

# [EXT] 6.30.18 NMAC Public Comment

Arika Sanchez <arika.sanchez@nmcan.org>

Thu 7/23/2020 6:40 AM

To: FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

 1 attachment

NMCAN Partial Credits Public Comment.pdf;

Please accept the attached document as public comment on 6.30.18 NMAC.

Thank you.

Arika

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**Arika E. Sanchez**  
**Director of Policy and Advocacy**

NMCAN  
625 Silver Avenue SW, Suite 345, Albuquerque, NM 87102  
505-217-0220 ext. 1003

[www.nmcan.org](http://www.nmcan.org)

*Partnering with Young People to Build Community, Promote Equity, and Lead Change*

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Arika E. Sánchez  
Director of Policy and Advocacy  
NMCAN

Sent from my iPhone



July 23, 2020

John Sena  
Policy Division  
Public Education Department  
300 Don Gaspar Ave., Santa Fe, NM 87501

Via Email: [rule.feedback@state.nm.us](mailto:rule.feedback@state.nm.us)

Re: 6.30.18 NMAC Public Comment

Mr. Sena:

NMCAN is an organization that works with young people impacted by systems to improve their transition to adulthood. Through our work with young people ages 14-25 impacted by foster care, juvenile justice, and/or homelessness, we see that students with these experiences are often forced to change schools for reasons beyond their control. When they change schools, they typically lose credit for work completed in previous schools and as a result, are not able to graduate on time, resulting in many giving up and leaving school.

NMCAN supports the proposed new rule 6.30.18 NMAC, Partial Credit for Adjudicated or Mobile Students, because it will provide clear guidance to school districts on how to award partial credits to students, ensuring these students earn credits and progress in their education.

Two issues need to be addressed to ensure: (1) The rule will not create stigma for the students it intends to benefit, and (2) Partial credits will be awarded as intended.

As proposed, 6.30.18.7 has separate definitions for “adjudicated student” and “mobile student”. Defining these two categories of student separately when there is no distinction in the law (22-12A-14 NMSA 1978) as to how these students’ records are transferred or credits are awarded is unnecessary. Creating this distinction in regulation, as well as using the term “adjudicated” to refer to students creates stigma for students who are experiencing foster care or the juvenile justice system or are in treatment foster care or receiving court-ordered services.

We recommend that the definitions of “adjudicated student” and “mobile student” be replaced with the definition of “a student who has experienced a disruption in the student's education” as it appears in 22-12A-14 NMSA 1978, and all references to “adjudicated or mobile student” be replaced with “a student who has experienced a disruption in the student's education”. Alternatively, we recommend that the definition of “adjudicated student” be removed and the definition of “mobile student” be expanded to include those students defined in 22-12A-14 NMSA 1978.

As proposed, we are concerned that the phrasing of 6.30.18.10 will be interpreted to mean that the awarding of credits as outlined is permissive rather than mandatory. While the first line uses the mandatory term “shall”, stating, “An adjudicated or mobile student shall receive credit for any work



completed prior to the transfer.”, the subsequent points A and B use the permissive term “may”, stating, “Public schools may award up to a maximum of one credit as follows for yearlong courses:”.

We recommend that the word “may” in 6.30.18.10 A and B be replaced with “shall”. This change will ensure students receive the credit to which they are entitled and schools and districts implement a uniform approach for determining how credits are awarded.

Thank you for your consideration of these comments.

Sincerely,

Arika E. Sánchez  
Director of Policy and Advocacy  
NMCAN



July 23, 2020

John Sena  
Policy Division  
Public Education Department  
300 Don Gaspar Ave., Santa Fe, NM 87501

Via Email: [rule.feedback@state.nm.us](mailto:rule.feedback@state.nm.us)

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We recommend that the word “may” in 6.30.18.10 A and B be replaced with “shall”. This change will ensure students receive the credit to which they are entitled and schools and districts implement a uniform approach for determining how credits are awarded.

Thank you for your consideration of these comments.

