

From: [Valery Ratliff-Parker](#)
To: [FeedBack, Rule, PED](#)
Subject: [EXTERNAL] Rule Feedback for: 6.29.1 NMAC, General Provisions Amendment
Date: Tuesday, January 7, 2025 12:46:32 PM
Attachments: [Rule Feedback for General Provisions 2024.pdf](#)

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Please see the attached document with feedback for proposed amendment to 6.29.1 NMAC General Provisions.

Thank you,

Valery Ratliff-Parker

December 20, 2024

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

Dear members of the Policy and Legislative Affairs Division of the NM Public Education Department:

PCSNM is writing with feedback and input on the proposed rulemaking for NMAC 6.29.1 "General Provisions." Below we've included 3 different feedback points for your consideration. Thank you for your willingness to hear our input as well as your consideration of our proposed solutions. If you have any questions about the below feedback, please contact me at valery@pcsnm.org.

Feedback Point #1: Definition Clarity

In the proposed rule, the following proposed definitions read as follows:

6.29.1.7 Definitions:

T. "Final next-step plan" means a next-step plan that shows that the student has committed or intends to commit in the near future to a four-year college or university, a two-year college, a trade or vocational program, an internship or apprenticeship, military service or a job.

AA. "Interim next-step plan" means an annual next-step plan in which the student specifies post-high-school goals and sets forth the coursework that will allow the student to achieve those goals.

Proposed resolution: For clarity purposes, the "Final next-step plan" should state that it is the next-step plan used during the students' senior year; the "Interim next-step plan" should state that it is the annual next-step plan used during grades 8 through 11.

Feedback Point #2: Procedural Requirements Formatting

The proposed rule has language directly after the semicolon, which may be a formatting error and be interpreted as applying to all subsections below. It currently reads as follows in the proposed rule:

*6.29.1.9 **Procedural Requirements:** Local school board members shall attend a department training course that explains department rules, policies and procedures, statutory powers and duties of local school*

boards, legal concepts pertaining to public schools, finance and budget and other matters deemed relevant by the department.

Proposed resolution: The text after semicolon should be moved to 6.29.1.9 subsection A.

Feedback Point #3: Word Use Error

The proposed rule uses the incorrect word in 6.29.1.9 A.(3)(c)

6.29.1.9 A(3)(c). Mandatory training for all other local school board members who have been in office for one or more years shall include at least five years per year and shall cover.

Proposed resolution: Change the word “years” to “hours”

Again, thank you for your consideration,

Regards,



Valery Ratliff-Parker
Deputy Director

From: [Joe Guillen](#)
To: [FeedBack, Rule, PED](#)
Cc: [Padilla, Mariana, PED](#); [Terrazas, Denise, PED](#); [Garcia, Yvonne, PED](#); [Lorraine Vigil](#)
Subject: [EXTERNAL] Comments on 6.29.1 NMAC, School Board Training
Date: Thursday, January 9, 2025 12:29:40 PM
Attachments: [NMSBA Comments on Propsed Rule 6.29.1 NMAC.pdf](#)

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NMPED Secretary Padilla and Officials,
Attached please find official comments from the New Mexico School Boards Association on Proposed Rule 6.29.1 NMAC, School Board Training

Joe Guillen
Executive Director
New Mexico School Boards Association
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jguillen@nmsba.org

450 Strong!

New Mexico School Boards Association

Joe Guillen, Executive Director

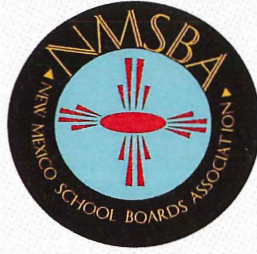
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January 8, 2025

Mariana Padilla, Secretary of Education
c/o Policy and Legislative Affairs Division
New Mexico Public Education Department
300 Don Gaspar Ave., Room 121
Santa Fe, New Mexico 87501

E-Mail Address

Rule.Feedback@ped.nm.gov

Subject: 6.29.1 NMAC, School Board Training

Dear Secretary Padilla,

The New Mexico School Boards Association (NMSBA) has served as a leader in New Mexico's public education system for over six decades and serves as the statewide voice of 89 boards of education. NMSBA provides information, training and advice on matters affecting school boards and cooperates with other educational organizations including the New Mexico Public Education Department (NMPED) in promoting excellence in education.

NMSBA led the passage of the first School Board Mandatory Training Legislation in 2003. At that time, NMPED assigned programming and tracking responsibilities for school board members to NMSBA via the subject regulation. Since that time NMSBA has financed, carried out these responsibilities, and provided an Annual Training Compliance Report to NMPED.

Prior to and during the 2024 Legislative Session LESC, NMPED and NMSBA agreed on various amendments to school board mandatory training requirements and endorsed and supported the passage of Senate Bill 137. We appreciate the consideration given to NMSBA by sponsors, legislators and agencies in this process which is now being implemented via the proposed regulation.

Comments on 6.29.1 NMAC, School Board Training

The proposed rule is very straightforward and consistent with the statutory language contained in Senate Bill 137. Several of our initial comments were addressed prior to release of the draft rule and we appreciate this consideration. Our remaining comment follows.

Pauline Jaramillo
President

Marvyn Jaramillo
President-Elect

Terry O'Brain
Vice-President

Arlean Murillo
Secretary-Treasurer

Christine Ludi
Past-President

The current and proposed regulation requires “*a minimum of one hour of training during each term in office on equity and culturally and linguistically responsive practices*”. Our review of this requirement finds no direct statutory mandate for school board members to receive training on this topic. In addition, the compliance period “*each term in office*” which is a four year period, was negotiated with NMSBA when originally implemented. Tracking annual board member training is difficult and, even more so, when attempting to track compliance over a four year period.

Recommendation: While we agree this training topic should continue as a priority, however, we recommend the topic be moved from A(3)(a) of the rule to A(3)(c) (vii) other matters deemed relevant by the department and tracked on a yearly basis for all school board members completing their first year of service. We feel this change will continue the focus on this topic and allow us to track compliance more easily on an annual basis rather than over a four year period. *See Attached Proposed Language Change.*

Thank you for your continued partnership and your consideration of our comments and recommendation.

Sincerely, .



Joe Guillen
Executive Director

Attachment: Proposed Language Change to 6.29.1 NMAC

NMSBA PROPOSED LANGUAGE CHANGE

6.29.1.9 PROCEDURAL REQUIREMENTS: Local school board members shall attend a department training course that explains department rules, policies and procedures, statutory powers and duties of local school boards, legal concepts pertaining to public schools, finance and budget and other matters deemed relevant by the department.

A. Duties and powers of the local school board. The local school board shall:

(1) review, approve, and support each school site-level department-approved NM School DASH and *MLSS Self-assessment* for each school site in improvement status;

(2) employ and evaluate the local superintendent;

(3) develop a planned program of training annually, in which each member of the board participates, to assist in the performance of specified duties; this planned program shall align with the LEA's Education Plan; training shall include the following requirements and procedures.

(a) All local school board members shall receive training provided by the department, the New Mexico school boards association (NMSBA), or other department-approved providers, ~~and shall include a minimum of one hour of training during each term in office on equity and culturally and linguistically responsive practices.~~

(b) Elected or appointed school board members in their first term shall complete at least ten hours of mandatory training during their first year serving on the board. Training for new local school board members shall include:

(i) at least two hours covering laws and department policies and procedures affecting local school boards or public schools, including ethics and school personnel;

(ii) at least two hours covering public school finance, budgeting, and fiduciary responsibilities of local school boards;

(iii) at least two hours covering legal concepts pertaining to local school boards and school districts, including the Open Meetings Act and the Inspection of Public Records Act;

(iv) at least two hours covering effective governance practices and effective methods of supporting and supervising the local superintendent; and

(v) at least two hours covering student achievement and student support services.

(c) Mandatory training for all other local school board members shall include at least five hours per year and shall cover:

(i) laws and department policies and procedures affecting local school boards or public schools, including ethics and school personnel;

(ii) public school finance, budgeting, and fiduciary responsibilities of local school boards and performance-based budgeting;

(iii) a local school board's role in evaluating and improving student academic achievement and using data to set individual school goals for student academic achievement in each of the school district's public schools;

(iv) a local school board's role in providing a safe learning environment conducive to improving student outcomes;

(v) legal concepts pertaining to local school boards and school districts, including the Open Meetings Act and the Inspection of Public Records Act;

(vi) effective governance practices and effective methods of supporting and supervising the local superintendent; and

(vii) other matters deemed relevant by the department including training on equity and culturally and linguistically responsive practices.

