

# Chapter V

## EDUCATIONAL STRUCTURE IN NEW MEXICO

New Mexico is somewhat unique in its educational structure and governance. The Constitution does not fully outline the framework of organization and administration of the public school system, thus, leaving much to the Legislature to define. The schools are regulated by the Secretary of Education, the Public Education Department and the State Legislature. The educational structure might appear schematically as follows:

PEOPLE OF NEW MEXICO
LEGISLATURE
SECRETARY OF EDUCATION
PUBLIC EDUCATION DEPARTMENT
PUBLIC EDUCATION COMMISSION (10 elected members)
ALL LOCAL PUBLIC SCHOOL DISTRICTS

### *SECTION A. - Public Education Commission (PEC)*

Article XII, Section 6 of the New Mexico Constitution created the Public Education Department and the Public Education Commission. The Public Education Commission's powers and duties are set forth in statute Section 22-2-2.2 of the Public School Code. The Public Education Commission includes ten members elected from districts for staggered four-year terms. (Public Education Commission districts do not correspond to NMSBA regions.)

#### 22-2-2.2. Commission; duties.

A. The commission shall work with the department to develop the five-year strategic plan for public elementary and secondary education in the state. The strategic plan shall be updated at least biennially. The commission shall solicit the input of persons who have an interest in public school policy, including local school boards, school districts and school employees; home schooling associations; parent-teacher associations; educational organizations; the commission on higher education; colleges, universities and vocational schools; state agencies responsible for educating resident children; juvenile justice agencies; work force development providers; and business organizations.

B. In addition to the duty provided in Subsection A of this section, the commission shall:

- (1) solicit input from local school boards, school districts and the public on policy and governance issues and report its findings and recommendations to the secretary and the legislature; and
- (2) Recommend to the secretary conduct and process guidelines and training curricula for local school boards.

### *SECTION B. - Secretary of Education (22-2-1)*

A. The secretary is the governing authority and shall have control, management and direction of all public schools, except as otherwise provided by law.

B. The department may:

- (1) Adopt, promulgate and enforce rules to exercise its authority and the authority of the secretary;
- (2) enter into contracts to carry out its duties;
- (3) apply to the district court for an injunction, writ of mandamus or other appropriate relief to enforce the provisions of the Public School Code or rules promulgated pursuant to the Public School Code; and
- (4) Waive provisions of the Public School Code as authorized by law.

*SECTION C. - Public Education Department*

The department shall:

- A. properly and uniformly enforce the provisions of the Public School Code;
- B. determine policy for the operation of all public schools and vocational education programs in the state, including vocational programs that are part of a juvenile construction industries initiative for juveniles who are committed to the custody of the children, youth and families department;
- C. supervise all schools and school officials coming under its jurisdiction, including taking over the control and management of a public school or school district that has failed to meet requirements of law or department rules or standards, and, until such time as requirements of law, standards or rules have been met and compliance is ensured, the powers and duties of the local school board and local superintendent shall be suspended;
- D. schools seeking state accreditation and for the educational programs conducted in state institutions other than the New Mexico military institute;
  
- E. provide technical assistance to local school boards and school districts;
- F. assess and evaluate public schools for accreditation purposes to determine the adequacy of student gain in standards-required subject matter, adequacy of student activities, functional feasibility of public school and school district organization, adequacy of staff preparation and other matters bearing upon the education of the students;
- G. assess and evaluate all state institutions and those private schools that desire state accreditation;
- H. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the department may order that a student attend a public school or a private school;
- I. require periodic reports on forms prescribed by it from all public schools and attendance reports from private schools;
- J. determine the qualifications for and issue licenses to teachers, instructional support providers and school administrators according to law and according to a system of classification adopted and promulgated by rules of the department;
- K. deny, suspend or revoke a license according to law for incompetency, moral turpitude or any other good and just cause;
- L. approve or disapprove all rules promulgated by an association or organization attempting to regulate a public school activity and invalidate any rule in conflict with any rule promulgated by the department. The department shall require an association or organization attempting to regulate a public school activity to comply with the provisions of the Open Meetings Act and be subject to the inspection provisions of the Public Records Act. The department may require performance and financial audits of an association or organization attempting to regulate a public school activity. The department shall have no power or control over the rules or the bylaws governing the administration of the internal organization of the association or organization;
  
- M. review decisions made by the governing board or officials of an organization or association regulating a public school activity, and any decision of the department shall be final in respect thereto;
- N. require a public school under its jurisdiction that sponsors athletic programs involving sports to mandate that the participating student obtain catastrophic health and accident insurance coverage, such coverage to be offered through the school and issued by an insurance company duly licensed pursuant to the laws of New Mexico;
- O. establish and maintain regional centers, at its discretion, for conducting cooperative services between public schools and school districts within and among those regions and for facilitating regulation and evaluation of school programs;
- P. approve education curricula and programs offered in all two-year public post-secondary educational institutions, except those in Chapter 21, Article 12 NMSA 1978, that lead to alternative licenses for degreed persons pursuant to Section 22-10A-8 NMSA 1978 or licensure for educational assistants;
- Q. withhold program approval from a college of education or teacher preparation program that fails to offer a course on teaching reading that:
  - (1) Is based upon current scientifically based reading research;
  - (2) Aligns with department-adopted reading standards;
  - (3) Includes strategies and assessment measures to ensure that beginning teachers are proficient in teaching reading; and
  - (4) As designed after seeking input from experts in the education field;

R. annually, prior to December 1, prepare and publish a report on public and private education in the state and distribute the report to the governor and the legislature;

S. solicit input from local school boards and school districts in the formulation and implementation of department rules; and

T. report to the legislature or any of its committees as requested and report findings of any educational research study made with public money to the legislature through its appropriate interim or standing committees.

*SECTION D. - School Budget Planning Unit (Formerly the School Finance Division)*

School Budget Planning Unit in the Public Education Department, of the School Management Division, has the responsibility for directing all phases of public school finance. This office prescribes the forms for, and supervises and controls the preparation of all budgets of all public schools and school districts. Probably one of the most far-reaching and important tasks of the office is to compile and publish a manual prescribing detailed regulations for a uniform system of accounting and budgeting funds for all public schools.

Additionally, the School Budget Planning Unit has the statutory duty to approve school district budgets before the first Monday of September of each year. This is done after the local school board has fixed the estimated budget at a public hearing and submitted the district's budget package to the Public Education Department for review and approval.