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October 12, 2011

MEMORANDUM

TO: Legislative Education Study Committee

FR: Kevin Force, JD

**RE: PUBLIC EDUCATION DEPARTMENT (PED) UPDATES: A-B-C-D-F
SCHOOLS RATING SYSTEM: PROPOSED RULEMAKING (NMAC 6.19.8):
GRADING OF PUBLIC SCHOOLS**

INTRODUCTION

On September 30, 2011, the Public Education Department (PED) published in the *New Mexico Register* a notice of proposed rulemaking that would create new rules to implement the requirements of the *A-B-C-D-F Schools Rating Act* (see Attachment 1, *PED Notice of Proposed Rulemaking 9/30/11*). The notice states that PED will conduct two public hearings on the proposed rules: (1) in Santa Fe on October 31, 2011; and (2) in Alamogordo on November 2, 2011. Written comments may be submitted to the department through 5:00 pm on the date of the public hearing.

The rules include a proposed effective date of November 30, 2011 (see Attachment 2, *Proposed Rule: A-B-C-D-F Schools Rating Act*).

This staff report includes:

- a comparison of the provisions of the proposed rule with provisions of the enabling statutes, the *A-B-C-D-F Schools Rating Act* (see Attachment 3, *Comparison of the A-B-C-D-F Schools Rating Act with 6.19.8 NMAC, Grading of Public Schools*); and
- background.

BACKGROUND

In 2011, legislation was enacted (Laws 2011, Chapter 10) to create new sections of the *Public School Code* to comprise the *A-B-C-D-F Schools Rating Act*, and to amend current law relating to school budget approval and program costs to ensure that local school boards and charter school governing authorities appropriately prioritize their resources for schools receiving a “D” or an “F” under the new system. The legislation provides that all New Mexico public schools shall be graded annually by PED, according to criteria established by department rules.

In PED’s analysis of the 2011 legislation, the department claimed that, in order to address concerns that the model utilizing adequate yearly progress (AYP) under the *No Child Left Behind Act* (NCLB) is ineffective and unclear, many jurisdictions (most notably Florida and New York City, but also states such as Arizona, Indiana, and Louisiana) have adopted school rating systems similar to New Mexico’s A-B-C-D-F rating system. Moreover, PED cited student, parent and stakeholder concern that AYP ratings are difficult to understand, and avers that the new system will be more transparent and understandable, allowing for better informed decisions regarding school and student performance.

However, the Legislative Education Study Committee (LESC) staff noted that the model used in Florida and New York may not be completely adaptable to New Mexico. School ratings are based in large part upon student growth, as measured by the standards-based assessment (SBA). The SBA, however, is only administered to students in grades 3 through 8, and grade 11. Thus, schools composed of kindergarten through second grade would have no assessment data, and high schools would have only one year of assessment data, and possibly none at all. The provision in rule regarding rating of kindergarten to grade 2 schools based on data from the next higher grade in the district would appear to address that issue for those schools, at least partially. For high schools, the proportional weight given to “student growth” is shifted to “school growth,” making assessment data less critical to the calculation. However, ratings are still based, at least in part, on assessment data not available for the grade levels tested in New Mexico, and no alternative bases for ratings are contemplated in the rule.

In its analysis, PED also stated that the department was negotiating with test vendors for an earlier administration of the SBA so that PED can publish school ratings before the end of an academic year.

At its July 2011 meeting, the LESL heard a presentation from Ms. Hanna Skandera, Secretary-designate of Public Education, regarding progress in developing the A-F schools rating system. She reported that she had met with the Superintendents Advisory Council and Dr. Peter Goldschmidt, Director of Assessment and Accountability, PED, and that although the issue of measuring academic growth for purposes of high school ratings had not been discussed; otherwise new system planning was making good progress.

The Secretary-designate also testified that PED intended to apply to the US Department of Education (USDE) for a waiver to use the New Mexico A-F schools grading system instead of the current AYP system, under proposed USDE flexibility to states that have an alternative accountability system.