(d) To be credited with attendance at these courses, each attendee shall comply with written attendance procedures established by the department. Prior to January 1 of each year, the NMSBA shall provide each local superintendent with a list of training hours earned annually by each local school board member. The school district's accountability report shall include the number of hours of training attended by local school board members and whether each member met statutory training requirements (see Subsection E of Section 22-2C-11 NMSA 1978);

From: [Mandi Torrez](#)
To: [FeedBack, Rule, PED](#)
Subject: [EXTERNAL] 6.29.1 NMAC, General Provisions
Date: Thursday, January 9, 2025 4:33:16 PM

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Think New Mexico submits this comment to express our strong support for the proposed changes to NMAC 6.29.1.9, updating the training requirements for local school board members as required by Senate Bill 137, which was enacted in 2024.

A growing body of research has shown that when school boards focus on improving student outcomes and implementing student-centered strategies, children under their charge are more likely to find success in school and in life. In short, local school boards have the power and opportunity to improve the academic achievement of New Mexico's students when they make smart, informed decisions regarding district policies and budgets.

This is why it is imperative that board members receive the highest quality of training. Think New Mexico particularly supports the language in the proposed rule that allows that training to be provided by a diverse array of department-approved providers. By allowing additional learning opportunities on top of those already offered by the New Mexico School Boards Association, we can help ensure that board members can access the training that is most relevant to them, enabling them to dig deeper into effective strategies to meet the needs of their unique student populations.

New Mexico charter schools have already implemented a similar reform, opening up their governance board training to additional vendors, and we understand that the quality and diversity of training opportunities has improved as a result. Several states allow vendors to apply for approval to offer trainings to school board members, taking advantage of expertise in their own state as well as bringing in experts from around the country.

Giving boards flexibility in how their members can learn about their role opens up more meaningful opportunities for them to grow and improve their skills. For example, boards could opt to get coaching during their meetings to increase their efficiency and effectiveness, or they could opt for a retreat with district leadership to learn how to work together in setting goals to improve student outcomes. This sort of collaboration is key to increasing the average tenure of New Mexico superintendents, who need time and support to put our schools and students on the right track.

The ultimate goal of enhancing the training of school board members has been to ensure that boards stay focused on student outcomes and that their decisions never stray from that objective. When boards have the

highest-quality training on relevant and timely topics, they can be better prepared to ensure district efforts and monies are improving our students' educational experience.

Thank you for considering our comments.

Sincerely,
Mandi Torrez
Education Reform Director
Think New Mexico

From: [Gail Stewart](#)
To: [FeedBack, Rule, PED](#)
Subject: [EXTERNAL] Public comment (1-10-2025)
Date: Friday, January 10, 2025 12:18:25 PM
Attachments: [public comm to PED on amends to 6.29.1.1 NMAC 1-10.pdf](#)

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1-10-2025

Dear NMPED,

I attach public comment for your consideration on proposed amendments to 6.29.1.1 *et seq.*

Thank you for your consideration.

Sincerely,

Gail Stewart

Gail Stewart; Steven Granberg, Atty. at Law; PO Box 10263; Albuquerque, NM 87184-0263; 505-244-3779; gstewart@66law.com

To: NMPED by email to: Rule.Feedback@ped.nm.gov

From: Gail Stewart; Steven Granberg, Atty. at Law; PO Box 10263; Albuquerque, NM 87184-0263; 505-244-3779; gstewart@66law.com

re: **public comment to proposed changes for §6.29.1.1 NMAC *et seq.***

date: 1/10/2025

1) I recommend adding language to **6.29.1.7(R)**, as shown below in bold italics:

R. “English language proficiency assessment (ELPA)” means an assessment administered only to identified English learners that measures students’ progress towards English language proficiency that is aligned to the state’s English language development standards ***and provides all necessary accommodations to students with disabilities in order to ensure that English language proficiency determinations are not based on skill deficits resulting from disability rather than actual English language proficiency.***

As NMPED knows, the failure to provide students who have reading/writing/spelling disability with accommodations or exemption from certain portions of the ACCESS test will result in artificially low scores on the reading/writing portions of ACCESS and causes students with reading disability/dyslexia to continue to be misidentified as English Learners when they are proficient in English, but cannot demonstrate reading/writing skills measured because of learning disability.

2) **Section 6.29.1.9, labeled “Procedural requirements”** is modified by the language after the colon to be concerned with specific rules for “local school board members. . .” but then goes on in section (B) to describe duties of charter school governing body; in section (C) to describe duties/powers of the superintendent; in section (D) to describe mandatory reporting requirements of licensed staff and administrators; in section (E) to describe student intervention system; in section G through Q to talk about various other requirements which are not specific to “local school board members”. To the extent 6.29.1.9 is about procedural requirements, they do not all relate to procedural requirements for local school board members and the language after the “:” should be removed as a descriptor of the procedural requirements covered by 6.29.1.9 and moved somewhere into the (A) subsection about local school board requirements.

3) **Section 6.29.1.9(J)(13), “Graduation requirements”** is very confusing.

The (b) subsection describes three possible “programs of study” for students with a

disability who have an IEP. The “modified program of study” is described by 6.29.1.9(J)(13)(b)(ii).

Then, 6.29.1.9(J)(13)(b)(iv) states, in part, “Students with disabilities entering the ninth grade in or after the 2025-2026 school year may not be placed on the modified program of study.”

Section 6.29.1.9(J)(13)(b)(iv) says that the “modified program of study” is *eliminated* for students entering 9th grade effective the start of 2025-26 school year. However, multiple sections of the rule then continue to reference “modified program of study”. See, e.g., subsections (c); (g)(i) (“any one of the three programs of study”); (g)(ii) (provide explanations of the “modified ...program of study”); (g)(iii) (changes after 20th day of senior year cannot be made to “modified. . . program of study”).

If the intent of continued reference to “modified program of study” in these sections is to apply only to those students who entered 9th grade before fall 2025, then that needs to be made more clear. **Otherwise, it is very possible that schools/IEP teams will continue to place students on “modified program of study” during the 2025-26 school year, skipping over the one sentence in (J)(13)(b)(iv) eliminating the modified program of study.** Ambiguity is created by not explaining that other references to “modified program of study” are applicable only to students who entered 9th grade prior to 2025-2026 school year.

From: [Jennifer Donelli](#)
To: [FeedBack, Rule, PED](#)
Subject: [EXTERNAL] Proposed Rulemaking 6.29.1 NMAC, General Provisions (Graduation Requirements)
Date: Friday, January 10, 2025 1:28:59 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[Comments 6.29.1 Graduation Requirements.pdf](#)

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Good Afternoon,

Please see the attached document with feedback for proposed amendment to 6.29.1 NMAC General Provisions.

Thank you,

Jenn Donelli

(she/her)

Executive Director

Parents Reaching Out

5130 Masthead St. NE, Suite C

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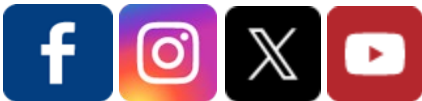
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January 10, 2025

Denise Terrazas
Policy and Legislative Affairs 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*

RE: Proposed Rulemaking 6.29.1 NMAC, General Provisions (Graduation Requirements)

Dear Ms. Terrazas,

I write on behalf of New Mexico’s IDEA Part B Advisory Panel (“the Panel”) to give public comment on the New Mexico Public Education Department’s proposed amendment of 6.29.1 NMAC as it impacts students with disabilities.

According to the Amended Notice of Proposed Rulemaking, the proposed amendment is intended to “align the rule with legislation enacted during the 2024 legislative session, HB171, Graduation Requirements, and SB137, School Board Training, and revise provisions regarding special education modified diplomas.”

More specifically, and as addressed more fully below, the proposed amended rule narrows the application of the Ability graduation pathway for students with disabilities, and it phases out the Modified graduation pathway entirely, beginning August 2025.

These comments primarily address the changes to the alternate diploma structure for students with disabilities, with some additional comments addressing other elements of the rule.

HB 171—Graduation Requirements

In the 2024 Regular Session, the Legislature passed HB171, amending current law to update New Mexico’s high school graduation requirements. The new law goes into effect for high school students beginning ninth grade in the 2025-2026 school year.

The statute makes a number of changes to high school graduation requirements, any of which could have impact on students with disabilities. Two of the key changes are (1) removal of the current requirement that all students demonstrate competency by passing a graduation or exit examination (beyond completion of required courses) to earn a standard high school diploma¹; and (2) broadening the scope of allowable courses that can fulfill the required 24 units for

¹ The LESC report on HB171 refers to the bill as an effort to “modernize” graduation requirements. In reviewing other studies addressing graduation requirements, it does seem that there is a national trend away from high stakes exit examinations as demonstrations of competency, with New Mexico being one of 13 holdouts prior to the passage of the bill.

graduation, including career technical education (CTE), work-based learning, and financial literacy courses, among others.

