

# **TITLE 6: PRIMARY AND SECONDARY EDUCATION**

## **CHAPTER 1: STATE BOARD OF EDUCATION [RESERVED]**

## **CHAPTER 2: STATE BOARD OF EDUCATION COMMISSIONS AND ADVISORY BOARDS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: OPERATIONAL BYLAWS OF THE EDUCATIONAL STANDARDS COMMISSION [REPEALED]**

[This part was repealed on November 13, 2009]

### **PART 3: OPERATIONAL BYLAWS OF THE PROFESSIONAL STANDARDS COMMISSION [REPEALED]**

[This part was repealed on December 30, 2004]

### **PART 4: THE ALTERNATIVE LICENSURE REVIEW PANEL [REPEALED]**

[This part was repealed on October 31, 2007]

### **PART 5: OPERATIONAL BYLAWS OF THE INSTRUCTIONAL MATERIAL COMMISSION [REPEALED]**

[This part was repealed on November 13, 2009]

### **PART 6: OPERATIONAL BYLAWS OF THE NONPUBLIC SCHOOLS COMMISSION [REPEALED]**

[This part was repealed on November 13, 2009]

### **PART 7: THE NEW MEXICO TEACHER ASSESSMENT REVIEW PANEL [EXPIRED]**

[This part expired June 30, 2002]

## **PART 8: OPERATIONAL BYLAWS OF THE PROFESSIONAL PRACTICES AND STANDARDS COUNCIL**

### **6.2.8.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.2.8.1 NMAC - Rp, 6.2.8.1 NMAC, 7/18/2023]

### **6.2.8.2 SCOPE:**

The department hereby creates the professional practices and standards council (PPSC) whose purpose shall be to ensure that high standards are maintained in the preparation and practice of professional educators and support providers licensed by the department. The PPSC shall advise the secretary of education (secretary) and the department on matters related to the approval of educator preparatory programs, licensure, professional development, and ethics of licensed school personnel.

[6.2.8.2 NMAC - Rp, 6.2.8.2 NMAC, 7/18/2023]

### **6.2.8.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 9-24-8, NMSA 1978.

[6.2.8.3 NMAC - Rp, 6.2.8.3 NMAC, 7/18/2023]

### **6.2.8.4 DURATION:**

Permanent.

[6.2.8.4 NMAC - Rp, 6.2.8.4 NMAC, 7/18/2023]

### **6.2.8.5 EFFECTIVE DATE:**

July 18, 2023, unless a later date is cited at the end of a section.

[6.2.8.5 NMAC - Rp, 6.2.8.5 NMAC, 7/18/2023]

### **6.2.8.6 OBJECTIVE:**

The purpose of the PPSC is to ensure that high standards are maintained in the preparation and practice of professional licensed school personnel. The creation of the PPSC recognizes that persons licensed by the department comprise a profession, with all of the rights, responsibilities and privileges accorded professions, having their first obligation to the public they serve. The primary responsibilities of this profession are to educate the children of this state and to improve the professional practices and ethical conduct of the members of the profession.

[6.2.8.6 NMAC - Rp, 6.2.8.6 NMAC, 7/18/2023]

**6.2.8.7 DEFINITIONS:**

**[RESERVED]**

**6.2.8.8 RECOMMENDATIONS FOR APPROVAL OF EDUCATOR PREPARATION PROGRAMS:**

Matters pertaining to educator preparation programs shall include:

**A.** recommending standards to govern the approval of educator preparation programs; and

**B.** establishing procedures for assessing educator preparation programs in compliance with standards approved by the department; these procedures shall include provisions for a comprehensive evaluation of course content, an on-site visitation, and recommending the approval or disapproval of programs designed to prepare professional education personnel.

[6.2.8.8 NMAC - Rp, 6.2.8.8 NMAC, 7/18/2023]

**6.2.8.9 LICENSURE OF SCHOOL PERSONNEL:**

Matters pertaining to licensure of school personnel shall include: recommending licensure standards for all professional and paraprofessional school personnel.

[6.2.8.9 NMAC - Rp, 6.2.8.9 NMAC, 7/18/2023]

**6.2.8.10 PROFESSIONAL DEVELOPMENT OF SCHOOL PERSONNEL:**

Matters pertaining to professional development of school personnel shall include:

**A.** recommending professional development standards and framework for all professional and paraprofessional school personnel;

**B.** recommending approval of state funding for professional development providers and projects.

[6.2.8.10 NMAC - Rp, 6.2.8.10 NMAC, 7/18/2023]

**6.2.8.11 ETHICS OF LICENSED SCHOOL PERSONNEL AND RELATED MATTERS:**

Matters pertaining to ethics shall include:

**A.** recommending to the department any changes to its code of ethics or standards of professional conduct for all licensed personnel; and

**B.** recommending to the department in cases in which it has been asked by the educator quality division of the department to perform a summary review, that a notice of contemplated action be issued seeking the reprimand of a licensed educator, or suspension or revocation of a license held by a licensed educator according to law for incompetency, immorality or for any good and just cause.

[6.2.8.11 NMAC - Rp, 6.2.8.11 NMAC, 7/18/2023]

#### **6.2.8.12 ORGANIZATION:**

**A.** Composition of the council: The PPSC shall consist of 20 voting members appointed to four subcommittees by the secretary according to the following criteria:

(1) Five members shall be appointed to each of the following subcommittees of the council:

- (a) the educator preparation committee;
- (b) the licensure committee;
- (c) the professional development committee; and
- (d) the ethics committee.

(2) The educator preparation, licensure, and professional development committees shall have the following representation:

- (a) three currently licensed teachers or instructional support providers;
- (b) one currently licensed school administrator; and
- (c) one professional educator associated with a university, college, or post-secondary department of education that offers educator preparation programs.

