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December 14, 2011

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Kevin Force

**RE: STAFF BRIEF: UPDATE ON RULEMAKING**

- **Adopted Rules:**
  - **6.60.5 NMAC School Personnel-General Provisions, Competency Testing for Licensure; and**
  - **6.30.11 NMAC, Academic Proficiency and Attendance Tied to Instruction Permits**
- **Proposed Rulemakings:**
  - **6.10.7 NMAC Statewide Standardized Testing Security Issues and Irregularities**

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**Adopted Rules**

The November 15, 2011, issue of the *New Mexico Register* included the final adoption of an amendment of one existing rule, and the repeal of another:

- Amendment to 6.60.5 NMAC School Personnel-General Provisions, Competency Testing for Licensure; and

- Repeal of 6.30.11 NMAC, Academic Proficiency and Attendance Tied to Instruction Permits.

The Notice of Proposed Rulemaking was published in the *Register* on September 15, 2011, announcing the proposed amendment and repeal, and, soliciting public comment, announcing a public hearing to be held in Mabry Hall of the Jerry Apodaca Building in Santa Fe on October 17, 2011.

### **Proposed Rulemakings**

In the November 30, 2011 issue of the *New Mexico Register* The Public Education Department (PED) published in the *New Mexico Register* a notice of proposed rulemaking announcing amendments to 6.10.7 NMAC, Statewide Standardized Testing Security Issues and Irregularities. (See Attachment, *Notice of Proposed Rulemaking 6.10.7 NMAC, 11/30/11.*)

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

### **6.60.5 NMAC School Personnel-General Provisions, Competency Testing for Licensure**

This rule establishes the New Mexico Teacher Assessments (NMTA) as the primary acceptable examination for educator licensure in New Mexico. The rule also provides for exceptions to the general requirement that all teaching candidates seeking licensure must pass the NMTA with a score of at least 240. One of these exceptions addresses individuals seeking an alternative testing arrangement because they are deaf, or hard of hearing. The original language of the rule required such persons to pass the NMTA basic skills portion, with requested modifications to the testing arrangements, with a score of 240, or greater. This requirement was in addition to requirements that these candidates also pass an alternative assessment conducted in a face-to-face presentation of a portfolio to demonstrate teacher competency.

During their May 2011 meeting, the Legislative Education Study Committee (LESC) heard testimony from Dr. Sandra Rodriguez, Advocate for the Deaf and Hard of Hearing, relating to concerns that the licensure department at PED may not have been complying with provisions in current law that provide for an alternative portfolio assessment, *in lieu of all or part of the NMTA*, for candidates who are deaf or hard of hearing (emphasis added).<sup>1</sup>

According to Dr. Rodriguez:

- current law allows a person who has a degree from an accredited teacher education program and who is deaf or hard of hearing to demonstrate competency for a level one, level two, or level three license through a portfolio assessment in lieu of all or part of the NMTA;

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<sup>1</sup> Section 22-10-11.2 NMSA 1978

- until rules have been effective for a period deemed sufficient by PED for a deaf or hard of hearing person to submit a portfolio, any eligible deaf or hard of hearing person who has a degree from an accredited teacher education program is to be granted a temporary teaching license for the level of licensure for which the person will likely qualify;
- the temporary teaching license is effective for no longer than two school years;
- PED rule required persons seeking an alternative assessment to pass the Basic Skills portion of the NMTA with a minimum score of 240 in order to be eligible for a portfolio assessment for the two additional portions of the NMTA; and
- because of the PED rule, candidates granted a temporary license were in a position where they might lose licensure primarily because there was no alternative route or rule in effect when they were granted temporary licensure.

In response to Dr. Rodriguez' testimony, several committee members expressed concern that agencies were using rule to impose requirements that are contrary to provisions in state law. A member stated that the provisions in law were intended to address the inappropriateness of requiring deaf and hard of hearing teachers to take the standard NMTA and suggested that PED revisit the provisions in law and revise the department's rule. As a result of the committee discussion, the chair directed LESC staff to draft a letter from the committee to PED, requesting a response to the committee's concerns.

PED has amended 6.60.5 NMAC to strike the language requiring a passing score of 240 on the basic skills portion of the NMTA, as administered with alternative arrangements, as a condition for requesting an alternative assessment.