Although it is easy to speculate how both of these key changes could lead to a higher graduation rate for students with disabilities under a standard diploma pathway, it is unclear to what extent that was a particular focus of discussion for lawmakers. Analysis of HB171 was provided by both the Legislative Finance Committee in its Fiscal Impact Report, and by the Legislative Education Study Committee in its Bill Analysis, but no specific mention of students with disabilities was made in either analysis, with the exception of the following in the LESC report:

Graduation Requirements for Students with Disabilities. For students with disabilities, administrative rule allows students to obtain a diploma of excellence through three possible programs of study, with a student’s individualized education plan [sic] (IEP) specifying accommodations needed for each student. HB171/aHEC does not change these options for students. PED, however, will need to update administrative rule in response to proposed changes to clarify these options for students with disabilities.

The present proposed rule amendment appears to answer this call, making substantial changes to graduation pathways for students with disabilities in ways that the Legislature did not reach.

Proposed Amendment of Alternate Graduation Pathways for Students with Disabilities

The proposed amended rule makes substantial changes to alternate graduation pathways for students with disabilities, narrowing application of the Ability pathway and eliminating the Modified pathway entirely, following a sunset period.

1. Ability Pathway

The Department updated its technical assistance manual entitled Graduation Options for Students with Disabilities four years ago, in January 2021. The manual defines the Ability Option as

a program of study for students with significant cognitive disabilities who are unable to benefit from a standard or modified program of study. A student completing the ability program of study typically works toward goals, objectives, and benchmarks identified within the IEP that relate primarily to employability and independent living skills and/or community participation. The student will earn a high school diploma once he or she meets the goals, objectives, and transition outcomes plan outlined in the IEP.

Graduation Options for Students with Disabilities, p. 16. Similarly, the current rule provides, “An ability program of study was developed for students who have a significant cognitive disability or severe mental health issues.” 6.29.1.9(J)(13)(b)(iii). The proposed amendment specifies that the ability program of study “is for students with disabilities who are determined to have *the most significant cognitive disabilities as the term is defined by the department*. A student’s IEP team has the sole discretion to determine that a student has the most significant cognitive disabilities before placing the student on the ability program of study.”

6.29.1.9(J)(13)(b)(iii)(emphasis added). The amendment further clarifies that students on the Ability program will be assessed by alternate standards. And it elaborates on language current present in the rule that students on the Ability pathway do not earn a “regular high school diploma as defined in 34 C.F.R. §300.102(a)(3)(iv),” adding, “but it is considered a state-defined alternate diploma for students with *the most significant cognitive disabilities as defined in 20 U.S.C. §7801(25)(A)(kk)(I)(bb).*” *Id.* (emphasis added).

The Panel agrees that the Ability Pathway is appropriately limited to students determined to have “the most significant cognitive disabilities,” but are left with the following concerns:

- a) **Definition of “the most significant cognitive disabilities”** What is meant by “the most significant cognitive disabilities as the term is defined by the department?”² It is our understanding that the Department has issued a guidance memo to districts that provides criteria for correctly identifying students with the “most significant cognitive disabilities,” as well as exclusion criteria. These criteria, or a revised version of them, should be included explicitly in the definitions section of this rule, to ensure appropriate application of the Ability Pathway by IEP teams, and to aid in transitioning students currently on the Ability Pathway who do not meet the definition over to either the Modified or Standard Pathways as required by the sunset provision addressed below.
- b) **Potential Over-Application—and Need for Department Monitoring.** It is also of some concern that with the elimination of the Modified Pathway (see next section), IEP teams may place more students rather than fewer on the Ability Pathway, despite the strong language in the proposed amendment. This concern is warranted, at a minimum, by the fact that by its own admission New Mexico has for the past three years exceeded the 1% limitation set by federal law for the number of students permitted to be assessed by alternate assessment. *See*, <https://webnew.ped.state.nm.us/bureaus/assessment/alternate-assessment-monitoring/>. The Department has recently applied for another waiver to allow for additional time to monitor and correct this pattern, but the waiver application includes concerning statistics reflecting alternate assessment at rates of well over 1.5%, particularly as to Black, Native American, and male students. <https://docs.google.com/document/d/1Y9IZ1OQ8a5G5oADAY-tO4dnmXRENIicmx5cK1GpErI/edit?tab=t.0#heading=h.mbjsiz6n6jlo>. Because this is already an identified problem, the Panel urges continued close monitoring, as well as effective training and support of school districts, to ensure appropriately limited use of alternate assessment and the Ability Pathway.
- c) **Widening the Gap.** Although the Department’s proposed limitation is appropriate, it nonetheless potentially creates a wider gap between students with disabilities who have the ability, engagement, and appropriate special education services and supports to graduate with a standard diploma and those who are eligible for an alternate

² The section of the proposed amended rule addressing the Ability Pathway does goes on to cite to the definition in 20 U.S.C. §7801(25)(A)(kk)(I)(bb), suggesting that perhaps the way “the term is defined by the department” is identical to the federal definition. Reviewers of the rule should carefully compare the federal criteria with those defined by the Department to minimize conflict or ambiguity.

graduation path. This naturally leads to a concern that students with disabilities who find themselves in this broadened chasm are at greater risk of disengaging, failing to meet standards, and dropping out.

Importantly, under the proposed amendment, and for the 9th grade cohort entering high school in August 2025, the Ability Pathway is seemingly the only option, aside from repeating grade levels, for students with disabilities to ensure their right to receive a FAPE until age 22. It is unclear how many students currently continue to receive special education and related services beyond receipt of an alternate diploma/certificate, but this is an important consideration for reviewers of the rule.

2. Modified Pathway

The Department's technical assistance manual defines the Modified Option as:

[a]n alternative graduation option for students with disabilities. This option is based upon meeting the department's employability and career education standards with benchmarks and performance standards as identified in the student's IEP. It is a program of study that is based upon the student's meeting or exceeding all requirements for graduation as specified in Section 22-13.1.1 NMSA 1978.

Similarly, the current rule explains, "A modified program of study is developed to provide relevance and is based on a student's career interest as it relates to one of the career clusters, with or without reasonable accommodations of delivery and assessment methods."

6.29.1.9(J)(13)(b)(ii) NMAC. The section of the rule describing the Modified Pathway is relatively untouched in the amendment, which primarily eliminates reference to high school competency assessment, consistent with amendment of the rule throughout. The description of the Modified Pathway as amended continues to state that a diploma earned under the Modified Pathway is not a "regular high school diploma," and that the right to FAPE continues until age 22 after receipt of such a diploma.

However, the amended rule adds a new section which sets out a sunset provision:

The modified program of study shall only be available to students with disabilities that began the ninth grade before the 2025-2026 school year. Students with disabilities entering the ninth grade in or after the 2025-2026 school year may not be placed on the modified program of study. Students with disabilities that began the ninth grade before the 2025 -2026 school year currently assigned to the ability program of study that do not meet the definition of a student with the most significant cognitive disability must be moved to the modified or standard program of study within the first 20 days of the start of the 2025-2026 school year. The appropriate program of study shall be determined by the student's IEP team.

6.29.1.9(J)(13)(b)(iv) NMAC.

Although the Amended Notice of Proposed Rulemaking does not provide background or context for the proposal to eliminate the Modified Pathway, it may relate to the broadened opportunities to satisfy graduation requirements for a standard diploma, specifically through CTE and work-based learning. In other words, there may be an understanding that the Modified Pathway is now subsumed by the broadened standard diploma requirements. It also may be that the Department hopes to put more standard diplomas in the hands of students with disabilities, increasing their vocational and post-secondary learning opportunities. While these may be laudable goals, there are some lingering concerns:

- a) **Are the expansions to standard graduation requirements enough?** At this point, the Panel does not have the information necessary to do a close comparison of the standards specific to the Modified Pathway (as described, for example, in the Department's technical assistance manual at pages 10-12) with those which now apply to the Standard Pathway. Has the Department undertaken this study or analysis before proposing the amendment? What grounds are there for the conclusion that the Modified Pathway is no longer needed?
- b) **Training for Districts and Educators.** Given the elimination of the Modified Pathways, there will be a percentage of students with disabilities who will be moved to the Standard Pathway. These are likely students with unique learning needs who may require continued or new support to ensure their success across a broader range of coursework with a wider variety of school personnel. Will these teachers receive specific training to accommodate and support these learners?
- c) **Risk of Dropout.** Assuming the hope and intention is that the broadened graduation standards will lead to increased engagement and standard diplomas for students with disabilities, is there not also a possible unintended consequence that students who formerly qualified for the Modified Pathway will not be adequately supported or able to meet even the broadened requirements of the Standard Pathway, particularly during this transition period? National statistics reflect that students with disabilities drop out at over twice the rate of their non-disabled peers. See <https://www.gradpartnership.org/resources/a-pathway-to-change/>
In New Mexico, students with disabilities are graduating at the rate of 64.66% (including students receiving alternate diplomas), well below the national average of 85%. What monitoring and other safety mechanisms will the Department have in place to ensure that graduation rates rise rather than fall for students with disabilities, and to intervene nimbly to address the needs of students struggling to meet the requirements of the Standard Pathway?
- d) **Graduation Statistics for Students with Disabilities.** In the most recently reported graduation rate for students with disabilities in New Mexico (64.66%), students receiving alternate diplomas under the Modified and Ability Pathways are included. It is our understanding that they will not be included going forward, during the sunset period and after. Given that this will likely lead to a decrease in graduation rates for students with disabilities, has the Department anticipated the extent of the likely decrease and set any related targets? Will there be monitoring and data collection to assess the impact of this rule amendment on graduation and college/career readiness

- of students with disabilities, especially those who would otherwise have had the option of the Modified Pathway?
- e) **Students Already on the Modified Pathway.** For students currently in 8th grade in the 2024-25 school year whose IEP teams have determined their appropriate graduation pathway to be Modified, what will be the procedure to be followed upon entering high school? The proposed amended rule does not currently address this population. Is it expected that the IEP team should be convened in those cases? If so, the amended rule may need to specifically require this step within a short time frame, as it does with the requirement to move, within the first 20 days of the 2025-26 school year, students who do not meet the definition of “most significant cognitive disability” away from the Ability Pathway. Otherwise, these students may be pursuing a graduation pathway that is no longer available to them, well into the school year.
 - f) **Entitlement to FAPE until age 22.** For students in the 2025-26 9th grade cohort who would otherwise be eligible for the Modified Pathway, how will their entitlement to FAPE until age 22 be honored? For these students, is the only way to access these extended special education and related services to repeat grade levels? If so, what are the social and other implications of that trend, and how will those students be supported to continue to engage despite being retained for one or more years?

Additional Suggestions for Amendment

1. **Correction of Transition Age Language.** Section 6.29.1.9(J)(13)(e) NMAC, describing transition program of study, inaccurately references “the end of eighth grade” as the starting point for including “a proposed individual program of study for grades nine through 12.” This section should reference the legally operative age (not just grade level), as is done in section (k). We recommend the following amendment (indicated by underline and bold):

(e) By the end of the eighth grade, **or by the time the student turns 14 years of age**, each student's IEP shall contain a proposed individual program of study for grades nine through 12. The program of study shall identify by name all course options the student may take and shall align with the student's long-range measurable post-secondary goals and transition services to facilitate a smooth transition to high school and beyond. This program of study shall be reviewed on an annual basis and adjusted to address the student's strengths, interests, preferences and areas of identified educational and functional needs. The IEP team shall document on the IEP the student's progress toward earning required graduation credits [~~and passing the current graduation examination~~].

2. **More Clear and Precise Language Describing “Assessment” throughout the Rule.** The proposed amended rule makes a concerted effort (seemingly successful) to eliminate all reference to high school graduation or exit evaluations or assessments. Still, there remains reference to “assessments” in various sections, especially in Sections 6.29.1.9(J)(13)(b) (diplomas for students with disabilities) and (L)(Statewide student

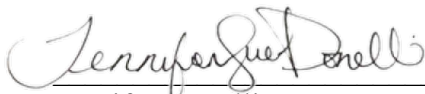
assessment system). In reviewing the rule before finalizing, care should be taken to ensure that in all places where “assessments” are addressed, these are distinguished from the graduation or exit assessments eliminated by HB171 and the rule. This suggestion applies, at a minimum, to the two sections already cited, as well as to the definitions of “Standards-based assessments” and “Systems of assessments” in Section 6.29.1.7.

- 3. Need for Training and Technical Assistance from the Department.** In implementing this proposed rule, it will be critical that the Department, and specifically the Office of Special Education, provide training and technical assistance to school boards, administrators, teachers, IEP teams, and families, to ensure that students with disabilities have appropriate, effective transition IEPs, next step plans, and graduate profiles, as well as to prevent dropout and decreased graduation rates for students with disabilities. Specifically with respect to the changes in available alternate graduation pathways for students with disabilities, the Panel suggests the OSE immediately remove its 2021 technical assistance manual from its website upon adoption of the amended rule, and in its place, provide an accurate, applicable manual providing standards, benchmarks, and other specific measures and strategies for supporting students with disabilities toward either a standard diploma or alternate diploma (via the limited Ability Pathway). Also immediately upon adoption of the rule, districts will likely need a guidance memorandum and perhaps direct training from the OSE on the pathway changes to understand how to explain them to individual students’ IEP teams and to families.

Conclusion

The Panel appreciates the opportunity to provide public comment on this important matter bearing upon the transition needs, and the educational success, of students with disabilities. Should the Policy and Legislative Affairs Division require any additional input or assistance from us, we are happy to provide it.

Respectfully,



Jennifer Donelli
Chair, IDEA Part B Advisory Panel

From: [Rebecca Dow](#)
To: [FeedBack, Rule, PED](#)
Subject: [EXTERNAL] Comment on rules
Date: Friday, January 10, 2025 2:04:45 PM

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I am submitting this public comment as part of the formal record for PED's rulemaking of Title 6, Chapter 29, Part 1, Section 9. Laws 2023, Chapter 43 (SB 137) changed mandatory training requirements for school board members and charter school governing body members. Many of the updated training requirements were intended to address significant shortfalls in the types of training school board members and charter school governing body members have been receiving, accountability issues related to actual completion of training requirements, and general sense that certain specific knowledge is required to be an effective school board or governing body member. While most of the proposed changes to the rule appear to comply with the statutory changes made by Laws 2023, Chapter 43, there are several troubling issues with the proposed rule – some of which is existing regulatory language – related to school board and governing body member training programs.

Different Approval Processes for School Board Member Training Programs. The New Mexico Public Education Department (PED) has failed to establish a consistent and transparent process for approving school board member training programs. All training courses offered by entities other than the New Mexico School Boards Association (NMSBA) must undergo a more rigorous and opaque approval process, while NMSBA's programs are exempt from this scrutiny. It remains unclear why PED has created such a disparity in approval procedures for NMSBA's programs and those provided by other organizations. This discriminatory approach seems to favor one provider, and establishes bureaucratic roadblocks for other, potentially more effective entities.

Equal Protection Under the Law and Equal Review. The establishment of two separate and unequal approval processes violates the principle of equal protection under the law. PED's differential treatment of NMSBA in the approval process raises serious concerns about fairness and transparency. Entities that wish to provide training programs to school board members, but are not affiliated with NMSBA, are subjected to a more burdensome and inconsistent approval process. By exempting NMSBA from the same standards that other training providers must meet, PED is not only violating principles of fairness and equal treatment but potentially depriving school board members of access to a more diverse range of training options. This favoritism toward one organization undermines the legislative goal of improving training quality for board members statewide.

Financial Favoritism Toward NMSBA. Furthermore, PED's preferential treatment of NMSBA creates a process that likely financially benefits one entity to the potential detriment of others, as well as taxpayers. NMSBA currently receives nearly \$1.1 million annually for training services, yet many school board members have reported that NMSBA's programs fail to adequately meet their needs. Despite this, PED is granting NMSBA a financial advantage in the department's rulemaking. Taxpayer dollars are being funneled into a system that promotes a single, underperforming provider, reducing the overall quality of school board training in New Mexico. This creates an environment where one entity benefits from public funds

without being held to the same standards of accountability or performance as other providers. This arrangement is not only inequitable but also financially irresponsible, as it perpetuates inefficiencies in training and wastes public resources that could be better utilized elsewhere.

Automatic Approval of NMSBA Training Programs. The department is effectively establishing a system that grants NMSBA preferential treatment, without any clear rationale. The Legislative Education Study Committee (LESC), in its analysis of HB137, highlighted the necessity for PED to regulate all training programs, yet NMSBA's programs are inexplicably exempt from such oversight. If NMSBA's programs were meeting the needs of school board members, there would have been no need for SB137 to impose such specific statutory requirements for training. PED's decision to exempt NMSBA from demonstrating that its programs meet the same statutory standards as other providers further undermines the purpose of legislative action. It is imperative that PED amend this rule to ensure all training providers, regardless of affiliation, meet the same standards of quality and transparency.

