



New Mexico State Legislature

STATE CAPITOL
Santa Fe

April 12, 2024

Public Education Department
Attn: Arsenio Romero, Secretary
300 Don Gaspar Ave
Santa Fe, New Mexico 87501

Re: PED's 180-Day Rule

Secretary Romero,

We are writing to formally request PED reconsider implementation of the department's recent mandate for all public schools not achieving an exception to provide at least 180 instructional days next school year. While we all share the department's concerns about New Mexico's education system, we are concerned this policy will not result in improvements for the vast majority of New Mexico's public school students.

First, we would like to clear up an issue related to the history of instructional time in New Mexico. In testimony to the Legislative Finance Committee in December of 2023, you noted PED's proposed rule mandating 180 instructional days was simply an update to an existing mandate that had not been enforced because of the pandemic. This characterization demonstrates a lack of knowledge at the department of the history of instructional time in New Mexico and is not accurate, and a misrepresentation of what in fact has happened over the last 15 years.

Since the late 1980s, public school instructional time has always been based on hours rather than days. While Section 22-2-8.1 NMSA 1978 was amended in 2009 to mandate, beginning with the 2010-2011 school year, a minimum number of instructional days for schools with a variable school year calendar (150 instructional days) and schools offering a regular calendar (180 instructional days), implementation was delayed for a year during the 2010 legislative session and ultimately replaced during the 2011 legislative session with the pre-2023 version of Section 22-2-8.1 NMSA 1978 prior to implementation.

PED has never enforced the rule you referenced at the December 2023 LFC meeting because the law mandating instructional days was replaced with instructional hours prior to its implementation; the rule remained on the books as an oversight of the Martinez administration. We are disappointed the department continues to mischaracterize these facts to justify the department's recent decision.

PED lacked the authority to implement a rule mandating a minimum number of instructional days. Instructional time has been well vetted during legislative sessions over the last 15 years, with proposals introduced to require additional hours and/or a minimum number of instructional days. Ultimately, during the 2023 legislative session, the Legislature passed, and the Governor signed, House Bill 130 (Laws 2023, Chapter 19), which abandoned prior attempts to establish a minimum number of instructional days in favor of increasing the statutory minimum instructional hours. It was clear exiting the 2023 and 2024 legislative sessions that the Legislature did not intend to establish a minimum number of instructional days, nor did the body intend for PED to do this by rule.

PED's 180-day policy will require most districts to provide at least 180 instructional days next school year; very few districts, if any, will likely be able to achieve the PED-determined growth in reading, language arts to be eligible for an exception to the required 180 instructional days. It appears you set these targets unreasonably high to force most districts into a five-day calendar, especially in light of directives PED staff gave some districts at the beginning of the 2023-2024 school year to decrease growth targets that exceeded 5 percent because PED did not consider targets that exceeded 5 percent appropriate goals. Because of this, most districts will be impacted by the department's 180-day mandate. This will have negative consequences for most districts that have a four-day calendar this school year.

The policy will have significant budgetary implications that were not considered during the 2024 legislative session. During the 2023 legislative session, \$202 million was appropriated to the SEG to fully fund the increased instructional hours established by HB 130 with no additional funding allocated to the transportation distribution for HB 130. Increased transportation expenditures, including fuel and maintenance costs and staffing costs, are a certainty. However, no additional transportation funds were appropriated during the 2024 legislative session to implement the additional instructional days PED's policy will require many districts to add to their calendars next school year. Coupled with the fact that transportation distributions in the 2024-2025 school year will be based on prior year expenditures and miles/days traveled, a number of districts will likely have significant budget shortfalls in their transportation funding.

The policy will result in a number of districts having to add up to 33 additional instructional days next school year; this increase in instructional days will not necessarily result in increased instructional hours. This will result in significant increases in personnel costs; it is not reasonable to assume that a district forced to schedule an additional 33 instructional days will not also have to increase pay for its employees, transportation staff, and contractors to account for the additional days worked. Districts will also see significant increases in food service costs. These costs were not considered nor was additional funding appropriated to cover these costs during the 2024 legislative session.

Finally, with regard to budgetary impacts, the department has indicated there is sufficient K-12 Plus funding to make up for the budget shortfalls many districts will experience because of PED 180-day mandate. While there may have been sufficient K-12 Plus funding appropriated, district access to these dollars is a different story. Because of PED's rule, many districts will actually see a decrease in the K-12 Plus funding they will receive next school year while at the same time having to provide more instructional days.

Our greatest concern is the impact this policy will have on students and teachers. Commute time to and from school will increase significantly for many students (in some rural communities, students will spend up to 20 percent more time on a bus to and from school), taking critical family time, study time, extracurricular time, and work time away from students. It may negatively impact student attendance, particularly for those students whose families use the free weekday to travel to urban communities for things like medical appointments. School staff will also experience similar increases in travel time to and from work. The policy may also have similar impacts on teacher attendance, as teachers in these districts will not have a free workday to schedule appointments that cannot be handled on weekends.

