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June 18, 2012

MEMORANDUM

TO: Legislative Education Study Committee
FR: Kevin Force
RE: **STAFF BRIEF: ADMINISTRATIVE RULEMAKING**

Adopted Rules:

- **6.31.2 NMAC, Children with Disabilities/Gifted Children**
- **6.10.7 NMAC, Statewide Standardized Testing Security Issues and Irregularities**
- **6.19.8 NMAC, Public School Accountability, Grading of Public Schools**

Proposed Rulemakings:

- **6.27.31, Special Purpose Schools Educational Facility Adequacy Standards**
- **6.27.30, Statewide Adequacy Standards**

Adopted Rules

6.31.2 NMAC, Children with Disabilities/Gifted Children

The February 29, 2012 issue of the *Register* contained the final adoption of amendments to the rules on Children with Disabilities/Gifted Children, 6.31.2 NMAC.

The Notice of Proposed Rulemaking and Invitation for Comment on Proposed Model Forms was published in the *Register* on December 30, 2011, announcing the proposed amendments, and, soliciting comment both on the rules and the proposed model forms, noted that the Public

Education Department (PED) would conduct a public hearing January 30, 2012, at Mabry Hall, in the Jerry Apodaca Education Building, Santa Fe.

These rules assist New Mexico public agencies in identifying and providing educational services for children with disabilities and gifted children. They are meant to ensure the free appropriate public education of all children, including special education and related services to meet their unique needs; to protect that the rights of children with disabilities and gifted children and their parents; and to evaluate and ensure the effectiveness of efforts to educate those children. **(See Attachment 1, Adopted Rule, 6.31.2 NMAC, Children with Disabilities/Gifted Children, 2/29/12.)**

The adopted amendments to the Children with Disabilities/Gifted Children rule include:

- the deletions of the definition of “summary due process hearing,” as well as provisions for such hearings;
- provision for the distribution of *Individuals with Disabilities Education Act* (IDEA) subgrant funds in the event of the creation of new school districts or charter schools;
- provision for children who qualify for special education to transition to Part B of the IDEA program when they reach three years of age;
- in order to more closely align them with federal regulation, changes to:
 - the requirements for complaints alleging violation of program requirements;
 - the requirements for due process requests; and
 - timeline requirements.

6.10.7 NMAC, Statewide Standardized Testing Security Issues and Irregularities

The March 15, 2012 issue of the *Register* included final adoption of amendments to the rules regarding Statewide Standardized Testing Security Issues and Irregularities, 6.10.7 NMAC.

The Notice of Proposed Rulemaking was published in the *Register* on November 30, 2011, announcing the proposed amendments, and, soliciting comment on the rules, noted that PED would conduct a public hearing January 4, 2012, at Mabry Hall, in the Jerry Apodaca Education Building, Santa Fe.

These rules establish uniform procedures for preparation, security, administration, and safeguarding of standardized tests wherever administered. **(See Attachment 2, Adopted Rule, 6.10.7 NMAC, Statewide Standardized Testing Security Issues and Irregularities.)**

The adopted rule includes amendments to:

- 6.10.7.9 NMAC, District Text Coordinator’s Responsibility, which clarifies 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, which adds the possibility of “modify[ing] school and district accountability determinations” to the list of potential corrective measures taken after investigating any suspected irregularities.

6.19.8 NMAC, Grading of Public Schools

The May, 31, 2012 issue of the *Register* included final adoption of amendments to the recently adopted rules regarding Grading of Public Schools, 6.19.8 NMAC.

The Notice of Proposed Rulemaking was published in the *Register* on March 30, 2012, announcing the proposed amendments, and, soliciting comment on the rules, noted that PED would conduct a public hearing May 1, 2012, at Mabry Hall, in the Jerry Apodaca Education Building, Santa Fe.

These rules establish the procedures and criteria for assigning public schools a letter grade, from A-F, and corrective action to be taken when a school receives a “D” or “F.” PED proposed several amendments to these rules in the March 30, 2012 issue of the *Register*. (See Attachment 3, Adopted Amendments, 6.19.8 NMAC, Grading of Public Schools.)

The adopted amendments include:

- New definitions:
 - “Accuplacer,” 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 admission and for placement in core college courses;
 - “International baccalaureate” or “IB,” an educational foundation that requires the use of and monitors a standardized curriculum leading to international recognized certification;
 - “PLAN,” a 10th grade assessment published by ACT that is designed to guide a student’s review of their progress toward college and career readiness; and
 - “Supplemental accountability model” or “SAM,” which 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 10 percent or more of the students are 19 years of age or older, or where 20 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.
- Changes to existing definitions include:
 - the addition of “SAT, PLAN, accuplacer, international baccalaureate or IB, and other measurements approved by PED” to the bases upon which “college readiness” might be evaluated; and
 - changing the definition for “RtI programs” to “RtI framework.”
- Other proposed changes to these rules include:
 - the addition of the new factors indicating “college readiness” (SAT, PLAN, accuplacer, and IB) to the bases upon which high schools are graded. (Please note

- that, while the changes to the *definition* of “college readiness” included the addition of “other measurements approved by PED,” the “college readiness” *grading factor for high schools* did not include this additional language.); and
- in the section detailing the distribution of points for determining a high school’s grade:
 - when determining school growth in 4-year cohort graduation, high schools that do not have members of any graduation cohort are exempted from the 4-year graduation cohort component of school grading for that year, ordinarily worth up to 5 points. The school’s overall grade will be comprised of the remaining grading components, and its score adjusted to the standardized scale; and
 - when determining school growth in the 5- and 6-year cohort graduation, high schools that do not have members of any graduation cohort are exempted from the 5- and 6-year graduation cohort component of school grading for that year, ordinarily worth up to 4 points. The school’s overall grade will be comprised of the remaining grading components, and its score adjusted to the standardized scale; and
 - a new subsection (D) to **6.19.8.9, Determining a School’s Grade**, corresponding to the “Supplemental accountability model” (SAM) definition, which notes that a school will qualify as SAM when they serve a higher proportion of returning dropouts or disabled students, and that SAM schools must meet all indicators for high schools, excepting modified indicators for:
 - “graduation cohort assignments,” which will be made at the time the student enters the SAM school, based on the student’s grade at entry;
 - “career and college readiness participation,” which may be demonstrated by meeting benchmark scores on career readiness assessments approved by PED; and
 - “bonus points,” which can include evidence that the school is meeting the goals specialized for the non-traditional student population.
 - A new subsection (E) to **6.19.8.9, Determining a School’s Grade**, which details the method used to determine a school’s participation rate (presumably in the New Mexico Standards-Based Assessments, although “participation rate” is an undefined term):
 - schools and districts must test at least 95 percent of students enrolled in tested grades, as well as 95 percent of students in the lowest quartile;
 - if 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; and
 - a school or district’s failure to meet the 95 percent participation requirement in either all tested students or those in the lower quartile will result in the school’s overall grade being reduced by one letter grade.

- When determining the prioritization of resources at a school rated “D” or “F”:
 - “SAT,” “PLAN,” “accuplacer” and “IB” have been added to those factors that PED may consider; and
 - reference to “RtI Programs” has been changed to “intervention programs under the state’s RtI framework, paralleling the change in the “RtI program” definition.
- Under **6.19.8.11, Small School and Non-Assessment Considerations**, subsection (A) has been amended so that:
 - the maximum number of students needed for a school to be considered “small” is raised from 25 to 30; and
 - the final two sentences of subsection (A) are stricken, and new language is added, so that the entire subsection (A) now reads:

“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 calculation.”

Proposed Rulemakings

6.27.31 NMAC, Special Purpose Schools Educational Facility Adequacy Standards

In the January 31, 2012 issue, the Public School Capital Outlay Council (PSCOC) published in the *New Mexico Register* a Notice of Proposed Rulemaking to introduce new rules regarding Special Purpose Schools Educational Facility Adequacy Standards, at 6.27.31 NMAC. The Notice announced a public hearing on the proposed rules, to be held on February 14, 2012, in the Old Senate Chamber of the Bataan Memorial Building, Santa Fe. In the Notice, PSCOC solicited public comment on the proposed rules and announced that the Council would act upon the rules at its March 1, 2012 meeting, although the proposed rules have yet to be finalized. **(See Attachment 4, NPRM 6.27.31, Special Purpose School Educational Facility Adequacy Standards, 1/31/12, and Attachment 5, PSCOC Proposed Rules 6.27.31 NMAC.)**

PSCOC proposes these new rules to:

- provide statewide adequacy standards for special purpose school buildings and sites;
- establish the level of standards necessary to provide and sustain the environment to meet the needs of special purpose schools and to assist their staff in developing their buildings and grounds;
- establish acceptable levels for the physical condition and capacity of school buildings, the educational suitability of those facilities and the need for technological infrastructure at those; and
- limit the applications of these standards to educational space needed to support educational and technology programs and curricula, and that is sustainable within the operational budget.

PSCOC further notes that:

- these standards are dynamic and shall be reviewed as necessary, and revised as time and circumstances require;
- these standards are intended for use in the evaluation of existing special purpose school facilities, not to limit the flexibility of design solutions for new construction and renovation projects; and
- the New Mexico Special Purpose School Adequacy Guide, provided by the state for use in programming and design of school projects, is a companion document incorporated by reference into these standards, and may be amended by the council with adequate notice and input from the public.

The adequacy standards contain:

- Definitions of terms, including “expanded core curriculum,” exterior envelope,” gross square feet,” intensive support space,” “planned school program capacity,” “special purpose schools,” and “teacherage.”
- General requirements for:
 - building conditions, including structural condition, exterior envelope, interior surfaces, and interior finishes; and
 - building systems, including general working order and maintenance, plumbing fixtures, fire and emergency alarms, and 2-way communication systems.
- Classification of special purpose schools: preschool, elementary school, middle school or junior high school, high school, and schools with combinations of grade levels.
- Specific requirements for:
 - special purpose school sites, including safe access, parking, drainage, and security;
 - site recreation and outdoor physical education for the several classifications of special purpose schools;
 - academic classrooms, such as space, fixtures and equipment, lighting, temperature, acoustics, and air quality;
 - acceptable size of general use classrooms, as well as special use classrooms, including science, intensive support, art education programs, expanded core curriculum, technology-aided instruction, and alternative delivery method classrooms;
 - physical education spaces for the various classifications of special purpose schools;
 - libraries, media centers and research areas for the several classifications of schools;
 - food service, including size, fixture and equipment requirements for cafeterias and kitchens;
 - student life, including requirements for dormitory suites, handicapped accessibility, student recreation centers, and outdoor recreation;
 - other facility areas, such as parent workspace, administrative space, faculty workspace or lounge, as well as areas for student health, counseling, and therapy;
 - general storage; and
 - maintenance or janitorial space.

- Provisions for the granting of variance, including:
 - from any of the adequacy standards, if it is demonstrated that the intent of the standard may be met in an alternative manner, or if a variance is required for programmatic needs demonstrated by the school; and
 - variance from any of the requirements of the Special Purpose School Adequacy Guide.

6.27.30 NMAC, Statewide Adequacy Standards

In the May 15, 2012 issue, PSCOC published in the *New Mexico Register* a Notice of Proposed Rulemaking proposing to amend certain sections of rules regarding Statewide Adequacy Standards, 6.27.30 NMAC. The Notice announced a public hearing on the proposed amendments, to be held on May 29, 2012, at the University of New Mexico, Science and Technology Park Auditorium, in Albuquerque. In the Notice, PSCOC solicited public comment on the proposed rules and announced that the Council will act on the proposed rules at its June 21-22, 2012 meetings. **(See Attachment 6, NPRM 6.27.30, Statewide Adequacy Standards, 5/15/12, and Attachment 7, PSCOC Proposed Amendments 6.27.30 NMAC.)**

In this rulemaking, PSCOC proposes a number of minor amendments and clarifications to the current standards.