(3) The ethics committee shall have the following representation:

- (a) three currently licensed teachers or instructional support providers;
- (b) one currently licensed school administrator; and
- (c) one lay member or business representative with interest and knowledge of public schools.



(4) the department shall give due consideration to maintaining the representative nature of the PPSC with regard to geographic distribution, membership in professional organizations, and grade level assignments. Each member shall be a resident of New Mexico.

**B. Term of service**

(1) Members of the PPSC shall be appointed to a three-year term beginning on July 1 of the calendar year in which the appointment is made. In the initial year of organization of the PPSC the secretary may establish terms from two years to four years for members. In the event that a member is no longer employed in the classification to which the member was appointed, leaves the state, or resigns from the PPSC, the secretary shall appoint a successor to serve for the remainder of the term.

(2) The secretary may designate an alternate to serve in each of the above listed categories as it deems necessary should the appointee be unable to fulfill the appointee's term. The alternate shall automatically assume membership on the PPSC for the remaining of the term when a vacancy occurs.

(3) The secretary may appoint or remove any member or dissolve the PPSC through official action.

**C. The secretary shall designate the chairperson and vice-chair of the PPSC.**

**D.** Each subcommittee shall elect a chairperson for the subcommittee who shall serve a one-year term and may be reelected at the pleasure of the subcommittee members.

**E. Task forces**

(1) Task forces to study and advise on specific issues may be appointed by the secretary.

(2) Each task force shall solicit information, gather and evaluate data, and report its findings and recommendations in writing to one of the subcommittees. Each task force shall include at least two members of the PPSC, one of whom shall serve as chairperson of the task force.

[6.2.8.12 NMAC - Rp, 6.2.8.12 NMAC, 7/18/2023]

**6.2.8.13 MEETINGS:**

**A.** Time and frequency: The full PPSC shall meet at the call of the chairperson or at the request of the secretary. Subcommittees shall meet as needed at the call of the chairperson of each subcommittee in collaboration with department staff. Notification of meetings will be given in accordance with the PPSC's open meeting policy pursuant to

the Open Meeting Act, Section 10-15-1 et sq. NMSA 1978 but at least 10 days prior to the day of the meeting. Eleven members shall constitute a quorum of the entire PPSC. Three members shall constitute a quorum of the subcommittees.

**B. Rules and procedures:** Meetings of the PPSC, subcommittees, and task forces shall be governed by the following rules.

(1) The chairperson and vice-chair or designee in their absence shall preside at all meetings.

(2) The presiding officer shall neither introduce nor second a motion.

(3) A motion shall require a simple majority of those present to pass.

(4) A motion shall be in order as long as no previous motion is on the floor.

(5) Minutes shall be taken at all open sessions of the PPSC and subcommittees. The minutes shall be made available to public inspection.

(6) The PPSC may develop rules of procedure consistent with the provisions of this rule.

**C. Council agenda**

(1) An agenda will be formulated by the chairperson and will be distributed to members of the PPSC at least ten days prior to the meeting.

(2) Any member of the PPSC or its subcommittees may submit an item for the agenda through the chairperson. Items for discussion may be added to or deleted from the agenda at the beginning of a meeting by concurrence of a majority of the PPSC or its subcommittees. Interested parties, other than PPSC members, asking for the inclusion of an agenda item must present the item in writing.

**D. Announcement of meetings**

(1) The chairperson of the PPSC or any of its subcommittees will provide reasonable notice to the public, school districts, and appropriate professional associations of items pending before the PPSC.

(2) All meetings of the PPSC or subcommittees shall be open, except those in which personnel or ethics cases will be discussed.

**E. Absences:** A member who is unable to attend a PPSC or subcommittee meeting may not send an alternate or proxy. The PPSC may recommend to the secretary that a member who has two or more absences during a calendar year be replaced.

[6.2.8.13 NMAC - Rp, 6.2.8.13 NMAC, 7/18/2023]

**6.2.8.14 REPORTS TO THE SECRETARY:**

**A.** The PPSC or subcommittee chairperson will prepare a written or oral report after each meeting and will present it to the secretary. The decision of the secretary will be reported to the PPSC or its subcommittee(s) at the next meeting.

**B.** Recommendations to be submitted to the secretary for action shall require a simple majority approval by the PPSC.

[6.2.8.14 NMAC - Rp, 6.2.8.14 NMAC, 7/18/2023]

**6.2.8.15 SUPPORT OF THE COUNCIL:**

**A.** The educator quality division of the department shall serve as the staff office of the PPSC. All communications to the PPSC shall be addressed to: Professional Practices and Standards Council, c/o Educator Quality and Ethics, Public Education Department, Jerry Apodaca Education Building, Santa Fe, New Mexico 87501-2786.

**B.** PPSC members may submit travel claims to the department under the provisions of the Per Diem and Mileage act Sections 10-8-1 et Seq NMSA 1978. Such claims will be reviewed by the fiscal office of the department for compliance with the state statutes and department procedures. Under no condition shall a member claim mileage and per diem from the department when such a claim has been made to another agency.

[6.2.8.15 NMAC - Rp, 6.2.8.15 NMAC, 7/18/2023]

**PART 9 PUBLIC EDUCATION COMMISSION STATE CHARTER SCHOOL PROCEDURES**

**6.2.9.1 ISSUING AGENCY:**

New Mexico Public Education Department, hereinafter the department.

[6.2.9.1 NMAC - N, 7/31/2023]

**6.2.9.2 SCOPE:**

The rule shall apply to all procedures, forms, and protocols of the public education commission in relation to state-chartered charter schools.

