8.8 REQUIREMENTS:

A. Public schools shall earn a letter grade of either A, B, C, D, or F annually pursuant to Sections 22-2E-1 to 22-2E-4 NMSA 1978, A-B-C-D-F Schools Rating Act.

B. Elementary and middle schools shall earn grades based on the following indicators:
Mexico’s statewide assessment;

- (1) student proficiency in English language arts and mathematics, as determined by New Mexico’s statewide assessment;
- (2) student STEM readiness;
- (3) student growth;
- (4) chronic absenteeism;
- (5) school survey; and
- (6) English learner progress.

C. High schools shall earn grades based on the following indicators:
Mexico’s statewide assessment;

- (1) student proficiency in English language arts and mathematics, as determined by New Mexico’s statewide assessment;
- (2) student STEM readiness;
- (3) student growth;
- (4) chronic absenteeism;
- (5) school survey;
- (6) college and career readiness;
- (7) graduation rate; and
- (8) English learner progress.

D. The department shall annually publish disaggregated school grading data on its website.

E. Pursuant to Section 22-2E-4 NMSA 1978 and any applicable 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 was enrolled is responsible for the cost of distance learning. Enrollment policies shall align with the requirements outlined in Section 22-1-4 NMSA 1978 and applicable state charter law and shall prioritize the lowest achieving, low income students, as determined by the school district or charter school.

F. The transfer of any student pursuant to the A-B-C-D-F Schools Rating Act, Section 22-2E-2 NMSA 1978 shall be conducted pursuant to the open enrollment provisions of Section 22-1-4 NMSA 1978, provided that no school district or charter school shall adopt enrollment policies that exclude the enrollment of a student from a school rated F for two of the last four school years, and provided further that students seeking to enroll in a charter school must participate in that school’s lottery unless the school has not exceeded its enrollment limit. The enrollment procedures set forth in Section 22-8B-4.1 NMSA 1978 shall apply. The sending school district, excluding state-authorized charter schools, shall be responsible for the transportation and transportation cost of a student who transfers to another school within the same district even if that school is outside of the student’s attendance zone.

[6.19.8.8 NMAC - Rp, 6.19.8.8 NMAC, 12/31/2018]

6.19.8.9 DETERMINATION OF A SCHOOL’S GRADE:

A. Elementary and middle schools can earn up to a maximum of 100 points as follows:

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- (1) 33 points for student proficiency in English language arts and mathematics as determined by New Mexico's statewide assessment;
- (2) five points for student STEM readiness;
- (3) 42 points for student growth, as calculated in the following manner:
- (a) five points for Q4;
 - (b) 12 points for Q2 and Q3; and
 - (c) 25 points for Q1;
- (4) five points for chronic absenteeism;
- (5) five points for school survey; and
- (6) 10 points for English learner progress.
- B.** High schools can earn up to a maximum of 100 points as follows:
- (1) 25 points for student proficiency in English language arts and mathematics, as determined by New Mexico's statewide assessment;
- (2) five points for student STEM readiness;
- (3) 30 points for student growth, calculated in the following manner:
- (a) five points for Q4
 - (b) 10 points for Q2 and Q3; and
 - (c) 15 points for Q1;
- (4) five points for chronic absenteeism;
- (5) five points for school survey;
- (6) 12 points for college and career readiness, with the greatest weight assigned to the percentage of successful students as outlined in Paragraph (2) of Subsection B of 6.19.8.7 NMAC.
- (7) 13 points for graduation rate, calculated in the following manner:
- (a) six points for the four-year rate;
 - (b) two points for the five-year rate;
 - (c) one point for the six-year rate; and
 - (d) four points for growth in the four-year rate; and
- (8) five points for English learner progress.
- C.** All enrolled students in eligible grades and courses, as determined by the department, must be assessed with the appropriate state assessment, including the state-approved alternate assessment when applicable. The benchmark for participation in the statewide assessment is ninety-five percent of all eligible students. Schools that fail to meet the minimum of ninety-five percent in either English language arts or mathematics shall have their letter grade reduced by one letter.
[6.19.8.9 NMAC - Rp, 6.19.8.9 NMAC, 12/31/2018]

6.19.8.10 PRIORITIZATION OF RESOURCES:

A. As part of the annual budget approval process pursuant to Section 22-8-11 NMSA 1978, on or before July 1 of each year, the department shall ensure that a local school board or governing body of a charter school is prioritizing resources of public schools identified pursuant to 6.19.8.11 NMAC.

B. Expenditures for instruction, student support services, instructional support services, and compensation and benefits for school principals designated as the 1000, 2100, 2200, and 2400 functions, respectively, in fund 11000 of the department's chart of accounts for expenditures shall be reported by the department every two years and posted on the department website. Published reports shall include the school grade earned for the three most recent years.
[6.19.8.10 NMAC - Rp, 6.19.8.10 NMAC, 12/31/2018]

6.19.8.11 SCHOOL IDENTIFICATION AND INTERVENTIONS: The department shall identify schools for comprehensive support and improvement (CSI), targeted support and improvement (TSI), and more rigorous interventions (MRI).