### **6.30.11 NMAC, Academic Proficiency and Attendance Tied to Instruction Permits**

This rule established uniform requirements and procedures for determining whether minors have demonstrated a certain level of academic proficiency, or school attendance, in order to be granted an instruction permit by the Motor Vehicle Division (MVD).

In 2009, both the Taxation and Revenue Department (TRD) and PED promulgated rules to implement requirements for the issuing of instruction permits to minor students that are not included in state law:

- In January, 2009, TRD promulgated 18.19.5.118 NMAC, Instruction Permit-Purpose-Criteria, the requirements of which would be applicable to applications for permits submitted on or after September 1, 2011.
- In November 2009, a PED news release announced a public hearing for a rule that would tie eighth grade student proficiency and ninth grade student attendance to New Mexico driving instruction permits.
- The news release noted that:
  - because this rule would go into effect on December 31, 2009, the requirements for meeting proficiency and attendance would only apply to those minors submitting applications to the MVD for driving instruction permits on or after September 1, 2011;

- because the proposed rule looks at academic proficiency in the eighth grade, this requirement might also have applied to students who were currently in the eighth grade during school year 2009-2010, and who later requested a driving instruction permit on or after September 1, 2011; and
  - because the rule would also require meeting a 90 percent attendance rate in the ninth grade, this requirement would first apply to students in the ninth grade in school year 2010-2011 who request a driving instruction permit on or after September 1, 2011.
- In December 2009, PED promulgated their rules.

PED has repealed this rule.

As of October 12, 2011, TRD has not published any notices of public hearing or proposed rulemaking to amend or repeal their rule.

The TRD rule contains the required criteria that a student affected by the rule must meet in order to receive an instruction permit, while the PED rule contains the procedures and mechanisms by which a student might meet the criteria.

Because these rules appear interdependent, it is uncertain what effect the repeal of the PED rule will have upon the TRD rule.

#### **6.10.7 NMAC Statewide Standardized Testing Security Issues and Irregularities**

These rules establish uniform procedures for preparation, security, administration, and safeguarding of standardized tests in New Mexico schools. PED proposes two amendments to the rules:

- 6.10.7.9 NMAC, District Text Coordinator's Responsibility, is amended to clarify that prohibited test practices include "erasing, double-marked or lightly erased or lightly marked answers, or directing or suggesting that a student change a standardized test answer"; and
- 6.10.7.14, Corrective Measures, is amended to add the possibility of "modify[ing] school and district accountability determinations" to the list of potential corrective measures taken after investigating any suspected irregularities.

The Notice of Proposed Rulemaking states that a public hearing will be held on January 4, 2012 in Mabry Hall of the Jerry Apodaca building in Santa Fe. Written comments will be accepted until 5:00 p.m. of that day.

**NEW MEXICO PUBLIC EDUCATION DEPARTMENT**

**NOTICE OF PROPOSED RULEMAKING**

The Public Education Department hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786, on January 4, 2012 from 9:00 a.m. to 10:00 a.m. The purpose of the public hearing will be to obtain input on the following rule:

**Amend:**

6.10.7 NMAC Statewide Standardized Testing Security Issues and Irregularities

Interested individuals may testify either at the public hearing or submit written comments regarding the proposed rulemaking to Tom Dauphinee, Deputy Director, Assessment and Accountability, New Mexico Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 ([Tom.Dauphinee@state.nm.us](mailto:Tom.Dauphinee@state.nm.us)) (505) 827-6528, fax: (505) 827-6689

Written comments must be received no later than 5:00 p.m. on January 4, 2012. However, submission of written comments as soon as possible is encouraged.

The proposed rulemaking actions may be accessed on the Department's website (<http://ped.state.nm.us>) or obtained from Tom Dauphinee, Deputy Director, Assessment and Accountability, New Mexico Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 ([Tom.Dauphinee@state.nm.us](mailto:Tom.Dauphinee@state.nm.us)) (505) 827-6528, fax: (505) 827-6689. The proposed rule will be made available at least thirty days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Tom Dauphinee ([Tom.Dauphinee@state.nm.us](mailto:Tom.Dauphinee@state.nm.us)) or at (505) 827-6528 as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, *Grading of Public Schools***