In related testimony, a representative of the New Mexico Association of School Administrators concurred that the meeting of the Superintendents Advisory Council with the Secretary-designate had been worthwhile.

PED Notice of Proposed Rulemaking, 9/30/11

NEW MEXICO PUBLIC EDUCATION DEPARTMENT
NOTICE OF PROPOSED RULEMAKING

The New Mexico Public Education Department (“NMPED”) hereby gives notice that it will conduct a public hearing in Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on October 31, 2011, from 9:30 a.m. to 11:30 a.m. The NMPED will conduct a second public hearing at Alamogordo Public Schools, Board of Education Meeting Room, 1211 Hawaii Avenue, Alamogordo, New Mexico, on November 2, 2011, from 1:00 p.m. to 3:00 p.m. The purpose of the public hearing will be to obtain input on the proposed adoption of a new rule to implement the “A-B-C-D-F Schools Rating Act,” which requires the establishment of an easily understandable system for grading all public schools based upon criteria stated in the rule and also provides options for students enrolled in schools rated F for two of the last four years. The rule would be codified as 6.19.8 NMAC and entitled, “Grading of Public Schools”.

Interested individuals may provide oral or written comments at the public hearing and/or submit written comments to Ms. Mary H. Deets, Administrative Assistant, Office of General Counsel, Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 (MaryH.Deets@state.nm.us) (505) 827-6641 fax (505) 827-6681. To be considered, written comments must be received no later than 5:00 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed on the Department’s website (<http://ped.state.nm.us/>) under the “Public Meetings and Hearings” link, or obtained from Ms. Deets at the email address or phone number indicated.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in either of these meetings are asked to contact Ms. Deets as soon as possible. The NMPED requires at least ten (10) days advance notice to provide requested special accommodations.

Proposed Rule: A-B-C-D-F Schools Rating Act

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY
PART 8 GRADING OF PUBLIC SCHOOLS

6.19.8.1 ISSUING AGENCY: Public Education Department
 [6.19.8.1 NMAC – N, 11-30-11]

6.19.8.2 SCOPE: This rule shall apply to all public schools in New Mexico.
 [6.19.8.2 NMAC - N, 11-30-11]

6.19.8.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, and 22-2E-1 to 22-2E-4, being the A-B-C-D-F Schools Rating Act.
 [6.19.8.3 NMAC - N, 11-30-11]

6.19.8.4 DURATION: Permanent.
 [6.19.8.4 NMAC - N, 11-30-11]

6.19.8.5 EFFECTIVE DATE: November 30, 2011, unless a later date is cited at the end of a section.
 [6.19.8.5 NMAC - N, 11-30-11]

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 easily understandable to parents, school personnel and the interested community. Additionally, this rule establishes criteria for rating public schools and provides options for students in a failing school.
 [6.19.8.6 NMAC - N, 11-30-11]

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. “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. “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. “cohort graduation rate” means the percentage of students who graduate high school in four years with a New Mexico diploma of excellence. The cohort consists of all first-time ninth graders in the first year, joined by incoming tenth graders in the second year, eleventh graders in the third year, and twelfth graders in the fourth year. Students are excused from cohort membership if they transfer out, emigrate to another country, or die during that same period.

E. “college readiness” means the readiness of New Mexico high school students for success in higher education based on their ACT, PSAT, or AP test scores.

F. “department” means the New Mexico public education department and is identified by the acronym, PED.

G. “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.

H. “RTI programs” means a multi-tiered intervention model that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a framework for making educational programming and eligibility decisions. The model includes primary, secondary and tertiary levels of intervention based on progress monitoring to determine the student’s response or lack of response to the instruction/intervention.

I. “SAT” means a standardized test offered by the college board for college admissions in the United States.

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J. “School growth” means growth of an entire school performance over a three year period, as evaluated by value added modeling (VAM).

