

## NOTICE OF PROPOSED RULEMAKING

### Public Hearing

The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing for the following proposed rulemaking on Thursday, July 6, 2023, from 1:30 p.m. to 2:30 p.m. (MDT) in Mabry Hall, located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501:

- **New Rule 6.31.3 NMAC, Gifted and Talented Students**
- **Amendment to 6.31.2 NMAC, Children with Disabilities/Gifted Children**
- **Amendment to 6.29.1 NMAC, General Provisions**
- **Repeal and replace of 6.19.7 NMAC, Demonstration of Competencies for High School Graduation**
- **Amendment to 6.12.15 NMAC, COVID-19 School Requirements**

The PED will give a verbal summary statement, on record, at the hearing.

The purpose of the public hearing is to receive public input on the proposed rulemaking. Attendees who wish to provide public comment on record will be given three minutes to make a statement concerning the proposed rulemaking. To submit written comment, please see the Public Comment section of this notice.

### Explanation of Purpose of Rulemaking, Summary of Text, and Statutory Authority, by Proposed Rule

#### 6.31.3 NMAC, Gifted and Talented Students

- **Explanation:** The purpose of the proposed rulemaking is to establish new standards for identification and service for gifted students that will promote best practices for equity and diversity in gifted education.
- **Summary:** The proposed new rule requires LEAs to submit gifted education program plans to the department, report gifted funding revenue and expenses in the Education Plan, follow more inclusive identification procedures, provide for annual review of gifted students' needs and programming on a gifted individual education plan (GIEP), and ensure the individual needs of gifted students are met with dispute resolution processes.
- **Statutory Authority:** Sections 9-24-8, 22-2-1, 22-2-2, and 22-13-6.1 NMSA 1978.

#### 6.31.2 NMAC, Children with Disabilities/Gifted Children

- **Explanation:** The purpose of the proposed rulemaking is to delete sections about gifted education, which will be provided for in the proposed new rule, 6.31.3 NMAC, and to make changes related to the issuance of standard, modified, and ability diplomas.
- **Summary:** The proposed repeal and replace of this rule deletes standards for gifted education. Additionally, the rule is edited to remove conflicts with the requirements of the Individuals with Disabilities Education Act (IDEA), related to the federal provision that guarantees children with disabilities the right to a free appropriate public education (FAPE), after the receipt of a diploma through the alternative programs of study.
- **Statutory Authority:** Sections 9-24-8, 22-2-1, 22-2-2, and 22-13-5 NMSA 1978.

#### 6.29.1 NMAC, General Provisions

- **Explanation:** The purpose of the proposed rulemaking is to require schools to implement, self-assess, and report Multi-Layered Systems of Support (MLSS), and to make changes related to the issuance of standard, modified, and ability diplomas.
- **Summary:** The proposed amendment of this rule adds requirements for MLSS implementation, self-assessment, and reporting; removes conflicts with the requirements of IDEA, related to FAPE, after the receipt of a diploma through the alternative programs of study; updates all references to the annual Education Plan and NM School DASH; removes the limit of 45 days for classes to be taught by a substitute teacher; and removes requirements for length of school day to be promulgated in other rule.
- **Statutory Authority:** Sections 9-24-8, 22-2-1, 22-2-2, 22-2C-3, 22-2C-4, 22-5-13, 22-13-1.1, 22-13-14, and 22-13-15 NMSA 1978.

### **6.19.7 NMAC, Demonstration of Competencies for High School Graduation**

- **Explanation:** The purpose of the proposed rulemaking is to minimize requirements for demonstrations of competency and update requirements to match available assessment instruments, and to make changes related to the issuance of standard, modified, and ability diplomas.
- **Summary:** The proposed repeal and replace of this rule deletes extraneous requirements for demonstrations of competency and removes conflicts with the requirements of IDEA, related to FAPE, after the receipt of a diploma through the alternative programs of study.
- **Statutory Authority:** Sections 9-24-8, 22-2-1, 22-2-2, 22-2C-4.1, 22-13-1.1, and 22-13-15 NMSA 1978.

### **6.12.15 NMAC, COVID-19 School Requirements**

- **Explanation:** The purpose of the proposed rulemaking is to align the rule with the end to the federal and state government COVID-19 public health order.
- **Summary:** The proposed amendment to the rule replaces references to COVID-19 with language that requires public schools to adhere to public health orders, executive orders, and department guidance.
- **Statutory Authority:** Sections 9-24-8, 22-2-1, and 22-2-2 NMSA 1978.

No technical information served as a basis for this proposed rule change.

### **Public Comment**

Interested parties may provide comment at the public hearing or may submit written comments by mail or e-mail.

#### Mailing Address

Policy and Legislative Affairs Division  
New Mexico Public Education Department  
300 Don Gaspar Avenue, Room 121  
Santa Fe, New Mexico 87501

#### E-Mail Address

Rule.Feedback@ped.nm.gov

Written comments must be received no later than 5 p.m. (MDT) on Thursday, July 6, 2023. The PED encourages the early submission of written comments.

### **Public Comment Period**

The public comment period is from Tuesday, May 31, 2023, to Thursday, July 6, 2023, at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication regarding a final decision of the proposed rulemaking at a later date.

Copies of the proposed rules may be obtained from Denise Terrazas at (505) 470-5303 during regular business hours or may be accessed through the PED Policy and Legislative Affairs webpage titled, "Proposed Rules," at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>.

Individuals with disabilities who require the above information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Denise Terrazas at (505) 470-5303 as soon as possible before the date set for the public hearing. The PED requires at least 10 calendar days advance notice to provide any special accommodations requested.