Provision		Rules as proposed	Rules as adopted
<b>6.19.8.7 Definitions</b>	“ACT”	“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. (6.19.8.7(A))	No change. (6.19.8.7(A))
	“AP”	“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. (6.19.8.7(B))	No change. (6.19.8.7(B))
	“Career-readiness”	“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. (6.19.8.7(C))	No change. (6.19.8.7(C))
	“Cohort graduation rate”	“Cohort graduation rate” means the percentage of students who graduate high school in four years with a New Mexico diploma of excellence. The 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. Students are excused from cohort membership if they transfer out, emigrate to another country, or die during that same period. (6.19.8.7(D))	Adds penultimate sentence in re: five- and six-year cohort graduation: “The members of the <i>five-year</i> cohort shall be followed by the Public Education Department (PED) for one additional year to form the five-year cohort graduation rate, and two additional years to form the <i>six-year</i> graduation rate.” (6.19.8.7(D))

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, *Grading of Public Schools***

Provision	Rules as proposed	Rules as adopted	
<b>6.19.8.7 Definitions, continued.</b>	“College-readiness”	“College-readiness” means the readiness of New Mexico high school students for success in higher education based on their ACT, PSAT, or AP test scores. (6.19.8.7(E))	Adds, “ <b>dual credit</b> ” to the list. (6.19.8.7(E))
	“Department”	“Department” means the New Mexico public education department and is identified by the acronym, PED. (6.19.8.7(F))	No change. (6.19.8.7(F))
	“ <b>Dual Credit</b> ”	Not included.	<i>“Dual credit” means a program that allows high school students to enroll in college-level course offered by a postsecondary institution that may be academic or career technical but not remedial or developmental, and simultaneously earn credit toward high school graduation and a postsecondary degree or certificate. (6.19.8.7(G))</i>
	“ <b>Opportunity to learn survey</b> ”	Not included.	<i>“Opportunity to learn survey” means a brief survey that asks students about their teacher’s predominant instructional practices in the classroom. (6.19.8.7(H))</i>
	“ <b>Performance level</b> ”	Not included.	<i>“Performance level” means a level of performance as indicated by scale scores on the New Mexico standards-based assessments (NMSBA). (6.19.8.7(I))</i>
	“ <b>Proficiency in reading and mathematics</b> ”	Not included.	<i>“Proficiency in reading and mathematics” means a student’s score of proficient or advanced on the NMSBA. (6.19.8.7(J))</i>
	“PSAT” or PSAT/NMSQT	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. (6.19.8.7(G))	No change. (6.19.8.7(K))
	“RTI programs”	“RTI programs” 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	No change. (6.19.8.7(L))

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, Grading of Public Schools**

Provision	Rules as proposed	Rules as adopted	
<b>6.19.8.7 Definitions, continued.</b>		intervention based on progress monitoring to determine the student's response or lack of response to the instruction/intervention. (6.19.8.7(H))	
	“SAT”	“SAT” means a standardized test offered by the College Board for college admissions in the United States. (6.19.8.7(I))	No change. (6.19.8.7(M))
	“school growth”	“School growth” means growth of an entire school performance over a three year period, as evaluated by value added modeling (VAM). (6.19.8.7(J))	No change. (6.19.8.7(N))
	“school options”	“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.	No change. (6.19.8.7(O))
	“secretary”	“Secretary” means the secretary of public education of the PED. (6.19.8.7(L))	No change. (6.19.8.7(P))
	“standards-based assessment”	“Standards-based assessment” 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, <i>nine</i> and eleven. (6.19.8.7(M))	<b><i>Changes the reference to “grade nine” to “grade ten:”</i></b> “. . . 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, <b>ten</b> and eleven.” (6.19.8.7(Q))
	“status”	“Status” means a student’s score of proficient or advanced on the NMSBA. (6.19.8.7(N))	<b><i>“Status” means a single year measurement of a school.</i></b> (6.19.8.7(R))
	“student growth”	“Student growth” means learning a year’s worth of knowledge in one year's time, which is demonstrated by a student's performance NMSBA that shows the student: (1) moving from one performance level to a higher performance level; (2) maintaining a proficient or advanced proficient performance level as provided by department rule; or	No change. (6.19.8.7(S))

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, Grading of Public Schools**