Explanatory paragraph: This is an amendment to Sections 7, 9, 11 and 13 of 6.31.2 NMAC (CHILDREN WITH DISABILITIES/GIFTED CHILDREN), effective February 29, 2012. Subsection E of Section 7 (DEFINITIONS) is amended to delete the definition of "summary due process hearing" and to renumber the succeeding paragraph accordingly. Section 9 (PUBLIC AGENCY RESPONSIBILITIES) is amended to add language to Subsection I regarding the creation of new school districts and charter schools. Section 11 (EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES) is amended as follows. Subsection A is amended at paragraph (2) to provide that the child qualifying for special education would transition to the Part B program on his or her third paragraph, with related amendments to paragraph (3) of Subsection A. Subparagraphs (f), (g), and (h) of paragraph (5) of Subsection A are amended. The current subparagraph (g) is deleted and replaced. Subsection E relating to reporting requirements is also amended. Section 13 (ADDITIONAL RIGHTS OF PARENTS, STUDENTS AND PUBLIC AGENCIES) is amended to change the requirements for complaints in subparagraph (a) of paragraph (2) of Subsection H to more closely align to federal regulation. A technical correction is made to subparagraph (d) of paragraph (2). Subsection I is amended to delete references to summary due process hearings, to delete subparagraph (d) of paragraph (3), to change the requirements for due process requests in paragraph (5) to more closely align to federal regulation, to delete paragraph (15) regarding summary due process hearings with the following paragraphs renumbered accordingly. Internal cross-references in subsection I are amended to reflect the numbering changes. Subsection M is amended to more closely align with the timelines required by federal regulation.

6.31.2.7 DEFINITIONS:

E. The definitions in Subsection E apply only to Section 13, Subsection I (*additional rights of parents, students, and public agencies - due process hearings*).

(1) "**Expedited hearing**" means a hearing that is available on request by a parent or a public agency under 34 CFR Secs. 300.532(c) and is subject to the requirements of 34 CFR Sec. 300.532(c).

(2) "**Gifted services**" means special education services to gifted children as defined in Subsection A of 6.31.2.12 NMAC.

~~[(3) "**Summary due process hearing**" means a hearing designed to proceed more quickly and incur less expense than a standard due process hearing, as explained under Paragraph (15) of Subsection I of 6.31.2.13 NMAC.]~~

~~[(4)](3) "**Transmit**" means to mail, send by electronic mail or telecopier (facsimile machine) or hand deliver a written notice or other document and obtain written proof of delivery by one of the following means: [6.31.2.7 NMAC - Rp, 6.31.2.7 NMAC, 6/29/07; A, 12/31/09; A, 7/29/11; A, 02/29/12]~~

6.31.2.9 PUBLIC AGENCY RESPONSIBILITIES:

I. Reallocation of funds. If a new LEA is created, the base payment portion of the IDEA subgrant of the LEA that would have served children with disabilities now being served by the new LEA will be adjusted pursuant to 34 CFR Sec. 300.705(b)(2). IDEA funds to new charter schools that are LEAs will be allocated pursuant to 34 CFR Secs. 76.785-76.799 and 34 CFR Sec. 300.705(b). Pursuant to 34 CFR Sec. 300.705(c) if the department determines that a public agency is adequately providing FAPE to all children with disabilities residing in the area served by that public agency with state and local funds, the department may reallocate any portion of the funds under this part that are not needed by that public agency to provide FAPE to other LEAs in the state that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs or the department may also retain those funds for use at the state level as provided by 34 CFR Sec. 300.705(c).

[6.31.2.9 NMAC - Rp, 6.31.2.9 NMAC, 6/29/07; A, 12/31/09; A, 7/29/11; A, 02/29/12]

6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

A. Preschool programs for children aged ~~[2]~~ 3 through 5.

~~[(2) "A child who will turn three at any time during the school year who is determined eligible may enroll in a Part B preschool program at the beginning of the school year if the parent so chooses, whether or not the child has previously been receiving Part C services."]~~

(2) Eligibility to enroll in Part B preschool program.

(a) If a child turns three at any time during the school year and is determined to be eligible under Part B, the child may enroll in a Part B preschool program when the child turns three if the parent so chooses, whether or not the child has previously been receiving Part C services.

(b) Notwithstanding subparagraph (a) of this paragraph, if a child turns three at any time prior

to July 1, 2012 and is enrolled in a Part C program, the parent has the option of having the child complete the remainder of the school year in early intervention services or, if the child is determined to be eligible under Part B, enrolling the child in a Part B preschool program.

(3) To ensure effective transitioning from IDEA Part C programs to IDEA Part B programs, each public agency must conduct a full and individual initial comprehensive evaluation, at no cost to the parent, and in compliance with requirements of 34 CFR Secs. 300.300, 300.301, 300.302, 300.304 and 300.305 and other department rules and standards before the initial provision of Part B special education and related services to a child with a disability.

(a) The initial comprehensive evaluation process shall be conducted in all areas of suspected disability.

(b) The Part B eligibility determination team shall review current assessments and shall determine the additional data and assessments needed for the comprehensive evaluation. Current assessments are defined as assessments, other than medical assessments, conducted no more than six months prior to the date of the meeting of the Part B eligibility determination team.

(c) The Part B eligibility determination team must consider educationally relevant medical assessments as part of the review of existing evaluation data. The determination of eligibility may not be made solely on the basis of medical assessments. If the team considers medical assessments conducted more than six months prior to the date of the meeting, the team must document the appropriateness of considering such medical assessments.

(5) In particular:

(f) Each LEA shall designate a team including parents and qualified professionals to review existing evaluation data for each child entering the LEA's preschool program in compliance with 34 CFR Sec. 300.305, and based on that review to identify what additional data, if any, are needed to determine the child's eligibility for Part B services or develop an appropriate program in a manner that is consistent with Paragraph (3) of Subsection A of this section. The notice of procedural safeguards shall be given to the parents as provided in Paragraph (3) of Subsection D of 6.31.2.13 NMAC.

~~[(g) Each LEA shall initiate a meeting to develop an eligible child's IFSP, IEP or IFSP IEP, in accordance with 34 CFR Sec. 300.323, no later than 15 days prior to the first day of the school year of the LEA where the child is enrolled or no later than 15 days prior to the child's entry into Part B preschool services if the transition process is initiated after the start of the school year, whichever is later, to ensure uninterrupted services. This IFSP, IEP, or IFSP IEP will be developed by a team constituted in compliance with 34 CFR Sec. 300.321 that includes parents and appropriate early intervention providers who are knowledgeable about the child.]~~

(g) Development of IFSP, IEP or IFSP-IEP.

(i) The IFSP, IEP, or IFSP-IEP will be developed by a team constituted in compliance with 34 CFR Sec. 300.321 that includes parents. For children transitioning from Part C programs to Part B programs, the team must also include one or more early intervention providers who are knowledgeable about the child. "Early intervention providers" are defined as Part C service coordinators or other representatives of the Part C system.

(ii) For each child transitioning from a Part C program to a Part B preschool program, the LEA shall initiate a meeting to develop the eligible child's IFSP, IEP or IFSP-IEP, in accordance with 34 CFR Sec. 300.124. The IFSP, IEP or IFSP must be developed and implemented no later than the child's third birthday, consistent with 34 CFR Sec. 300.101(b).

(h) In compliance with 34 CFR Sec. 300.101(b)(2), if a child's birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or IFSP will begin. Each public agency must engage in appropriate planning with the Part C lead agency so that the eligible child will be prepared to receive Part B special education and related services when the IEP team determines that the services under the IEP or IFSP will begin.

E. Participation in statewide and district-wide assessments. Each local educational agency and other public agencies when applicable shall include all children with disabilities in all statewide and district-wide assessment programs. Each public agency shall collect and report performance results in compliance with the requirements of 34 CFR [See] Secs. 300.157 and 300.160(f) and Sec. 1111(h) of the Elementary and Secondary Education Act, and any additional requirements established by the department. Students with disabilities may participate:

[6.31.2.11 NMAC - Rp, 6.31.2.11 NMAC, 6/29/07; A, 12/31/09; A, 7/29/11; A, 02/29/12]

6.31.2.13 ADDITIONAL RIGHTS OF PARENTS, STUDENTS AND PUBLIC AGENCIES:

H. State complaint procedures.

(2) Requirements for complaints.

(a) The SEB of the department shall accept and investigate complaints from organizations or individuals that raise issues within the scope of this procedure as defined in the preceding Paragraph (1) of Subsection H of 6.31.2.13 NMAC. The complaint must: (i) be in writing; (ii) be submitted to the SEB (or to the secretary of education, in the case of a complaint against the department); (iii) be signed by the complainant or a designated representative and have the complainant's contact information; (iv) if alleging violations with respect to a specific child, include the name and address of the child and the school the child is attending; ~~[(iv)](v)~~ include a statement that the department or a public agency has violated a requirement of an applicable state or federal law or regulation; ~~[and (v)]~~ (vi) contain a statement of the facts on which the allegation of violation is based ~~and a description of any efforts the complainant has made to resolve the complaint issue(s) with the agency (for a complaint against a public agency);~~ and (vii) include a description of a proposed resolution of the problem to the extent known. Any complaint that does not contain each of these elements will be declined, with an explanation for the SEB's decision and further guidance, as appropriate.

(d) Pursuant to 34 CFR Sec. 300.153(c), the complaint must allege a violation that occurred not more than one year before the date the complaint is received by the SEB in accordance with Subparagraph (a) of Paragraph (2) of Subsection H of 6.31.2.13 ~~[NMSAC]~~ NMAC.

I. Due process hearings.

(2) Definitions. In addition to terms defined in 34 CFR Part 300 and 6.31.2.7 NMAC, the following definitions apply to this Subsection I of 6.31.2.13 NMAC.

~~[(e)]~~ "Summary due process hearing" means a hearing designed to proceed more quickly and incur less expense than a standard due process hearing, as explained under Paragraph (15) of Subsection I of 6.31.2.13 NMAC.

~~[(d)](c)~~ "Transmit" means to mail, send by electronic mail or telecopier (facsimile machine) or hand deliver a written notice or other document and obtain written proof of delivery by one of the following means:

(3) Bases for requesting hearing. A parent or public agency may initiate an impartial due process hearing on the following matters:

(c) the public agency proposes or refuses to initiate or change the identification, evaluation or educational placement of, or services to, a child who needs or may need gifted services;

~~(d) an IDEA due process hearing provides a forum for reviewing the appropriateness of decisions regarding the identification, evaluation, placement or provision of a free appropriate public education for a particular child with a disability by the public agency that is or may be responsible under state law for developing and implementing the child's IEP or ensuring that a FAPE is made available to the child; the IDEA does not authorize due process hearing officers to consider claims asserting that the department should be required to provide direct services to a child with a disability pursuant to 20 USC Sec. 1413(g)(1) and 34 CFR Sec. 300.227 because the responsible public agency is unable to establish and maintain appropriate programs of FAPE, or that the department has failed to adequately perform its duty of general supervision over educational programs for children with disabilities in New Mexico; accordingly, a due process hearing is not the proper forum for consideration of such claims and the department will decline to refer such claims against it to a hearing officer; such claims may be presented through the state level complaint procedure under Subsection H of 6.31.2.13 NMAC above].~~

(5) Request for hearing. A parent requesting a due process hearing shall transmit written notice of the request to the public agency whose actions are in question and to the SEB of the department. A public agency requesting a due process hearing shall transmit written notice of the request to the parent(s) and to the SEB of the department. The written request shall state with specificity the nature of the dispute and shall include:

(e) the name ~~and~~ address ~~[and telephone number(s)]~~ of the party making the request (or available contact information in the case of a homeless party) ~~[and, if the party is represented by an attorney or advocate, the name, address and telephone number(s) of the attorney or advocate];~~

~~(g) a description of efforts the parties have made to resolve their dispute at the local level before filing a request for due process; and~~

~~(h)](g)~~ a proposed resolution of the problem to the extent known and available to the party requesting the hearing at the time;

~~(h)](h)~~ a request for an expedited hearing must also include a statement of facts sufficient to show that a requesting parent or public agency is entitled to an expedited hearing under 34 CFR Secs. 300.532(c) or 20 USC Sec. 1415(k)(3);

~~(j)~~(i) a request for a hearing must be in writing and signed and dated by the parent or the authorized public agency representative; an oral request made by a parent who is unable to communicate by writing shall be reduced to writing by the public agency and signed by the parent;

~~(k)~~(j) a request for hearing filed by or on behalf of a party who is represented by an attorney shall include a sufficient statement authorizing the representation; a written statement on a client's behalf that is signed by an attorney who is subject to discipline by the New Mexico supreme court for a misrepresentation shall constitute a sufficient authorization; and

~~(l)~~(k) a party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of this paragraph.