Sincerely,

Arika E. Sánchez  
Director of Policy and Advocacy  
NMCAN

# [EXT] In re: 6.30.18 NMAC, Partial Credit for Adjudicated or Mobile Students

Lydia Ashanin <LAshanin@TrueHealthNewMexico.com>

Thu 7/23/2020 9:02 AM

To: FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

 1 attachment

NMCAN\_Partial\_Credits\_Public\_Comment.pdf;

Dear NMPED,

I fully support the rule change proposals put forth by NMCAN in the attached letter. From my past work experience with at-risk youth, I know that the term 'adjudicated' can be understood as pejorative; therefore I fully support the language change proposed by NMCAN. I also support the language change from 'shall' to 'may' to strengthen the commitment to assisting students in being awarded their full credits as the law intends.

Thank you for your on-going commitment to students who have experienced a disruption in their education. We need the bright, sharp minds of all of our young people to be empowered and supported to grow and succeed for our community to be strong and thriving, now and for generations to come. An educational system that supports all students, and particularly those who have experienced an unfortunate disruption in their education, is what we need to ensure a positive future for New Mexico and all who love our state.

**Lydia T. Ashanin**

*8001 Cliff Road NW*

*Albuquerque NM 87120*

*505.554.7787*

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July 23, 2020

John Sena  
Policy Division  
Public Education Department  
300 Don Gaspar Ave., Santa Fe, NM 87501

Via Email: [rule.feedback@state.nm.us](mailto:rule.feedback@state.nm.us)

Re: 6.30.18 NMAC Public Comment

Mr. Sena:

NMCAN is an organization that works with young people impacted by systems to improve their transition to adulthood. Through our work with young people ages 14-25 impacted by foster care, juvenile justice, and/or homelessness, we see that students with these experiences are often forced to change schools for reasons beyond their control. When they change schools, they typically lose credit for work completed in previous schools and as a result, are not able to graduate on time, resulting in many giving up and leaving school.

NMCAN supports the proposed new rule 6.30.18 NMAC, Partial Credit for Adjudicated or Mobile Students, because it will provide clear guidance to school districts on how to award partial credits to students, ensuring these students earn credits and progress in their education.

Two issues need to be addressed to ensure: (1) The rule will not create stigma for the students it intends to benefit, and (2) Partial credits will be awarded as intended.

As proposed, 6.30.18.7 has separate definitions for “adjudicated student” and “mobile student”. Defining these two categories of student separately when there is no distinction in the law (22-12A-14 NMSA 1978) as to how these students’ records are transferred or credits are awarded is unnecessary. Creating this distinction in regulation, as well as using the term “adjudicated” to refer to students creates stigma for students who are experiencing foster care or the juvenile justice system or are in treatment foster care or receiving court-ordered services.

We recommend that the definitions of “adjudicated student” and “mobile student” be replaced with the definition of “a student who has experienced a disruption in the student's education” as it appears in 22-12A-14 NMSA 1978, and all references to “adjudicated or mobile student” be replaced with “a student who has experienced a disruption in the student's education”. Alternatively, we recommend that the definition of “adjudicated student” be removed and the definition of “mobile student” be expanded to include those students defined in 22-12A-14 NMSA 1978.

As proposed, we are concerned that the phrasing of 6.30.18.10 will be interpreted to mean that the awarding of credits as outlined is permissive rather than mandatory. While the first line uses the mandatory term “shall”, stating, “An adjudicated or mobile student shall receive credit for any work



completed prior to the transfer.”, the subsequent points A and B use the permissive term “may”, stating, “Public schools may award up to a maximum of one credit as follows for yearlong courses:”.

We recommend that the word “may” in 6.30.18.10 A and B be replaced with “shall”. This change will ensure students receive the credit to which they are entitled and schools and districts implement a uniform approach for determining how credits are awarded.

Thank you for your consideration of these comments.

Sincerely,

Arika E. Sánchez  
Director of Policy and Advocacy  
NMCAN

7/24/2020

[EXT] Proposed Rule: Partial Credit for Adjudicated o... - FeedBack, Rule, PED

# [EXT] Proposed Rule: Partial Credit for Adjudicated or Mobile Students

Petra Jimenez Maes <suppjm@gmail.com>

Fri 7/24/2020 3:21 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

 1 attachment

comments.pdf;

I attach my comments to the proposed rule.