[6.2.9.2 NMAC - N, 7/31/2023]

**6.2.9.3 STATUTORY AUTHORITY:**

This rule is being promulgated pursuant to Sections 9-24-8, 22-2-1, 22-2-2, and 22-8B-5.3 NMSA 1978.

[6.2.9.3 NMAC - N, 7/31/2023]

**6.2.9.4 DURATION:**

Permanent.

[6.2.9.4 NMAC - N, 7/31/2023]

**6.2.9.5 EFFECTIVE DATE:**

July 31, 2023, unless a later date is cited in the history note at the end of a section.

[6.2.9.5 NMAC - N, 7/31/2023]

**6.2.9.6 OBJECTIVE:**

The department promulgates this rule acted upon by the public education commission for its procedures, forms, and protocols in relation to state-chartered charter schools.

[6.2.9.6 NMAC - N, 7/31/2023]

**6.2.9.7 DEFINITIONS:**

**A. "Act"** means the Charter Schools Act Sections 22-8B-1 through 22-8B-17.1 NMSA 1978, as may be amended.

**B. "Annual report notice"** means any of the following notices, or combination thereof, issued by the commission that may result from a review of the annual report:

- (1) Notice of exemplary performance;
- (2) Notice of satisfactory performance;
- (3) Notice of unsatisfactory performance;
- (4) Notice of uncorrected unsatisfactory performance; or
- (5) Notice of action to be initiated under the intervention ladder.

**C. "Applicant"** means one or more teachers, parents, or community members or a public postsecondary educational institution or nonprofit organization who submits an initial or renewal application to a chartering authority.

**D. "Commission"** means the public education commission.

**E. "Condition"** means a requirement imposed by the commission on a state charter school as part of the approval of a new school application or renewal application that is appealable to the secretary, and, if not appealed or not overturned on appeal, becomes a material term of the charter contract.

**F. "Corrective action plan"** consistent with Subsection F of Section 22-8B-12 NMSA 1978 means a plan proposed by a state charter school and approved by the commission to correct identified uncorrected unsatisfactory performance as contemplated by the intervention ladder.

**G. "Days"** means, unless otherwise specified in a provision in this rule or applicable statute, business days when the period referenced is 10 days or less, and calendar days when the period referenced is 11 days or more. In computing the number of days, exclude the day of the event that triggers the period, and include the last day of the period. If the last day is a day when the department is closed, the period continues to run until the end of the next business day that the department is not closed. Whenever a person or entity acts under this rule within a prescribed period after service of a notice or paper upon the person or entity, and the notice or paper is served by mail or courier service, three calendar days are added to the prescribed period.

**H. "Department"** means the New Mexico Public Education Department.

**I. "Division"** means the charter schools division of the department statutorily required pursuant to Section 22-8B-17 NMSA 1978 to provide staff support to the commission, make recommendations to the commission regarding the approval, denial, or revocation of the charter of a state charter school, review and approve state charter school budget matters, and provide technical support to all charter schools.

**J. "Final annual report"** means the annual report presented by the division that is accepted by the commission at a public meeting which contains the final findings of the division regarding the performance of the state charter school, recommendation for commission action, and any unresolved response from the state charter school to the division's phase 2 annual report.

**K. "Final annual report completed in part"** means a final annual report completed as to certain sections only when data necessary to complete other sections are delayed, and which indicates which sections of the annual report are being completed and which are being reserved.

**L. "Good standing"** means a designation for a state charter school indicating that the state charter school does not have action pending under the intervention ladder or a current annual report notice that identifies uncorrected unsatisfactory performance.

**M. "Governing body"** means the governing structure of a charter school as set forth in the charter school's charter.

**N. "Head administrator"** means the duly licensed school administrator who is the director of the charter school and the person with duties similar to those of a superintendent.

**O. "High stakes decision"** means action of the commission that results in approval of a new charter application, approval of a new charter application with conditions or denial of a new charter school's application, a state charter school's renewal, renewal with conditions, non-renewal, or revocation. High stakes decisions are governed by law, rule, and the charter school contract.

**P. "Intervention concern"** means unsatisfactory performance or a contract violation that may cause the division to recommend or the commission to begin an action under the intervention ladder.

**Q. "Intervention ladder"** means procedures adopted by the commission to impose interventions intended to address a state charter school's unsatisfactory performance or non-compliance with the contract.

**R. "Notice of possible non-renewal"** means a written notice provided by the commission to a state charter school during the final two years of the charter contract term stating that there is sufficient uncorrected unsatisfactory performance, serious unsatisfactory performance, or contract violations by the state charter school to put the state charter school on notice that it may not be renewed for another charter term.

**S. "Notice of possible renewal with conditions"** means a notice issued by the commission to a state charter school during the final two years of the charter term stating that there is sufficient uncorrected unsatisfactory performance, serious unsatisfactory performance, or contract violations by the state charter school to put the state charter school on notice that it may be renewed for another charter term with a condition placed on the state charter school to correct the unsatisfactory performance in the new charter term.

**T. "Notice of uncorrected unsatisfactory performance"** means a notice by the commission, issued after acceptance of a final annual report, to a state charter school that unsatisfactory performance by the state charter school has not been corrected by the date set forth in the notice to correct unsatisfactory performance, that unsatisfactory performance is identified as unsatisfactory performance in two consecutive annual reports, or that any specific indicator in the performance framework has been rated as "does not meet" for two or more years during the charter term including the current year assessed.

**U. "Notice of unsatisfactory performance"** means a notice issued by the commission to a state charter school that the division has identified unsatisfactory performance by the state charter school in the assessment of the performance framework.