Reporting Completion to Superintendents. Another area of concern lies in PED's requirement for NMSBA to report training hours to superintendents, while similar requirements are not imposed on other training providers. Given that the district's accountability reports must include data on the training hours completed by each school board member, it is essential that all department-approved training providers are held to the same reporting standards.

Conclusion. PED's proposed rulemaking is deeply problematic in its unequal treatment of training providers, its failure to create a fair and transparent process, and its inadvertent promotion of financial favoritism towards NMSBA. By creating a system that is designed to benefit one entity over others, the department is violating principles of equal protection, fiscal responsibility, and transparency. PED must amend its proposed rule to ensure that all training programs undergo the same rigorous review, are held to the same accountability standards, and provide school board members with training that truly meets their needs.

Rebecca Dow

From: [Lisa Martinez](#)
To: [FeedBack, Rule, PED](#)
Cc: [tony](#); [Kim Lanoy-Sandoval](#)
Subject: [EXTERNAL] Feedback for Rule 6.29.1 NMAC, General Provisions Amendment
Date: Friday, January 10, 2025 2:22:00 PM
Attachments: [HB 171 Rule Hearing Statement.pdf](#)

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Please see the attached feedback document for proposed amendment to 6.29.1 NMAC General Provisions.

With appreciation,
Lisa



Lisa Harmon-Martínez (she/her/hers or they/them)
Director of Learning by Doing
(505) 918-7686
You can see my availability [here](#).

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200 3rd Street NW
20 First Plaza Center, Suite 306

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Albuquerque, NM 87102



January 10, 2024

Policy and Legislative Affairs Division
New Mexico Public Education Department
300 Don Gaspar Ave., room 121
Santa Fe, New Mexico 87501

Dear Policy and Legislative Affairs Division of the New Mexico Public Education Department:

Future Focused Education, in collaboration with the New Mexico Public Education Department, has been working alongside educators, school and district leaders, community members, employer partners, and, most importantly, students to transform the high school experience by introducing authentic, community-based learning and assessment practices with integrated social-emotional learning (SEL) aligned to community-developed graduate profiles.

I believe that House Bill 171 and this subsequent Rule change will offer educators an opportunity to transform their teaching, learning, and assessment practices to integrate community-defined outcomes in the graduate profile. Given that the Demonstration of Competency is now also removed in statute, there is no longer a definition of assessment in statute; this is a new opportunity to redefine assessment according to local values, culture, and ways of knowing. Similarly, we are recommending additional language to describe community-developed graduate profiles.

Future Focused Education's Instituto Del Puente has been working with leaders in education: educators, students, school and district leaders, and non-profits to develop policy recommendations that start with the voices and experiences of students. Over the course of several months, educators, and the Instituto group that was focused on HB 171 developed the following definition. While this new community-developed definition of assessment, rooted in equity and cultural and linguistic sustainability, might not be added to the Rule, we are offering this definition here as a way to articulate the possibility inherent in the new graduation requirements, as well as the requisite training educators will need as they actualize these changes in their classrooms and communities.

Definition of Assessment:

In New Mexico, a culturally and linguistically sustainable assessment is one that respects and incorporates students' diverse backgrounds, allowing them to demonstrate their knowledge and skills in ways that resonate with their lived experiences, language, and cultural practices. This approach views assessment as a holistic reflection of student growth, moving beyond standardized testing to emphasize real-world, hands-on, and community-based demonstrations

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20 First Plaza Center NW, Suite Albuquerque NM 87102

of learning. Students are encouraged to showcase their learning through various methods, such as performance assessments, portfolios, and projects, which honor Indigenous epistemologies and community values.

Assessment becomes a process where students can confidently engage, using familiar languages and customs to express their understanding. This redefined assessment framework fosters joy in learning and a sense of belonging, with community members participating in the evaluation process. It aims to prepare students not only to meet academic standards but also to thrive as active, culturally rooted members of society. By integrating self-reflection, experiential learning, and community-informed benchmarks in local Graduate Profiles, New Mexico's approach to assessment supports a broader vision of student success aligned with cultural sustainability and lifelong learning.

Community-Developed Graduate Profiles:

In order to ensure that graduate profiles are developed with the community, we recommend adding the following language about how graduate profiles should be developed to ensure that they are aligned with the community's needs and hopes for high school graduates.

The proposed Rule defines graduate profiles in the following way:

"Graduate profile" means a document that a school district or charter school creates and uses to specify the cognitive, personal, and interpersonal competencies that students should have when they graduate. The core academic competencies and subjects identified in a school district's or charter school's graduate profile shall align with required graduation units.

Recommended additional language in bold:

"Graduate profile" means a document that a school district or charter school creates **with the community through intentional listening sessions** and uses to specify the cognitive, **cultural**, personal, and interpersonal competencies **and practices** that students should have when they graduate. The core academic competencies and subjects identified in a school district's or charter school's graduate profile shall align with required graduation units.

Thank you for your consideration,

Lisa Harmon-Martínez
lisa@futurefocusededucation.org

From: [Paul Gessing](#)
To: [FeedBack, Rule, PED](#)
Subject: [EXTERNAL] Rulemaking re: changed mandatory training requirements for school board members
Date: Friday, January 10, 2025 2:28:30 PM

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On behalf of the Rio Grande Foundation, a public policy research institute that works on education policy in the State of New Mexico and as a board member of a New Mexico charter school (New Mexico Connections Academy) I am submitting this public comment as part of the formal record for PED's rulemaking of Title 6, Chapter 29, Part 1, Section 9. Laws 2023, Chapter 43 (SB 137) changed mandatory training requirements for school board members and charter school governing body members. Many of the updated training requirements were intended to address significant shortfalls in the types of training school board members and charter school governing body members have been receiving, accountability issues related to actual completion of training requirements, and general sense that certain specific knowledge is required to be an effective school board or governing body member. While most of the proposed changes to the rule appear to comply with the statutory changes made by Laws 2023, Chapter 43, there are several troubling issues with the proposed rule – some of which is existing regulatory language – related to school board and governing body member training programs.

Different Approval Processes for School Board Member Training Programs. The New Mexico Public Education Department (PED) has failed to establish a consistent and transparent process for approving school board member training programs. All training courses offered by entities other than the New Mexico School Boards Association (NMSBA) must undergo a more rigorous and opaque approval process, while NMSBA's programs are exempt from this scrutiny. It remains unclear why PED has created such a disparity in approval procedures for NMSBA's programs and those provided by other organizations. This discriminatory approach seems to favor one provider, and establishes bureaucratic roadblocks for other, potentially more effective entities.

Equal Protection Under the Law and Equal Review. The establishment of two separate and unequal approval processes violates the principle of equal protection under the law. PED's differential treatment of NMSBA in the approval process raises serious concerns about fairness and transparency. Entities that wish to provide training programs to school board members, but are not affiliated with NMSBA, are subjected to a more burdensome and inconsistent approval process. By exempting NMSBA from the same standards that other training providers must meet, PED is not only violating principles of fairness and equal treatment but potentially depriving school board members of access to a more diverse range of training options. This favoritism toward one organization undermines the legislative goal of improving training quality for board members statewide.

Financial Favoritism Toward NMSBA. Furthermore, PED's preferential treatment of NMSBA creates a process that likely financially benefits one entity

to the potential detriment of others, as well as taxpayers. NMSBA currently receives nearly \$1.1 million annually for training services, yet many school board members have reported that NMSBA's programs fail to adequately meet their needs. Despite this, PED is granting NMSBA a financial advantage in the department's rulemaking. Taxpayer dollars are being funneled into a system that promotes a single, underperforming provider, reducing the overall quality of school board training in New Mexico. This creates an environment where one entity benefits from public funds without being held to the same standards of accountability or performance as other providers. This arrangement is not only inequitable but also financially irresponsible, as it perpetuates inefficiencies in training and wastes public resources that could be better utilized elsewhere.

Automatic Approval of NMSBA Training Programs. The department is effectively establishing a system that grants NMSBA preferential treatment, without any clear rationale. The Legislative Education Study Committee (LESC), in its analysis of HB137, highlighted the necessity for PED to regulate all training programs, yet NMSBA's programs are inexplicably exempt from such oversight. If NMSBA's programs were meeting the needs of school board members, there would have been no need for SB137 to impose such specific statutory requirements for training. PED's decision to exempt NMSBA from demonstrating that its programs meet the same statutory standards as other providers further undermines the purpose of legislative action. It is imperative that PED amend this rule to ensure all training providers, regardless of affiliation, meet the same standards of quality and transparency.