Provision		Rules as proposed	Rules as adopted
<b>6.19.8.7 Definitions, continued.</b>		(3) remaining in beginning step or nearing proficient performance level but improving a number of scale score points as specified by department rule.	
	“VAM” or “value added model”	“VAM or “value added model” means estimating conditional school growth and conditional end status, where “conditional” refers to taking student background characteristics into account and “end status” refers to the school status in the current grading year. (6.19.8.7(P))	No change. (6.19.8.7(T))
<b>6.19.8.8 Requirements (6.19.8.8(A))</b>		PED shall grade all public schools annually by assigning a letter grade of A, B, C, D or F to each school. Assessments results of all students, including disabled and English language learners (ELL), shall be considered in assigning letter grade. (6.19.8.8(A))	No change. (6.19.8.8(A))
<b>(6.19.8.8(B))</b>		<p>Elem. And middle schools shall be graded based on:</p> <ol style="list-style-type: none"> <li>1. student performance, including NMSBA;</li> <li>2. student growth in reading and mathematics;</li> <li>3. student growth in lowest 25<sup>th</sup> % in reading and math;</li> <li>4. school growth in reading and math;</li> <li>5. school attendance; and</li> <li>6. results of the opportunity to learn survey.</li> </ol> <p>(6.19.8.8(B))</p>	<p>Elem. And middle schools shall be graded based on:</p> <ol style="list-style-type: none"> <li>1. student performance, including NMSBA;</li> <li>2. student growth <b>based on NMSBA</b>;</li> <li>3. student growth in lowest 25<sup>th</sup> % <b>based on NMSBA</b>;</li> <li>4. school growth <b>based on NMSBA</b>;</li> <li>5. School attendance; and</li> </ol> <p>Results of the opportunity to learn survey. (6.19.8.8(B))</p>
<b>(6.19.8.8(C))</b>		<p>High schools shall be graded based on:</p> <ol style="list-style-type: none"> <li>1. student performance, including SBA;</li> <li>2. school growth in reading and mathematics;</li> <li>3. school growth of lowest 25<sup>th</sup> % in high school in reading and math;</li> <li>4. 4-year cohort graduation rate;</li> <li>5. school growth in 4-year cohort graduation rate;</li> <li>6. college-readiness (ie: ACT, PSAT, or AP scores) or career-readiness (pre-apprenticeship programs and cooperative education programs);</li> <li>7. school attendance; and</li> </ol>	<p>High schools shall be graded based on:</p> <ol style="list-style-type: none"> <li>1. student performance, including SBA;</li> <li>2. <b>student growth in achievement based on NMSBA</b>;</li> <li>3. <b>student growth</b> of lowest 25<sup>th</sup> % in <b>public school based on the NMSBA</b>;</li> <li>4. <i>school growth based on the NMSBA</i>;</li> <li>5. 4-year <b>and 5-year</b> cohort grad rate, <b>and beginning with the school year 2012-2013, a 6-year cohort grad rate</b>;</li> <li>6. school growth in 4-year cohort grad rate;</li> <li>7. college-readiness (ie: ACT, PSAT, <b>dual credit</b>, or AP scores) or career-readiness (pre-apprenticeship programs and</li> </ol>

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**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, *Grading of Public Schools***

Provision	Rules as proposed	Rules as adopted
<b>(6.19.8.8(C)), continued</b>	8. results of an opportunity to learn survey. (6.19.8.8(C))	cooperative education programs); 8. school attendance; and 9. results of an opportunity to learn survey. (6.19.8.8(C))
<b>(6.19.8.8(D))</b>	PED shall annually publish on its website and provide written notice to all districts and charter schools the additional academic indicators it will use to rate a public school and how much each indicator will be weighed. (6.19.8.8(D))	PED shall annually publish <i>disaggregated school grading data</i> on its website. (6.19.8.8(D))
<b>(6.19.8.8(E))</b>	Parent of a student enrolled in an “F”-rated school for two of the last four 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 the student’s schooling by distance learning through the statewide cyber academy or distance learning offered by any NM district or charter school, provided it is paid for by the “F”-rated school in which the student was enrolled. (6.19.8.8(E))	No change. (6.19.8.8(E))
<b>(6.19.8.8(F))</b>	The transfer of any student under the Act, shall be conducted according to open enrollment provisions, provided that: <ul style="list-style-type: none"> <li>• 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;</li> <li>• 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</li> <li>• enrollment procedures set forth in Section 22-8B-4.1 NMSA 1978 shall apply.</li> </ul> <p>A school district shall not be responsible for the</p>	No change. (6.19.8.8(F))

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**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, *Grading of Public Schools***

