

# POLICY MATTERS

*NM Public Education Department Policy Division*



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## Welcome

The PED Policy Division is excited to debut its first newsletter. Every month the division will share the latest education-related updates to New Mexico Administrative Code, as well as any relevant legislative information.

This month's issue comes at a time of great uncertainty, with schools closed due to the COVID-19 health crisis and lawmakers facing a special session to scale back a budget they passed only two months ago.

Inside are the latest department-proposed and adopted rules, along with a list and summary of education-related bills passed by the Legislature during the 2020 legislative session. We look forward to using this newsletter to keep you informed and up-to-date with division work and legislative news.

# Adopted extended learning time rule

## **6.30.16 NMAC, Extended Learning Time Program: Effective May 5, 2020**

The purpose of the new rule is to provide criteria for the development and implementation of the extended learning time program to maximize successful outcomes for students. Development and implementation includes operating, assessing, and evaluating extended learning time programs, and assisting school districts and charter schools as they build capacity to offer extended learning time programs.

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## Proposed Rulemaking

### **6.35.2 NMAC, Implementing the Indian Education Act: Hearing May 19, 2020**

The purpose of the proposed repeal and replace of 6.35.2 NMAC, Implementing the Indian Education Act, is to require and implement the American Indian/Alaska Native student needs assessment, accountability tool, and systemic framework for improving educational outcomes for American Indian and Alaska Native students.

### **6.30.12 NMAC, K-5 Plus Program: Hearing May 19, 2020**

The purpose of the proposed repeal of 6.30.12, K-3 Plus Program to be replaced with 6.30.12, K-5 Plus Program is to provide criteria for the development and implementation of the K-5 plus program.

### **6.31.2 NMAC, Children with Disabilities/Gifted Children: Hearing May 19, 2020**

The purpose of the proposed repeal and replace of 6.31.2 NMAC, Children with Disabilities/Gifted Children, is to provide public agencies with the requirements for serving students with disabilities, including composition of the individualized education program (IEP) team and providing information on the full continuum of services. The proposed repeal and replace also includes requirements for a public agency, including NMSD and NMSBVI, if a student is deaf, blind, deafblind, or has a hearing or visual impairment.

### **6.60.7 NMAC, Educator Licensure Application Fee: Hearing May 19, 2020**

The purpose of the proposed amendment of 6.60.7 NMAC, Educator Licensure Application Fee, is to establish requirements for a military member or veteran to obtain a licensure fee exemption.

### **6.19.9 NMAC, Early Literacy Remediation, Interventions, and Family Engagement: Hearing May 19, 2020**

The purpose of the proposed repeal of 6.19.9 NMAC, Early Literacy Remediation, Interventions, and Family Engagement, is to repeal a rule that does not align to current best practices, including conflicts between the rule and the Multi-Level System of Support, which allows for local education agencies to maintain local control. Additionally, the repeal of this rule allows school districts flexibility to identify best practices for engaging parents and enables local education agencies to provide ongoing interaction and communication.

# 2020 Education-related legislation

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## Early Childhood

**HB83, Early Childhood Education & Care Fund (Laws 2020, Ch. 3)**, creates the early childhood education and care fund (ECTF); distributes revenue in excess of an annual five-year average for federal mineral leasing payments to the fund; creates an early childhood education and care program fund; distributes \$20 million from the ECTF fund to the program fund in FY22, and then in FY23 and each year thereafter, distributes the greater of \$30 million or 5 percent of the three-year average of the ECTF fund to the program fund; creates the excess extraction taxes suspense fund; distributes excess oil and gas emergency school tax revenue to the excess extraction taxes suspense fund; and transfers revenue in the excess extraction taxes suspense fund to the tax stabilization reserve and to the ECTF.

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## Educator Pipeline

**HB62, Teacher Mentorship Program (Laws 2020, Ch. 24)**, requires school districts and charter schools to have formal teacher mentorship programs approved annually by the Public Education Department (PED); creates the beginning teacher mentorship fund (BTMF) administered by PED; and amends statute on teacher mentorship for beginning teachers.

**HB92, Teacher Residency Act (Laws 2020, Ch. 25)**, creates a teacher residency program; provides program components; provides eligibility requirements; provides participant selection requirements; provides rulemaking authority; provides reporting requirements; and creates a teacher residency fund.

**HB102, National Board Certification Scholarship Act (Laws 2020, Ch. 26)**, allows the PED to award scholarships to level two or level 3-A teachers for the cost of National Board certification; provides for applicant qualifications; requires PED to provide an annual report evaluating the performance of scholarship recipients; and creates a National Board certification scholarship fund.

**HB30, Expedited Licensure for Military Families (Laws 2020, Ch. 6)**, provides for a waiver of fees for and expedited issuance of teaching licenses for military service members, their spouses, their dependent children, and certain veterans.

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## Student Supports

**HB10, No Reduced School Meal Copayments (Laws 2020, Ch. 12)**, eliminates reduced-price copayments for school breakfast and lunch programs in FY21 and subsequent years.

**HB59, At-Risk Program Units & Index Calculation Change (Laws 2020, Ch. 23)**, increases the multiplier used to calculate the at-risk index in the state equalization guarantee from 0.25 in FY20 to 0.30 in FY21 and subsequent years.