K. “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.

L. “secretary” means the secretary of public education of the PED.

M. “standards-based assessment” means the collection of instruments that assess student academic performance and the students’ progress toward meeting the New Mexico content standards with benchmarks and performance standards, and are administered annually in grades three, four, five, six, seven, eight, nine and eleven.

N. “status” means a student’s score of proficient or advanced on the New Mexico standards-based assessment.

O. “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;
- (2) maintaining a proficient or advanced proficient performance level as provided by department rule;

or

(3) remaining in beginning step or nearing proficient performance level but improving a number of scale score points as specified by department rule.

P. “VAM or “value added model” means estimating conditional school growth and conditional end status, where “conditional” refers to taking student background characteristics into account and “end status” refers to the school status in the current grading year.

[6.19.8.7 NMAC - N, 11-30-11]

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 reading and mathematics;
- (3) student growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics;
- (4) school growth in reading and mathematics;
- (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) school growth in reading and mathematics;
- (3) school growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics;
- (4) 4-year cohort graduation rate;
- (5) school growth in the 4-year cohort graduation rate;
- (6) college readiness (i.e., ACT, PSAT, or AP scores) or career readiness (i.e., pre-apprenticeship programs, and cooperative education programs);
- (7) school attendance; and
- (8) the results of an opportunity to learn survey.

D. The department shall annually publish on its website and provide written notification to all school districts and charter schools the additional academic indicators it will use to rate a public school and how much weight will be applied to each indicator.

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

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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, 11-30-11]

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;
- (2) 20 points for student growth in reading and mathematics;
- (3) 20 points for student growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics;
- (4) 10 points for school growth in reading and mathematics;
- (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 5 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 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 90 to 100 points;
- (2) a grade of B indicates a score of 80 to less than 90 points;
- (3) a grade of C indicates a score of 70 to less than 80 points;
- (4) a grade of D indicates a score of 60 to less than 70 points; and
- (5) a grade of F indicates a score of less than 60 points.

C. For high 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;
- (2) 10 points for school growth in reading and mathematics;
- (3) 10 points for school growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics;
- (4) 10 points for the 4-year cohort graduation rate;
- (5) 5 points for school growth in the 4-year cohort graduation rate;
- (6) 5 points for student participation in college or career readiness;
- (7) 10 points for student success in college or career readiness;
- (8) 5 points for school attendance;
- (9) 5 points for the results of an opportunity to learn survey;

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(10) In addition to the 100 points described above, a high school may be assigned a total of 5 bonus points for either demonstrated parental involvement or demonstrated student participation in extracurricular activities.

(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 activities, campus based leadership activities, or any of the activities governed by the New Mexico activities association, .

D. 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 to 100 points;
- (2) a grade of B indicates a score of 65 to less than 75 points;
- (3) a grade of C indicates a score of 55 to less than 65 points;
- (4) a grade of D indicates a score of 45 to less than 55 points; and
- (5) a grade of F indicates a score of less than 45 points.

E. 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, 11-30-11]

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) its 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 or AP scores; and
- (9) specific expenditures by the school related to teaching and assessing student proficiency in reading or mathematics; RTI programs; alignment of curriculum, instruction and professional development to common core; alignment to cultural based education principles; and parental involvement.

C. The department shall recommend 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 adopt and implement one or more recommended proven program or method until their failing school earns a grade of C or better for two consecutive school years.

D. A local school board or charter school governing body can be exempted from implementing PED-recommended proven programs or methods by demonstrating in writing to the satisfaction of the secretary that they have identified and will implement during the next school year a proven program or method linked to improved student achievement in reading or mathematics.

[6.19.8.10 NMAC - N, 11-30-11]

6.19.8.11 SMALL SCHOOL AND NON-ASSESSMENT CONSIDERATIONS:

A. A small school is a school with an enrollment of fewer than 25 students. To calculate the school grade of a small school, the department shall apply an alternate proficiency calculation that accumulates student

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proficiencies based on one or two immediately preceding years until a minimum group size is met. Once the minimum group size is met, the assessment data shall be used in grading that school.