**V. "Performance framework"** means the performance provisions incorporated as a material term to the charter contract between the school and the commission negotiated using a commission-approved framework that:

(1) is approved by the commission following the protocols in 6.2.9.8 NMAC through 6.2.9.10 NMAC;

(2) clearly sets forth the academic, organizational, or financial performance indicators and performance targets that will guide the commission's evaluation of each charter school; and

(3) contains all elements required by Section 22-8B-9.1 NMSA 1978 as amended.

**W. "Phase 1 annual report"** means a draft annual report prepared by the division for each state charter school following the annual site visit that begins the documentation process of the state charter school's performance of or compliance with (1) the charter contract terms, including any conditions, (2) the performance framework, and (3) outstanding corrective action plans or as issued by an agency with jurisdiction, if any, and reports or information on previously identified unsatisfactory performance all of which is uploaded to a data platform accessible by the state charter school to be updated as more information is received by the division or provided by the state charter school.

**X. "Phase 2 annual report"** means the annual report document subsequent to the phase 1 annual report that is finalized by the division from the phase 1 annual report and provided to the state charter school for comment prior to submission to the commission as final report or a final report completed in part.

**Y. "Procedure" or "Procedures"** means directives, instructions, templates and forms, and timelines adopted by commission that are consistent with the act and the state charter schools' contracts, and which are implemented by the division or commission pursuant to which the commission provides state charter school oversight, including:

(1) new charter school applications;

(2) evaluation criteria for new charter applications adopted by the commission to be applied by the division prior to making a recommendation;

(3) implementation year checklist;

(4) form of annual report;

(5) form for commission acceptance of annual reports and notification to a state charter school of an annual report notice;

- (6) renewing charter school applications;
- (7) evaluation criteria for renewal charter applications adopted by the commission and applied by division prior to making a recommendation and description of the assessment of the application by the division;
- (8) charter school contract and performance framework templates consistent with the requirements of the act;
- (9) amendment and notification forms and procedures as referenced in the charter contract;
- (10) closure protocols for state charter schools;
- (11) consultation process to obtain input from state charter schools on procedures; and
- (12) such other forms and procedures adopted by the commission that are administrative in nature and that facilitate the commission's implementation of the commission's legal duties as defined by the act and applicable regulations.

**Z. "Secretary"** means the New Mexico secretary of public education.

**AA. "State charter school"** means a charter school authorized by the commission to operate as a public school.

**AB. "Technical support"** means guidance which may be provided by the division relating to its authority under the act.

**AC. "Uncorrected unsatisfactory performance"** means failure to correct unsatisfactory performance for which a state charter school has been given notice and opportunity to correct as reflected in two or more consecutive final annual reports accepted during the charter contract term.

**AD. "Unsatisfactory performance"** means a designation by the division in the final annual report or final annual report completed in part that is neither "exceeds" nor "meets" the standard.

[6.2.9.7 NMAC - N, 7/31/2023]

#### **6.2.9.8 SCHEDULE FOR STATE CHARTER SCHOOL PROCEDURE-MAKING:**

**A.** In support of high-stakes decisions made by the commission, the commission shall create procedures related to its ministerial responsibilities of oversight and monitoring state charter schools that will be used by the commission and division consistent with their authority under the act. The commission's procedures may be



modified following the procedures adopted in this rule. The commission shall post all procedures in a central location on the commission's website or in an authorizing manual available to the public on the commission's website.

**B.** In adopting changes to procedures, the commission shall:

(1) provide public notice to those who request notice of commission action that procedure changes are being considered by the commission pursuant to this rule;

(2) provide written notice on commission meeting agendas of the two working sessions at which the commission will review each draft procedure and accept written and oral comments;

(3) accept public written comments up to the start of the second working session and in-person or virtual comments during the two working sessions;

(4) provide written notice on a commission meeting agenda indicating when the commission will consider adoption of each procedure; and

(5) post the adopted forms and procedures on the commission website where all procedures are located.

[6.2.9.8 NMAC - N, 7/31/2023]

#### **6.2.9.9 PROCEDURE REVIEW:**

**A.** The procedures of the commission are effective until amended or repealed; will only be revised as determined by the commission to be necessary, in a manner consistent with national best practices and conforming to legislative changes; will follow the schedule set forth here and are applicable prospectively.

**B.** Any new or revised commission procedures shall be effective as of July 1 of the following fiscal year unless the commission identifies an exceptional circumstance requiring an immediate change or implementation. If a new or revised renewal application form is approved effective as of July 1, it will be used by schools that are scheduled to submit a renewal application fourteen months or later from the effective date. Schools that will be submitting a renewal application the next September, or two months from the effective date of the new or revised renewal application form, will use the form that was in effect prior to July 1 unless otherwise agreed to between the renewing schools and the commission.

**C.** A new procedure or revisions to an existing procedure may be proposed by a member of the commission, or the division director on behalf of the division or another division of the department. All procedure revisions contemplated by this section shall comply with the notice and comment procedures as set forth in 6.2.9.8 NMAC.

**D.** This section does not apply to changes in scheduling dates, inclusion of legislative changes or the inclusion of minor changes that do not change the required provisions of the existing procedure such as corrective typographical errors or providing clarification. Such changes may be adopted by the commission at its discretion, with reasonable notice to those affected by the change(s) and posted to the website as set forth in 6.2.9.8 NMAC.