Petra Jimenez Maes,  
Retired Justice

*Petra Jimenez Maes*  
*Retired Justice, New Mexico Supreme Court*  
*2363 Botolph Rd.*  
*Santa Fe, New Mexico 87505*

July 24, 2020

John Sena  
Policy Division  
Public Education Department  
300 Don Gaspar Ave., Santa Fe, NM 87501

Re: 6.30.18 NMAC Public Comment

Dear Mr. Sena,

For 20 years, I served in the position of Justice on the New Mexico Supreme Court. During that time I worked on many initiatives that impacted children and youth who came into the Courts either because they were abused, neglected or were involved in criminal activity. More specifically, in 2012, I partnered with Governor Susan Martinez and we created the Education Task Force to identify and address the educational issues of children and youth in the State's custody. One of the major recommendations from the Task Force concerned the students, who were impacted by foster care, juvenile justice or homelessness, and were often forced to change schools for reasons beyond their control. When they changed schools, they lost credit for work completed in previous schools and as a result, were not able to graduate on time and for many they gave up and left school. The passage by New Mexico Legislature of SB 130, will address this critical issue so that transfer students will get school credit.

I join NMCAN in supporting the proposed new rule 6.30.18 NMAC but recommend changes to ensure that: (1) The rule will not create stigma for the students it intends to benefit, and (2) Partial credits will be awarded as intended.

The proposed regulation creates stigma for the students it intends to benefit, by providing in section 6.30.18.7, separate definitions for "adjudicated student" and "mobile student." By making this distinction in regulation, as well as using the term "adjudicated" to refer to students, creates stigma for students who are in foster care or in the juvenile justice system or are in treatment foster care or receiving court-ordered services. I note that when drafting Section 22-12A-14 NMSA 1978, we were careful to not make this distinction because of the potential stigma it would create and because such distinction was unnecessary to determine how these students' records are transferred or credits are awarded.

Therefore, I also join in recommending that the definitions of "adjudicated student" and "mobile student" be replaced with the definition of "a student who has experienced a disruption in the student's education" as it appears in 22-12A-14 NMSA 1978, and all references to "adjudicated or mobile student" be replaced with "a student who has experienced a disruption in the student's

education". Alternatively, it is recommend that the definition of "adjudicated student" be removed and the definition of "mobile student" be expanded to include those students defined in 22-12A-14 NMSA 1978.

To ensure that partial credits are awarded, I join in recommending that the word "may" in 6.30.18.10 A and B be replaced with "shall." The first line of the proposed regulation uses the mandatory term "shall," stating: "An adjudicated or mobile student shall receive credit for any work completed prior to the transfer." However, the subsequent points A and B use the permissive term "may," stating: "Public schools may award up to a maximum of one credit as follows for yearlong courses." Following the rule used in statutory construction, "may" is interpreted as permissive and "shall" as mandatory. I suggest that using "shall" ensures students receive the credit to which they are entitled and schools and districts shall implement a uniform approach for determining how credits are awarded.

Thank you for the opportunity to make comment. I am available to discuss my recommendations. My cell number os 505-660-5549.

Respectfully,

Petra Jimenez Maes

## [EXT] DRNM Comments 6.30.18 NMAC

Jesse Clifton <jclifton@drnm.org>

Mon 7/27/2020 1:00 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

Cc:Don Priola <dpriola@drnm.org>; Marilyn Wolfe <mwolfe@drnm.org>;

 1 attachment

Final\_Comments 6 30 18\_7 27 2020.pdf;

Please see the attached .pdf document with Disability Rights New Mexico's comments for proposed 6.30.18 NMAC. Please contact our office if you have any questions or concerns.

