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Secretary of Education Hanna Skandera
NM Public Education Department
300 Don Gaspar Santa Fe, NM 87501

Secretary Skandera,

I am writing on behalf of the New Mexico Association for the Gifted and the more than 13,000 gifted students in New Mexico to express a concern about the Parent and Child Rights in Special Education: Procedural Safe- guards Notice available at <http://www.ped.state.nm.us/SEB/technical/Parent%20and%20Child%20Rights.pdf>.

The document states, on page 16:

The procedures that relate to gifted students are the same as school-aged children with disabilities, with four exceptions. The four exceptions include: 1) child find requirements; 2) disciplinary changes of placement; 3) transition planning; and 4) Free Appropriate Public Education (FAPE) as authorized by State Statute.

This statement, by noting caveats without explicating them, has been interpreted by many stakeholders to imply that gifted students have no rights to child find and FAPE. The NMAC; however, clearly confers on gifted children rights to FAPE and child find: 6.31.2.6 NMAC: "The purposes of this rule is (a) to ensure that all children with disabilities and gifted children have available a free appropriate public education which includes special education and related services to meet their unique needs; Subparagraph 2 of Paragraph F of 6.31.2.12 NMAC: "Assuming appropriate evaluations, a child may properly be determined to be both gifted and a child with a disability and be entitled to a free appropriate public education for both reasons." Subparagraph 1 of Paragraph C of 6.31.2.12 NMAC: "Each district must establish a child find procedure that includes a screening and referral process for students in public school who may be gifted."

According to Subparagraph 1 of Paragraph F of 6.31.2.12 NMAC, "all definitions, policies, procedures, assurances, procedural safeguards and services identified in 6.31.2 NMAC for school-aged children with disabilities apply to school-aged gifted children," including 6.31.2.13 NMAC which requires that procedural safeguards be provided. Therefore, we request that the Procedural Safeguards Notice be updated to not simply list those protections gifted students are exempted from, but to enumerate

those protections that are in effect.

Sincerely yours,

Geoffrey Moon, President New Mexico Association for the Gifted
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