

## PROPOSED REPEAL AND REPLACE - STRIKETHROUGH

~~Strikethrough~~ represents language the Department is proposing to delete.

Underline represents language the Department is proposing to add.

### TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY PART 8 ~~SCHOOL IMPROVEMENT DESIGNATIONS~~ 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-4, 22-2C-5, 22-2F-2, and 22-2C-11 NMSA 1978; 20 USC 6303 Sections 1003 and 1111. 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:** ~~May 23, 2023, unless a later date is cited at the end of a section. 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:** ~~The purpose of this rule is to comply with requirements for school improvement designations as detailed by the state's system of annual meaningful differentiation and actions required of the department by the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). Additionally, this rule establishes criteria for determining the differentiation of performance of public schools and provides for the identification of, and support for, historically struggling or low-performing schools, including schools that are underserving student population subgroups, and the prioritization of funding for interventions for those schools. 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.**—"All required indicators" means those indicators required in the state's system of annual meaningful differentiation that are used in establishing the index score for each school.~~

~~**B.A.**—"Annual meaningful differentiation" means the state system of accountability for defining school performance in compliance with 20 USC 6303 Section 1111 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.~~

~~**C.B.**—"Chronic absenteeism" means the percentage of students missing ten percent or more of the school year for any reason, including excused absences, unexcused absences, and out of school suspensions. "Chronically absent" means a student who missed ten percent or more of school days in which they were enrolled during the school year.~~

~~**D.C.**—"College and career readiness" or "CCR" means an indicator calculated for all high schools statewide, consisting of the number of high school students who participated in CCR opportunities, as defined by the department, divided by the number of students in the four-year graduation cohort. "College and career readiness~~

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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.

~~C. “English learner” or “EL” means a student whose first or heritage language is not English and who does not yet understand, speak, read, or write English at a level comparable to grade-level English proficient peers and native English speakers.~~

~~E. “English learner progress” means a growth to proficiency indicator of the acquisition of English language proficiency for EL students. The indicator is calculated by comparing the student’s first English language proficiency level, the projected level of expected English language proficiency considering student’s grade level and the number of years the student has attended U.S. schools, and the actual English language proficiency level obtained in the current year.~~

~~(1) Each student identified as EL has an annual English language growth to proficiency target that is based on the student’s grade level at identification as an EL and the student’s initial English language proficiency level on the department approved English language proficiency assessment.~~

~~(2) English language growth to proficiency targets are a measure of the extent to which students should be gaining English language proficiency within five years as measured by the department approved English language proficiency assessment.~~

~~F. “Graduation growth” means an indicator equal to the annual increase in the four-year cohort graduation rate. The indicator is calculated by subtracting the four-year graduation rate from the current four-year graduation rate and dividing it by two.~~

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 a four-, five-, or six-year cohort who earned a New Mexico diploma of excellence within a specified number of years, with the cohort assigned based upon the year of high school completion and the first-time entry into ninth grade.

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

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

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

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

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

~~I. “Proficiency” means a student’s academic achievement score of proficient or above as defined by the department on the New Mexico statewide assessment.~~

~~J. “School index score” means the total score a school earns on all required measures as described in 6.19.8.9 NMAC.~~

~~K. “Science proficiency” means an indicator of student proficiency on the statewide assessment for science.~~

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.

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~~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.~~

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

~~M. “Student growth” or “academic improvement” means an indicator of the extent to which students are increasing their mastery of state content standards and scoring proficient as determined and measured by the New Mexico statewide assessment in prekindergarten through grade 12.~~

~~N. “Student proficiency” means a measure demonstrating students’ grade-level mastery of the knowledge and skills determined by the New Mexico assessments.~~

~~O. “Subgroup index score” means the total score for each student population subgroup at a school on all required measures described in 6.19.8.9 NMAC.~~

~~P. “Supplemental accountability model school” or “SAM school” means any public school in which, based on the 40th day enrollment reporting, the following categories total thirty percent or more of the student population:~~