[6.2.9.9 NMAC - N, 7/31/2023]

#### **6.2.9.10 OUT-OF-CYCLE PROCEDURE-MAKING; EXCEPTIONAL CIRCUMSTANCES:**

Exceptional circumstances for implementing a procedure immediately, or with an effective date other than those described in 6.2.9.9 NMAC shall be found when needed to:

- A.** protect the immediate health, welfare, or education of state charter school employees, students and others doing business at state charter schools;
- B.** address new case law affecting the commission or state charter schools;
- C.** address statutory changes;
- D.** address changes to public education department rules; or
- E.** address other exceptional or emergency circumstances as determined by the commission.

[6.2.9.10 NMAC - N, 7/31/2023]

#### **6.2.9.11 RECORD OF STATE CHARTER SCHOOL PERFORMANCE AND STATE CHARTER SCHOOL EVALUATION:**

**A.** During the term of the charter contract, the state charter school, commission, and division will develop a record of the state charter school performance. This will include:

- (1) the charter contract between the commission and the state charter school;
- (2) all final annual reports prepared by the division and accepted by the commission;
- (3) all annual report notices issued by the commission;
- (4) documentation provided by the state charter school to the division and commission or identified by the division of corrected or uncorrected unsatisfactory performance identified in a previous final annual report or commission notice;

(5) documentation of actions taken by the commission under the intervention ladder and the results of the corrective action imposed, including a return to good standing by the commission, if provided;

(6) the state charter school's complete initial or renewal application to the commission;

(7) the division's written analysis of the initial or renewal application, the division's recommendation regarding approval or renewal of the application to the commission, and the response of the applicant for a new charter school or an existing renewing state charter school to the division's analysis and recommendation(s); and

(8) other documents, notices, or recommendations that are created pursuant to the processes set forth in this rule and provided by the commission or division to the state charter school regarding school performance.

**B.** The record as established under this section shall not be deemed the complete record for purposes of appeal by a renewing charter school pursuant to Section 22-8B-7 NMSA 1978.

[6.2.9.11 NMAC - N, 7/31/2023]

#### **6.2.9.12 ANNUAL SITE VISIT AND ANNUAL REPORT:**

**A.** The division will conduct an annual site visit to provide technical assistance to the state charter school, and to evaluate the school's annual progress toward the performance framework goals and compliance with the charter contract. The division will prioritize completing the annual site visits and presentation of final annual reports for those state charter schools that have submitted a renewal application and those state charter schools that have an unresolved annual report notice showing unsatisfactory performance or a corrective action plan in place.

**B.** The division's site visit will include review of whether the state charter school is:

(1) complying with the terms of the charter contract, including any conditions;

(2) meeting the indicators and targets as set forth in the performance framework;

(3) correcting or has corrected unsatisfactory performance;

(4) correcting or has corrected uncorrected unsatisfactory performance identified in an annual report notice; and

(5) completing or has completed actions that cure intervention imposed by the commission pursuant to 6.2.9.13 NMAC.

**C.** Phase 1, phase 2 and final annual reports will be completed by the division according to the following procedures and deadlines:

(1) The division and state charter school may extend or revise deadlines in the process for phase 1 by documenting an agreement as to a new deadline in writing. If the school does not offer an appropriate deadline for purposes of providing the division with the missing information, the division director will impose a deadline with which the school shall comply.

(2) To create a phase 1 annual report, the division will include demographic and other information on the state charter school available to the division from the department and conduct an annual site visit.

(a) The division will provide at least 30 days prior written notice of each state charter school's annual site visit and include a copy of, or a hyperlink to, the approved site visit protocol in the notice. Site visits will not be scheduled if a state charter school notifies the division that critical testing is scheduled for the date of the proposed site visit. If the division does not provide 30 days advance notice, the annual site visit will be rescheduled upon written request of the state charter school. If the annual site visit needs to be rescheduled for any reason, it may be rescheduled at any time after the initial 30-day period, and an additional 30-day notice is not required.

(b) The division and the state charter school will conduct an exit meeting at the end of the annual site visit outlining the initial results of the division's findings. If the division determines that the state charter school did not provide information necessary for the division to complete its annual site visit evaluation, the parties will memorialize a list of missing information and the time frame for providing the information to the division during the exit meeting.

(c) Within 30 days following the exit meeting, the division will upload a phase 1 annual report based on the annual site visit findings to a data platform available for the state charter school to review at any time. The state charter school will provide missing information or correct the information to the division within the time frame agreed to by the division and the school.

(3) In order to complete the final annual report, the following actions will take place:

(a) No later than 45 days prior to a commission meeting to consider the final annual reports, the division will provide to the state charter school for review and comment a phase 2 annual report reflecting performance, including all information that has been made available. The division will identify in the phase 2 annual report unsatisfactory performance, uncorrected unsatisfactory performance, the facts in support of unsatisfactory performance, and the division's recommendation to the commission. The phase 2 annual report shall contain the division's initial assessment as to school's performance according to the rating set forth in each completed section of

the performance framework, and may contain the division's recommendation to the commission regarding the commission's annual report notice, including the specific type of notice that the division is recommending be issued, its factual basis for that recommendation, and the recommended time frame for completion of the corrective action.

(b) The state charter school may provide a written response to the division's phase 2 annual report within 20 days of receipt from the division, including the state charter school's response to the division's assessment regarding correction of unsatisfactory performance if the state charter school received an annual report notice from the commission for the previous school year. The response shall include documents or other evidence to support the state charter school's response.

(c) The division will consider the state charter school response and create a final annual report or a final annual report completed in part and include all unresolved state charter school's responses, if any, to the phase 2 annual report. The division will provide the final annual report to the school and the commission seven days prior to the commission meeting at which the final annual report or the final annual report completed in part will be considered by the commission. The division may move presentation of an annual report to the next meeting of the commission if it needs more time to consider changes proposed by a state charter school.