(10) Duties of the hearing officer. The hearing officer shall excuse himself or herself from serving in a hearing in which he or she believes a personal or professional bias or interest exists which conflicts with his or her objectivity. The hearing officer shall:

(d) transmit the decision to the parties and to the SEB within 45 days of the commencement of the timeline for the hearing, unless a specific extension of time has been granted by the hearing officer at the request of a party to the hearing, or at the joint request of the parties where the reason for the request is to permit the parties to pursue an ADR option; for an expedited hearing, no extensions or exceptions beyond the timeframe provided in Subparagraph (a) of Paragraph ~~(20)~~ (19) of Subsection I of 6.31.2.13 NMAC;

(f) the decision of the hearing officer is final, unless a party brings a civil action as set forth in Paragraph ~~(25)~~ (24) of Subsection I of 6.31.2.13 NMAC below.

(12) Prehearing procedures. Unless extended by the hearing officer at the request of a party, within 14 days of the commencement of the timeline for a due process hearing and as soon as is reasonably practicable in an expedited case, the hearing officer shall conduct an initial prehearing conference with the parent and the public agency to:

(d) review the hearing rights of both parties, as set forth in Paragraphs ~~(16) and (17)~~ (15) and (16) of Subsection I of 6.31.2.13 NMAC below, including reasonable accommodations to address an individual's need for an interpreter at public expense;

(i) as appropriate, determine the current educational placement of the child pursuant to Paragraph ~~(27)~~ (26) of Subsection I of 6.31.2.13 NMAC below;

~~(15) Summary due process hearing. These summary due process hearing procedures are designed to afford parents and public agencies an alternative, voluntary dispute resolution process that requires less time and expense than a traditional due process hearing. The use of summary due process hearing procedures shall not alter the requirement that the public agency convene a resolution session within 15 days of its receipt of the request for the hearing, unless the parties agree to waive that option in writing or choose to use a FIEP meeting or mediation instead.~~

~~(a) Any party requesting a due process hearing may request that the dispute be assigned to a summary due process hearing track. A request for a summary due process hearing may be submitted simultaneously with the request for due process hearing, at the prehearing scheduling conference, or at a later time by agreement of all parties.~~

~~(b) Any party opposing a request for summary due process shall state its objection within 5 days of the date of receipt of the request for a summary due process hearing. The summary due process hearing option is voluntary. If a party timely states its opposition to this option, the matter will be placed on a traditional due process hearing track.~~

~~(c) On or before 10 days before the date of the hearing, each party shall submit a statement of proposed stipulated facts to the opposing party. On or before five days before the date of the hearing, the parties shall submit a joint statement of stipulated facts to the hearing officer. All agreed upon stipulated facts shall be deemed admitted, and evidence shall not be permitted for the purpose of establishing these facts.~~

~~(d) On or before 5 days before the summary due process hearing, each party shall produce to the opposing party and to the hearing officer a copy of all documents that the party seeks to introduce into evidence at the hearing and identify all witnesses that the party intends to call to testify at the hearing.~~

~~(e) Each party shall have one half (1/2) day to present its case. In the event that extensive cross examination, arguments or other factors impede a party's ability to complete its case in one half day, the hearing officer shall have discretion to extend the time for the hearing, as needed.~~

~~(f) The hearing officer shall issue a decision to the parties within 7 days of the completion of the summary due process hearing.~~

~~(g) Except as modified herein, the procedural rules and procedures applicable to due process hearings as stated in Subsection I of 6.31.2.13 NMAC shall also apply to summary due process hearings.]~~

~~[(16)](15)~~ Any party to a hearing has the right to:

~~[(17)](16)~~ Parents involved in hearings also have the right to:

~~[(18)](17)~~ The record of the hearing and the findings of fact and decisions described above must be provided at no cost to the parents.

~~[(19)](18)~~ Limitations on the hearing.

(c) Exceptions to the timeline. The timeline described in Subparagraph (b) of Paragraph ~~[(19)]~~ (18) of Subsection I of 6.31.2.13 NMAC above shall not apply to a parent if the parent was prevented from requesting the hearing due to:

~~[(20)](19)~~ Rules for expedited hearings. The rules in Paragraphs (4) through ~~[(19)]~~ (18) of Subsection I of 6.31.2.13 NMAC shall apply to expedited due process hearings with the following exceptions.

(b) The hearing officer shall seek to hold the hearing and issue a decision as soon as is reasonably practicable within the time limit described in Subparagraph (a) of Paragraph ~~[(20)]~~ (19) of Subsection I of 6.31.2.13 NMAC above, and shall expedite the proceedings with due regard for any progress in a resolution session, FIEP meeting or mediation, the parties' need for adequate time to prepare and the hearing officer's need for time to review the evidence and prepare a decision after the hearing.

(c) The parties shall decide whether to convene a resolution session, FIEP meeting, or mediation before the commencement of an expedited hearing in accordance with Paragraph (8) of Subsection I of 6.31.2.13 NMAC, and are encouraged to utilize one of these preliminary meeting options. However, in the case of an expedited hearing, agreement by the parties to convene a resolution session, FIEP meeting or mediation shall not result in the suspension or extension of the timeline for the hearing stated under Subparagraph (a) of Paragraph ~~[(20)]~~ (19) of Subsection I of 6.31.2.13 NMAC above. The timeline for resolution sessions provided in 34 CFR Sec. 300.532(c)(3) shall be observed.

(f) Decisions in expedited due process hearings are final, unless a party brings a civil action as provided in Paragraph ~~[(25)]~~ (24) of Subsection I of 6.31.2.13 NMAC below.

~~[(21)](20)~~ Decision of the hearing officer.

(a) In general. Subject to Subparagraph (b) of Paragraph ~~[(21)]~~ (20) of Subsection I of 6.31.2.13 NMAC below, a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education (FAPE).

~~[(22)](21)~~ Rule of construction. Nothing in this Subsection I shall be construed to affect the right of a parent to file a complaint with the SEB of the department, as described under Subsection H of 6.31.2.13 NMAC.

~~[(23)](22)~~ Modification of final decision. Clerical mistakes in final decisions, orders or parts of the record and errors therein arising from oversight or omission may be corrected by the hearing officer at any time on the hearing officer's own initiative or on the request of any party and after such notice, if any, as the hearing officer orders. Such mistakes may be corrected after a civil action has been brought pursuant to Paragraph ~~[(25)]~~ (24) of Subsection I of 6.31.2.13 NMAC below only with leave of the state or federal district court presiding over the civil action.

~~[(24)](23)~~ Expenses of the hearing. The public agency shall be responsible for paying administrative costs associated with a hearing, including the hearing officer's fees and expenses and expenses related to the preparation and copying of the verbatim record, its transmission to the SEB, and any further expenses for preparing the complete record of the proceedings for filing with a reviewing federal or state court in a civil action. Each party to a hearing shall be responsible for its own legal fees or other costs, subject to Paragraph ~~[(26)]~~ (25) of Subsection I of 6.31.2.13 NMAC below.

~~[(25)](24)~~ Civil action.

~~[(26)](25)~~ Attorney fees.

~~[(27)](26)~~ Child's status during proceedings.

(c) If a hearing officer agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the public agency and the parents for purposes of Subparagraph (a) of Paragraph ~~[(27)]~~ (26) of Subsection I of 6.31.2.13 NMAC.

M. Computation of time.

(3) Notwithstanding Paragraph (1) of this subsection, if the due date of a decision referenced in Subsection I of 6.31.2.13 NMAC falls on a Saturday, a Sunday or a legal holiday, the decision must be mailed no later than the actual due date. A decision is considered "mailed" when addressed, stamped and placed in a United States postal service mailbox. If a parent exercises the option of receiving the decision electronically, the decision is "mailed" when transmitted electronically.

[6.31.2.13 NMAC - Rp, 6.31.2.13 NMAC, 6/29/07; A, 12/31/09; A, 7/29/11; A, 02/29/12]

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ATTACHMENT 2

This is an amendment to 6.10.7 NMAC, Sections 9 and 14, effective 03-15-2012.

6.10.7.9 DISTRICT TEST COORDINATOR'S RESPONSIBILITY: To produce valid results, standardized test materials should be stored, handled, disposed of and administered in a uniform and secure manner. This requires adherence to training procedures and topics, test preparation procedures and administration practices that emphasize test security, compliance with test vendor legal, administration, handling, and disposal procedures, and adherence to the New Mexico Standards of Professional Conduct set forth at 6.60.2.9 NMAC. These practices are intended to apply to all individuals, other than the tested students themselves, who are expressly or implicitly given access to standardized tests. The district test coordinator shall attend semiannual workshops held by PED in order to be trained and then shall provide training for all district personnel involved in test administration, preparation, and security. It shall be the responsibility of each school district's test coordinator to, at a minimum, implement and carry out the following test material preparation, handling, storage, administration, and secure disposal practices.

A. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist and written procedure for storing and handling standardized test material whereby:

- (1) standardized tests shall be counted, inventoried and stored in a secure area;
- (2) space permitting, standardized test material should be stored in sealed containers in a secure area;
- (3) standardized test material not stored in sealed containers shall be segregated, wrapped in clear or unclear paper, and sealed securely with packing tape bearing the sealing date and the initials of the person sealing it; and
- (4) standardized test material, as directed by the PED, shall be disposed of by either shredding or returning such materials to the test vendor.

B. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist and procedure for accessing standardized test material whereby:

- (1) access to standardized test material shall be restricted, limited and controlled, with personnel having access designated by the district superintendent;
- (2) records shall be maintained that identify the individual who removed a standardized test(s) or other standardized test material, the name of the standardized test(s) or standardized test material that was removed, how many standardized tests or standardized test materials were removed, the identifying number of the standardized test(s) or standardized test material removed, and the date the standardized test(s) or standardized test material was removed;
- (3) each standardized test material access record shall be maintained for at least five (5) calendar years and be made available for review by the PED upon request;
- (4) records similar to paragraph (2) of subsection B of section 9 of 6.10.7 NMAC above shall be maintained on the return of any standardized test material removed; and
- (5) the district test coordinator shall inform all district teachers, aides, educational assistants, substitutes, volunteers, licensed and unlicensed office staff, and anyone else who is likely to come into contact with standardized testing material, of the need to maintain strict standardized test security by:
 - (a) developing and disseminating handouts to these individuals;
 - (b) offering in-service training to these individuals; and
 - (c) prior to and during a state-mandated assessment administration window, posting conspicuous signs near school copy machines warning that PED rules prohibit the copying of any portion of a standardized test including a student's answer, and any other standardized testing material.

C. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist, in-service training and a written procedure for administering standardized tests whereby:

- (1) in-service training shall be provided to all persons who administer or proctor a standardized test, and no one shall be permitted to administer or proctor a standardized test without first completing training in accordance with timelines, topics, and materials designated by the PED;
- (2) only certified school instructors and administrators, excluding substitutes, educational assistants, school nurses, and coaches, shall administer a standardized test;
- (3) PED sign-in forms, listing training topics and printed name and signature, shall be maintained as a record by date to identify all individuals who have completed the district training in test security, practice materials, and administration of standardized tests;
- (4) each sign-in record shall be maintained for at least five (5) calendar years and be made available for review by the PED upon request;
- (5) all test examiners and proctors shall be informed that prohibited test practices include but are not limited to:
 - (a) changing a student's standardized test answers [or directing a student to], including but not limited to erasing, double-marked or lightly erased or lightly marked answers, or directing or suggesting that a student change a standardized test answer;
 - (b) providing students with a review of specific standardized test items, specific standardized test items with

minor changes in settings or numbers, verbal or written restatements of standardized test items, specific vocabulary from standardized test directions or standardized test items, or answers before, during or after a standardized test;

- (c) discussing, photocopying, or reproducing in any other fashion including paraphrasing, any portion of a standardized test or a student's answer;
 - (d) affording any student under a standardized administration extra time to complete a timed subtest, unless permitted as an accommodation;
 - (e) reading standardized test items aloud to students unless required in a specific standardized test or unless a student is required to be provided with special accommodations; permitting students to talk, become disruptive or exchange any papers during a standardized test;
 - (f) permitting students during a standardized test to have on their desk or use any unauthorized items, including but not limited to, scrap paper (if not required for a subtest), hand computers, laptop computers, cell phones with or without cameras, cameras, calculators, calculator watches and rulers unless any of these are required or permitted by standardized test instructions;
 - (g) permitting students to observe standardized test vocabulary words with definitions, addition or multiplication tables (in various forms), spelling words on the standardized test, or similar assistance material during the administration of the standardized test;
 - (i) permitting students to begin a subtest, leave the testing room, and return to finish the subtest;
 - (j) permitting students to enter a testing room after the standardized test has already commenced;
 - (k) permitting state-mandated test material to remain unattended in an unlocked room;
 - (l) taking standardized or state-mandated test material off campus unless specifically authorized by the district test coordinator;
 - (m) displaying or failing to conceal visual aids that may assist students in the testing room;
- (6) test examiners shall take prompt, corrective action if they observe a student engaged in any prohibited conduct during a standardized test; and
- (7) all test examiners shall be informed of their duty to promptly report testing irregularities as soon as they are aware to the district test coordinator.

