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August 24, 2011 (revised)

MEMORANDUM

TO: Legislative Education Study Committee

FR: Kevin Force, J.D.

RE: PROPOSED RULEMAKING

On August 12, 2011, the Public Education Department (PED) published in the *New Mexico Register* a notice of proposed rulemaking announcing amendments to several existing rules, and the creation of a new rule:

- 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; and
- 6.29.1 NMAC Standards for Excellence General Provisions.

This notice also includes 6.19.6 NMAC Public School Accountability Title I Supplemental Educational Services, which is discussed in a separate report.

This staff memo will briefly outline the department’s proposed actions regarding 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), PED proposes to amend 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 proposes to amend 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 proposes to create 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.

6.29.1 NMAC Standards for Excellence General Provisions

PED proposes several amendments to 6.29.1 NMAC, 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”;
- adds “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.”