Provision		Rules as proposed	Rules as adopted
(6.19.8.8(F)), continued.		<p>transportation cost or transportation of a student who transfers school in another New Mexico school district.</p> <p>A school district shall, however, be responsible for the transportation and transportation cost of a student who transfers to another school within the school same district even where that school is outside of the student's attendance zone. (6.19.8.8(F))</p>	
(6.19.8.8(G))		Options available under subsection (E), which shall be available to disabled students and ELLs, shall be in addition to any remedies under the <i>Assessment And Accountability Act</i> for schools in need of improvement, or any other interventions provided by NCLB. (6.19.8.8(G))	No change. (6.19.8.8(G))
6.19.8.9 Determination of a School's Grade	6.19.8.9(A) Elementary and Middle	<p>The indicators shall be weighted by assigning up to a maximum of 100 points:</p> <ol style="list-style-type: none"> <li>1. 40 points for student performance, including achievement on the NMSBA;</li> <li>2. 20 points for student growth in reading and mathematics;</li> <li>3. 20 points for student growth of the lowest 25<sup>th</sup> % of students in the public school in reading and mathematics;</li> <li>4. 10 points for school growth in reading and mathematics;</li> <li>5. 5 points for school attendance;</li> <li>6. 5 points for results of an opportunity to learn survey; and</li> <li>7. in addition to the 100 points described above, an elementary or middle school may be assigned a total of 5 percent bonus points for either</li> </ol>	<p>The indicators shall be weighted by assigning up to a maximum of 100 points:</p> <ol style="list-style-type: none"> <li>1. 40 points for student performance, including achievement on the NMSBA, <b>of which 25 points shall be based on status proficiency and 15 points shall be based on VAM;</b></li> <li>2. 20 points for student growth <b>based on NMSBA;</b></li> <li>3. 20 points for student growth of the lowest 25<sup>th</sup> % of students in the public school <b>based on NMSBA;</b></li> <li>4. 10 points for school growth <b>based on NMSBA;</b></li> <li>5. 5 points for school attendance;</li> <li>6. 5 points for results of an opportunity to learn survey; and</li> <li>7. in addition to the 100 points described above, an elementary or middle school may be assigned a total of 5 percent bonus points for either demonstrated parental involvement or demonstrated student participation in extracurricular activities, where: <ol style="list-style-type: none"> <li>a. parental involvement shall include but not be limited to</li> </ol> </li> </ol>

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, Grading of Public Schools**

Provision		Rules as proposed	Rules as adopted
6.19.8.9 Determination of a School's Grade, continued.	6.19.8.9(A) Elementary and Middle, continued.	<p>demonstrated parental involvement or demonstrated student participation in extracurricular activities, where:</p> <ol style="list-style-type: none"> <li>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, and improvement of communication, all of which shall be verifiable; and</li> <li>b. extracurricular activities shall include any single or combination of student participatory activities that include but are not limited to campus based academic activities, campus based leadership activities, or any of the activities governed by the New Mexico Activities Association, all of which shall be verifiable. (6.19.8.9(A))</li> </ol>	<p>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, and improvement of communication, all of which shall be verifiable; and</p> <ol style="list-style-type: none"> <li>b. extracurricular activities shall include any single or combination of student participatory activities that include but are not limited to campus based academic activities <i>and fine arts activities</i>, campus based leadership activities, or any of the activities governed by the New Mexico Activities Association, all of which shall be verifiable. (6.19.8.9(A))</li> </ol>
	6.19.8.9 (B) Elementary and Middle	<p>After totaling the points of each indicator, the following grade shall be assigned:</p> <ol style="list-style-type: none"> <li>1. "A" for 90 to 100 points;</li> <li>2. "B" for 80 to less than 90 points;</li> <li>3. "C" for 70 to less than 80 points;</li> <li>4. "D" for 60 to less than 70 points; and</li> <li>5. "F" for less than 60 points. (6.19.8.9 (B))</li> </ol>	<p>After totaling the points of each indicator, the following grade shall be assigned:</p> <ol style="list-style-type: none"> <li>1. "A" for <b>75 points or higher</b>;</li> <li>2. "B" for <b>60 to less than 75 points</b>;</li> <li>3. "C" for <b>50 to less than 60 points</b>;</li> <li>4. "D" for <b>37.5 to less than 50 points</b>; and</li> <li>5. "F" for <b>less than 37.5 points</b>. (6.19.8.9 (B))</li> </ol>