D. Regardless of whether a district elects to appoint a school test coordinator, district test coordinators shall provide in-service training to all principals in their district in the storing, handling, destruction, and administration of standardized test material.

(1) Principals shall receive the same in-service training and be charged with the same knowledge as those administering standardized test material and those serving as test examiners as set forth in Subsection C of Section 6.10.7.9 NMAC above.

(2) Although district test coordinators need not directly train assistant principals within their districts, if they choose not to train them, they shall at a minimum require assistant principals to be knowledgeable in accordance with subsection C of section 9 of 6.10.7 NMAC above.

E. All training required by this section shall be administered prior to the fall and spring test administration windows. The assessment and evaluation unit of the PED shall inform the district test coordinators of the dates of those test administration windows in a memo disseminated to each district test coordinator at least annually.

[6.10.7.9 NMAC - N, 09-28-01; A, 11-13-09; A, 03-15-12]

6.10.7.14 CORRECTIVE MEASURES: After investigating suspected testing irregularities and confiscating any standardized test material it deems necessary to conclude its investigation, the PED may take any combination of the following corrective measures:

- A. direct the district or a named individual to cease and desist engaging in a particular testing irregularity or the administration of further standardized tests during the current school year;
- B. confiscate any standardized test materials that jeopardizes the security of the standardized test;
- C. recommend any further action it deems reasonable and necessary to maintain test security;
- D. invalidate the standardized test results and inform the district that a specific standardized test or portion of a standardized test must be replaced with a re-administered similar or alternative form, or any affected student will not receive scores on portions or all of a standardized assessment;
- E. refer the matter for possible suspension or revocation of a person's educator or administrator licensure or other PED licensure pursuant to procedures set forth in the PED's suspension/revocation rule;
- F. refer the matter to the accreditation team for appropriate action;
- G. take any other action authorized by state or federal law or regulation;
- H. modify school and district accountability determinations.

[6.10.7.14 NMAC - N, 09-28-01; A, 11-13-09; A, 03-15-12]

This is an amendment to Sections 6, 7, 8, 9, 10 and 11 of 6.19.8 NMAC (GRADING OF PUBLIC SCHOOLS), effective May 31, 2012. Section 6 is amended to clarify that the ratings for schools apply to charter schools. Section 7 (DEFINITIONS) is amended to add definitions for “Accuplacer,” “International baccalaureate,” “Plan,” “Supplemental accountability model,” and to renumber the succeeding paragraph accordingly. Section 8 (REQUIREMENTS) is amended to add language to Subsection C regarding the grading of high schools using the PLAN, accuplacer, international baccalaureate or IB. Additionally, Subsection F is amended to strike a misplaced word. Section 9 (DETERMINATION OF A SCHOOL’S GRADE) is amended as follows. Subsection C is amended at paragraph (6) to clarify that schools in the 4-year cohort graduation rate without any members of any cohort are exempted from the graduation component of school grading and that their grade will be comprised of the remaining grading components with overall points being adjusted to the standardized scale. Paragraph (7) of Subsection C is amended to clarify that schools in the 5-year and 6-year cohort graduation rate without any members of any cohort are exempted from the graduation component of school grading and that their grade will be comprised of the remaining grading components with overall points being adjusted to the standardized scale. Subsection D is amended by adding new language that establishes how schools be rating can qualify as a supplemental accountability model or SAM and how a SAM school must meet all indicators for high schools except three modified indicators listed in the paragraphs. Subsection F is amended by adding new language that establishes that schools and districts must test 95% or more of students enrolled in tested grades including 95% of those students in the lowest quartile. It also provides that schools that failure to meet the 95% testing requirement will result in their overall grade being reduced by one letter grade.

Section 10 (PRIORITIZATION OF SCHOOL RESOURCES) is amended to add language to Subsection B that scores from the SAT, the PLAN, accuplacer, international baccalaureate or IB to determine the prioritization of resources of a school rated D or F. Section 11 (SMALL SCHOOL AND NON-ASSESSMENT CONSIDERATIONS) is amended to add language to Subsection A that clarifies that a small school is one with an enrollment of fewer than 30 students in the assessed grades, which will be graded where possible by application of an alternate proficiency calculation.

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, 12-15-11; A, 5-31-12]

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.

~~[B-]~~ 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.

~~[C-]~~ 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.

~~[D-]~~ 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.

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

~~[F-]~~ G. “Department” means the New Mexico public education department and is identified by the acronym, “PED”.

~~[G-]~~ 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.

I. “International baccalaureate” or “IB” means an educational foundation that requires the use of and monitors a standardized curriculum leading to internationally recognized certification.

~~[H-]~~ J. “Opportunity to learn survey” means a brief survey that asks students about their teacher’s predominant instructional practices in the classroom.

~~[I-]~~ 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.

~~[J-]~~ M. “Proficiency in reading and mathematics” means a student’s score of proficient or advanced on the New Mexico standards-based assessments.

~~[K-]~~ 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.

~~[L-]~~ O. “RTI ~~[programs]~~ 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.

~~[M-]~~ P. “SAT” means a standardized test offered by the college board for college admissions in the United States.

~~[N-]~~ Q. “School growth” means growth of a school performance over a three year period, as calculated by value added modeling (VAM).

~~[O-]~~ 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.

~~[P-]~~ S. “Secretary” means the secretary of public education of the PED.

~~[Q-]~~ 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, ten and eleven.

~~[R-]~~ U. “Status” means a single year measurement of a school.

~~[S-]~~ 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 10% or more of the students are 19 years of age or older, or where 20% 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.

~~[T-]~~ 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, 12-15-11; A, 5-31-12]

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;
- (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) 4-year and 5-year cohort graduation rate, and beginning with the 2012-2013 school year, a 6-year cohort graduation rate;

- (6) school growth in the 4-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 ~~school~~ 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, 12-15-11; A, 5-31-12]

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) 5 points for school attendance;

(6) 5 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:

(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) 8 points for the 4-year cohort graduation rate;

(6) 5 points for school growth in the 4-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) 4 points for the 5-year and 6-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) 5 points for student participation in college or career readiness;

(9) 10 points for student success in college or career readiness;

(10) 3 points for school attendance;

(11) 5 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 5 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.

~~[D.]~~ 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 95% or more of students enrolled in tested grades, as well as 95% 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 95% in either all students tested or in the lowest quartile will result in their overall grade being reduced by one letter grade.

~~[E.]~~ 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, 12-15-11; A, 5-31-12]

[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; ~~[RtI programs]~~ 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, 12-15-11; A, 5-31-12]

6.19.8.11 SMALL SCHOOL AND NON-ASSESSMENT CONSIDERATIONS:

A. A small school is a school with ~~[an enrollment of]~~ fewer than ~~[25]~~ 30 students in the assessed grades. To calculate the school grade of a small school, the department shall where possible ~~[apply an alternate proficiency calculation that accumulates student performance 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.]~~ 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, 12-15-11; A, 5-31-12]

PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL

NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

The Public School Capital Outlay Council ("Council") is scheduled to consider the following rulemaking actions: 6.27.31 (SPECIAL PURPOSE SCHOOLS EDUCATIONAL FACILITY ADEQUACY STANDARDS) – New Rule.

There will be a public hearing regarding the proposed new rule on February 14, 2012 at 9:00 a.m. in the Old Senate Chambers (Red Room – Room 238) located on the second floor of the Bataan Memorial Building , 407 Galisteo St, Santa Fe, NM. The proposed rules are posted on the Public School Facilities Authority's website at www.nmpsfa.org and have been disseminated to public school districts, charter schools, and other interested parties. Copies may also be obtained by contacting Lena Archuleta, Public School Facilities Authority, 2019 Galisteo, Suite B-1, Santa Fe, NM, 87505 ((505) 988-5989); larchuleta@nmpsfa.org). Written comments regarding the proposed rulemaking should be submitted to Ms. Archuleta at the addresses shown above. Comments may also be telefaxed to Ms. Archuleta at (505) 988-5933. Written comments must be submitted no later than 5:00 p.m. on February 10, 2012; however, submission of written comments as soon as possible is encouraged.

The Council will act on the proposed rules at its March 1, 2012 meeting beginning at 9:00 a.m. in Room 317 of the State Capitol, Santa Fe, New Mexico. Notice of any changes regarding the date, time, and location of the Public School Capital Outlay Council meeting will be provided in accordance with the Council's open meetings policy. The agenda will be electronically mailed to public school districts and charter schools.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Lena Archuleta at (505) 988-5989 by February 3, 2012. Public documents, including the agenda and minutes, can be provided in various accessible forms. Please contact Lena Archuleta if a summary or other type of accessible form is needed.

ATTACHMENT 5

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 27 PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
PART 31 SPECIAL PURPOSE SCHOOLS EDUCATIONAL FACILITY ADEQUACY
STANDARDS

6.27.31.1 ISSUING AGENCY. Public School Capital Outlay Council
 [6.27.31.1 NMAC - N, xx/xx/xx]

6.27.31.2 SCOPE. The purpose of this rule is to provide statewide adequacy standards for special purpose school buildings and sites. These standards shall serve to establish the level of standards necessary to provide and sustain the environment to meet the needs of special purpose schools and to assist their staff in developing their buildings and grounds. The applications of these standards shall be limited to educational space needed to support educational and technology programs and curricula, including the expanded core curriculum, student housing and related services, and that is sustainable within the operational budget for staffing, maintenance, and full utilizations of the facilities. The New Mexico special purpose schools facilities adequacy standards are dynamic and the council plans to review them as necessary, and change them as time and circumstances require. These standards are intended for use in the evaluation of existing special purpose school facilities and are not intended to limit the flexibility of design solutions for new construction and renovation projects. A companion document is the New Mexico special purpose schools adequacy planning guide, provided by the state for use in the programming and design of school projects to meet adequacy. The New Mexico special purpose school adequacy planning guide is incorporated by reference into these standards, and may be amended by the council with adequate notice and input from the public.
 [6.27.31.2 NMAC - N, xx/xx/xx]

6.27.31.3 STATUTORY AUTHORITY. The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978.
 [6.27.31.3 NMAC - N, xx/xx/xx]

6.27.31.4 DURATION. Permanent
 [6.27.31.4 NMAC - N, xx/xx/xx]

6.27.31.5 EFFECTIVE DATE. _____
 [6.27.31.5 NMAC - N, xx/xx/xx]

6.27.31.6 OBJECTIVES. The New Mexico special purpose school adequacy standards establish the acceptable levels for the physical condition and capacity of school buildings, the educational suitability of those facilities and the need for technological infrastructure at those facilities. The standards are not intended to restrict a facility's size.
 [6.27.31.6 NMAC - N, xx/xx/xx]

6.27.31.7 DEFINITIONS. Unless otherwise specified, the following definitions apply:

- A. "art education program" includes visual and performing arts programs;
- B. "combination school" means a school that contains the elementary, middle school/junior high school and high school or any combination thereof;
- C. "council" means the public school capital outlay council;
- D. "equipment" means a specified item not affixed to the real property of a special purpose school facility;
- E. "expanded core curriculum" means a curriculum that recognizes experiences and concepts students without visual or auditory impairments learn casually and incidentally must be systematically and sequentially taught to students with visual and auditory impairments;
- F. "exterior envelope" means the exterior walls, floor and roof of a building;
- G. "fixture" means a specified item that is affixed to the real property of a special purpose school facility;
- H. "general use classroom" means a classroom space that is or can be appropriately configured for instruction in at least the areas of language arts, mathematics and social studies;