Reporting Completion to Superintendents. Another area of concern lies in PED's requirement for NMSBA to report training hours to superintendents, while similar requirements are not imposed on other training providers. Given that the district's accountability reports must include data on the training hours completed by each school board member, it is essential that all department-approved training providers are held to the same reporting standards.

Conclusion. PED's proposed rulemaking is deeply problematic in its unequal treatment of training providers, its failure to create a fair and transparent process, and its inadvertent promotion of financial favoritism towards NMSBA. By creating a system that is designed to benefit one entity over others, the department is violating principles of equal protection, fiscal responsibility, and transparency. PED must amend its proposed rule to ensure that all training programs undergo the same rigorous review, are held to the same accountability standards, and provide school board members with training that truly meets their needs.

--

Paul J. Gessing
President
Rio Grande Foundation
P.O. Box 40336
Albuquerque, N.M., 87196
www.riograndefoundation.org
505-264-6090

From: [Jodi Hendricks](#)
To: [FeedBack, Rule, PED](#)
Subject: [EXTERNAL] Public Comment for PED Rulemaking
Date: Friday, January 10, 2025 3:44:10 PM

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I am submitting this public comment as part of the formal record for the New Mexico Public Education Department's (PED) rulemaking of Title 6, Chapter 29, Part 1, Section 9. Laws 2023, Chapter 43 (SB 137) introduced critical changes to the mandatory training requirements for school board members and charter school governing body members. These changes were designed to address longstanding concerns, including the inadequacy of previous training programs, accountability for completing training requirements, and the pressing need for specific knowledge to effectively serve in these roles. While much of the proposed rule aligns with these statutory updates, there are significant and concerning issues regarding the approval and administration of training programs that must be addressed.

Disparate Approval Processes for Training Programs

PED has failed to ensure a fair, consistent, and transparent process for approving school board training programs. Currently, training programs offered by entities other than the New Mexico School Boards Association (NMSBA) are subjected to a more rigorous and opaque approval process, while NMSBA's programs are exempt from this level of scrutiny. This disparity creates an uneven playing field, giving undue advantage to one provider without clear justification. Favoring NMSBA through a more lenient approval process not only undermines the principles of fairness and accountability but also limits school board members' access to diverse, high-quality training options.

Equal Protection and Transparency

The dual approval process raises serious concerns about fairness and transparency. All training providers should be subjected to equal standards and review procedures. Exempting NMSBA from the rigorous review applied to other providers violates principles of equal protection and fairness, contradicting the legislative intent of improving training quality. By allowing one organization preferential treatment, PED risks marginalizing other capable providers, reducing competition, and ultimately depriving school board members of the comprehensive training they deserve.

Financial Favoritism Toward NMSBA

PED's preferential treatment of NMSBA also raises concerns about fiscal responsibility. NMSBA receives nearly \$1.1 million annually to deliver training services, yet many school board members report that these programs do not meet their needs. Allowing NMSBA to benefit financially without holding it to the same accountability standards as other providers undermines the integrity of the rule and misuses taxpayer dollars. This favoritism perpetuates inefficiencies and hinders the improvement of training programs across the state.

Automatic Approval of NMSBA Training Programs

The automatic approval of NMSBA programs directly conflicts with the legislative intent behind SB137. The Legislative Education Study Committee emphasized the importance of regulating all training programs to ensure quality and effectiveness. If NMSBA's programs were adequately addressing school board training needs, there would have been no need for the legislative overhaul. Exempting NMSBA from demonstrating compliance with these updated standards undermines the very purpose of the new law.

Inconsistent Reporting Requirements

Lastly, PED's requirement that NMSBA report training hours to superintendents, while not imposing similar obligations on other providers, creates further inequities. Since school districts are required to include training data in their accountability reports, all providers must be held to the same reporting standards to ensure accuracy and accountability.

Conclusion

As Executive Director of the New Mexico Family Action Movement, I urge PED to amend the proposed rule to ensure all training providers are treated equitably and held to the same rigorous standards of quality, transparency, and accountability. The current proposal undermines the integrity of the rulemaking process and fails to serve the best interests of school board members, governing bodies, and ultimately, the students and families they represent. It is imperative that PED uphold principles of fairness and fiscal responsibility by creating a level playing field for all training providers and ensuring that school board members receive the high-quality training they need to succeed.

Thank you,

Jodi R. Hendricks

Executive Director

PO Box 52201, Albuquerque, NM 87181-2201

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From: [Christa Kulidge](#)
To: [FeedBack, Rule, PED](#)
Cc: ckulidge@hotmail.com; [Andrews, Marit](#)
Subject: [EXTERNAL] Re: Rule Feedback for: 6.29.1--updated
Date: Friday, January 10, 2025 4:04:58 PM
Attachments: [Outlook-kawgejut.png](#)
[Outlook-mos2bxdo.png](#)

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Hello,

After being made aware of the additional provision added to the proposed rule change, I collaborated with the special education high school and middle school leads within Las Cruces Public Schools to compose this follow up email:

6.29.1.9 J (13) (b) (iv) is a new paragraph stating elimination of the modified program of study effective this fall (2025). While I support this process, I ask that it be rolled out more thoughtfully and provide districts the time and opportunity to plan for necessary adjustments. Since students are required to begin transition planning at age 14, students in middle school already have courses and transition plans geared to the modified pathway; as a result, I ask the rule be amended to begin in the 2027-2028 school year.

New Mexico students with disabilities function within a large range of skill levels. A fair number of high school students (most of whom are currently identified as modified option) are able to be provided with a continuum of services through a combination of pull-out resource courses and special education courses that predominantly address life skills. The gap caused by removing this option will take time to fill as we must determine how to adjust appropriate course availability and staffing that both meets the student's needs as well as the criteria for a standard diploma.

Districts will also need time to identify how this rule will apply to class rankings and GPAs. If courses need to be designed to meet standards, and students with more significant disabilities require significant modification, should those students' grades be considered equal to a general education student's grade in which no modifications were made? The ability to address the discrepancies in grading and expectations through modifications will need to be addressed by each district in order to provide equitable opportunities while maintaining accuracy of GPA reporting and class ranking.

These are only a few of the concerns that we have identified. Had I noticed this addition to the rule, I would have provided more feedback; however, I wanted to at least address the

immediate concerns my colleagues and I have identified.

As always, please feel free to reach out if I may be of any assistance and thank you for taking the time to consider my feedback.

Christa Kulidge
Special Education Administrator
LCHS feeder pattern
Las Cruces Public Schools
575.527.5930

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From: Christa Kulidge <ckulidge@lcps.net>
Sent: Monday, November 25, 2024 2:26 PM
To: Rule.Feedback@ped.nm.gov <Rule.Feedback@ped.nm.gov>
Cc: ckulidge@hotmail.com <ckulidge@hotmail.com>; Andrews, Marit <Marit.Andrews@nmlegis.gov>
Subject: Rule Feedback for: 6.29.1

Hello,

I respectfully submit the following questions and potential clarifications regarding the proposed rule changes in 6.29.1:

J (7) (a) which is not a change, indicates grades 3-12 use a standardized alphabetic grading system. Many schools have moved to standards-based grading systems (K-8), which is numerical rather than alphabetic and do not align to the traditional GPA scale

J (13) (ii) "A modified program of study is developed to provide relevance and is based on a student's career interest as it relates to one of the career clusters, with or without reasonable accommodations of delivery and assessment methods. In addition, a student shall take the current state standards-based assessments required for high school students, under standard

administration or with state-approved accommodations as determined by the [SEA] department. The highlighted section indicates that students on the modified pathway must take the regular end of course exams; however, these students are not on the standard diploma pathway.

"A diploma obtained through the modified program of study is not considered a 'regular high school diploma'" Might it be possible to state that it will be an alternate diploma?

J (13) (iii) (e) "By the end of the eighth grade..." or the year a child turns 14, ..."each student's IEP shall contain a proposed individual program of study for grades nine through 12." Please consider adding the language I have provided in red

J (13) (g) (iii) "The IEP team shall not change the program of study for a student entering the final year of high school (not the cohort with which the student entered high school) from the standard program of study to the modified program of study, nor from the modified program of study to the ability program of study, after the 20th school day of the final year of high school" Thank you for clarifying!!

Thank you for your consideration, and feel free to contact me with any questions.

Christa Kulidge
Special Education Administrator
LCHS feeder pattern
Las Cruces Public Schools
575.527.5930

Please let me know how I am doing by choosing the link below:
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From: [Gudgel, Rachel](#)
To: [FeedBack, Rule, PED](#)
Cc: gail@gailfornewmexico.com; [Alan Martinez](#); "Rebecca Dow"; [Hedin, Ryan](#)
Subject: Rulemaking Comment - Title 6, Chapter 29, Part 1, Section 9
Date: Friday, January 10, 2025 4:17:22 PM

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I am submitting this public comment on behalf of Representatives Gail Armstrong, Alan Martinez, and Rebecca Dow as part of the formal record for PED's rulemaking of Title 6, Chapter 29, Part 1, Section 9.