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, Grading of Public Schools**

Provision		Rules as proposed	Rules as adopted
<p><b>6.19.8.9 Determination of a School's Grade, continued.</b></p>	<p><b>6.19.8.9(C) High School</b></p>	<p>The indicators shall be weighted by assigning up to a maximum of 100 points:</p> <ol style="list-style-type: none"> <li>1. 40 points for student performance, including achievement on the NMSBA;</li> <li>2. 10 points for school growth in reading and mathematics;</li> <li>3. 10 points for school growth of the lowest 25<sup>th</sup> % of students in the high school in reading and mathematics;</li> <li>4. 10 points for the 4-year cohort graduation rate;</li> <li>5. 5 points for school growth in the 4-year cohort graduation rate;</li> <li>6. 5 points for student participation in college- or career-readiness;</li> <li>7. 10 points for student success in college- or career-readiness;</li> <li>8. 5 points for school attendance;</li> <li>9. 5 points for the results of an opportunity to learn survey;</li> <li>10. in addition to the 100 points described above, a high school may be assigned a total of 5 bonus points for either demonstrated parental involvement or demonstrated student participation in extracurricular activities:               <ol style="list-style-type: none"> <li>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, and improvement of</li> </ol> </li> </ol>	<p>The indicators shall be weighted by assigning up to a maximum of 100 points:</p> <ol style="list-style-type: none"> <li>1. <b>30</b> points for student performance, including achievement on the NMSBA, <b>of which 20 points shall be based on status proficiency and 10 points on VAM;</b></li> <li>2. 10 points for <b>student growth based on NMSBA;</b></li> <li>3. 10 points for <b>student growth</b> of the lowest 25<sup>th</sup> % of students in the high school <b>based on NMSBA;</b></li> <li><b>4. 10 points for school growth based on NMSBA;</b></li> <li>5. <b>8</b> points for the 4-year cohort graduation rate;</li> <li>6. 5 points for school growth in the 4-year cohort graduation rate;</li> <li><b>7. 4 points for the 5- and 6-year cohort graduation rate;</b></li> <li>8. 5 points for student participation in college- or career-readiness;</li> <li>9. 10 points for student success in college- or career-readiness;</li> <li>10. <b>3</b> points for school attendance;</li> <li>11. 5 points for the results of an opportunity to learn survey;</li> <li>12. in addition to the 100 points described above, a high school may be assigned a total of 5 bonus points for either demonstrated parental involvement or demonstrated student participation in extracurricular activities where:               <ol style="list-style-type: none"> <li>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, and improvement of communication, all of which shall be verifiable; and</li> <li>b. extracurricular activities shall include any single or combination of verifiable student participatory activities that include but are not limited to campus based</li> </ol> </li> </ol>

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, *Grading of Public Schools***

Provision		Rules as proposed	Rules as adopted
6.19.8.9 Determination of a School's Grade, continued.	6.19.8.9(C) High School, continued.	<p>communication, all of which shall be verifiable.</p> <p>b. extracurricular activities shall include any single or combination of verifiable student participatory activities that include but are not limited to campus based academic activities, campus based leadership activities, or any of the activities governed by the New Mexico activities association. (6.19.8.9 (C))</p>	<p><i>academic activities and fine arts activities</i>, campus based leadership activities, or any of the activities governed by the New Mexico activities association. (6.19.8.9 (C))</p>
	6.19.8.9(D) High School	<p>After totaling the percentage scores and corresponding points of each indicator, the following grade shall be assigned:</p> <ol style="list-style-type: none"> <li>1. "A" for 75 to 100 points;</li> <li>2. "B" for 65 to less than 75 points;</li> <li>3. "C" for 55 to less than 65 points;</li> <li>4. "D" for 45 to less than 55 points; and</li> <li>5. "F" for less than 45 points. (6.19.8.9 (D))</li> </ol>	<p>After totaling the percentage scores and corresponding points of each indicator, the following grade shall be assigned:</p> <ol style="list-style-type: none"> <li>1. "A" for <b>75 points or higher</b>;</li> <li>2. "B" for 65 to less than 75 points;</li> <li>3. "C" for <b>50 to less than 65 points</b>;</li> <li>4. "D" for <b>35 to less than 50 points</b>; and</li> <li>5. "F" for less than <b>35 points</b>. (6.19.8.9 (D))</li> </ol>
	6.19.8.9(E) AYP Exemption	<p>For the school year 2011-2012 <i>only</i>, any school that meets adequate yearly progress under NCLB shall not be assigned a grade lower than a C. (6.19.8.9(E))</p>	<p>No change. (6.19.8.9(E))</p>