- I. “gross sf” means a measurement from exterior wall to exterior wall and calculated to obtain the gross square footage of a space;
- J. “infrastructure” means the on-site physical support systems needed for the operation of the school, including internal roads, and utilities, and drainage systems, and building subsystems such as structure, mechanical, electrical, data, and telecommunications;
- K. “intensive support space” means a space to accommodate programs serving students with severe or multiple handicaps and primarily in need of habilitation and treatment, while requiring a staff person for small groups of students within the class;
- L. “interior finish” means an aesthetic or protective final coating or fabric applied to an exposed surface inside the building;
- M. “interior surface” means any exposed area of the interior enclosure for an interior space, finished or unfinished;
- N. “net sf” means a measurement from interior face of wall to interior face of wall and calculated to obtain the net square footage of a space;
- O. “planned school program capacity” means the planned number of students to be accommodated in the entire facility when all phases of construction are fully completed; these shall include students in regular education classes in combination with special education students requiring special education classrooms in compliance with public education department requirements;
- P. “resident” means a student who lives in residential housing while attending a special purpose school;
- Q. “residential housing” means the space provided at a special purpose school for students to sleep, perform personal hygiene activities, study, socialize, engage in structured and unstructured recreational activities, prepare meals and dine, and to engage in other activities that a student attending a non-residential school might otherwise engage in outside of the traditional school day;
- R. “space” means the net square footage located within the interior of a building;
- S. “special purpose school facility” means a building or group of buildings and outdoor area that are administered together to comprise a special purpose school;
- T. “special purpose school site or special purpose school campus” means one or more parcels of land where a special purpose school facility is located; more than one school facility may be located on a school site or school campus;
- U. “special purpose schools” means the New Mexico school for the deaf (NMSD) and the New Mexico school for the blind and visually impaired (NMSBVI);
- V. “specialty classroom” means a classroom space that is or can be appropriately configured for instruction in a specific subject such as science, physical education, special education or art;
- W. “specialty program capacity” means the planned number of students to be accommodated in a specialty program area in compliance with public education department requirements;
- X. “students” means the total enrollment of students on the current roll of a class or special purpose school on a specified day; and
- Y. “teacherage” means a residence that houses a teacher or administrator on site.

[6.27.31.7 NMAC - N, xx/xx/xx]

6.27.31.8 GENERAL REQUIREMENTS. These standards are not intended to supersede or omit compliance with applicable building and fire code or any other code, regulation, law or standard that has been adopted by state agencies.

- A. **Building condition.** A special purpose school facility must be safe and capable of being maintained.
- (1) **Structural.** A special purpose school facility must be structurally sound. A special purpose school facility shall be considered structurally sound and safe if the building presents no imminent danger or major visible signs of decay or distress.
 - (2) **Exterior envelope.** An exterior envelope is safe and capable of being maintained if:
 - (a) walls and roof are weather tight under normal conditions with routine upkeep; and
 - (b) doors and windows are weather tight under normal conditions with routine upkeep, and the building structural systems support the loads imposed on them.
 - (3) **Interior surfaces.** An interior surface is safe and capable of being maintained if it is:
 - (a) structurally sound;
 - (b) capable of supporting a finish; and

- (c) capable of continuing in its intended use, with normal maintenance and repair.
- (4) Interior finishes. An interior finish is safe and capable of being maintained if it is:
 - (a) free of exposed lead paint;
 - (b) free of friable asbestos; and
 - (c) capable of continuing in its intended use, with normal maintenance and repair.
- B. Building systems. Building systems in a special purpose school facility must be in working order and capable of being properly maintained. Building systems include roof, plumbing, telephone, electrical and heating and cooling systems as well as fire alarm, 2-way internal communication, appropriate technological infrastructure and security systems.
 - (1) General. A building system shall be considered to be in working order and capable of being maintained if all of the following apply:
 - (a) The system is capable of being operated as intended and maintained.
 - (b) Newly manufactured or refurbished replacement parts are available.
 - (c) The system is capable of supporting the adequacy standards established in this rule.
 - (d) Components of the system present no imminent danger of personal injury.
 - (2) Plumbing fixtures. A special purpose school facility shall be equipped with sanitary facilities in accordance with the New Mexico building code. Fixtures shall include, but are not limited to, water closets, urinals, lavatories and drinking fountains. In all new construction, restrooms shall be available so students will not have to exit the building. In existing facilities, restrooms shall be available for classrooms for grades 5 and below, and special needs classrooms, without having to exit the building, wherever possible within reasonable cost constraints.
 - (3) Fire alarm and emergency notification system. A special purpose school facility shall have a fire alarm and emergency notification system as required by applicable state fire codes and appropriate emergency procedures.
 - (4) 2-way communication system. A special purpose school facility shall have a 2-way internal communication system between a central location and each classroom, isolated office space, library, physical education space, cafeteria, and other regularly-used spaces.

6.27.31.9 CLASSIFICATION OF SPECIAL PURPOSE SCHOOLS. The classifications for special purpose schools school grade levels under these standards are:

- A. Preschool
- B. Elementary school: kindergarten - grade 6
- C. Middle school/junior high school: grades 7 - 8
- D. High school: grades 9 - 12
- E. Combination school: includes some or all of the grade levels in A, B, C or D, above.

[6.27.31.9 NMAC - N, xx/xx/xx]

6.27.31.10 SPECIAL PURPOSE SCHOOL SITE. A special purpose school site shall be of sufficient size to accommodate safe access, parking, drainage and security. Additionally, the site shall be provided with an adequate source of water and appropriate means of effluent disposal.

A. Safe access. A special purpose school site shall be configured for safe and controlled access that separates pedestrian from vehicular traffic. If buses are used to transport students then separate bus loading/unloading areas shall be provided wherever possible. Dedicated student drop-off and pickup areas shall be provided for safe use by student passengers arriving or departing by automobile.

B. Parking. A special purpose school site shall include a maintainable surfaced area that is stable, firm and slip resistant and is large enough to accommodate 1.5 parking spaces /staff full time equivalent employee and sufficient space to accommodate demonstrated need for student parking. If this standard is not met, alternative parking may be approved after the sufficiency of parking at the site is reviewed by the council using the following criteria:

- (1) availability of street parking around the school;
- (2) availability of any nearby parking lots;
- (3) availability of public transit;
- (4) number of staff who drive to work on a daily basis; and
- (5) average number of visitors on a daily basis.

C. Drainage. A special purpose school site shall be configured such that runoff does not undermine the structural integrity of the school buildings located on the site or create flooding, ponding or erosion resulting in a threat to health, safety or welfare.

D. Security.

(1) All special purpose schools shall have safe and secure site fencing or other barriers with accommodations for safe passage through openings to protect students from the hazards of traffic, railroad tracks, steep slopes, animal nuisance, and to discourage unauthorized access to the campus. This standard is met if the entire school is fenced or walled. If this standard is not met, alternative security may be approved after the sufficiency of security at the site is reviewed by the council using the following criteria:

- (a) amount of vehicular traffic near the school site;
- (b) existence of hazardous or natural barriers on or near the school site;
- (c) amount of animal nuisance or unique conditions near the school site;
- (d) visibility of the play/physical education area; and
- (e) site lighting, as required to meet safe, normal access conditions.

(2) For special purpose schools which include students below grade 6, a fenced or walled play/physical education area shall be provided.

[6.27.31.10 NMAC - N, xx/xx/xx]

6.27.31.11 SITE RECREATION AND OUTDOOR PHYSICAL EDUCATION. A special purpose school facility shall have area, space and fixtures, in accordance with the equipment necessary to meet the educational requirements of the public education department, for physical education activity and shall be provided based on the planned school program capacity.

A. Preschool. Safe play area(s) shall be conveniently accessible to students.

B. Elementary school. Safe play area(s) and playground(s) including hard surfaced court(s) or unpaved recreation area(s) shall be conveniently accessible to the students. Play area(s) and appropriate equipment for physical education and school recreational purposes shall be provided based on the planned school program capacity.

C. Middle school/junior high school. Hard surfaced court(s) and playing field(s) for physical education activities shall be provided. Playing field(s) and equipment shall be based on the planned school program capacity.

D. High school. A paved multipurpose play surface and a playing field for physical education activities shall be provided. Playing fields and equipment shall be based on the planned school program capacity.

E. Combination school. A combination school shall provide the elements of the grades served by Subsections A, B, C and D above without duplication, but shall meet the highest standard.

[6.27.31.11 NMAC - N, xx/xx/xx]

6.27.31.12 ACADEMIC CLASSROOMS. All classroom space shall meet or exceed the requirements listed below:

A. Classroom space. Classroom space shall be sufficient for appropriate educational programs for the class level needs.

B. Classroom fixtures and equipment

(1) Each general and specialty classroom shall contain a work surface and seat for each student in the classroom. The work surface and seat shall be appropriate for the normal activity of the class conducted in the room.

(2) Each general and specialty classroom shall have an erasable surface and a surface suitable for projection purposes, appropriate for group classroom instruction, and a display surface. A single surface may meet one or more of these purposes.

(3) Each general and specialty classroom shall have storage for classroom materials or access to conveniently located storage.

(4) Each general and specialty classroom shall have a work surface and seat for the teacher and for the aide assigned to the classroom, and it shall have secure storage for student records that is located in the classroom or is convenient to access from the classroom.

C. Classroom lighting

(1) Each general and specialty classroom shall have a light system capable of maintaining at least 50 foot-candles of well-distributed light. Provide appropriate task lighting in specialty classrooms where enhanced visibility is required.

(2) The light level shall be measured at a work surface located in the approximate center of the classroom, between clean light fixtures.

D. Classroom temperature

(1) Each general and specialty classroom shall have a heating, ventilation and air conditioning (HVAC) system capable of maintaining a temperature between 68 and 75 degrees fahrenheit with full occupancy.

(2) The temperature shall be measured at a work surface in the approximate center of the classroom.

E. Classroom acoustics

(1) Each general and specialty classroom shall be maintainable at a sustained background sound level of less than 55 decibels.

(2) The sound level shall be measured at a work surface in the approximate center of the classroom.

F. Classroom air quality

(1) Each general, science and arts classroom shall have an HVAC system that continually moves air and is capable of maintaining a CO₂ level of not more than 1,200 parts per million.

(2) The air quality shall be measured at a work surface in the approximate center of the classroom.

[6.27.31.12 NMAC - N, xx/xx/xx]

6.27.31.13 GENERAL USE CLASSROOMS (LANGUAGE ARTS, MATHEMATICS AND SOCIAL STUDIES).

A. Cumulative classroom net square foot (sf) requirements, including in-classroom storage space, shall be at least:

- | | |
|---|---|
| (1) NMSD preschool | 110 net sf/student, but not less than 450 net sf. |
| (2) NMSD elementary | 80 net sf/student, but not less than 450 net sf. |
| (3) NMSD middle/high school | 75 net sf/student, but not less than 450 net sf. |
| (4) NMSBVI preschool | 110 net sf/student, but not less than 450 net sf. |
| (5) NMSBVI elementary | 90 net sf/student, but not less than 450 net sf. |
| (6) NMSBVI middle/high school | 85 net sf/student, but not less than 450 net sf. |
| (7) Based on demonstrated need, minimum classroom sizes listed in (1) through (6) shall not | |

preclude individual or small group instruction spaces that are smaller.

B. Sufficient number of classrooms shall be provided to meet the special purpose school's student/staff ratio requirements and to accommodate at least eight students per classroom, unless otherwise stated in this standard.

[6.27.31.13 NMAC - N, xx/xx/xx]

6.27.31.14 SPECIALTY CLASSROOMS.

A. Science:

(1) For elementary schools, no additional space is required beyond the classroom requirement. This space is included in the academic classroom requirement and may be used for other instruction.

(2) For middle school and high school:

(a) NMSD science classroom. At least 12.5 net sf/student, but not less than 900 net sf. The space shall have science fixtures and equipment necessary to meet the educational requirements of the special purpose school.

(b) NMSBVI science classroom. At least 13 net sf/student, but not less than 900 net sf. The space shall have science fixtures and equipment, necessary to meet the educational requirements of the special purpose school.

(3) If an alternate science learning method is used by a special purpose school, the school shall verify the appropriate alternate fixtures and equipment to the council. Provide at least 80 net sf for securable, well-ventilated storage/prep space for each science room having science fixtures and equipment. Storage/prep room(s) may be combined and shared between more than one classroom.