PED's policy will negatively impact many districts' abilities to recruit and retain teachers and school staff. A four-day work week has been an effective recruitment tool for many of the state's rural school districts, which already struggle annually to fill vacant positions. PED's policy effectively eliminates this recruitment and retention tool. Educator retirements are also likely to increase, further exacerbating the statewide educator shortage. This will only put the state further behind on meeting its constitutional obligation to ensure all New Mexico students have access to a quality education and highly effective teachers.

We are struggling to understand the real benefit that the department's mandate will have on student performance in New Mexico. The department's policy will force significant school calendar changes for less than 4 percent of students attending district schools. The remaining 96 percent of students attending district schools – the vast majority of our children – will continue to attend schools that are not significantly impacted by this policy, i.e. their schools may have to add a few instructional days at most despite poorly performing student populations. While we agree that something needs to be done to improve student achievement in New Mexico, PED's 180-day policy is not designed to impact most of the state's students. A policy that ignores most of our students will have little to no impact on statewide proficiency in reading, language arts, the measure PED has unilaterally chosen to use to grant exceptions to its 180-day mandate. On its face, this policy appears to penalize small, rural districts, many of which have the highest proficiency rates in the state.

Because of these reasons, we are requesting, at a minimum, PED delay implementation of the 180-day rule until the 2025-2026 school year. This will give our public schools a year to plan and come into compliance with the new rule and will give the Legislature adequate time to evaluate the funding needed to accommodate the rule change. This will also give PED added time to address the well-documented ongoing challenges in department oversight of school budgets and activities.

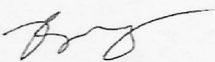
In the meantime, we would like to know the following: 1) What is the department's plan to address the achievement of the considerable majority of students that will not be significantly impacted by the department's 180-day policy; and 2) What is the department's plan to address the increased costs to be born by the districts that are currently on a four-day calendar.

Thank you in advance for considering our request. We look forward to your response.

Sincerely,



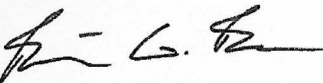
Gail Armstrong
State Rep. District 49



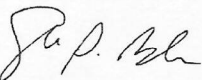
Rod Montoya
State Rep. District 1



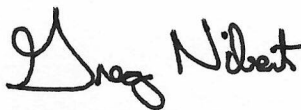
Alan Martinez
State Rep. District 23



Brian Baca
State Rep. District 8



John Block
State Rep District 51



Greg Nibert
State Senator District 27



Greg Baca
State Senator District 29



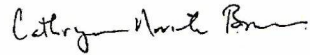
Craig Brandt
State Senator District 40



William F. Burt
State Senator District 33



Crystal Diamond Brantley
State Senator District 35



Catherine Brown
State Rep. District 55



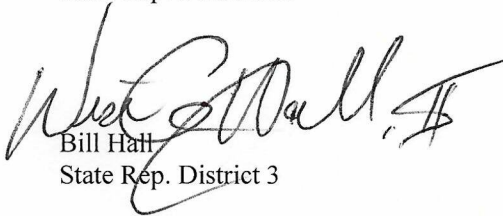
Jack Chatfield
State Rep. District 67



Mark Duncan
State Rep. District 2



Candy Spence Ezzell
State Rep. District 58



Bill Hall
State Rep. District 3



Jason Harper
State Rep. District 57



Jared Hembree
State Rep. District 59



Joshua Hernandez
State Rep. District 60



Jennifer Jones
State Rep. District 32




David M. Gallegos
State Senator District 41



Ron Griggs
State Senator District 34



Steven McCutcheon II
State Senator District 42



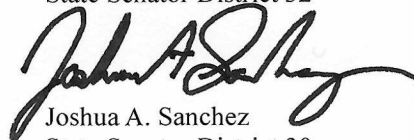
Mark Moores
State Senator District 21



Steven P. Neville
State Senator District 2



Cliff R. Pirtle
State Senator District 32



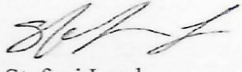
Joshua A. Sanchez
State Senator District 30

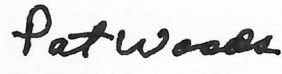


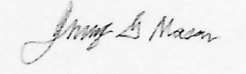
Gregg Schmedes
State Senator District 19

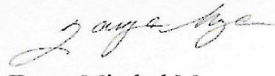



William E. Sharer
State Senator District 1

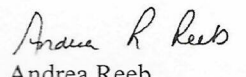

Stefani Lord
State Rep. District 22

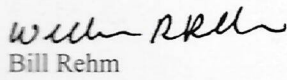

Pat Woods
State Senator District 7

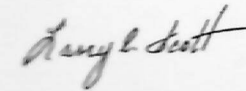

Jimmie Mason
State Rep. District 66



Tanya Mirabal Moya
State Rep. District 7

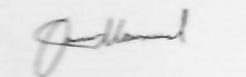

Randall Pettigrew
State Rep. District 61

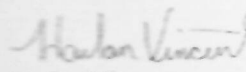

Andrea Reeb
State Rep. District 64

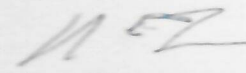

Bill Rehm
State Rep. District 3


Larry Scott
State Rep. District 62


Luis Terrazas
State Rep. District 39


Jim Townsend
State Rep. District 54


Harlan Vincent
State Rep. District 56


Martin Zamora
State Rep. District 63