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**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, *Grading of Public Schools***

Provision		Rules as proposed	Rules as adopted
<b>6.19.8.10 Prioritization of School Resources</b>	<b>6.19.8.10(A) Budget Approval</b>	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. (6.19.8.10(A))	No change. (6.19.8.10(A))
	<b>6.19.8.10(B) Determining Priority of Resources</b>	To determine the prioritization of resources of a public school rated D or F, the department shall examine any combination of: (6.19.8.10(B)) <ol style="list-style-type: none"> <li>1. a school's core curricula in reading and mathematics;</li> <li>2. a school's intervention curricula in reading and mathematics;</li> <li>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;</li> <li>4. its educational plan for student success;</li> <li>5. the licensure and documented skill set of the school's teachers and administrators;</li> <li>6. any short cycle assessments administered by the school in reading or mathematics;</li> <li>7. any learning software used by the school to teach reading or mathematics;</li> <li>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, or AP scores; and</li> </ol>	No change. . (6.19.8.10(B))

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, Grading of Public Schools**

Provision		Rules as proposed	Rules as adopted
	<b>6.19.8.10(B) Determining Priority of Resources, continued.</b>	9. specific expenditures by the school related to teaching and assessing student proficiency in reading or mathematics; RTI programs; alignment of curriculum, instruction and professional development to common core; alignment to cultural based education principles; and parental involvement. (6.19.8.10(B))	
6.19.8.10 Prioritization of School Resources, continued.	<b>6.19.8.10(C) PED- recommended Programs</b>	<p>The department shall recommend proven programs and methods to local school boards and charter school governing bodies that are linked to improved student achievement.</p> <p>Each local school board and charter school governing body shall adopt and implement one or more recommended proven program or method until their failing school earns a grade of C or better for two consecutive school years. (6.19.8.10(C))</p>	<p>The department shall recommend <b>additional</b> proven programs and methods to local school boards and charter school governing bodies that are linked to improved student achievement.</p> <p>Each local school board and charter school governing body shall <b><i>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 or charter school governing authority shall implement new proven programs or methods that will result in increased student success.</i></b> (6.19.8.10(C))</p>
	<b>6.19.8.10(D) Exception</b>	A local school board or charter school governing body can be exempted from implementing PED-recommended proven programs or methods by <u>demonstrating in writing to the satisfaction of the secretary</u> that they have identified and will implement during the next school year a proven program or method linked to improved student achievement in reading or mathematics. (6.19.8.10(D))	<b><i>A local school board or charter school governing authority 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.</i></b> (6.19.8.10(D))

**Comparison of the Proposed to the Adopted Rule:  
6.19.8 NMAC, Grading of Public Schools**

<b>Provision</b>	<b>Rules as proposed</b>	<b>Rules as adopted</b>
<p><b>6.19.8.11 Small School and Non- assessment Considerations</b></p>	<p>To calculate the school grade of a school with an enrollment of fewer than 25 students, the department shall apply an alternate proficiency calculation that accumulates student proficiencies based on one or two immediately preceding years until a minimum group size is met, the assessment data shall be used in grading that school. (6.19.8.11(A))</p>	<p>To calculate the school grade of a school with an enrollment of fewer than 25 students, the department shall <b>where possible</b> apply an alternate proficiency calculation that accumulates student proficiencies based on one or two immediately preceding years until a minimum group size is met. Once the minimum group size is met, the assessment data shall be used in grading that school. (6.19.8.11(A))</p>
<p><b>6.19.8.11(B) Non- assessment Considerations</b></p>	<p>Schools such as kindergarten through grade three schools that are comprised of grades that are not included in the administration of standards-based assessment, shall be assigned the assessment data from a school in the next higher grade in their district for the purpose of grading these schools. (6.19.8.11(B))</p>	<p>Schools such as kindergarten through grade <b>two</b> schools <b>or ninth grade</b> that are comprised of grades that are not included in the administration of standards-based assessment, shall be assigned the assessment data <b>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.</b> (6.19.8.11(B))</p>