

## Public Education Department Rules Review

### Demonstration of Competencies for High School Graduation: 6.19.7 NMAC

The Public Education Department (PED) repealed and replaced a former rule on demonstration of competencies for high school graduation, replacing it with a new rule (see [6.19.7 NMAC](#)). The new rule, available in the New Mexico Register [XXXIV, Issue 14](#), simplifies options to demonstrate competency for high school graduation and went into effect on July 31, 2023. Notably, the new rule removes the primary and alternative demonstration of competency structure from administrative rule—this update puts the rule in alignment with PED practice in recent years.

The rule also requires PED to develop an annual graduation manual for each graduating class, starting with the class of 2025. This manual must include information on graduation requirements and options to demonstrate competency. The new rule notes students must demonstrate competency in each core content area using standards-based indicators including:

- District-approved, teacher- team-created course final exams, final projects, portfolios, or capstone projects; or
- Results from national or state college or career readiness assessments, dual credit courses, or career technical certificates or programs of study.

Local education agencies (LEAs), in other words school districts and state-chartered charter schools, retain the ability to determine the number of opportunities a student has to demonstrate competency and the ability to offer “all or some” of the options outlined by PED. According to PED’s [explanatory statement](#), the rule also updates requirements to match available assessment instruments; makes changes related to the issuance of standard, modified, and ability diplomas; and removes conflicts with the Individuals with Disabilities Education Act (IDEA) related to free appropriate public education (FAPE) requirements.

### Public Education Commission State Charter School Procedures: 6.2.9 NMAC

PED created a new rule on Public Education Commission (PEC) state-chartered charter school procedures ([see 6.2.9 NMAC](#)). The new rule, available in the New Mexico Register [XXXIV, Issue 14](#), establishes procedures, forms, and protocols related to state-chartered charter schools and went into effect on July 31, 2023.

The adopted rule makes a number of changes to how the PEC and the Charter Schools Division of PED approve, review, and monitor state-chartered charter schools. It also requires the PEC to create procedures related to its responsibilities of oversight and monitoring of state-chartered charter schools and make these procedures available on the PEC's website. The rule also directs the Charter School Division of PED to conduct annual site visits to state-chartered charter schools to provide technical assistance and to evaluate the school's progress toward its performance framework goals and compliance with its charter contract. The rule also outlines responses to be taken if corrective action is needed. Further, the rule requires tribal consultation if an applicant wishes to open a charter school on tribal land, requires the Charter Schools Division to analyze new, state-chartered charter school applications, and establishes renewal criteria, as well as a process for revocation of a charter.

## Gifted and Talented: 6.31.2 NMAC

The adopted Gifted and Talented Students rule includes new language specifying that PED approval or disapproval of a program plan for a gifted education program will remain in effect for two years until a revised program plan is evaluated by PED. The rule went into effect on July 31, 2023.

The rule also requires school districts and charter schools to conduct universal screening and establish a procedure to ensure that every student's potential to qualify as a gifted student is assessed by the end of grade three. Universal screening assessment results shall be used for referral for further assessment and may include group or individually administered assessments of academic achievement or cognitive ability.

The adopted rule also includes new language specifying that while school districts and charter schools may offer additional gifted programs for students that do not meet the eligibility criteria established by rule, the state will only fund programs for students who meet the criteria established in rule. The adopted rule also adds language to expand the classifications for identifying gifted students, amends language regarding analysis of gifted qualification data, and expands the referenced statutory authority of the rule.

The adopted rule on Gifted and Talented Students contains new language and also removes language from the rule PED proposed on May 31, presumably in response to the 47 pages of public comment PED received in response to the proposed rule.

## Children with Disabilities: 6.31.2 NMAC

The adopted rule on Children with Disabilities mirrors the May 31 proposed amendment to the rule, and removes all references to gifted students, retitles the section of rule, and updates and adds language regarding graduation requirements to be in alignment with PED's adopted rule [6.19.7 NMAC, Demonstration of Competency for High School Graduation](#). PED received only one public comment pertaining to the Children with Disabilities rule, which was supportive of PED's move to eliminate references to gifted students in the Students with Disabilities rule and create a new section of rule pertaining to Gifted and Talented Students. The rule went into effect on July 31, 2023.

## Standards for Excellence – General Provisions: 6.29.1 NMAC

The Public Education Department adopted an amendment to [6.29.1 NMAC: Standards for Excellence](#), which codifies the use of the NM School DASH accountability tool, includes addition of the multi-layered systems of support (MLSS), and formulizes the shift from the educational plan for student success to the statutorily required education plan. The amendment also adds charter schools and charter school governing councils. The original rule had no mention of those entities. Lastly, the amendment strikes all provisions specifying the length of the school day.

The amended rule, effective July 31, 2023, defines the education plan as "the strategic plan written by all school districts, locally chartered and state-chartered chartered schools to improve schools." The rule also defines NM School DASH as "the strategic plan written by schools to improve student outcomes. It contains the annual plan, the 90-day plans, and functions as a school site improvement plan." In practical terms, the changes do not affect the practice of school districts and school developing and submitting improvement plans, but it does lower the threshold at which a district can submit one NM School DASH plan for all schools rather than one for every school. School districts with fewer than 200 students can submit one plan. Previously, the threshold was 600 students.

The amended rule outlines requirements for the use of MLSS, including annual completion of the MLSS self-assessment, reporting on the types and intensity of intervention provided to students.

## Standard for Providing Transportation for Eligible Students: 6.41.4 NMAC

PED adopted an emergency rule, effective August 4, 2023, that creates a new provision allowing school bus operators to keep buses on while students are entering or exiting a school bus during a heat advisory or excessive heat warning. Under previous regulations, school bus engines were required to remain off while students were loading or unloading, presumably to minimize the chance of an accident during loading and unloading. The new provision requires school districts and charter schools to first consider alternatives to keeping school buses on during loading and unloading, such as parking buses in shaded areas.

## **Covid-19 School Requirements: 6.12.15 NMAC**

The adopted amendment to 6.12.15 NMAC, effective July 31, 2023, removes mentions of the Covid-19 pandemic and the Covid-19 response toolkit and instead broadens the requirement for "school districts and charter schools" to adhere to public health orders, executive orders, and department guidance. The previous version also stated "school districts and schools." The amendment adds "charter schools."

## **Licensure in Athletic Coaching: 6.63.8 NMAC**

PED amended 6.63.8 NMAC to align to recent statutory changes requiring all licensed coaches employed by school districts to be certified in cardiopulmonary resuscitation and be trained in the use of automated external defibrillators. The changes, effective July 31, also remove exemptions to training requirements and include other technical cleanup.