Laws 2023, Chapter 43 (SB137) changed mandatory training requirements for school board members and charter school governing body members. Many of the updated training requirements were intended to address significant shortfalls in the types of training school board members and charter school governing body members have been receiving, accountability issues related to actual completion of training requirements, and a general sense that certain specific knowledge is required to be an effective school board or governing body member. While most of the proposed changes to the rule appear to comply with the statutory changes made by Laws 2023, Chapter 43, there are several troubling issues with the proposed rule – some of which is existing regulatory language – related to school board and governing body member training programs.

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Mexico. This creates an environment where one entity benefits from public funds without being held to the same standards of accountability or performance as other providers. This arrangement is not only inequitable but also financially irresponsible, as it perpetuates inefficiencies in training and wastes public resources that could be better utilized elsewhere.

Automatic Approval of NMSBA Training Programs. The department is effectively establishing a system that grants NMSBA preferential treatment, without any clear rationale. The Legislative Education Study Committee (LESC), in its analysis of SB137, highlighted the necessity for PED to regulate all training programs, yet NMSBA's programs are inexplicably exempt from such oversight. If NMSBA's programs were meeting the needs of school board members, there would have been no need for SB137 to impose such specific statutory requirements for training. PED's decision to exempt NMSBA from demonstrating that its programs meet the same statutory standards as other providers further undermines the purpose of legislative action. It is imperative that PED amend this rule to ensure all training providers, regardless of affiliation, meet the same standards of quality and transparency.

Reporting Completion to Superintendents. Another area of concern lies in PED's requirement for NMSBA to report training hours to superintendents, while similar requirements are not imposed on other training providers. Given that the district's accountability reports must include data on the training hours completed by each school board member, it is essential that all department-approved training providers are held to the same reporting standards.

Conclusion. PED's proposed rulemaking is deeply problematic in its unequal treatment of training providers, its failure to create a fair and transparent process, and its inadvertent promotion of financial favoritism towards NMSBA. By creating a system that is designed to benefit one entity over others, the department is violating principles of equal protection, fiscal responsibility, and transparency. PED must amend its proposed rule to ensure that all training programs undergo the same rigorous review, are held to the same accountability standards, and provide school board members with training that truly meets their needs.



Rachel S. Gudgel

General Counsel
Office of Minority Leader

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From: [Block, John](#)
To: [FeedBack, Rule, PED](#)
Subject: Public comment
Date: Friday, January 10, 2025 4:25:14 PM
Attachments: [Outlook-3ailzqua.png](#)

You don't often get email from john.block@nmlegis.gov. [Learn why this is important](#)

To whom it may concern:

I am submitting this public comment for the record concerning the New Mexico Public Education Department's (PED) proposed rulemaking for Title 6, Chapter 29, Part 1, Section 9. This rule follows changes enacted by Laws 2023, Chapter 43 (SB 137), which updated mandatory training requirements for school board members and charter school governing body members. These updates were designed to address critical gaps in training, improve accountability, and ensure that school board members and governing bodies possess the necessary knowledge to perform their duties effectively. While many aspects of the proposed rule align with these legislative changes, there are significant concerns regarding the approval and oversight of training programs for school board and governing body members. These issues undermine both the intent of SB 137 and the broader goal of equitable and effective governance training.

PED has failed to establish a uniform and transparent process for approving training programs, creating an unjustifiable disparity between those provided by the New Mexico School Boards Association (NMSBA) and those offered by other entities. Under the proposed rule, NMSBA training programs receive automatic approval without undergoing the same rigorous review process required for other providers. This preferential treatment not only lacks justification but also creates barriers for alternative training providers who may offer innovative, higher-quality, or more cost-effective programs. The inconsistency in approval processes is fundamentally unfair and raises serious concerns about PED's commitment to equity and accountability.

The principle of equal protection demands that all entities seeking to provide training to school board members be subject to the same standards and oversight. By exempting NMSBA from this process, PED undermines fairness and transparency, effectively giving one organization an unwarranted advantage. This disparity restricts access to diverse and potentially superior training options for school board members, contradicting the legislative intent of improving training standards statewide. PED's favoritism not only skews the market for training services but also deprives school boards of the opportunity to select programs best suited to their unique needs.

The financial implications of PED's approach are equally troubling. NMSBA receives approximately \$1.1 million annually in public funds to provide training services, yet there is

substantial feedback from school board members indicating that NMSBA's programs are inadequate. By exempting NMSBA from standard approval processes, PED effectively prioritizes financial support for a single provider, regardless of performance. This arrangement not only wastes taxpayer dollars but also perpetuates inefficiencies and limits opportunities for improvement. Such preferential treatment is fiscally irresponsible and undermines public confidence in the department's stewardship of resources.

Further, PED's decision to allow automatic approval for NMSBA training programs directly contradicts the intent of SB 137, which sought to enhance oversight and accountability. The Legislative Education Study Committee (LESC) emphasized the need for PED to regulate all training programs equally. If NMSBA's programs were sufficiently effective, the legislative reforms outlined in SB 137 would not have been necessary. PED's exemption of NMSBA from demonstrating compliance with statutory standards erodes the credibility of its rulemaking process and undermines efforts to ensure high-quality training for all school board members.

Another concerning issue is the selective requirement for NMSBA to report training hours to superintendents, while other approved training providers are not held to the same standard. Given that districts must report training data for all school board members in their accountability reports, it is essential that PED enforce consistent reporting requirements across all training providers. This inconsistency creates further inequities and jeopardizes the accuracy of reporting, which is vital for public accountability and transparency.

PED's proposed rule, as it stands, fails to address these fundamental concerns. The department's unequal treatment of training providers, its lack of transparency, and its apparent financial favoritism toward NMSBA undermine the goals of SB 137 and the broader mission to improve governance in New Mexico's schools. PED must revise its rule to establish a fair, transparent, and consistent approval process for all training providers. All programs, regardless of affiliation, should be held to the same rigorous standards to ensure that school board members receive the quality training they need to serve their communities effectively. Only by creating an equitable and accountable system can PED fulfill its obligation to support effective educational leadership statewide.

Regards,

Rep. John Block
House District 51



From: [David Mann](#)
To: [FeedBack, Rule, PED](#)
Cc: [Loren Hatch](#)
Subject: [EXTERNAL] Rio Rancho Public Schools District Comment to Proposed Rule 6.29.1 NMAC
Date: Friday, January 10, 2025 4:32:47 PM
Attachments: [Rio Rancho Public Schools Comments to Proposed Rulemaking 6.29.1 NMAC \(1.10.25\).pdf](#)

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To the Policy and Legislative Affairs Division:

Attached, please see the Rio Rancho Public Schools District comments to proposed rule 6.29.1 NMAC. Please feel free to reach out to me if you have any questions.

Respectfully,

--

David Mann
General Counsel
Rio Rancho Public Schools
500 Laser Road NE
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david.mann@rrps.net



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January 10, 2025

Policy and Legislative Affairs Division
New Mexico Public Education Department
300 Don Gaspar Ave., Room 121
Santa Fe, NM 87501
Rule.Feedback@ped.nm.gov

RE: Rio Rancho Public Schools District Public Comment to Proposed Rulemaking 6.29.1 NMAC

To whom it may concern:

The Rio Rancho Public Schools District appreciates the opportunity to provide public comment to the proposed Rulemaking for 6.29.1 NMAC. Our comments are as follows:

1. In Section 6.29.1.9(A)(3)(d) of the proposed rule, the District is concerned that the proposed January 1st report date for school board member training does not account for Winter Break school closures. We proffer that February 1st would be a more viable alternative. By way of comparison, the New Mexico State Bar Association provides attorneys until February 1st to renew their licensure and to report their annual training attendance.
2. In Section 6.29.1.9(A)(3)(c) of the proposed rule, the District notes a material typo: the reference to “five years” should, in-fact, be “five hours” per statute.
3. Section 6.29.1.9(L) of the proposed rule refers to section 22-2-8.13 NMSA in support of PED’s Statewide System of Assessments. However, that statute refers to grades 3 through 12 only. To clarify the statutory basis for the inclusion of grades K-2 in the Statewide System of Assessments, PED might consider also referencing Section 22-13-1 NMSA, which specifically authorizes PED to monitor and screen the progress of students in grades K through 2.