B. Schools such as kindergarten through grade three schools that are comprised of grades that are not included in the administration of standards-based assessment, shall be assigned the assessment data from a school in the next higher grade in their district for the purpose of grading these schools.

[6.19.8.11 NMAC - N, 11-30-11]

HISTORY OF 6.19.8 NMAC: [Reserved]

DRAFT 9-30-11

**Comparison of the A-B-C-D-F Schools Rating Act with
6.19.8 NMAC, Grading of Public Schools**

Provision	A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)
Definitions:	<p>"Growth" (§ 2(A))</p>	<p>"Student growth" definition is identical to the definition of "growth" from the statute. (6.19.8.7(O))</p>
	<p>"School options" (§ 2(B))</p>	<p>No change.</p>
	<p>"ACT"</p>	<p>"ACT" means American college testing and is a standardized test offered by ACT, inc. for high school achievement and college admissions in the United States. (6.19.8.7(A))</p>
	<p>"AP"</p>	<p>"AP" means advanced placement, which is a curriculum based program sponsored by the College Board that offers standardized courses to high school students that are generally recognized to be equivalent to undergraduate courses in college, and for which participating colleges may grant college credit to students who obtained high enough scores on the exams to qualify. (6.19.8.7(B))</p>
	<p>"Career readiness"</p>	<p>"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</p>

**Comparison of the A-B-C-D-F Schools Rating Act with
6.19.8 NMAC, Grading of Public Schools**

Provision	A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)	
Definitions, continued:		their graduation from high school. To be considered successfully career ready, students must also graduate with a New Mexico diploma of excellence. (6.19.8.7(C))	
	“Cohort graduation rate”	Not included.	“Cohort graduation rate” means the percentage of students who graduate high school in four years with a New Mexico diploma of excellence. The cohort consists of all first-time ninth graders in the first year, joined by incoming tenth graders in the second year, eleventh graders in the third year, and twelfth graders in the fourth year. Students are excused from cohort membership if they transfer out, emigrate to another country, or die during that same period. (6.19.8.7(D))
	“College readiness”	Not included.	“College readiness” means the readiness of New Mexico high school students for success in higher education based on their ACT, PSAT, or AP test scores. (6.19.8.7(E))
	“Department”	Not included; but see §22-1-2.D.	“Department” means the New Mexico public education department and is identified by the acronym, PED. (6.19.8.7(F))
	“PSAT” or PSAT/NMSQT	Not included.	PSAT” or “PSAT/NMSQT” means the preliminary SAT/national merit scholarship qualifying test, which is a standardized test offered by the college board for both preliminary and primary selection to determine a student’s eligibility and qualification for the national merit scholarship program. (6.19.8.7(G))
	“RTI programs”	Not included; but see §22-13-7.F, “response to intervention programs”	“RTI programs” means a multi-tiered intervention model that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a framework for making educational programming and eligibility decisions. The model includes primary, secondary and tertiary levels of intervention based on progress monitoring to determine the student's response or lack of response to the instruction/intervention. (6.19.8.7(H))
	“SAT”	Not included.	“SAT” means a standardized test offered by the college board for college admissions in the United States. (6.19.8.7(I))
	“School growth”	Not included	“School growth” means growth of an entire school performance over a three year period, as evaluated by value added modeling (VAM). (6.19.8.7(J))

