

## NOTICE OF PROPOSED RULEMAKING

**New Public Notice of Rule Hearing.** The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing in Mabry Hall located at the Jerry Apodaca Education Building, 300 Don Gaspar Avenue, Santa Fe, New Mexico 87501, on **March 5, 2018**, from 9:00 a.m. to 11:00 a.m. (MDT). The purpose of the public hearing is to receive public input on the proposed repeal and replace of 6.41.4 NMAC - Standards for Providing Transportation to Eligible Students. At the hearing, the PED will provide a verbal summary statement on record. Attendees who wish to speak will be given three (3) minutes to make a statement concerning the rule changes on record. Written comment will also be accepted at the hearing.

**Rule Information.** The purpose of this proposed rule change is to update standards for the transportation of eligible students and to establish standards for the safe use of Sport Utility Vehicles (SUVs) for to-and-from transportation. Based on public comment and input, PED is proposing an updated version of the repeal and replace of 6.41.4 NMAC.

**The statutory authorizations include the following:**

**Section 22-2-1 NMSA 1978** grants the authority of the secretary to adopt, promulgate, and enforce rules.

**Section 22-2-2 NMSA 1978** grants the Public Education Department the authority to properly and uniformly enforce the provisions of the Public School Code.

**Section 22-8-26 NMSA 1978** grants the authority to use money in the transportation distribution of the public school fund to make payments to each school district or state-chartered charter school for the to-and-from transportation costs of students.

**Section 22-10A-5 NMSA 1978** grants the authority to conduct background checks on district employees.

**Section 22-16-2 NMSA 1978** grants the authority to establish standards and procedures for school bus transportation.

**Section 22-16-4 NMSA 1978** grants the authority to transport students to and from school using an SUV.

**Section 9-24-8 NMSA 1978** grants the authority of the secretary to make and adopt reasonable and procedural rules as may be necessary to carry out the duties of the department and its division.

**Section 1111g(1)(E) of ESEA** grants the authority to ensure the educational stability of children in foster care.

**Section 1111g(1)(F) of ESEA** grants the authority to provide support to local educational agencies in the identification, enrollment, attendance, and school stability of homeless children and youths.

**Section 1112c(5)(B) of ESEA** grants the authority to develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care.

**Section 722g(J)(iii) of the McKinney-Vento Act** grants the authority to adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin.

**Rulemaking History.** On September 29, 2017, the PED adopted 6.41.4.14 NMAC, Using Sport Utility Vehicles (SUVs) for to-and-from Transportation pursuant to the requirements in Section 14-4-5.6 NMSA 1978, State Rules Act, Emergency Rule.

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

**Public Comment.** Interested parties may provide comment on the proposed repeal and replacement of this state rule at the public hearing or may submit written comments, or both, to Jamie Gonzales, Policy Division, New Mexico Public Education Department, Room 101, 300 Don Gaspar Avenue, Santa Fe, New Mexico 87501, or by electronic mail at [rule.feedback@state.nm.us](mailto:rule.feedback@state.nm.us), or fax to (505) 827-6681. All written comments must be received no later than 5:00 p.m. (MDT) on the date of the public hearing. The PED encourages the early submission of written comments. The public comment period is from January 30, 2018 to March 5, 2018 at 5:00 p.m. (MDT).

Copies of the proposed rules may be accessed through the New Mexico Public Education Department's website under the "Rule Notification" link at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule->

[notification/](#) or may be obtained from Jamie Gonzales by contacting her at (505) 827-7889 during regular business hours.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Jamie Gonzales at (505) 827-7889 as soon as possible before the date set for the public hearing. The PED requires at least ten (10) calendar days advance notice to provide any special accommodations requested.