(d) The division will present its final annual report or the final annual report completed in part to the commission at a public meeting, and the state charter school may attend the commission meeting at which the final annual report will be discussed.

(4) If a final report has been completed in part, when the reserved sections can be completed, the annual report may be reopened and those reserved sections may be completed using the phase 2 process set forth above related to the reserved sections; however no sections other than those reserved may be reopened.

**D.** The commission shall take the following steps after consideration of the final annual report or final annual report completed in part.

(1) The commission will:

(a) accept the final annual report or final annual report completed in part at a public meeting of the commission;

(b) issue an annual report notice; or

(c) if circumstances exist to support revocation, take action to start a revocation process pursuant to this rule.

(2) If the commission votes to issue an annual report notice other than notice of exemplary or satisfactory performance, or to commence action under the intervention

ladder when the division recommended the issuance of a notice of exemplary or satisfactory performance, the commission's notice shall include a notice to the state charter school that it may, within 10 days of receipt of the notice, present a written response to the commission's action(s) to be included in the record of performance of the charter school. The state charter school may also request an opportunity to be heard at the next meeting of the commission and request reconsideration of the commission's decision to impose corrective action.

(3) Within 10 days after the commission meeting the commission shall provide a written notice to the school if the commission has accepted the final annual report or final annual report completed in part, identify the annual report notice issued by the commission, and reference the annual report which identifies the unsatisfactory performance requiring corrective action with sufficient specificity such that the state charter school can take appropriate measures to correct its performance.

(4) The final annual report or final annual report completed in part and the action of the commission shall be made part of the record of the state charter school performance. If a state charter school later corrects unsatisfactory performance, the final annual report or final annual report completed in part shall not be reopened and the rating changed; instead, the corrected unsatisfactory performance shall be noted in the final annual report for the next year or in the assessment of a renewal application, if the state charter school is submitting a renewal application that year.

(5) Any action to revoke or not renew a state charter school's charter contract will be in accordance with the state charter school's charter contract, and applicable laws and rules.

**E.** Acceptance of an annual report shall be by action taken by the commission at a public meeting that acknowledges receipt of an annual report from the division as part of the record of performance during the contract term.

[6.2.9.12 NMAC - N, 7/31/2023]

#### **6.2.9.13 CORRECTIVE ACTION:**

**A.** The following actions are to be taken regarding the unsatisfactory performance by the state charter school or in response to an annual report notice.

(1) If the performance framework reflects unsatisfactory performance on one or more indicator, but the commission did not find that an annual report notice for unsatisfactory performance or uncorrected unsatisfactory performance was warranted, the state charter school shall take action to improve its performance on the specific indicators and shall provide information to the division of improvements made no later than the next annual site visit unless otherwise indicated by the commission in the notification provided for in Subsection D of 6.2.9.12 NMAC. The division will provide an

assessment of the improvement during the next annual report cycle, or earlier if the division deems it necessary to recommend action under the intervention ladder.

(2) If an annual report notice for unsatisfactory performance or uncorrected unsatisfactory performance has been issued by the commission, the state charter school shall take action to correct unsatisfactory performance by providing information to the division of the corrected performance within the timeframe set in the commission's notice. The division will provide updates to the commission at intervals as set forth in the annual report notice, and report to the commission if the unsatisfactory performance has been corrected. The division may recommend that a notice of uncorrected unsatisfactory performance be issued on the next final annual report or recommend at any time that action be taken under the intervention ladder if there is a lack of progress by the state charter school as contemplated by the annual report notice.

(3) During the third or fourth year of the charter term, a governing body with renewal concerns based on unsatisfactory performance in the record of performance may request an informal pre-renewal review meeting. If the request is made, a group of the governing body for the state charter school making up less than a quorum of the governing body, staff from the state charter school, the division, and a group of commissioners making up less than a quorum of the commission identified by the executive committee of the commission will meet to provide input to the state charter school on suggested areas of improvement before submitting the renewal application. The meetings and discussions will be considered technical assistance and will not be made part of the record of performance.

**B.** Throughout the term of the charter contract, the commission may take action when appropriate under the intervention ladder.

(1) If the division is the entity that identifies an intervention concern:

(a) the division will notify the school. Information establishing unsatisfactory performance giving rise to possible action under the intervention ladder may be obtained from sources such as other divisions and bureaus of the department or other state or federal agencies.

(b) unless the division finds that the unsatisfactory performance requires immediate action by the commission, the division will provide the state charter school with an opportunity to remedy the unsatisfactory performance without commission intervention under the intervention ladder.

(c) if the division determines that the intervention concern may require immediate intervention by the commission or that the state charter school has failed to remedy the intervention concern after notice from the division, the division will present information of the intervention concern to the commission at a public meeting.

(2) If the commission decides to issue a notice of intent to commence action under intervention ladder, whether the intervention concern is presented by the division or the commission determines that it will commence action based on an intervention concern presented at a commission meeting, the commission will provide written notice to the state charter school's representatives of the date and time of the meeting at which the commission will consider whether to impose interventions pursuant to this section. The meeting shall be scheduled for the next regular meeting, no sooner than 10 days from the date of the commission's notice to the state charter school, except in exigent circumstances implicating health, safety, or financial impropriety, that could jeopardize the ongoing operations of the state charter school.

(3) At the commission meeting where it will consider commencing action under the intervention ladder, the division will present information supporting the position that commission intervention pursuant to this section is warranted. The state charter school may present written and oral rebuttal information to the commission prior to a commission decision to impose interventions.

(4) The commission may decide whether to impose appropriate interventions, after considering the information provided by the division and the state charter school.