**Comparison of the A-B-C-D-F Schools Rating Act with
6.19.8 NMAC, Grading of Public Schools**

Provision		A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)
Definitions, continued:	“Secretary”	Not included; but see §22-1-2.V.	“Secretary” means the secretary of public education of the PED. (6.19.8.7(L))
	“Standards-based assessment”	Not included, but referred to in § 4(C).	“Standards-based assessment” means the collection of instruments that assess student academic performance and the students’ progress toward meeting the New Mexico content standards with benchmarks and performance standards, and are administered annually in grades three, four, five, six, seven, eight, nine and eleven. (6.19.8.7(M))
	“Status”	Not included.	“Status” means a student’s score of proficient or advanced on the New Mexico standards-based assessment. (6.19.8.7(N))
	“VAM” or “value added model”	Not included.	“VAM or “value added model” means estimating conditional school growth and conditional end status, where “conditional” refers to taking student background characteristics into account and “end status” refers to the school status in the current grading year. (6.19.8.7(P))
Rating Certain Schools:		Beginning with 2011-2012 school year, schools subject to annual rating by PED, according to the Act. (§3)	PED shall grade all public schools annually by assigning a letter grade of A, B, C, D or F to each school. (6.19.8.8(A))
Annual Ratings:		All public schools graded annually by PED. (§4(A))	Annually assign letter grade; assessments of all students, including disabled and English language learners to be included in consideration of the school’s grade. (6.19.8.8(A))
Letter Grades:		PED shall assign letter grade of A-F, according to department rules, after input from superintendants council. (§4(B))	Annually assign letter grade; assessments of all students, including disabled and English language learners to be included in consideration of the school’s grade. (6.19.8.8(A))
Ratings Based on Standards-based Tests:	Elementary & Middle Schools:	<p>Consideration of grades for elementary and middle schools shall include, <i>at minimum</i>:</p> <ul style="list-style-type: none"> • student proficiency, including achievement on the New Mexico standards-based assessments; • student growth in reading and mathematics; and • growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics. (§§ 	<p>Elementary and middle schools shall be graded based on:</p> <ul style="list-style-type: none"> • student performance, including achievement on the New Mexico standards-based assessments; • student growth in reading and mathematics; • student growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics; • school growth in reading and mathematics; • school attendance; and • the results of an opportunity to learn survey. (6.19.8.8(B)(1)-(6))

**Comparison of the A-B-C-D-F Schools Rating Act with
6.19.8 NMAC, Grading of Public Schools**

Provision		A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)
Ratings Based on Standards-based Tests, continued:	High Schools	<p>4(B)(1)(a)-(c)</p> <p>Consideration of grades for high schools shall include, <i>at minimum</i>:</p> <ul style="list-style-type: none"> • student proficiency, including achievement on the New Mexico standards-based assessments; • student growth in reading and mathematics; • growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics; and • additional academic indicators such as high school graduation rates, growth in high school graduation rates, advanced placement and international baccalaureate courses, dual enrollment courses and SAT and ACT scores. (§§ 4(B)(2)(a)-(d)) 	<p>High schools shall be graded based on:</p> <ul style="list-style-type: none"> • student performance, including achievement on the New Mexico standards-based assessments; • school growth in reading and mathematics; • school growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics; • 4-year cohort graduation rate; • school growth in the 4-year cohort graduation rate; • college readiness (i.e., ACT, PSAT, or AP scores) or career readiness (i.e., pre-apprenticeship programs, and cooperative education programs); • school attendance; and • the results of an opportunity to learn survey. (6.19.8.8(C)(1)-(8))
	Right to School Choice, Responsibility for Costs:	<p>In addition to any rights a parent may have pursuant to federal law, the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student in the same grade to any public school in the state not rated F or the right to have the student continue schooling by means of distance learning offered through the statewide or a local cyber academy.</p> <p>The school district or charter school in which the student is enrolled is responsible for the cost of distance learning. (§ 4(D))</p>	<p>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:</p> <ul style="list-style-type: none"> • transfer the student in the same grade to any public school in the state not rated F; or • 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. (6.19.8.8(E))

