

PROPOSED REPEAL AND REPLACE – INTEGRATED

This draft reflects what the rule would look like if it is adopted with the proposed changes.

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY PART 8 SCHOOL DIFFERENTIATION AND SUPPORT

6.19.8.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.19.8.1 NMAC - Rp, 6.19.8.1 NMAC, 10/10/2023]

6.19.8.2 SCOPE: This rule shall apply to all public schools in New Mexico. If any part or application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.
[6.19.8.2 NMAC - Rp, 6.19.8.2 NMAC, 10/10/2023]

6.19.8.3 STATUTORY AUTHORITY: Sections 9-24-8, 22-2-1, 22-2-2, 22-2C-1 through 22-2C-13, and 22-2F-1 through 22-2F-3 NMSA 1978; 20 USC 6303.
[6.19.8.3 NMAC - Rp, 6.19.8.3 NMAC, 10/10/2023]

6.19.8.4 DURATION: Permanent.
[6.19.8.4 NMAC - Rp, 6.19.8.4 NMAC, 10/10/2023]

6.19.8.5 EFFECTIVE DATE: October 10, 2023, unless a later date is cited at the end of a section.
[6.19.8.5 NMAC - Rp, 6.19.8.5 NMAC, 10/10/2023]

6.19.8.6 OBJECTIVE: This rule provides for the recognition of high-performing schools and schools that have exited categories of improvement or intervention, and for the designation of schools needing improvement or intervention. This rule complies with requirements for statewide accountability systems based on challenging academic standards for language arts and mathematics and for school improvement designations and actions of the department as detailed by the state’s system of annual meaningful differentiation and by the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA).
[6.19.8.6 NMAC - Rp, 6.19.8.6 NMAC, 10/10/2023]

6.19.8.7 DEFINITIONS:

A. “Annual meaningful differentiation” means the state system of accountability for defining school performance and categorizing schools in compliance with 20 USC 6303. Performance indicators for all schools include academic proficiency, progress toward English language proficiency for English learners, and at least one measure of school quality and student success. Performance indicators for elementary schools include student growth. Performance indicators for high schools include graduation rate.

B. “Chronically absent” means a student who missed ten percent or more of school days in which they were enrolled during the school year.

C. “College and career readiness indicator” means an indicator calculated for high schools consisting of the participation rate and success rate of students in college and career readiness opportunities, as defined by the department.

D. “Consistently underperforming” means a priority group index score below the threshold determined by department for two of the most recent three years.

E. “ESSA plan” means the most recent state plan and any addendums issued by the department pursuant to ESEA, as amended by ESSA, and approved by the United States department of education in accordance with 20 USC 6303.

F. “Evidence-based practices” means activities, strategies, and interventions informed and supported by rigorous research that demonstrate consistent, positive impacts on student outcomes.

G. “Graduation rate” means an indicator equal to the percentage of students in an assigned cohort who earned a diploma within a specified number of years.

(1) Four-year cohort graduation rate means the percentage of students in the four-year cohort who earned a diploma within four years.

(2) Five-year cohort graduation rate means the percentage of students in the five-year cohort who earned a diploma within five years.

(3) Six-year cohort graduation rate means the percentage of students in the six-year cohort who earned a diploma within six years.

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H. “Identification cycle” means the timeframe determined by the department after which school identification categories shall be reevaluated.

I. “Local education agency” or “LEA” means a school district or a state-chartered charter school.

J. “Priority group” means a subgroup of students defined in USC 20 6311(c)(2) as economically disadvantaged students, students from major racial and ethnic groups; children with disabilities, or English learners.

K. “Priority group index score” means the total score for each priority group in the school based on the accountability model methodology described in department guidance.

L. “Resource inequity” means difference in levels of resources, including funding and expenditures, instructional materials, administration, student-teacher ratios, teacher experience and credentials, or caseloads for noninstructional staff. Resource inequities may be between schools or between student priority groups within a school.

M. “School index score” means the total score a school earns on all required measures as defined by the department according to the state’s system for annual meaningful differentiation detailed in the state’s ESSA plan.

N. “Statewide assessment” means the collection of instruments administered annually that assess students’ academic performance and students’ progress toward meeting content standards in kindergarten through grade 12.