B. Intensive support classroom. If an intensive support education space is provided and the space is required to support educational programs, services, and curricula, the space shall be at least 150 net sf/student occupant, but not less than 450 net sf. When the need is demonstrated additional space in the classroom shall be provided with, or students shall have an accessible route to; an accessible unisex restroom with one toilet, sink, washer/dryer and shower stall/tub, and at least 15 net sf of storage. When the need is demonstrated in 7th grade classrooms and above, a kitchenette with at least 15 net sf of storage shall be provided.

C. Art education programs. A special purpose school facility shall have classroom space to deliver art education programs, including dance, music, theatre/drama, and visual arts in accordance with the school's

educational program, or have access to an alternate learning method. Classroom space(s) for art education shall not be smaller 650 net sf. Art education classroom space(s) may be included in the academic classroom requirement and may be used for other instruction.

(1) Elementary school. Art education programs may be accommodated within a general use or dedicated art classroom. A special purpose elementary school art program shall not be less than 5 net sf/elementary school student.

(2) NMSD middle school/high school art education program shall not be less than 10 net sf/middle or high school student.

(3) NMSBVI art education program shall not be less than 12.5 net sf/middle or high school student.

D. Expanded core curriculum. Space shall be provided that may include classrooms, industrial, or other types of spaces to support the expanded core curriculum, or access to alternative learning methods shall be provided.

(1) The NMSD expanded core program space shall not be less than 3,000 net sf plus 18 net sf/student in grades 7 through 12.

(2) The NMSBVI expanded core program space shall not be at less than 3,500 net sf plus 22 net sf/student in grades 1 through 12.

(3) Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1) and (2) above without duplication, but meeting the higher standards.

E. Technology-aided instruction. A special purpose school facility shall have space to deliver educational technology-aided instructional programs or have access to an alternate learning method. This requirement may be distributed throughout other program spaces within the facility.

(1) NMSD. Provide space that meets 8 net sf/student of the planned school program capacity, with not less than 650 net sf.

(2) NMSBVI. Provide space that meets 7.5 net sf/student of the planned school program capacity, with not less than 650 net sf.

(4) Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1) and (2) above without duplication, but meeting the higher standards.

F. Alternate delivery method. If an alternate delivery method is used by a special purpose school for instruction, the space used for the alternate method may be approved following review by the council.

[6.27.31.14 NMAC - N, xx/xx/xx]

6.27.31.15 PHYSICAL EDUCATION.

A. General requirements. A special purpose school facility shall have an area, space and fixtures for physical education activity. This space may have more than one function and may fulfill more than one standard requirement.

(1) Elementary school. Provide an indoor physical education teaching facility with at least 2,400 net sf. This space may have multi-purpose use in accommodating other educational program activities such as art program performances.

(2) Middle school/junior high school. For a middle school/junior high school facility, an indoor physical education teaching facility that shall not be less than 5,200 net sf plus bleachers for 1.5 design capacity.

(3) High school. A physical education complex shall not be less than 6,500 net sf plus bleachers for 1.5 design capacity.

(4) Combination school. Provide the elements of the grades served by Paragraphs (1), (2) and (3) above without duplication, but meeting the higher net sf standards with bleacher capacity for at least 2.0-planned school program capacity. A single high school gymnasium shall fulfill the minimum requirements of both high school and middle school/junior high school classes. If the special purpose school includes an elementary, then it shall provide in addition the separate space required for an elementary school. This space may have more than one function and may fulfill more than one standard requirement.

B. Additional physical education requirements. In addition to space requirements in Subsection A:

(1) Elementary school. One office shall be provided, with physical education equipment storage with not less than 200 net sf. This space may have more than one function and may fulfill more than one standard requirement.

(2) Middle school/junior high school. Physical education equipment storage space shall be provided. Two dressing rooms shall be provided, with lockers, showers and restroom fixtures. Two offices shall be provided, each with not less than 150 net sf. Each shall be provided with a telephone.

(3) High school. Physical education equipment storage space shall be provided. Two dressing rooms shall be provided, with lockers, showers and restroom fixtures. Two offices shall be provided, each with not less than 150 net sf. Each shall be provided with a telephone.

(4) Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1), (2) and (3) above without duplication, but meeting the higher standards.
[6.27.31.15 NMAC - N, xx/xx/xx]

6.27.31.16 LIBRARIES AND MEDIA CENTERS/RESEARCH AREA - GENERAL REQUIREMENTS.

A. A special purpose school facility shall have space for students to access research materials, literature, non-text reading materials, books and technology. This shall include space for reading, listening and viewing materials.

(1) Elementary school. The area for stacks and seating space shall be at least 3 net sf/student of the planned school program capacity, but shall not be less than 1,000 net sf. In addition, office/workroom space and secure storage shall be provided.

(2) Middle school/junior high school or high school. The area for stacks and seating shall not be less than 3 net sf/student of the planned school program capacity. In addition, office/workroom space and secure storage shall be provided.

(3) Combination school. Provide the elements of the grades set out in Paragraphs (1) and (2) above without duplication, but meeting the higher standards.

(4) Special purpose schools that have residential housing shall provide an additional 1,000 net sf of stacks and seating.

B. A special purpose school facility shall have library fixtures, equipment and resources in accordance with the standard equipment necessary to meet the educational requirements of the public education department.

[6.27.31.16 NMAC - N, xx/xx/xx]

6.27.31.17 FOOD SERVICE.

A. Cafeterias - general requirements

(1) Serving and dining. A special purpose school facility shall have a covered area or space, or combination, to permit students to eat within the school site, outside of general classrooms. This space may have more than one function and may fulfill more than one adequacy standards requirement. Dining area shall be sized for the planned school program capacity to allow for a meal period requiring no more than 3 servings. The dining area shall have no less than 15 net sf/seated student.

(2) Serving area shall be provided in addition to dining area.

(3) Fixtures and equipment. A special purpose school facility shall have space, fixtures and equipment accessible to the serving area, in accordance with the standard equipment required, for the preparation, receipt, storage or service of food to students.

(a) The space, fixtures and equipment shall be appropriate for the food service program of the school facility and shall be provided in consideration of the location of the facility and frequency of food service supply deliveries. Food service facilities and equipment shall comply with the food service and food processing regulations of the New Mexico department of environment.

(b) Fixtures and equipment should include: food prep area items, including sink, oven, range, serving area equipment (or buffet equipment), dishwasher, and cold storage, dry storage and other appropriate fixture and equipment items.

B. Kitchen. Kitchen and equipment shall comply with either the food preparation kitchen or the serving kitchen standards defined as follows:

(1) Food preparation kitchen - 2 net sf/meal served minimum based upon the single largest serving period:

(a) Elementary school: 1,000 net sf minimum

(b) Middle school/junior high school: 1,600 net sf minimum

(c) High school: 1,700 net sf minimum

(d) Combination school: shall provide the elements of the grades served by Subparagraphs (a), (b) and (c) above without duplication, but meeting the higher standards.

(e) Special purpose schools that have residential housing shall provide an additional 400 net sf of storage for residential housing-based nutrition and snack requirements.

(2) Serving kitchen. Where food is not prepared, there shall be a minimum of 200 net sf with a hand wash sink and a phone.

[6.27.31.17 NMAC - N, xx/xx/xx]

6.27.31.18 STUDENT LIFE.

A. Dormitory suites. Special purpose schools that provide residential housing shall have space for students to sleep, perform personal hygiene activities, study, socialize, engage in structured and unstructured recreational activities, and to participate in other activities in which a student attending a non-residential school might otherwise engage outside of the traditional school day.

(1) A dormitory suite shall have at least 180 net sf/occupant.

(2) A handicapped-accessible dormitory suite shall have at least 220 net sf/occupant. Handicapped-accessible dormitory rooms shall be provided based on demonstrated need.

B. Student recreation center. A student recreation center shall consist of at least 800 net sf plus 25 net sf/resident. In addition to the student recreation center, students shall have access to indoor physical education space for the purpose of structured and unstructured physical activities.

C. Outdoor recreation. Residents shall have access to safe, secure, outdoor recreation spaces where they can engage in structured and unstructured recreational activities. In addition to outdoor recreational space, residents shall have access to outdoor physical education space for the purpose of structured and unstructured recreational activities.

[6.27.31.18 NMAC - N, xx/xx/xx]

6.27.31.19 OTHER FACILITY AREAS.

A. Parent workspace. A school facility shall include a workspace for use by parents. If this space is provided, it shall consist of at least .5 net sf/student of the planned school program capacity but no less than 150 net sf. The space may consist of more than one room and may have more than one function.

B. Administrative space. A special purpose school facility shall have space to be used for the administration of the school. The space shall consist of a minimum of 150 net sf, plus 5 net sf/student of the planned school program capacity.

C. Student health. A special purpose school facility shall have space to separate a sick student from the other students and may include space for the delivery of other related programs. This space shall be a designated space that is accessible to a restroom, and shall not be less than 805 net sf plus 1 net sf/student of the planned school program capacity. The space may consist of more than one room and may have more than one function. This space shall include a telephone.

D. Counseling. A special purpose school shall have space for counseling of students and related activities. This space shall consist of 250 net sf plus 2 net sf/student of the planned school program capacity.

E. Therapy. A special purpose school shall have space for occupational, physical and other types of therapy for students. This space shall consist of 225 net sf plus 8 net sf/student of the planned school program capacity.

F. Faculty workspace or teacher lounge. A special purpose school facility shall have workspace available to the faculty. This space is in addition to any workspace available to a teacher, in or near a classroom. The space shall consist of 5 net sf/student of the planned school program capacity with no less than 150 net sf. The space may consist of more than one room and may have more than one function. This space shall include a break area with a sink.

[6.27.31.19 NMAC - N, xx/xx/xx]

6.27.30.20 GENERAL STORAGE (EXCLUDES LOCKERS, JANITORIAL, KITCHEN, GENERAL CLASSROOM, SPECIALTY CLASSROOMS, AND ADMINISTRATIVE STORAGE). For storage, at least 4 net sf/student of the planned school program capacity may be distributed in or throughout any type of room or space, but may not count toward required room square footages. General storage must be securable and include textbook storage.

[6.27.31.20 NMAC - N, xx/xx/xx]

6.27.31.21 MAINTENANCE OR JANITORIAL SPACE. Each special purpose school shall designate 2 net sf/student of the planned school program capacity for maintenance or janitorial space. Janitorial space shall include a janitorial sink.

[6.27.31.21 NMAC - N, xx/xx/xx]

6.27.31.22 STANDARDS VARIANCE.

A. The council may grant a variance from any of the adequacy standards. The council shall grant a variance if it determines that the intent of the standard can be met by the special purpose school in an alternate manner, or if a variance is required for appropriate programmatic needs as demonstrated by the school. If the council grants the variance, the special purpose school shall be deemed to have met the standard.

B. The council may, with adequate justification, also grant a variance from any of the provisions of the special purpose school adequacy planning guide provided by the state for use in the programming and design of school projects to meet adequacy. Such variance shall be considered through an appeal to the council by the school following a final administrative interpretation of the planning guide. Procedures for achieving final administrative interpretation and filing an appeal to the council for a variance are as provided for in the planning guide document. [6.27.31.22 NMAC - N, xx/xx/xx]

HISTORY OF 6.27.31 NMAC: [Reserved]

DRAFT

PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL

NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

The Public School Capital Outlay Council ("Council") is scheduled to consider the following rulemaking actions:
6.27.30 (STATEWIDE ADEQUACY STANDARDS) - Amend Rule.

There will be a public hearing regarding the proposed new rule on Tuesday, May 29, 2012 at 9:00am at the University of New Mexico, Science and Technology Park Auditorium, 800 Bradbury SE, Albuquerque, New Mexico. The proposed rules are posted on the Public School Facilities Authority's website at www.nmpsfa.org) and have been disseminated to public school districts, charter schools, and other interested parties. Copies may also be obtained by contacting Lena Archuleta, Public School Facilities Authority, 2019 Galisteo, Suite B-1, Santa Fe, NM, 87505 ((505) 988-5989); larchuleta@nmpsfa.org). Written comments regarding the proposed rulemaking should be submitted to Ms. Archuleta at the addresses shown above. Comments may also be telefaxed to Ms. Archuleta at (505) 988-5933. Written comments must be submitted no later than 5:00 p.m. on Friday, May 25, 2012; however, submission of written comments as soon as possible is encouraged.