**Comparison of the *A-B-C-D-F Schools Rating Act* with
6.19.8 NMAC, *Grading of Public Schools***

Provision		A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)
Standards-based Tests:		The New Mexico standards-based assessments used for rating a school are those administered annually to students in grades three, four, five, six, seven, eight, nine and eleven. (§ 4(C))	“Standards-based assessment” means the collection of instruments that assess student academic performance and the students’ progress toward meeting the New Mexico content standards with benchmarks and performance standards, and are administered annually in grades three, four, five, six, seven, eight, nine and eleven. (6.19.8.7(M) (definitions))
Additional Remedy:		The school options available under the Act are in addition to any remedies provided for in the Assessment and Accountability Act for students in schools in need of improvement, or any other interventions prescribed by the federal <i>No Child Left Behind Act of 2001</i> . (§ 4(F))	The available school options, 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 <i>Assessment and Accountability Act</i> for students in schools in need of improvement or any other interventions prescribed by the federal <i>No Child Left Behind Act of 2001</i> . (6.19.8.8(G))
Transfer of Students:	Enrollment	Not included.	The transfer of any student under the Act, shall conducted according to open enrollment provisions, provided that: <ul style="list-style-type: none"> • 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; • 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 • enrollment procedures set forth in Section 22-8B-4.1 NMSA 1978 shall apply. (6.19.8.8(F))
	Transportation	Not included.	<ul style="list-style-type: none"> • A school district shall not be responsible for the transportation cost or transportation of a student who transfers 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. (6.19.8.8(F))

**Comparison of the *A-B-C-D-F Schools Rating Act* with
6.19.8 NMAC, *Grading of Public Schools***

Provision		A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)
Determination of a School's Grade	Elementary & Middle Schools	Not included.	<p>The indicators shall be weighted by assigning up to a maximum of 100 points: (6.19.8.9 (A))</p> <ul style="list-style-type: none"> • 40 points for student performance, including achievement on the New Mexico standards-based assessments; • 20 points for student growth in reading and mathematics; • 20 points for student growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics; • 10 points for school growth in reading and mathematics; • 5 points for school attendance; • 5 points for results of an opportunity to learn survey; and • In addition to the 100 points described above, an elementary or middle school may be assigned a total of 5 percent bonus points for either demonstrated parental involvement or demonstrated student participation in extracurricular activities, where: <ul style="list-style-type: none"> ➤ parental involvement shall include but not be limited to innovative school programs involving parental input, detailed parental surveys on key educational initiatives, successful school and parent partnerships, increasing parental volunteerism, parental membership on audit committees, and improvement of communication, all of which shall be verifiable; and ➤ extracurricular activities shall include any single or combination of student participatory activities that include but are not limited to campus based academic activities, campus based leadership activities, or any of the activities governed by the New Mexico activities association, all of which shall be verifiable. <p>After totaling the points of each indicator, the following grade shall be assigned: (6.19.8.9 (B))</p> <ul style="list-style-type: none"> • "A" for 90 to 100 points; • "B" for 80 to less than 90 points; • "C" for 70 to less than 80 points; • "D" for 60 to less than 70 points; and • "F" for less than 60 points.

**Comparison of the *A-B-C-D-F Schools Rating Act* with
6.19.8 NMAC, *Grading of Public Schools***

Provision		A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)
Determination of a School's Grade, continued:	High Schools:	Not included	<p>The indicators shall be weighted by assigning up to a maximum of 100 points: (6.19.8.9 (C))</p> <ul style="list-style-type: none"> • 40 points for student performance, including achievement on the New Mexico standards-based assessments; • 10 points for school growth in reading and mathematics; • 10 points for school growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics; • 10 points for the 4-year cohort graduation rate; • 5 points for school growth in the 4-year cohort graduation rate; • 5 points for student participation in college or career readiness; • 10 points for student success in college or career readiness; • 5 points for school attendance; • 5 points for the results of an opportunity to learn survey; • 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: <ul style="list-style-type: none"> ➤ parental involvement shall include but not be limited to verifiable innovative school programs involving parental input, detailed parental surveys on key educational initiatives, successful school and parent partnerships, increasing parental volunteerism, parental membership on audit committees, and improvement of communication, all of which shall be verifiable. ➤ extracurricular activities shall include any single or combination of verifiable student participatory activities that include but are not limited to campus based academic activities, campus based leadership activities, or any of the activities governed by the New Mexico activities association. <p>After totaling the percentage scores and corresponding points of each indicator, the following grade shall be assigned: (6.19.8.9 (D))</p> <ul style="list-style-type: none"> • "A" for 75 to 100 points; • "B" for 65 to less than 75 points; • "C" for 55 to less than 65 points; • "D" for 45 to less than 55 points; and • "F" for less than 45 points.