O. “Supplemental accountability model school” or “SAM school” means a school for which the department uses alternate school quality and student success indicators for differentiation as defined in the ESSA plan. A SAM school is a public school in which, based on the fortieth day reporting, the following categories of students total 30 percent or more of the student population:

(1) students age 19 or older;

(2) non-gifted students who require class C or D special education programs;

(3) pregnant or parenting teens; or

(4) return-to-school students who are currently enrolled in school but have been chronically

absent from school or have earned fewer than the minimum required units typical for their age and are off track to graduate.

P. “Support threshold” means the school index score differentiating the lowest performing group of schools as defined by the department in each identification cycle.

[6.19.8.7 NMAC - Rp, 6.19.8.7 NMAC, 10/10/2023]

6.19.8.8 [RESERVED]

[6.19.8.8 NMAC - Repealed, 10/10/2023]

6.19.8.9 DETERMINATION OF A SCHOOL INDEX SCORE:

A. Each public school shall earn a school index score as calculated by the department according to the state’s system for annual meaningful differentiation detailed in the state’s ESSA plan or department guidance. The school’s index score and priority group index scores will be used to annually differentiate schools and to identify schools in need of comprehensive support and improvement as specified in this rule.

B. All enrolled students in eligible grades and courses, as determined by the department, must be assessed with the appropriate state assessment, including the state-approved alternate assessment when applicable. At least 95 percent of all eligible students shall participate in statewide assessment.

[6.19.8.9 NMAC - Rp, 6.19.8.9 NMAC, 10/10/2023]

6.19.8.10 PRIORITIZATION OF RESOURCES: Pursuant to Sections 22-8-11 and 22-8-18 NMSA 1978, the department may disapprove or make corrections, revisions, or amendments to the budget of a school district or charter school that does not address resource inequities or prioritize resources toward evidence-based practices, interventions, and methods required by department guidance and linked to improved student achievement.

[6.19.8.10 NMAC - Rp, 6.19.8.10 NMAC, 10/10/2023]

6.19.8.11 ANNUAL DIFFERENTIATION CYCLE: Pursuant to 20 USC 6303, the department shall annually differentiate categories for school support and improvement. School designation categories differentiated annually include spotlight schools, traditional support schools, schools in need of targeted support and improvement (TSI), and schools in need of additional targeted support and improvement (ATSI).

A. Spotlight school identification. A school shall be identified as a spotlight school if its school index score is above the seventy-fifth percentile of all public schools and the school is not in need of improvement

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or intervention due to specific priority group index scores. Spotlight schools shall develop and implement school-level plans in accordance with department guidance.

B. Traditional support school identification. A school shall be identified as a traditional support school if the school index score is above the support threshold, at or below the seventy-fifth percentile, and does not meet criteria for TSI or ATSI schools. Traditional support schools shall develop and implement school-level plans in accordance with department guidance.

C. TSI school identification. A school shall be identified as a TSI school if one or more priority groups meet the department’s definition of consistently underperforming. A TSI school shall develop and implement a school-level, targeted support and improvement plan that includes evidence-based practices and is in accordance with department guidance.

D. ATSI school identification. A Title I school shall be identified as an ATSI school if one or more priority groups has an index score that falls below the support threshold. An ATSI school shall develop and implement a school-level targeted support and improvement plan that includes evidence-based practices, identifies resource inequities to be addressed through implementation of the plan, and is in accordance with department guidance.

[6.19.8.11 NMAC - Rp, 6.19.8.11 NMAC, 10/10/2023]

6.19.8.12 MULTI-YEAR IDENTIFICATION CYCLE: In a multi-year identification cycle, using the system of annual meaningful differentiation, the department shall designate cohorts of schools in the following categories: comprehensive support and improvement (CSI), and more rigorous interventions (MRI). For each CSI and MRI school, an LEA shall submit to the department a school improvement plan. The school improvement plan shall follow department guidance and be submitted in a format and on a due date specified by the department. Improvement plans shall include but not be limited to a description of how the LEA will monitor improvement, an assurance that funds will not be supplanted, and a description of a rigorous review process to recruit, screen, select, and evaluate any external partners for school improvement.