(5) The commission may impose the following interventions related to an intervention concern:

(a) issue a notice of concern identifying the uncorrected unsatisfactory performance that includes expected outcomes and deadlines for addressing all issues and a deadline by which the school shall present the division with a corrective action plan to address the identified issues;

(b) issue a notice of breach of the state charter school's charter contract for a state charter school's failure to correct a notice of concern according to its terms if said failure constitutes a breach of contract, or for violating any material terms of the contract that are serious enough to justify a heightened response by the commission. If the commission issues a notice of breach, the written notice of breach shall include the specific contract sections the commission alleges have been violated, the evidence upon which the commission contends a breach of the charter contract has occurred, and a deadline by which the school shall present the division with a corrective action plan to address the identified contract violations; or

(c) issue a notice of potential non-renewal or potential renewal with conditions, if the state charter school is in the last two years of its charter term and the commission finds that the facts warrant the issuance of the notice. The commission shall identify the legal basis for the possible nonrenewal or renewal with conditions, and shall include in its notice of possible non-renewal or renewal with conditions, a summary of the evidence supporting that conclusion; the required action by the state charter school to remedy the unsatisfactory performance giving rise to the notice of potential



non-renewal or potential renewal with conditions; and the timeline for satisfying the requirements.

(6) Any corrective action plan required by this section shall be created and implemented as follows:

(a) The state charter school shall develop a corrective action plan by the date specified in the notice that addresses the identified intervention concern and that aligns with the expected outcomes and deadlines set forth in the notice and provide the document to the division for comments and suggested clarifications. The plan shall be due no sooner than 10 days from the state charter school's receipt of the notice of concern. An approved corrective action plan shall contain the following elements:

(i) name of state charter school representative responsible for ensuring completion of the corrective action plan and reporting to the division and commission;

(ii) specific actions to be taken by the state charter school and the staff positions anticipated to complete the actions to address the unsatisfactory performance; and

(iii) date(s) by which the state charter school is to submit report(s) to the commission and division on progress of or completion of the actions identified in the corrective action plan.

(b) The division, as part of its recommendation to the commission, will present its assessment of the adequacy of the plan and provide the division's plan to monitor the school's compliance. The division will create a corrective action monitoring tool to monitor and provide written progress reports periodically to the commission and state charter school and to be provided to the commission as part of the commission-approved corrective action plan.

(c) The commission, or a subcommittee of the commission if designated by the commission, shall consider the state charter school's proposed corrective action plan by a date specified in the notice of concern and, if the plan is found to be inadequate, may require the state charter school to improve the corrective action plan or take further action under the intervention ladder.

(d) The time for completing an accepted corrective action plan shall commence from the date the commission approves the plan.

(e) The state charter school may request amendment of the corrective action plan by providing notice to the division of the proposed changes. Non-substantive, minor changes to the commission-approved plan may be approved by the division in writing. Substantive changes shall be approved by the commission at a public meeting.

**C.** Nothing herein shall preclude the commission from commencing revocation proceedings as set forth in 6.2.9.17 NMAC if ongoing monitoring activities reveal circumstances that warrant revocation.

**D.** The commission shall vote to reinstate a state charter school's good standing upon the division providing information that the state charter school has corrected the concerns that gave rise to a notice of concern or notice of breach. Reinstatement of the school's good standing shall be evidenced in writing, made a part of the record of performance for the state charter school, and the state charter school's corrective actions may be used to support renewal or renewal with conditions.

**E.** Action taken by the commission pursuant to this section shall be made part of the record of the state charter school performance.

[6.2.9.13 NMAC - N, 7/31/2023]

#### **6.2.9.14 TRIBAL CONSULTATION:**

**A.** If a state charter school applicant wants to open a charter school on tribal land, it shall negotiate with and receive the tribal government's approval for the public school before the commission acts on the application. The applicant shall adhere to requirements for tribal consultation in Section 22-8B-12.2 NMSA 1978.

**B.** When the commission is contemplating closing a state charter school located on tribal land, for any reason, suspension, revocation, or non-renewal, it shall consult with tribal leaders and members and families of students attending the charter school, and shall adhere to the requirements of Section 22-8B-12.2 NMSA 1978.

[6.2.9.14 NMAC - N, 7/31/2023]

#### **6.2.9.15 NEW SCHOOL APPLICATION REVIEW:**

**A.** The division will analyze each new state charter school application, consider information and analysis provided in accordance with the act, and prepare a preliminary renewal analysis. The preliminary renewal analysis may include the division's preliminary recommendation to the commission whether to approve, approve with conditions, or to not approve the school's charter contract in addition to other information as directed by the commission.

**B.** The applicant may provide a written response to the preliminary renewal analysis within 10 days of receipt of the analysis. If the division agrees with the applicant's response, the division will modify the final analysis before submitting it to the commission and provide an updated analysis to the applicant. If the division disagrees with the applicant's response in whole or in part, it will provide reasons why it disagrees with the applicant's response in its final analysis and include the applicant's response in the division's final analysis submitted to the commission.

**C.** No later than 30 days prior to the new application hearing, the commission shall identify in writing for each applicant preliminary issues of concerns or requests for further information to allow the applicant to prepare for the hearing.

**D.** The division will submit its final analysis as described in this section to the commission, seven days prior to the new application hearing.

**E.** The commission shall determine if an application is approved, approved with conditions, or not approved in accordance with law and this rule.

**F.** An applicant may appeal the decision to the secretary in accordance with Section 22-8B-7 NMSA 1978 and provisions of 6.80.4.13 NMAC.