**Comparison of the *A-B-C-D-F Schools Rating Act* with
6.19.8 NMAC, *Grading of Public Schools***

Provision	A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)
Limited Exception:	Not included.	For the 2011-2012 school year <i>only</i> , any school that meets adequate yearly progress under NCLB shall not be assigned a grade lower than a C.
Prioritization of District Resources:	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 years. (§§ 4(E), 5(A)(3), 6(B), which are a section of the <i>A-B-C-D-F School Ratings Act</i> and two sections of the <i>Public School Finance Act</i> .	As part of the annual budget approval process pursuant to Section 22-8-11 NMSA 1978, on or before July 1 of each year, the department shall ensure that a local school board or governing body of a charter school is prioritizing resources of a public school rated D or F toward proven programs and methods linked to improved student achievement until the public school earns a grade of C or better for two consecutive school years. (6.19.8.10(A))
∞ Determining Prioritization of Resources:	Not included.	To determine the prioritization of resources of a public school rated D or F, the department shall examine any combination of: (6.19.8.10(B)) <ul style="list-style-type: none"> • a school’s core curricula in reading and mathematics; • a school’s intervention curricula in reading and mathematics; • 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; • its educational plan for student success; • the licensure and documented skill set of the school’s teachers and administrators; • any short cycle assessments administered by the school in reading or mathematics; • any learning software used by the school to teach reading or mathematics; • any district or PED data related to student proficiency in reading or mathematics, high school graduation rates, advanced placement courses, growth in high school graduation rates, and ACT, PSAT or AP scores; and • specific expenditures by the school related to teaching and assessing student proficiency in reading or mathematics; RTI programs; alignment of curriculum, instruction and professional development to

**Comparison of the *A-B-C-D-F Schools Rating Act* with
6.19.8 NMAC, *Grading of Public Schools***

Provision	A-B-C-D-F Schools Rating Act	Implementing Rules (6.19.8 NMAC Grading of Public Schools)
		common core; alignment to cultural based education principles; and parental involvement
PED-recommended Programs:	Not included.	<ul style="list-style-type: none"> • The department shall recommend 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 adopt and implement one or more recommended proven program or method until their failing school earns a grade of C or better for two consecutive school years. (6.19.8.10(C))
District-identified Programs, Exception:	Not included.	A local school board or charter school governing body can be exempted from implementing PED-recommended proven programs or methods by <i>demonstrating in writing to the satisfaction of the secretary</i> that they have identified and will implement during the next school year a proven program or method linked to improved student achievement in reading or mathematics. (6.19.8.10(D))
Small School Considerations:	Not included.	To calculate the school grade of a school with an enrollment of fewer than 25 students, the department shall apply an alternate proficiency calculation that accumulates student proficiencies based on one or two immediately preceding years until a minimum group size is met. Once the minimum group size is met, the assessment data shall be used in grading that school. (6.19.8.11(A))
Non-Assessment Considerations:	Not included.	Schools such as kindergarten through grade three schools that are comprised of grades that are not included in the administration of standards-based assessment, shall be assigned the assessment data from a school in the next higher grade in their district for the purpose of grading these schools. (6.19.8.11(B))