Best,

Jesse D. Clifton  
Attorney and Corinne Wolfe Fellow for Transformative Advocacy  
Disability Rights New Mexico  
3916 Juan Tabo Blvd. NE  
Albuquerque NM 87111  
(505) 256-3100

July 27, 2020

Mr. John Sena  
Policy Division  
New Mexico Public Education Department  
300 Don Gaspar Ave.  
Room 121  
Santa Fe, NM 87501

**SUBMITTED VIA EMAIL AS PDF ATTACHMENT TO:** [Rule.Feedback@state.nm.us](mailto:Rule.Feedback@state.nm.us)

*RE:* Proposed Rulemaking 6.30.18 NMAC Partial Credit for Adjudicated or Mobile Students

Dear Mr. Sena,

Disability Rights New Mexico (“DRNM”) is the designated protection and advocacy agency in New Mexico whose purpose is to promote, protect, and expand the rights of individuals with disabilities. As part of that mission, DRNM advocates on behalf of students with disabilities across the state. In fulfilling that objective, DRNM is submitting the written comments below regarding the proposed introduction of new regulations on Partial Credit for Adjudicated or Mobile Students in the New Mexico Administrative Code (“NMAC”). DRNM appreciates the opportunity to share our thoughts on this important regulation with the New Mexico Public Education Department (“PED” or “the Department”).

DRNM would like to point out to PED that the proposed draft is listed as “Title 6 Chapter 30 Part 17” in the proposed regulation block-heading. This appears to be a simple error and should read “Part 18” instead of “Part 17.” The notice of proposed rulemaking and the rest of the proposed regulations accurately reflect their designation under Part 18. Furthermore, PED just promulgated 6.30.17 NMAC last month regarding Structured Literacy. To avoid confusion and ensure consistency, PED should change the heading information of this proposed regulation to accurately reflect its designation under 6.30.18 NMAC.

DRNM appreciates that PED has included students identified as being “placed in a mental health treatment facility...” Presumably, this would include Residential Treatment Centers (RTCs), which are considered mental health facilities that are subject to 7.20.12 NMAC (Licensing

Requirements for Child and Adolescent Mental Health Facilities). *See* 7.20.12.7(TT) NMAC. Further, RTCs are affirmatively required to ensure “that every child in residence attend(s) an appropriate education program in accordance with New Mexico state law.” 7.20.12.34 NMAC. PED may already agree that RTCs qualify as mental health treatment facilities and anticipated their inclusion in the definition. Nevertheless, PED should specifically include RTCs in the proposed regulation’s definition of “mobile student” and suggests the following language under 7.20.12(B)(4) NMAC: “...placed in a mental health treatment facility, *including residential treatment centers*, or habilitation program for...”

DRNM believes it is particularly important that RTCs be explicitly mentioned in the proposed regulation because RTCs are not entirely uncommon placements for students with disabilities in emergency situations. Furthermore, DRNM also believes that PED should specifically include how partial credit is tracked for students with disabilities who are placed in RTCs. Our concern is that students with disabilities in RTCs may not have the same opportunity to earn partial credit during their time in the RTC if the RTC itself does not provide special education services or instruction. Additionally, these students are potentially less likely to be awarded partial credit from their former school district if their placement in the RTC is considered a “unilateral, parental (private) placement.” Due to these additional considerations/vulnerabilities for students with disabilities in the RTC setting, DRNM urges PED to consider explicitly addressing how partial credit for students with disabilities will be tracked before, during, and following their residency in these mental health treatment facilities.

DRNM appreciates the opportunity to participate in the comment period for this proposed regulation. We would also like to extend our appreciation to PED for providing these regulations, which will allow mobile or adjudicated students to continue to gain traction in their education. These regulations will likely improve outcomes for these students, and it is our hope that PED specifically extends these regulations to address students with disabilities who have been placed in RTCs.

Sincerely,



Jesse D. Clifton

Staff Attorney  
Corinne Wolfe Fellow for Transformative Advocacy  
Disability Rights New Mexico  
3916 Juan Tabo Blvd. NE  
Albuquerque, NM 87111  
**Office:** (505) 256-3100  
**Fax:** (505) 256-3184  
[jclifton@drnm.org](mailto:jclifton@drnm.org)



## [EXT] public comment- 6.30.18, Partial Credit for Adjudicated or Mobile Students

Heather Bassett <heather.bassett@aps.edu>

Mon 7/27/2020 1:23 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

 1 attachment

6.30.17\_PARTIAL CREDIT FOR ADJUDICATED OR MOBILE STUDENTS\_APS feedback.pdf;

Dear Mr. Sena,

Attached are track changes recommended by Albuquerque Public Schools to PED regarding the partial credit rule open to public comment until July 27, 2020 at 5pm.

