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November 15, 2011

MEMORANDUM

TO: Legislative Education Study Committee

FR: Kevin Force

RE: STAFF BRIEF: UPDATE ON RULEMAKING

- **6.11.2 NMAC Public School Administration – Student Rights and Responsibilities, Rights and Responsibilities of the Public Schools and Public School Students;**
- **6.12.2 NMAC Public School Administration – Health and Safety, Health Services;**
- **6.12.9 NMAC Elementary School Free Breakfast Program During Instructional Time;**
- **6.19.6 NMAC Public School Accountability, Title I Supplemental Educational Services; and**
- **6.29.1 NMAC Standards for Excellence General Provisions**

The October 31, 2011, issue of the *New Mexico Register* included the final adoption of several amendments to existing rules, and the final adoption of a new rule. (20 *New Mexico Register* 724, October 31, 2011.)

The Notice of Proposed Rulemaking was published in the *Register* on August 15, 2011, announcing the proposed amendments and new rule, and, soliciting public comment, announcing a public hearing to be held at the Bataan Memorial Building in Santa Fe on September 16, 2011.

This staff memo will briefly outline the department's actions regarding each of these administrative rules.

6.11.2 NMAC Public School Administration – Student Rights and Responsibilities, Rights and Responsibilities of the Public Schools and Public School Students

As a result of legislation passed in the 2011 regular legislative session (Laws 2011, Chapter 97), the Public Education Department (PED) amended 6.11.2 NMAC to prohibit corporal punishment in public schools by striking most of subparagraph 6.11.2.10(E) and replacing it with a statement that corporal punishment shall not be utilized as a means of enforcing rules.

6.12.2 NMAC Public School Administration – Health and Safety, Health Services

PED amended 6.12.2 NMAC to allow children of military families to enroll and conditionally be placed in a school for 30 days while the student obtains the necessary immunization, by adding:

- definitions for the terms “active duty,” and “children of military families”;
- a new subparagraph 6.12.2.8(D) that grants military children the 30 day period to obtain immunization; and
- subparagraph 6.12.2.8(D) to the potential exemptions from disenrollment proceedings initiated as a result of the lack of proper proof of immunization.

6.12.9 NMAC Elementary School Free Breakfast Program During Instructional Time

According to the requirements of legislation passed in the regular 2011 legislative session (Laws 2011, Chapter 35) PED created new rules implementing a school breakfast program. Included in the proposed new rules are:

- definitions for “federal hardship” and “federal reimbursement rate”;
- requirements that breakfast programs meet the standards of the federal *Child Nutrition Act of 1966*;
- procedures for waiver requests; and
- procedures for reimbursement.

6.19.6 NMAC Public School Accountability, Title I Supplemental Educational Services

As a result of legislation passed in the 2011 regular legislative session (Laws 2011, Chapter 32) PED amended the rules governing Title I supplemental educational services to:

- establish a range of provider rates; and
- require providers to include documentation of consistency with districts' instructional programs in their applications.

6.29.1 NMAC Standards for Excellence General Provisions

PED amended these rules in several ways, including amendments to:

- change the definition of “Response to Intervention (RtI) to mean “a multi-tiered organizational framework that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a system for making educational programming and eligibility decisions,” and notes that in New Mexico, the RtI framework is called the “The Three-Tier Model of Student Intervention”;
- add “gifted children” to the language regarding Tier 3 in 6.29.1.9(D)(3);
- add a sentence to 6.29.1.9(E)(2) requiring all student records to be retained and disposed of according to the rules on retention and disposition of educational records in 1.20.2 NMAC;
- add language to 6.29.1.9(J)(7)(d) requiring results of standards-based assessments to be included in all school report cards; and
- strike all language except the first sentence in 6.29.1.13 so that the entire section reads, “This rule will be periodically amended to reflect changes in law or laws that were enacted with delayed effect provisions.”