We appreciate our partnership with PED, toward educating the students of Rio Rancho. Please reach out to me if you would like to discuss these comments further.

Sincerely,

A blue ink signature of David C. Mann, written over a horizontal line.

David C. Mann
General Counsel

From: [Laurel Nesbitt](#)
To: [FeedBack, Rule, PED](#)
Subject: [EXTERNAL] DRNM Comments, Proposed Rulemaking 6.29.1 NMAC, Graduation Requirements
Date: Friday, January 10, 2025 4:53:41 PM
Attachments: [25-1-10 DRNM Comments, 6.29.1 Proposed Rule Amendment, Graduation Requirements.pdf](#)

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Good afternoon.

Attached, please find written comments submitted by Disability Rights New Mexico, addressing NMPED's proposed amended 6.29.1 NMAC, Graduation Requirements.

Regards,

Laurel Nesbitt, Senior Attorney
Disability Rights New Mexico



DISABILITY RIGHTS NEW MEXICO

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Gary Housepian, Chief Executive Officer

Promoting and Protecting the Rights of Persons with Disabilities

January 10, 2025

Denise Terrazas
Policy and Legislative Affairs 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

RE: Disability Rights New Mexico Comments on Proposed Rulemaking 6.29.1 NMAC, General Provisions (Graduation Requirements)

Dear Ms. Terrazas,

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.

By this letter, DRNM offers public comment on the Department’s proposed rule amendment in 6.29.1 NMAC, which seeks to “align the rule with legislation enacted during the 2024 legislative session, HB171, Graduation Requirements, and SB137, School Board Training, and revise provisions regarding special education modified diplomas.”

It is this last part, the revision of provisions regarding special education modified diplomas, that is of particular concern. Section 6.29.1. 9(J)(13)(b) proposes substantial changes to alternate diploma opportunities for students with disabilities pursuing Modified and Ability pathways.

Specifically, the rule proposes to narrow the Ability pathway’s application to students with disabilities who are determined to have *the most significant cognitive disabilities as the term is defined by the department*. A student’s IEP team has the sole discretion to determine that a student has the most significant cognitive disabilities before placing the student on the ability program of study.” 6.29.1.9(J)(13)(b)(iii)(emphasis added).

The rule further proposes to eliminate the Modified pathway entirely, following a sunset period. Under the new rule, students with disabilities entering high school in the 2025-26 school year

will no longer be able to pursue the Modified pathway, and will instead be required to meet the new requirements of the Standard graduation pathway.

In its 2024 Regular Session, the Legislature passed HB171, updating high school graduation requirements for all New Mexico students, which go into effect for high school students entering ninth grade in the 2025-26 school year. Perhaps most significantly for students with disabilities, HB171 removed the current requirement that all students demonstrate competency by passing a graduation or exit examination (beyond completion of required courses) to earn a standard high school diploma, while also broadening the scope of allowable courses that can fulfill the required 24 units for graduation, including career technical education (CTE), work-based learning, and financial literacy courses, among others.

Even with the broadening of these standards, it is unclear whether students who previously required the Modified pathway (let alone the high end of the Ability pathway) will meet them. The Modified option, which currently focuses on career education standards, may in fact be neatly folded within the new Standard pathway as defined by the Legislature. Then again, it may not. The LESC report analyzing HB171 suggests that the Legislature did not in fact carefully consider the impact of its overhaul of graduation standards on students with disabilities, leaving that instead to the New Mexico Public Education Department, which it said “will need to update administrative rule in response to proposed changes to clarify these [alternate diploma] options for students with disabilities.”

In proposing this rule revision in response, NMPED provides no data nor analysis to guide thinking on whether the legislative and proposed rule amendments promise improved rather than diminished outcomes for students with disabilities. It is not even clear whether the Department has yet made any such analysis and begun to plan for the impact.

Accordingly, comments on these changes must be made largely in a vacuum. And there are a number of considerations and concerns.

On the one hand, it seems altogether right and appropriate that the Ability pathway should be limited in application to only the students with “the most significant cognitive disabilities as the term is defined by the department¹.” 6.29.1.9(J)(13)(b)(iii)(emphasis added). However, there is no data offered to explain whether there has in the past been a problem of overuse of the Ability pathway. Once the Modified pathway is eliminated, there is a real risk that school districts will broaden rather than narrow their use of the Ability pathway, something which the Department will need to prevent with vigilance. It is also questionable whether limiting the numbers of students on the Ability pathway, subject to alternate assessments, is realistic in the first place. New Mexico has for at least the past three years struggled to keep the numbers low, exceeding the 1% limitation set by federal law for the number of students permitted to be assessed by

¹ No definition is in fact provided in the rule, and it will be critically important for one to be incorporated should these amendments be adopted.

alternate assessment. In fact, New Mexico has recently applied for another waiver to allow for additional time for the State to comply, where it currently uses alternate assessment at rates higher than 1.5% for several groups of students, including Native American, Black, and male students. See, <https://docs.google.com/document/d/1Y9IZ1OQ8a5G5oADAY-tO4dnmXRENIIcmx5cK1GpErI/edit?tab=t.0#heading=h.mbjsiz6n6jlo>.

What is clear is that the combined actions of limiting the Ability pathway and eliminating the Modified pathway will push nearly all students with disabilities—all except those with the most significant cognitive disabilities—onto the Standard graduation pathway. And while graduating with a standard diploma can increase vocational and post-secondary learning opportunities, students with disabilities who previously were determined to require an alternate graduation pathway may be at greater risk of disengaging, failing to meet standards, and dropping out. Will there be a safety net in place for these students? Will the Department be collecting data and requiring specific reporting and other action by the districts, to ensure these students are able to achieve a standard diploma and are ready for career or post-secondary education/training?

It is also important to remember that IDEA creates an ongoing entitlement to FAPE until age 22, and receiving an alternate diploma under the Ability and Modified pathways currently does not terminate this entitlement. However, if a student with disabilities either graduates on the Standard pathway or drops out of school permanently, there is no further entitlement to FAPE, and they can no longer access special education and related services. After the amendment, students on the Ability pathway (students with the most significant cognitive disabilities) would continue to be able to access special education and related services after receiving a diploma. However, students formerly on the Modified pathway or the high end of the Ability pathway would seemingly only be able to continue in special education by repeating grade levels rather than graduating. The Department should carefully consider how students who need ongoing special education services are to be identified and supported, and whether there is language that could be built into the rule to require districts' attention to this important consideration.

DRNM appreciates that there was a sunset period built into this rule, so that current high school students with disabilities on the Modified pathway will be permitted to continue to graduation. Hopefully, this period will also allow the Department the time it needs to accomplish several important tasks, including:

1. Identifying and putting protections in place for students potentially impacted by the rule.
2. Studying the impact of the rule change on graduation rates of students with disabilities—which will almost certainly decline at least during the sunset period when students graduating on the Modified pathway will no longer be counted, and likely beyond that point—and responding accordingly.
3. Providing necessary training and technical assistance to school boards, administrators, teachers, IEP teams, and families in implementing the pathway changes. This preparation and training will be critical in ensuring that students with disabilities have appropriate, effective transition IEPs, next step plans, graduate profiles, and where appropriate

ongoing access to FAPE to age 22, as well as in preventing dropout and decreased graduation rates for students with disabilities.

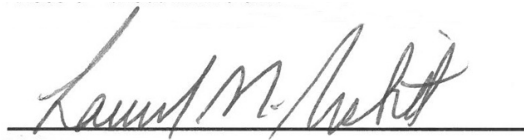
4. Updating technical assistance and guidance documents by (a) removing immediately from its website the 2021 technical assistance manual addressing alternate graduation pathways for students with disabilities, and in its place providing an updated, accurate, applicable manual including standards, benchmarks, and other specific measures and strategies for supporting students with disabilities in the absence of the Modified pathway; and (b) issuing a guidance memorandum and training on the pathway changes to understand how to explain them to individual students' IEP teams and to families.
5. Making further amendments to the rule, as necessary.

Conclusion

From the outside, the proposed rule's sudden and severe limitation of alternate graduation pathways for students with disabilities appears poorly planned, without adequate study and strategy on the part of NMPED. It is our hope that the changes do in fact result in positive outcomes for students with disabilities, but that seems unlikely without tremendous work on the part of the Department and school districts/charter schools. We hope the Department will invest the work that is necessary to ensure these changes help rather than harm students with disabilities.

Thank you for the opportunity to provide public comment. Should the Policy and Legislative Affairs Division require any additional input or assistance from DRNM, we are happy to provide it.

Respectfully,

A handwritten signature in black ink, appearing to read "Laurel Nesbitt", is written over a solid black horizontal line.

Laurel Nesbitt
Senior Attorney