A team of APS leaders from multiple departments with a long history of advocating for educationally mobile students believes the rule needs clarification to terms, definitions, and the determination of credit. The amount of weeks varies based on local models of instruction. The current school closure situation, in fact, is bringing about creativity in ways to meet instructional hours that may not align to the determination of credit based on weeks. In fact, some students can complete credit through online competency based instruction, rather than weeks in a seat.

Most importantly, Albuquerque Public Schools believes the rule in determination of credit should indicate districts "shall" award credit, not "may," or the ability to help educationally mobile students move closer to graduation is still left to the discretion of districts to support these students.

Please feel free to contact me with any further questions.

Sincerely,  
Heather Bassett

--

Heather Bassett  
Ph.D. I Policy Analyst/Government Affairs Liaison Albuquerque Public Schools

Cell: [505-350-1649](tel:505-350-1649) | [heather.bassett@aps.edu](mailto:heather.bassett@aps.edu) | PO Box 25704 Albuquerque, NM 87125-0704

**TITLE 6 PRIMARY AND SECONDARY EDUCATION**  
**CHAPTER 30 EDUCATIONAL STANDARDS - GENERAL REQUIREMENTS**  
**PART 17 PARTIAL CREDIT FOR ADJUDICATED OR MOBILE STUDENTS**

**6.30.17.1 ISSUING AGENCY:** Public Education Department, hereinafter the “department”.  
[6.30.17.1 NMAC - N, 6/23/2020]

**6.30.17.2 SCOPE:** This rule shall apply to all public schools in New Mexico.  
[6.30.17.2 NMAC - N, 6/23/2020]

**6.30.17.3 STATUTORY AUTHORITY:** Sections 9-24-8, 22-2-1, 22-2-2, and 22-12A-14 NMSA 1978.  
[6.30.17.3 NMAC - N, 6/23/2020]

**6.30.17.4 DURATION:** Permanent.  
[6.30.17.4 NMAC - N, 6/23/2020]

**6.30.17.5 EFFECTIVE DATE:** June 23, 2020, unless a later date is cited at the end of a section.  
[6.30.17.5 NMAC - N, 6/23/2020]

**6.30.17.6 OBJECTIVE:** The purpose of this rule is to establish the parameters for awarding partial credits to students identified as adjudicated or mobile and who experience classroom disruption.  
[6.30.17.6 NMAC - N, 6/23/2020]

**6.30.17.7 DEFINITIONS:**

**A.** For purposes of this rule, “a student who has experienced a disruption in the student’s education” means a student who experiences one or more changes in public school or school district enrollment during a single school year as the result of:

1. “Adjudicated student” means a student who is identified as one of the following:

- (a) neglected or abused; as determined by CYFD
- (b) part of a family in need of court-ordered services pursuant to the Family

Services Act;

- (c) delinquent if the parent wishes to disclose the adjudication of delinquency;
- (4) placed in a mental health treatment facility for developmental disabilities; or
- (5) placed in treatment foster care;

2. “Mobile student” means a student identified as:

- (1) migrant, foster, military dependent, or homeless as defined in the McKinney-Vento Homeless Act.

(2) placed in a mental health treatment facility or habilitation programs for developmental disabilities pursuant to the Children’s Mental Health and Development Disabilities Act; or

(3) placed in treatment foster care.

**B.** “Partial credit form” means the department-approved form that all public schools shall complete upon a student’s transfer.

**C.** “Receiving school” means the public school receiving the partial credit form.

**D.** “Sending school” means the public school sending the partial credit form.

**E.** “Completed Coursework” PED should define what completed coursework is. Maybe “Completed Coursework” as defined as grade or success in coursework in the course and not school attendance. If PED does not define this then the intent of the law will not happen—this needs to be the same statewide.

[6.30.17.7 NMAC - N, 6/23/2020]

**6.30.17.8 SENDING SCHOOL REQUIREMENTS:**

**A.** Sending schools shall award partial credit for work completed to students identified as adjudicated or mobile pursuant to Section 6.30.17.10 NMAC.

