

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Note: The proposed rule was noticed August 24, 2021, as 6.12.13 NMAC, COVID-19 School Requirements, and, at the direction of Commission of Public Records, Administrative Law Division, this rule was moved to 6.12.15 NMAC, as 6.12.13 NMAC was not available.

Specific statutory or other authority authorizing rulemaking:
Sections 9-24-8, 12-10-10, 22-2-1, and 22-2-2 NMSA 1978.

Rule adoption date:
September 30, 2021

Rule effective date:
October 13, 2021

Reasons for adopting rule:

This rule establishes the requirements for the operation of public schools during the COVID-19 pandemic.

Reasons for any change between the published proposed rule and the final rule:

Changes between the published proposed rule and the final rule reflect requests, submitted rule feedback during the public comment period, to give school districts and schools flexibility in how they manage and respond to COVID-19. For more detail on the reasons for changes between the proposed rule and the rule as adopted, please see "6.12.15 NMAC, Response to Public Comment," attached.

The department reviewed and considered all written and oral feedback submitted during the public comment period. For the department's response to public comment, please see "6.12.15 NMAC, Response to Public Comment," attached.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Gwen Perea Warniment, Ph.D.

Check if authority has been delegated

Title:

Deputy Secretary of Teaching, Learning, and Assessment

Signature: (BLACK ink only OR Digital Signature)

Date signed:

DocuSigned by:

D318497BE81E476

09/30/2021

Response to Public Comment
6.12.15 NMAC, COVID-19 School Requirements

Public Comment Period: August 24, 2021 – September 28, 2021

The New Mexico Public Education Department (PED) received 12 public comments for 6.12.15 NMAC, COVID-19 School Requirements. All substantive comments have been summarized below. Comments that are not substantive in nature or fall outside the scope of the rule have not been included.

In-School Measures, Learning Environment	
Summary of Comments	PED Response
Public comment included concern about transmission of the virus between students, the requirement of students to wear masks, and the requirement to close off or limit access to areas potentially affected by COVID-19.	PED removed detailed language. PED will continue to issue guidance on in-school measures and instruction.
Public comment included request for clarification about the requirement for school districts and schools to report all confirmed cases of COVID-19.	
Public comment included concern about the impact of remote learning on students and the number of days students are required to quarantine, suggesting PED follow Centers for Disease Control and Prevention guidelines.	
Public comment included concern about ensuring students with disabilities are provided a free, appropriate public education and reasonable accommodations.	

Local Control	
Summary of Comment	PED Response
Public comment included requests for allowing local control in managing and responding to COVID-19 and adopting a less prescriptive rule.	PED removed detailed language. PED will continue to issue guidance on how to manage or respond to COVID-19.