- ~~(1) age 19 or older;~~
- ~~(2) non-gifted students who qualify for level C or level D special education; or~~
- ~~(3) pregnant or parenting teens; or~~
- ~~(4) return to school students.~~

~~Q. “Return to school students” means students who have ever been off track to graduation for their grade level or have ever been chronically absent from school and are now enrolled in school.~~

~~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’S INDEX SCORE:** ~~Each school shall earn a school index score as described in this section. Each measure below is calculated by the department according to the state’s system for annual meaningful differentiation detailed in the state’s ESSA plan and any addendums approved by the United States department of education in accordance with 20 USC 6303 Section 1111. The school’s index score and subgroup index scores will be used to identify schools in need of intervention as required in 6.19.8.11 NMAC.~~

~~A. For the calculation of school index scores for the 2021–2022 school year, elementary and middle schools can earn a maximum of 100 points as a total of the following measures:~~

- ~~(1) 25 points each for student proficiency in English language arts and mathematics;~~
- ~~(2) 10 points for science proficiency;~~
- ~~(3) 10 points each for improvement in student proficiency in English language arts and mathematics;~~
- ~~(4) 10 points for attendance; and~~
- ~~(5) 10 points for English learner progress.~~

~~B. For the calculation of school index scores for the 2021–2022 school year, high schools can earn a maximum of 100 points as a total of the following measures:~~

- ~~(1) 15 points each for student proficiency in English language arts and mathematics;~~

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~~(2) 10 points for science proficiency;~~  
~~(3) five points each for improvement in student proficiency English language arts and mathematics;~~

~~(4) 10 points for attendance;~~  
~~(5) five points for college and career readiness.~~  
~~(7) 30 points for graduation rate, calculated in the following manner:~~  
~~(a) 10 points for the four-year rate;~~  
~~(b) eight points for the five-year rate;~~  
~~(c) seven points for the six-year rate; and~~  
~~(d) five points for growth in the four-year rate; and~~  
~~(8) five points for English learner progress.~~

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.

~~C. All enrolled students in eligible grades and courses, as determined by the department, must be assessed with the appropriate department approved assessment, including the department approved alternate assessment when applicable.~~

[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.

~~A. As part of the annual budget approval process pursuant to Section 22-8-11 NMSA 1978, on or before July 1 of each year, the department shall ensure that a local school board or governing body of a charter school is prioritizing resources of public schools identified for intervention pursuant to 6.19.8.11 NMAC.~~

~~B. Expenditures for instruction, student support services, instructional support services, and compensation and benefits for school principals designated as the 1000, 2100, 2200, and 2400 functions, respectively, in fund 11000 of the department's chart of accounts for expenditures shall be reported by the department every two years and posted on the department website.~~

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

**6.19.8.11 SCHOOL IDENTIFICATION AND INTERVENTIONS:** ~~The department shall identify schools for comprehensive support and improvement (CSI), additional targeted support and improvement (ATSI), targeted support and improvement (TSI), and more rigorous interventions (MRI).~~ **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. CSI identification. A Title I school shall be identified as a CSI school if the school:~~

~~(1) is in the lowest performing five percent of Title I schools in New Mexico as identified by the school index score;~~

~~(2) has a four-year graduation rate less than or equal to sixty-six and two-thirds percent for two of the past three years;~~

~~(3) was previously identified as an ATSI school due to low-performing student subgroups and has not demonstrated sufficient improvement in those subgroups by the next identification cycle; or~~

~~(4) the department may identify additional schools as CSI schools as deemed necessary.~~

~~B. CSI exit criteria. An identified CSI school is expected to exit CSI status by the next identification cycle after initial identification. Exiting CSI status shall occur under the following conditions:~~

~~(1) for schools identified for being among the bottom five percent of Title I schools;~~

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~~by improving the school index score so that it is no longer in the lowest performing five percent of Title I schools as described in Paragraph (1) of Subsection A of 6.19.8.11 NMAC;~~