The Council will act on the proposed rules at its June 21-22, 2012 meetings. Notice of any changes regarding the date, time, and location of the Public School Capital Outlay Council meeting will be provided in accordance with the Council's open meetings policy. The agenda will be electronically mailed to public school districts and charter schools.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Lena Archuleta at (505) 988-5989 by May 21, 2012. Public documents, including the agenda and minutes, can be provided in various accessible forms. Please contact Lena Archuleta if a summary or other type of accessible form is needed.

ATTACHMENT 7

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 27 PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
PART 30 STATEWIDE ADEQUACY STANDARDS

6.27.30.1 ISSUING AGENCY. Public School Capital Outlay Council
 [6.27.30.1 NMAC - N, 9/1/02]

6.27.30.2 SCOPE. The purpose of this rule is to provide statewide adequacy standards for public school buildings and grounds, ~~[including buildings and grounds of charter schools. These standards shall serve to establish the level of standards necessary to provide and sustain the environment to meet the needs of public schools and to assist their staff in developing their buildings and grounds].~~ The ~~[applications]~~ application of these standards shall be limited to ~~[educational]~~ space and attributes needed to support educational and technology programs and curricula, defined and justified as required by public education department standards and benchmarks, and that is sustainable within the operational budget for staffing, maintenance, and full utilizations of the facilities. The New Mexico public school statewide adequacy standards are dynamic and the council plans to review them at least annually, and change them as time and circumstances require. These standards are intended for use in the evaluation of existing public school facilities and are not intended to limit the flexibility of design solutions for new construction and renovation projects. A companion document is the New Mexico public school adequacy planning guide, provided by the state for use in the programming and design of school projects to meet adequacy. The New Mexico public school adequacy planning guide is incorporated by reference into these standards, and may be amended by the council with adequate notice and input from the public.
 [6.27.30.2 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07; A, 7/15/10; A X/XX/XX]

6.27.30.3 STATUTORY AUTHORITY. The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978.
 [6.27.30.3 NMAC - N, 9/1/02]

6.27.30.4 DURATION. Permanent
 [6.27.30.4 NMAC - N, 9/1/02]

6.27.30.5 EFFECTIVE DATE. September 1, 2002
 [6.27.30.5 NMAC - N, 9/1/02; A, 8/31/05]

6.27.30.6 OBJECTIVES. The New Mexico public school statewide adequacy standards establish the acceptable levels for the physical condition and capacity of school buildings, the educational suitability of those facilities and the need for technological infrastructure at those facilities. The standards are not intended to restrict a facility's size.
 [6.27.30.6 NMAC - N, 9/1/02; A, 8/31/05]

6.27.30.7 DEFINITIONS. Unless otherwise specified, the following definitions apply:

- A. "ancillary space" means any subordinate space necessary to support an activity or function of main programmatic space(s);
- B. "art education program" includes visual and performing arts programs;
- C. "combination school" means a school that contains the elementary, middle school/junior high school and high school or any combination thereof;
- D. "council" means the public school capital outlay council;
- E. "equipment" means a specified item not affixed to the real property of a school facility;
- F. "exterior envelope" means the exterior walls, floor and roof of a building;
- G. "fixture" means a specified item that is affixed to the real property of a school facility;
- H. "general use classroom" means a classroom space that is or can be appropriately configured for instruction in at least the areas of language arts (including bi-lingual), mathematics and social studies;
- I. "gross sf" means a measurement from exterior wall to exterior wall and calculated to obtain the gross square footage of a space;
- J. "infrastructure" means the on-site physical support systems needed for the operation of the school, including internal roads, and utilities, and drainage systems, and building subsystems such as structure, mechanical, electrical, data, and telecommunications;

- K. "interior finish" means an aesthetic or protective final coating or fabric applied to an exposed surface inside the building;
- L. "interior surface" means any exposed area of the interior enclosure for an interior space, finished or unfinished;
- M. "net sf" means a measurement from interior face of wall to interior face of wall and calculated to obtain the net square footage of a space;
- N. "planned school program capacity" means the planned number of students to be accommodated in the entire facility when all phases of construction are fully completed; these shall include students in regular education classes in combination with special education students requiring special education classrooms in compliance with public education department requirements;
- ~~[O.] "qualified student or MEM" means those terms as defined in Section 22-8-2 NMSA 1978;]~~
- ~~[P.]~~ Q. "school facility" means a building or group of buildings and outdoor area that are administered together to comprise a school;
- ~~[Q.]~~ P. "school site or school campus" means one or more parcels of land where a school facility is located; more than one school facility may be located on a school site or school campus;
- ~~[R.]~~ Q. "space" means the net square footage located within the interior of a building;
- ~~[S.]~~ R. "specialty classroom" means a classroom space that is or can be appropriately configured for instruction in a specific subject such as science, physical education, special education or art;
- ~~[T.]~~ S. "specialty program capacity" means the planned number of students to be accommodated in a specialty program area in compliance with public education department requirements; ~~[and]~~
- T. "student" means "qualified student or MEM" as defined in Section 22-8-2 NMSA 1987; and
- U. "teacherage" means a residence that houses a teacher or administrator on site.
[6.27.30.7 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07; A, 7/15/10; A X/XX/XX]

6.27.30.8 GENERAL REQUIREMENTS. These standards are not intended to supersede or omit, compliance with applicable building and fire code or any other code, regulation, law or standard that has been adopted by state agencies.

- A. Building condition. A school facility must be safe and capable of being maintained.
- (1) Structural. A school facility must be structurally sound. A school facility shall be considered structurally sound and safe if the building presents no imminent danger or major visible signs of decay or distress.
 - (2) Exterior envelope. An exterior envelope is safe and capable of being maintained if:
 - (a) walls and roof are weather tight under normal conditions with routine upkeep; and
 - (b) doors and windows are weather tight under normal conditions with routine upkeep, and the building structural systems support the loads imposed on them.
 - (3) Interior surfaces. An interior surface is safe and capable of being maintained if it is:
 - (a) structurally sound;
 - (b) capable of supporting a finish; and
 - (c) capable of continuing in its intended use, with normal maintenance and repair.
 - (4) Interior finishes. An interior finish is safe and capable of being maintained if it is:
 - (a) free of exposed lead paint;
 - (b) free of friable asbestos; and
 - (c) capable of continuing in its intended use, with normal maintenance and repair.
- B. Building systems. Building systems in a school facility must be in working order and capable of being properly maintained. Building systems include roof, plumbing, telephone, electrical and heating and cooling systems as well as fire alarm, 2-way internal communication, appropriate technological infrastructure and security systems.
- (1) General. A building system shall be considered to be in working order and capable of being maintained if all of the following apply.
 - (a) The system is capable of being operated as intended and maintained.
 - (b) Newly manufactured or refurbished replacement parts are available.
 - (c) The system is capable of supporting the adequacy standards established in this rule.
 - (d) Components of the system present no imminent danger of personal injury.
 - (2) Plumbing fixtures. A school facility shall be equipped with sanitary facilities in accordance with the New Mexico building code. Fixtures shall include, but are not limited to, water closets, urinals, lavatories and drinking fountains. In all new construction, restrooms shall be available so students will not have to exit the

building. In existing facilities, restrooms shall be available for classrooms for grades 5 and below, and special needs classrooms, without having to exit the building, wherever possible within reasonable cost constraints.

(3) Fire alarm and emergency notification system. A school facility shall have a fire alarm and emergency notification system as required by applicable state fire codes and emergency procedures.

(4) 2-way communication system. A school facility shall have a 2-way internal communication system between a central location and each classroom, isolated office space, library, physical education space, cafeteria, and other regularly-used spaces.

[6.27.30.8 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07]

6.27.30.9 CLASSIFICATION OF PUBLIC SCHOOLS. The classifications for public schools, including charter schools, under these standards are:

- A. Elementary school
- B. Middle school/junior high school
- C. High school
- D. Combination school

[6.27.30.9 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07]

6.27.30.10 SCHOOL SITE. A school site shall be of sufficient size to accommodate safe access, parking, drainage and security. Additionally, the site shall be provided with an adequate source of water and appropriate means of effluent disposal.

A. Safe access. A school site shall be configured for safe and controlled access that separates pedestrian from vehicular traffic. If buses are used to transport students then separate bus loading/unloading areas shall be provided wherever possible. Dedicated student drop-off and pickup areas shall be provided for safe use by student passengers arriving or departing by automobile.

B. Parking. A school site shall include a maintainable surfaced area that is stable, firm and slip resistant and is large enough to accommodate 1.5 parking spaces /staff FTE and one student space /four high school students. If this standard is not met, alternative parking may be approved after the sufficiency of parking at the site is reviewed by the council using the following criteria:

- (1) availability of street parking around the school;
- (2) availability of any nearby parking lots;
- (3) availability of public transit;
- (4) number of staff who drive to work on a daily basis; and
- (5) average number of visitors on a daily basis.

C. Drainage. A school site shall be configured such that runoff does not undermine the structural integrity of the school buildings located on the site or create flooding, ponding or erosion resulting in a threat to health, safety or welfare.

D. Security.

(1) All schools shall have safe and secure site fencing or other barriers with accommodations for safe passage through openings to protect students from the hazards of traffic, railroad tracks, steep slopes, animal nuisance, and to discourage unauthorized access to the campus. This standard is met if the entire school is fenced or walled. If this standard is not met, alternative security may be approved after the sufficiency of security at the site is reviewed by the council using the following criteria:

- (a) amount of vehicular traffic near the school site;
- (b) existence of hazardous or natural barriers on or near the school site;
- (c) amount of animal nuisance or unique conditions near the school site;
- (d) visibility of the play/physical education area; and
- (e) site lighting, as required to meet safe, normal access conditions.

(2) For schools which include students below grade 6, a fenced or walled play/physical education area shall be provided.

[6.27.30.10 NMAC - N, 9/1/02; A, 12/14/07]

6.27.30.11 SITE RECREATION AND OUTDOOR PHYSICAL EDUCATION. A school facility shall have area, space and fixtures, in accordance with the standard equipment necessary to meet the educational requirements of the public education department, for physical education activity.

A. Elementary school. Safe play area(s) and playground(s) including hard surfaced court(s) or unpaved recreation area(s) shall be conveniently accessible to the students. Play area(s) and appropriate equipment

for physical education and school recreational purposes shall be provided based on the planned school program capacity.

B. Middle school/junior high school. Hard surfaced court(s) and playing field(s) for physical education activities shall be provided. Playing field(s) and equipment shall be based on the planned school program capacity.

C. High school. A paved multipurpose play surface and a playing field for physical education activities shall be provided. Playing fields and equipment shall be based on the planned school program capacity.

D. Combination school. A combination school shall provide the elements of the grades served by Subsections A, B and C above without duplication, but shall meet the highest standard.

[6.27.30.11 NMAC - N, 9/1/02; A, 12/14/07]

6.27.30.12 ACADEMIC CLASSROOM SPACE. All classroom space shall meet or exceed the requirements listed below:

A. Classroom space - Classroom space shall be sufficient for appropriate educational programs for the class level needs.

B. Classroom fixtures and equipment

(1) Each general and specialty classroom shall contain a work surface and seat for each student in the classroom. The work surface and seat shall be appropriate for the normal activity of the class conducted in the room.

(2) Each general and specialty classroom shall have an erasable surface and a surface suitable for projection purposes, appropriate for group classroom instruction, and a display surface. A single surface may meet one or more of these purposes.

(3) Each general and specialty classroom shall have storage for classroom materials or access to conveniently located storage.

(4) Each general and specialty classroom shall have a work surface and seat for the teacher and for the aide assigned to the classroom, and it shall have secure storage for student records that is located in the classroom or is convenient to access from the classroom.

C. Classroom lighting

(1) Each general and specialty classroom shall have a light system capable of maintaining at least 50 foot-candles of well-distributed light. Provide appropriate task lighting in specialty classrooms where enhanced visibility is required.

(2) The light level shall be measured at a work surface located in the approximate center of the classroom, between clean light fixtures.

D. Classroom temperature

(1) Each general and specialty classroom shall have a heating, ventilation and air conditioning (HVAC) system capable of maintaining a temperature between 68 and 75 degrees fahrenheit with full occupancy.

(2) The temperature shall be measured at a work surface in the approximate center of the classroom.