A. CSI school identification. A school shall be identified as a CSI school if the school:

- (1) is a Title I school that has not improved sufficiently to exit ATSI status in the previous identification cycle;
- (2) is a Title I school that has a school index score below the support threshold; or
- (3) has a four-year graduation rate less than or equal to sixty-six and two-thirds percent for two of the most recent three years;

B. CSI school exit criteria. A CSI school may exit CSI status in the next identification cycle by attaining the following improvements:

- (1) Title I schools identified as CSI schools due to insufficient priority group scores may exit CSI status when all the school’s priority group index scores exceed the support threshold.
- (2) Title I schools with school index scores previously below the support threshold may exit CSI status by raising the school index score above the support threshold.
- (3) High schools identified due to low graduation rates may exit CSI status by increasing the four-year graduation rate above sixty-six and two-thirds percent for two of the previous three years.

C. MRI school identification. A school shall be identified as an MRI school if by the end of an identification cycle it has not demonstrated sufficient improvement to exit CSI status as described in Subsection B of this section.

D. MRI school plans. The LEA shall submit to the department an MRI school intervention plan to significantly restructure and redesign the school. Interventions for restructure and redesign shall be evidence-based and include:

- (1) implementation of differentiated support and accountability for SAM schools; or
- (2) significant restructure and redesign through:
 - (a) implementation of evidence-based strategies;
 - (b) restart; or
 - (c) school closure.

E. MRI plan approval. If an LEA does not identify and obtain department approval for a school’s intervention plan, the department will select the intervention for the school. The department may approve or deny any MRI plan chosen and developed by an LEA. The department may monitor and require execution of the approved MRI plan for the duration of the identification cycle.

F. MRI exit criteria. An MRI school shall exit MRI status in the next identification cycle upon attaining improvements defined in Subsection B of this section for CSI school exit criteria.

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[6.19.8.12 NMAC - Rp, 6.19.8.12 NMAC, 10/10/2023]

6.19.8.13 SUPPLEMENTAL ACCOUNTABILITY MODEL: When calculating a SAM school index score, the department may include the rate of senior completion in the four-year graduation cohort and may include additional department-approved assessments in the college and career readiness indicator. Schools eligible for SAM school status remain subject to the assessment participation requirement described in 6.19.8.9 NMAC.

[6.19.8.13 NMAC - Rp, 6.19.8.13 NMAC, 10/10/2023]

6.19.8.14 [RESERVED]

[6.19.8.14 NMAC – N/E, 6.19.8.14 NMAC, 5/23/2023; Repealed, 10/10/2023]

6.19.8.15 OVERSIGHT AND SUPPORT FOR CSI AND MRI SCHOOLS: CSI and MRI schools may exit department oversight before the end of a multi-year identification cycle by meeting exit criteria described in Section 12 of this rule, but shall continue to receive support from the department for the remainder of the identification cycle, at which time they may exit CSI or MRI status.

A. For oversight of schools designated CSI or MRI, the department may require LEAs to:

- (1)** implement the use of department-approved, high-quality instructional materials, best practices, and evidence-based programs;
- (2)** conduct department-approved LEA support and readiness assessments and publicly post summary findings;
- (3)** conduct department-approved school support and readiness assessments and publicly post summary findings;
- (4)** participate in department biannual monitoring and technical assistance visits;
- (5)** require schools to redirect or repurpose funds in accordance with their department-approved CSI or MRI plan;
- (6)** for MRI schools, require a department-provided transformational coach; or
- (7)** for MRI schools, require restart or closure of an MRI school that has failed to exit MRI status within three school years.

B. The department will continue to provide the support to CSI and MRI schools until the end of the multi-year identification cycle as described in department guidance and ESSA plan.

[N 6.19.8.15 NMAC, 10/10/2023]

HISTORY OF 6.19.8 NMAC:

6.19.8 NMAC – Grading of Public Schools, filed 12/31/2018 was repealed and replaced via emergency rulemaking, by 6.19.8 NMAC – School Improvement Designations, effective 5/23/2023.

6.19.8 NMAC – School Improvement Designations, filed 5/23/2023 was repealed and replaced by 6.19.8 NMAC – School Differentiation and Support, effective 10/10/2023.

History of Repealed Material:

6.19.8.8 NMAC, filed 12/31/2018 was repealed via emergency rulemaking, effective 5/23/2023.

6.19.8.14 NMAC, filed via emergency rulemaking on 5/23/2023 was repealed, effective 10/10/2023.