~~(2) for high schools identified due to low graduation rates, the school must improve their four year graduation rate to be above sixty six and two thirds percent for two out of the previous three years; or~~

~~(3) for schools identified with low performing student subgroups, the school must improve the subgroup index scores of the identified low performing subgroups so those scores are above the school index score of any of the lowest performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.~~

~~C. **ATSI identification.** A school shall be identified as an ATSI school if one or more subgroups have a subgroup index score at or below the school index score of any of the lowest performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.~~

~~D. **ATSI exit criteria.** Schools with one or more low performing subgroups shall exit ATSI status when the school improves the subgroup index scores of the identified low performing subgroups so those scores are above the school index score of any of the lowest performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.~~

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 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.

~~E. **TSI identification.** A school shall be identified as a TSI school if one or more subgroups meet the state's definition of consistently underperforming as defined by the department for each identification cycle.~~

~~F. **TSI exit criteria.** Schools with one or more low performing subgroups shall exit TSI status when the school improves the subgroup index scores of the identified low performing subgroups so those scores are above the school index score of any of the lowest performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.~~

~~G. **MRI identification.** A CSI school shall be identified as an MRI school if the school has not exited CSI status by the next identification cycle after its initial CSI designation.~~

~~H. **MRI plans.** Once an MRI school is identified, its LEA shall identify and submit an intervention plan to significantly restructure and redesign the school. Options for restructure and redesign include:~~

~~(1) implementation of community schools strategies;~~

~~(2) implementation of differentiated support and accountability for SAMs schools; or~~

~~(3) significantly restructure and redesign through:~~

~~(a) implementation of evidence based strategies;~~

~~(b) restart; or~~

~~(c) school closure.~~

~~I. **MRI plan approval.** If the LEA refuses to identify and obtain department approval for an MRI intervention in which to participate, 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.~~

~~J. **MRI exit criteria.** An identified MRI school shall exit MRI designation by:~~

~~(1) improving the school index score so that it is no longer in the lowest performing five percent of Title I schools as described in Paragraph (1) of Subsection A of 6.19.8.11 NMAC; or~~

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~~(2) for high schools identified due to low graduation rates, improving their four-year graduation rate to be above sixty-six and two-thirds percent for two out of the previous three years.~~  
[6.19.8.11 NMAC - Rp, 6.19.8.11 NMAC, 10/10/2023]

### ~~6.19.8.12 SUPPLEMENTAL ACCOUNTABILITY MODEL:~~

~~A. The department may supplement the calculation of a school index score for SAM schools in one or more ways as determined by the department and outlined in Subsections B and C of this section.~~

~~B. The department may include the rate of senior completion, which consists of students who are not members of the four-year graduation cohort, when calculating the number of points earned for the four-year cohort graduation rate.~~

~~C. The department may include additional department-approved assessments when calculating the participation and success components of the college and career readiness indicator.~~

~~E. Schools eligible for SAM school status remain subject to the assessment participation requirement described in Subsection C of 6.19.8.9 NMAC.~~

~~**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.~~

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

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~~6.19.8.13 DISTRICT AND STATE REPORT CARDS: The department shall generate and publish district and state report cards annually in accordance with federal and state law.~~

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 ACCOUNTABILITY FOR SCHOOLS DESIGNATED CSI AND MRI: For schools designated as CSI or MRI, the department may require LEAs to: [RESERVED]~~

~~A. Implement the use of department approved high quality materials, best practices, and evidence-based programs.~~

~~B. Conduct department approved LEA support and readiness assessments and publicly post summary findings.~~

~~C. Conduct department approved school support and readiness assessments and publicly post summary findings.~~

~~D. Participate in department biannual monitoring and technical assistance visits.~~

~~E. Require schools to redirect or repurpose funds in accordance with their department approved CSI or MRI plan.~~

~~F. For MRI schools, require a department provided transformational coach.~~

~~G. For MRI schools, require restart or closure of an MRI school that has failed to exit MRI status within three school years.~~

[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.