**SB130, School Credit for Transfer Students (Laws 2020, Ch. 50)**, requires public schools to give credit to students who have experienced a disruption in the student's education for work completed prior to transferring schools, regardless of whether the transfer occurs at the end of a grading period; and requires school districts to follow the PED-adopted rule on awarding credit.

## 2020 Education-related legislation continued

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### Labor Issues

**SB111, Changes to Educational Retirement (Laws 2020, Ch. 10)**, removes provisions from the Educational Retirement Act (ERA) requiring nonrefundable employee and employer contributions for retirees who return to work at 0.25 FTE or less; allows retired members to return to work without suspending pension payments so long as the retiree has not worked for or contracted with a school for at least 90 days prior to returning to work and the retiree will earn an annual salary of less than \$15 thousand; includes a new section of law exempting day-to-day substitute teachers from coverage under the ERA but states that an employee engaged to fill a vacant position, including a vacancy resulting from a leave of absence of at least 90 days, is not considered a substitute and is covered under the ERA; and removes provisions in the ERA requiring employee contributions be made by Public Employees Retirement Association retirees who return to work for an ERB-covered employer.

**HB364, Public Sector Collective Bargaining Changes (Laws 2020, Ch. 48)**, modifies the Public Employee Bargaining Act to clarify remedies available to the Public Employees Labor Relations Board; eliminates local labor boards with exceptions; and repeals and reenacts sections of public law relating to public officers and employees.

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### Capital Outlay

**HB254, Distributions to School Districts (Laws 2020, Ch. 64)**, amends the Public School Capital Improvements Act (commonly known as SB9) state funding calculation to increase capital outlay funding for all school districts; maintains the current Public School Capital Improvements statutory structure, in that the state funding calculation is based on a program guarantee, and school districts either get a minimum or maximum guarantee adjustment depending on the funds school districts generate from a local two-mill levy; adjusts the amounts included through the minimum and maximum guarantee adjustment as well as the types of program units included in the calculation; and adds an additional factor to the funding calculation so all school districts also receive an additional distribution adjusted by their Public School Capital Outlay Act phase two state match percentage.

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### Safety

**HB184, Law Enforcement Officers at Schools (Laws 2020, Ch. 67)**, requires certified law enforcement officers seeking employment as school resource officers (SROs) be specifically trained for these positions; allows school district police departments employing full-time SROs to receive funding from the law enforcement protection fund; changes the amounts distributed from the law enforcement protection fund; and provides distributions from the law enforcement protection fund to the Department of Public Safety to offset costs incurred due to special deployments; requires certified law enforcement officers to complete training, which must be approved by the New Mexico Law Enforcement Academy, in consultation with the PED, within 12 months of being assigned as SROs; and changes the date by which law enforcement officers already serving as SROs must complete their training.

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## 2020 Education-related legislation continued

### Budget Transparency

**SB96, Online School Budget Reporting (Laws 2020, Ch. 71)**, appropriates \$3 million from the public education reform fund to the Public Education Department (PED) for the purpose of implementing and maintaining a statewide online school financial reporting system by December 1, 2021; requires PED to consult with stakeholders on designing reporting system with a chart of accounts that will enable comparisons between schools, local education agencies, and regional education cooperatives; and creates reporting requirements for public schools.

### Licensure

**SB137, Licensure Eligibility Without Lawful Presence (Laws 2020, Ch. 53)**, creates a new section of law establishing that a person who is qualified for an occupational or professional license remains qualified regardless of citizenship or immigration status; and prohibits any administrative rule or agency procedure from being adopted or enforced that would conflict with a person's eligibility for occupational or professional licensure or certification.

#### POLICY DIVISION STAFF

DIRECTOR  
JOHN SENA

DEPUTY DIRECTOR  
HEIDI MACDONALD

POLICY ANALYSTS  
ABENICIO BALDONADO  
DENISE TERRAZAS

NAEP COORDINATOR  
MARIE JULIENNE

BUSINESS OPERATIONS  
TINA TENORIO

### Diplomas

**SB99, Diplomas for Vietnam Veterans (Laws 2020, Ch. 72)**, allows local school boards to award a high school diploma to any honorably discharged veteran of the Vietnam War whose entry to service prevented the graduation from a New Mexico high school.

## Special Legislative Session

New Mexico lawmakers are expected to meet in June for a special legislative session to address the fiscal impacts of the COVID-19 health crisis. Since mid-March, when the first cases of COVID-19 were detected in New Mexico, the state has experienced dramatic drops in revenue from the oil and gas industries and taxes, creating a short fall of up to \$2 billion, according to estimates. Lawmakers will be faced with recreating a state budget that included multiple investments in education, including an early childhood trust fund, increased funds for public schools, and the creation of an opportunity scholarship.

Lawmakers appropriated an additional \$168.5 million to the State Equalization Guarantee, an increase of about 5.5 percent. That increase included \$50 million to increase the at-risk index from 0.25 to 0.30, \$59 million to give teachers a 4 percent average raise, \$10 million to fund early literacy initiatives, provide funds for teacher mentoring, and expand physical education programs. These appropriations, along with multiple categorical appropriations, will have to be revisited.