A. CSI identification. A school shall be identified as a CSI school if the school:

- (1) is in the lowest performing five percent of Title I schools in New Mexico as identified by the overall score earned on the school grading report card as defined in 6.19.8.9 NMAC;
- (2) has a four-year graduation rate less than or equal to 66 and two-thirds percent for two of the past three years; or

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(3) is a Title I school that was previously identified for TSI due to low performing student subgroups that has not demonstrated sufficient improvement after three years in that status by meeting the exit criteria.

B. CSI exit criteria. CSI status has a three-year implementation timeline. An identified CSI school is expected to exit CSI status within three years of being identified. Exiting CSI status shall occur under the following conditions:

- (1) for schools identified for being among the bottom five percent of Title I schools:
 - (a) improving the school grading overall score so that it is above the same overall score used to identify the lowest-performing five percent of Title I schools as described in Paragraph (1) of Subsection A of 6.19.8.11 NMAC; or
 - (b) by earning a grade of “C” or better;
- (2) for high schools identified due to low graduation rates, the school must improve their four-year graduation rate to be above 66 and two-thirds percent; or
- (3) for Title I schools previously identified as TSI schools with low-performing subgroups, the school must improve the index scores of all low-performing subgroups so the index scores for all subgroups are above the same score used to identify schools with low-performing subgroups as described in Subsection C of 6.19.8.11 NMAC.

C. TSI identification. A school shall be identified as a TSI school if one or more subgroups have an index score at or below the performance of all students at any of the lowest-performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.

D. TSI exit criteria. Schools with one or more low-performing subgroups shall exit TSI status at any time when the school improves the index scores of all low-performing subgroups so the index scores for all subgroups are above the same score used to identify schools with low-performing subgroups as described in Subsection C of 6.19.8.11 NMAC.

E. MRI identification. A school shall be identified as an MRI school under one of the following conditions:

- (1) the school has been not exited CSI status in three years after identification; or
- (2) the school has earned four or more consecutive school grades of F.

F. MRI plans. Once identified as an MRI school, LEAs shall be required to identify and submit a plan falling under one of the following categories:

- (1) closure;
- (2) restart;
- (3) champion and provide choice: champion a range of choices in an open system that focuses on new approaches to learning, one that keeps individual students at the center of accessing options that best support their learning path. There shall be clear evidence that choice has been championed for the affected students; and

(4) significantly restructure and redesign:

- (a) The school shall change the vision and systems at a school by:
 - (i) extending instructional time;
 - (ii) significantly changing staffing to include only educators earning highly effective ratings and above; and

(iii) adopting state-selected curriculum approaches.

(b) The school may implement personalized learning models for all students.

(5) The department shall provide additional guidance on the categories outlined in Paragraphs (1) through (4) of Subsection F of 6.19.8.11 NMAC.

G. MRI plan approval. If the district refuses to identify a more rigorous intervention in which to participate, the department will select the intervention for the school. The department reserves the right to approve or deny any MRI plan chosen and developed by an LEA.

H. MRI exit criteria. An identified MRI school shall exit in compliance with its approved plan if:

- (1) the school has earned a “C” or better; or
- (2) the school has improved its school grading overall score such that it is above the same overall score used to identify the lowest-performing five percent of Title I schools as described in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.

[6.19.8.11 NMAC - Rp, 6.19.8.11 NMAC, 12/31/2018]

6.19.8.12 SUPPLEMENTAL ACCOUNTABILITY MODEL:

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A. The department may supplement the calculation of an overall score and school grade as described in 6.19.8.9 NMAC only for supplemental accountability model schools in one or more of the following ways, as determined by the department.

(1) Include the rate of senior completion, which consists of students who are not members of the four-year graduation cohort, when calculating the number of points earned for the four-year cohort graduation rate described in Subparagraph (a) of Paragraph (7) of Subsection B of 6.19.8.9 NMAC;

(2) Include additional department-approved assessments when calculating the participation and success components of the college and career readiness indicator included in Paragraph (6) of Subsection B of 6.19.8.9 NMAC; or

(3) Realign the point distributions described in 6.19.8.9 NMAC as follows:

(a) For elementary and middle schools:

(i) 25 points for student proficiency in English language arts and mathematics as determined by New Mexico's statewide assessment;

(ii) 15 points for Q2 and Q3; and

(iii) 30 points for Q1; or

(b) For high schools:

(i) 20 points for student proficiency in English language arts and mathematics as determined by New Mexico's statewide assessment; and

(ii) 15 points for Q2 and Q3.

B. Schools eligible for SAM school status remain subject to the assessment participation requirement described in Subsection C of 6.19.8.9 NMAC.

[6.19.8.12 NMAC - N, 12/31/2018]

HISTORY OF 6.19.8 NMAC: [RESERVED]