**Commented [DHJ1]:** From SB 130

**Commented [DHJ2]:** APS team believes these students should not fall under the definition category as with adjudicated students. The partial credit should have two broad groups: adjudicated and mobile.

**Commented [DHJ3]:** Military dependent have an existing law/rule to guide – does this align? Complement? Conflict? Source: Section 11-8B-2 NMSA 1978, <<https://laws.nmonesource.com/w/nmos/Chapter-11-NMSA-1978#b/11-8B-2>>, retrieved on 05/27/2020

**Commented [DHJ4]:** Language in law differs to include regular ed students in mental health facilities: placement in a mental health treatment facility or habilitation program for developmental disabilities pursuant to the Children’s Mental Health and Developmental Disabilities Act or placement in treatment foster care

**B.** Sending schools shall provide the transferring student's records, including a department-approved partial credit form, within two business days of receiving a request from the receiving school.

**C.** Sending schools shall certify that the school district, charter school, or institution has implemented a student information system to track student credit accrual and facilitate accurate and timely transfer of student academic credit.

[6.30.17.8 NMAC - N, 6/23/2020]

**6.30.17.9 RECEIVING SCHOOL REQUIREMENTS:**

**A.** Receiving schools shall request the transferring students' records from the sending school within two business days.

**B.** Receiving schools shall apply all partial credits to the same or equivalent course and prioritize the adjudicated or mobile student's placement in courses within two business days of receiving the partial credit form.

**C.** Receiving schools shall certify that the school district, charter school, or institution has implemented a student information system to track student credit accrual and facilitate accurate and timely transfer of student academic credit.

[6.30.17.9 NMAC - N, 6/23/2020]

**6.30.17.10 DETERMINATION OF PARTIAL CREDIT:** An adjudicated or mobile student shall receive credit for any work completed prior to the transfer.

**A.** Public schools should apply partial credit for equivalent course types. Partial credit for a core class should apply to a similar core class and partial credit for an elective class should apply to a similar elective class

**B.** Public schools shall may award up to a maximum of one credit as follows for yearlong courses:

(1) 0.25 credit when 25% of total class weeks and coursework have been completed for three to nine weeks of completed coursework;

(2) 0.50 credit when 26% to 50% of total class weeks and coursework have been completed for 10 to 18 weeks of completed coursework;

(3) 0.75 credit when 51% to 75% of total class weeks and coursework have been completed for 19 to 27 weeks of completed coursework; or

(4) one credit when 76% to 100% of total class weeks and coursework have been completed for 28 to 36 weeks of completed coursework.

**B.** Public schools may award up to a maximum of one credit as follows for semester long courses:

(1) 0.25 credit for three to nine weeks of completed coursework;

(2) 0.50 credit for 10 to 11 weeks of completed coursework;

(3) 0.75 credit for 12 to 14 weeks of completed coursework; or

(4) one credit for 15 to 18 weeks of completed coursework.

**C.** Public schools shall may award up to a maximum of .50 credit as follows for semester long courses:

(1) 0.25 credit for three to nine weeks of completed coursework; or

(2) 0.50 credit for 10 to 18 weeks of completed coursework.

[6.30.17.10 NMAC - N, 6/23/2020]

**HISTORY OF 6.30.17 NMAC: [RESERVED]**

**Commented [DHJ5]:** This may require some changes to law and rule around competency and proficiency based learning, rather than just seat time or instructional hours. That way partial credits can turn into completed requirements.

**Commented [DHJ6]:** A year long course is 36 weeks. In APS- we grant a 1/2 credit for a semester course and a ONE full credit for a year-long course. Summer school can complete a course in 6 weeks. Block scheduling schools complete a year long course in 18 weeks. Equivalent percentages, rather than weeks might be better guide.

**Commented [BHJ7]:** A semester course is currently 18 weeks in APS and the award is a 0.5 credit. This calculation awards MORE credit than a typical student completing a semester. This will vary for every school district- depending on local design of school- if block scheduling, or summer accelerated schedule, etc. This type of calculation is not universal across the state