E. Classroom acoustics

(1) Each general and specialty classroom shall be maintainable at a sustained background sound level of less than 55 decibels.

(2) The sound level shall be measured at a work surface in the approximate center of the classroom.

F. Classroom air quality

(1) Each general, science and arts classroom shall have an HVAC system that continually moves air and is capable of maintaining a CO₂ level of not more than 1,200 parts per million.

(2) The air quality shall be measured at a work surface in the approximate center of the classroom.

[6.27.30.12 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07]

6.27.30.13 GENERAL USE CLASSROOMS (LANGUAGE ARTS, MATHEMATICS AND SOCIAL STUDIES).

A. Cumulative classroom net square foot (sf) requirements, excluding in-classroom storage space, shall be at least:

(1) Kindergarten 50 net sf/student

(2) Grades 1 - 5 32 net sf/student

(3) Grades 6 - 8 28 net sf/student

(4) Grades 9 - 12 25 net sf/student

B. At least 2 net sf/student shall be available for dedicated classroom storage.

C. Sufficient number of classrooms shall be provided to meet statutory student/staff ratio requirements.
[6.27.30.13 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07]

6.27.30.14 SPECIALTY CLASSROOMS.

A. Science:

- (1) For grades K through 6 , no additional space is required beyond the classroom requirement.
- (2) For grades 7 through 12, 4 net sf/student of the specialty program capacity for science is required.

The space shall not be smaller than the average classroom at the facility. This space is included in the academic classroom requirement and may be used for other instruction. The space shall have science fixtures and equipment, in accordance with the standard equipment necessary to meet the educational requirements of the public education department. If an alternate science learning method is used by a school district, the district shall verify the appropriate alternate fixtures and equipment to the council. Provide at least 80 net sf for securable, well-ventilated storage/prep space for each science room having science fixtures and equipment. Storage/prep room(s) may be combined and shared between more than one classroom.

B. Special education classroom. If a special education space is provided and the space is required to support educational programs, services, and curricula, the space shall not be smaller than 450 net sf. When the need is demonstrated in type II (d-level) classrooms, additional space in the classroom shall be provided with, or students shall have an accessible route to; an accessible unisex restroom with one toilet, sink, washer/dryer and shower stall/tub, and at least 15 net sf of storage. When the need is demonstrated in 7th grade classrooms and above, a kitchenette with at least 15 net sf of storage shall be provided.

C. Art education programs. A school facility shall have classroom space to deliver art education programs, including dance, music, theatre/drama, and visual arts programs, or have access to an alternate learning method. Classroom space(s) for art education shall not be smaller than the average classroom at the facility. Art education classroom space(s) may be included in the academic classroom requirement and may be used for other instruction.

(1) Elementary school. Art education programs may be accommodated within a general use or dedicated art classroom. Provide additional dedicated art program storage of at least 60 net sf per facility.

(2) Middle school/junior high school. Classroom space(s) for art education programs shall have no less than 4 net sf/student of the specialty program capacity for art. Provide additional ancillary space for group music practice, individual music practice room(s), specialized storage/library rooms, and office(s).

(3) High school. Classroom space(s) for art education programs shall have no less than 5 net sf/student of the specialty program capacity for art. Provide additional ancillary space for group music practice, individual music practice room(s), specialized storage/library rooms, and office(s).

(4) Combination school. A combination school shall provide the elements of the grades served by paragraphs (1), (2) and (3) above without duplication.

D. Career education

(1) Elementary school. No requirement.

(2) Middle school/junior high school. Career education programs shall be provided with no less than 3 net sf/student of the specialty program capacity of the school for career education. Each program lab or classroom space shall not be smaller than 650 net sf.

(3) High school. Career education programs space shall be provided with no less than 4 net sf/student of the specialty program capacity of the school for career education. Each program lab or classroom space shall not be smaller than 650 net sf.

(4) Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1), (2) and (3) above without duplication, but meeting the higher standards.

E. Technology-aided instruction. A school facility shall have space to deliver educational technology-aided instructional programs or have access to an alternate learning method. This requirement may be distributed throughout other program spaces within the facility.

(1) Elementary school. Provide space that meets 3 net sf/student of the planned school program capacity, with no less than 700 net sf.

(2) Middle school/junior high school. Provide space that meets at least 3 net sf/student of the planned school program capacity, with no less than 800 net sf.

(3) High school. Provide space that meets 3 net sf/student of the planned school program capacity, with no less than 900 net sf.

(4) Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1), (2) and (3) above without duplication, but meeting the higher standards.

F. Alternate delivery method. If an alternate delivery method is used by a school district for instruction, the space used for the alternate method may be approved following review by the council.
[6.27.30.14 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07; A, 7/15/10; A X/XX/XX]

6.27.30.15 PHYSICAL EDUCATION.

A. General requirements. A school facility shall have an area, space and fixtures for physical education activity. This space may have more than one function and may fulfill more than one standard requirement.

(1) Elementary school. Provide an indoor physical education teaching facility with at least 2,400 net sf. This space may have multi-purpose use in accommodating other educational program activities such as art program performances. [~~In addition, no less than 200 net sf for office/physical education equipment storage space shall be provided.~~]

(2) Middle school/junior high school. For a middle school/junior high school facility, an indoor physical education teaching facility that shall have a minimum of 5,200 net sf plus bleachers for 1.5 design capacity.

(3) High school. A physical education complex shall have a minimum of 6,500 net sf plus bleachers for 1.5 design capacity.

(4) Combination school. Provide the elements of the grades served by Paragraphs (1), (2) and (3) above without duplication, but meeting the higher net sf standards with bleacher capacity for at least 2.0-planned school program capacity. A single high school gymnasium shall fulfill the minimum requirements of both high school and middle school/junior high school classes. If the school includes an elementary, then it shall provide in addition the separate space required for an elementary school. This space may have more than one function and may fulfill more than one standard requirement.

B. Additional physical education requirements. In addition to space requirements in Subsection A:

(1) Elementary school. One office shall be provided, with physical education equipment storage with a minimum of [~~450~~] 200 net sf. This space may have more than one function and may fulfill more than one standard requirement.

(2) Middle school/junior high school. Two dressing rooms shall be provided, with lockers, showers and restroom fixtures. Two offices shall be provided, each with a minimum of 150 net sf. Each shall be provided with a telephone. [~~Physical~~] Separate physical education equipment storage space shall be provided.

(3) High school. Two dressing rooms shall be provided, with lockers, showers and restroom fixtures. Two offices shall be provided, each with a minimum of 150 net sf. Each shall be provided with a telephone. [~~Physical~~] Separate physical education equipment storage space shall be provided.

(4) Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1), (2) and (3) above without duplication, but meeting the higher standards.
[6.27.30.15 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07; A, 7/15/10; A X/XX/XX]

6.27.30.16 LIBRARIES AND MEDIA CENTERS/RESEARCH AREA - GENERAL REQUIREMENTS.

A. A school facility shall have space for students to access research materials, literature, non-text reading materials, books and technology. This shall include space for reading, listening and viewing materials.

(1) Elementary school. The area for stacks and seating space shall be at least 3 net sf/student of the planned school program capacity, but no less than 1,000 net sf. In addition, office/workroom space and secure storage shall be provided.

(2) Middle school/junior high school or high school. The area for stacks and seating shall be at least 3 net sf/student of the planned school program capacity. In addition, office/workroom space and secure storage shall be provided.

(3) Combination school. Provide the elements of the grades set out in Paragraphs (1) and (2) above without duplication, but meeting the higher standards.

B. A school facility shall have library fixtures, equipment and resources in accordance with the standard equipment necessary to meet the educational requirements of the public education department.

[6.27.30.16 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07; A, 7/15/10]

6.27.30.17 FOOD SERVICE STANDARDS.

A. Cafeterias - general requirements

(1) Serving and dining. A school facility shall have a covered area or space, or combination, to permit students to eat within the school site, outside of general classrooms. This space may have more than one function and may fulfill more than one adequacy standards requirement. Dining area shall be sized for the planned school program capacity to allow for a meal period requiring no more than 3 servings [~~in compliance with public education department requirements~~]. The dining area shall have no less than 15 net sf/seated student.

(2) Serving area shall be provided in addition to dining area.

(3) Fixtures and equipment. A school facility shall have space, fixtures and equipment accessible to the serving area, in accordance with the standard equipment required, for the preparation, receipt, storage or service of food to students.

(a) The space, fixtures and equipment shall be appropriate for the food service program of the school facility and shall be provided in consideration of the location of the facility and frequency of food service supply deliveries. Food service facilities and equipment shall comply with the food service and food processing regulations of the New Mexico department of environment.

(b) Fixtures and equipment should include: food prep area items, including sink, oven, range, serving area equipment (or buffet equipment), dishwasher, and cold storage, dry storage and other appropriate fixture and equipment items.

B. Kitchen. Kitchen and equipment shall comply with either the food preparation kitchen or the serving kitchen standards defined as follows:

(1) Food preparation kitchen - 2 net sf/meal served minimum based upon the single largest serving period:

(a) Elementary school: 1,000 net sf minimum

(b) Middle school/junior high school: 1,600 net sf minimum

(c) High school: 1,700 sf minimum

(d) Combination school: shall provide the elements of the grades served by Subparagraphs (a),

(b) and (c) above without duplication, but meeting the higher standards.

(2) Serving kitchen. Where food is not prepared, there shall be a minimum of 200 net sf with a hand wash sink and a phone.

[6.27.30.17 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07; A, 7/15/10; A X/XX/XX]

6.27.30.18 OTHER FACILITY AREAS.

A. Parent workspace. A school facility shall include a workspace for use by parents. If this space is provided, it shall consist of at least .5 net sf/student of the planned school program capacity but no less than 150 net sf. The space may consist of more than one room and may have more than one function.

B. Administrative space. A school facility shall have space to be used for the administration of the school. The space shall consist of a minimum of 150 net sf, plus 1.5 net sf/student of the planned school program capacity.

C. Student health, counseling and ancillary space. A school facility shall have space to isolate a sick student from the other students and may include space for the delivery of other health, counseling, testing and ancillary programs. This space shall be a designated space that is accessible to a restroom, and shall consist of at least 1 net sf/student of the planned school program capacity with a minimum of 150 net sf. The space may consist of more than one room and may have more than one function. This space shall include a telephone.

D. Faculty workspace or teacher lounge. A school facility shall have workspace available to the faculty. This space is in addition to any workspace available to a teacher, in or near a classroom. The space shall consist of 1 net sf/student of the planned school program capacity with no less than 150 net sf. The space may consist of more than one room and may have more than one function. This space shall include a break area with a sink.

[6.27.30.18 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07]

6.27.30.19 GENERAL STORAGE (EXCLUDES LOCKERS, JANITORIAL, KITCHEN, GENERAL CLASSROOM, SPECIALTY CLASSROOMS, AND ADMINISTRATIVE STORAGE). For storage, at least 1 net sf/student of the planned school program capacity may be distributed in or throughout any type of room or space, but may not count toward required room square footages. General storage must be securable and include textbook storage.

[6.27.30.19 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07]

6.27.30.20 MAINTENANCE OR JANITORIAL SPACE. Each school shall designate .5 net sf /student of the planned school program capacity for maintenance or janitorial space. Janitorial space shall include a janitorial sink.

[6.27.30.20 NMAC - N, 9/1/02; A, 8/31/05; A, 12/14/07]

6.27.30.21 TEACHERAGES. Teacherages shall meet standards required by the United States department of housing and urban development.

[6.27.30.21 NMAC - N, 9/1/02]

6.27.30.22 STANDARDS VARIANCE.

A. The council may grant a variance from any of the adequacy standards. The council shall grant a variance if it determines that the intent of the standard can be met by the school district in an alternate manner, or if a variance is required for appropriate programmatic needs as demonstrated by the district. If the council grants the variance, the school district shall be deemed to have met the standard.

B. The council may, with adequate justification, also grant a variance from any of the provisions of the New Mexico public school adequacy planning guide provided by the state for use in the programming and design of school projects to meet adequacy. Such variance shall be considered through an appeal to the council by the school district following a final administrative interpretation of the planning guide. Procedures for achieving final administrative interpretation and filing an appeal to the council for a variance are as provided for in the planning guide document.

[6.27.30.22 NMAC - N, 9/1/02; A, 12/14/07]

HISTORY OF 6.27.30 NMAC: [Reserved]