[6.2.9.15 NMAC - N, 7/31/2023]

#### **6.2.9.16 RENEWAL:**

**A.** The division will analyze each renewal application according to the criteria established by the commission and the act and will prepare a preliminary renewal analysis. The preliminary renewal analysis shall include the division's preliminary recommendation to the commission whether to renew, renew with conditions, or to not renew.

**B.** The school seeking to renew its charter as a state charter school may provide a written response to the preliminary renewal analysis within 10 days of receipt. If the division agrees with the school's response, the division will modify the final renewal analysis before submitting it to the commission and provide an updated analysis to the state charter school. If the division disagrees with the school's response in whole or in part, it will provide reasons why it disagrees with the school's response in its final renewal analysis and include the school's response in the division's final renewal analysis submitted to the commission.

**C.** No later than 30 days prior to the renewal hearing, for each renewing school seeking to renew its charter as a state charter school, the commission shall identify in writing preliminary issues of concern, an indication of possible non-renewal if identified by the commission, and request for further information to allow the school to prepare for the renewal hearing.

**D.** The division will submit its final renewal analysis as described in this section to the commission by no later than 10 days prior to the commission hearings on the renewal applications.

**E.** Unless a non-renewal hearing is requested as set forth below, for each renewing charter, the commission shall hold a renewal hearing according to an approved renewal process, allow public input, and allow oral presentations by the division and the school. The commission will then be allowed to ask questions of the division and the school

related to the renewal application and oral presentations prior to making a decision regarding renewal.

**F.** If the division provides a recommendation of non-renewal, if the commission has indicated to the school that it may consider non-renewal, or if the record of performance contains sufficient grounds for non-renewal, the school may request to invoke the non-renewal hearing procedure described in Subsection G of this section. A state charter school's request for the commission to follow the non-renewal hearing procedure shall be provided to the commission chair and division director by no later than 10 days after issuance of the division's preliminary renewal analysis.

**G.** If the school seeking to renew its charter as a state charter school timely requests that the commission follow the non-renewal hearing procedure, the commission shall provide the school with the following minimum process before voting on the division's recommendation for nonrenewal.

(1) Upon receipt of the school's request for the commission to follow the non-renewal hearing procedure, the commission shall provide notice of the date and time of the possible non-renewal hearing no later than 10 days prior to the hearing, or indicate that the commission will utilize the same date and time set previously identified for a renewal hearing for the school. The full record of performance, renewal application, and analysis by the division will be considered as part of the record without further evidentiary foundation needed. Within five days, the chairperson of the commission, with counsel, shall meet with the parties and their counsel to confirm anticipated witnesses and documents to be presented, including how to address any new Public Education Department (PED) information that the parties may wish to present, and to memorialize the anticipated witnesses, documents, process and timelines as established in the meeting.

(2) If the commission has indicated to the school that it may consider non-renewal, the division or commission counsel may rely on the grounds provided to the school in the record of performance, the reasons provided in the division's final renewal analysis that were previously disclosed to the school through the process contemplated under this rule, or in the written letter of concern from the commission provided to the school during the charter contract term.

(3) The non-renewal hearing shall be conducted as follows:

(a) If the commission has indicated to the school that it may consider non-renewal, the division will have one hour in total to present its recommendation and supporting evidence to the commission, which may be through its counsel or commission counsel. The presenting party may present witness testimony or documentary evidence, and shall have the opportunity to question the state charter school representatives in appearance, excluding legal counsel.

(b) The school, through counsel if it elects to have counsel, shall then have one hour in total to present evidence to defend its application for renewal. The school may present witness testimony or documentary evidence and shall have the opportunity to question division representatives or other representatives in appearance about information used to support a recommendation of nonrenewal.

(c) Commission members may ask questions of the division, its attorney or witnesses, and the school representatives and witnesses, during the presentations, which shall not be subtracted from the division's or school's time, and may take up to one hour after the school and division finish their presentations to ask additional questions that are related to the renewal applications and the previously identified reasons given for possible nonrenewal.

**H.** Attorneys may provide representation at the hearing, at each parties' sole cost and expense.

**I.** The hearing shall be recorded by a licensed stenographer and a copy of the transcript shall be presented to the parties within 10 days of the hearing unless additional time can be extended without prejudice to the school's right to appeal.

**J.** The hearing and deliberations of the commission shall be conducted pursuant to the Open Meetings Act.

**K.** The commission shall vote on the state charter school's renewal in a public meeting and articulate the legal grounds and supporting evidence for its decision on the record. The commission shall serve a written decision on the state charter school's representatives within 14 days of the hearing. If the commission decides not to renew the charter contract, the decision shall include the legal basis for non-renewal and the factual reasons supporting findings of legal violations, required pursuant to Subsection K and Subsection M of Section 22-8B-12 NMSA 1978 during the public hearing.

**L.** A school may appeal to the secretary pursuant to Section 22-8B-7 NMSA 1978 and provisions of 6.80.4.13 NMAC.

[6.2.9.16 NMAC - N, 7/31/2023]

#### **6.2.9.17 REVOCATION:**

**A.** The commission may revoke the school's charter contract if legal grounds exist pursuant to the act. If immediate revocation is warranted, or if the state charter school does not provide a corrective action plan accepted by commission, or if the state charter school fails to timely cure the violation as contemplated in the corrective action plan, the commission may vote to proceed with revocation.

**B.** The commission shall provide the school with a notice of intent to revoke that includes the legal basis for revocation as contemplated in the act and a date, time, and

place for a revocation hearing. The hearing shall be in Santa Fe or the county in which the school is located, as agreed upon between the parties. Unless a need for emergency revocation or suspension is identified, the hearing shall be held not more than 60 nor less than 30 days from the date of service of said notice. The full record of performance, including any transcripts or commission meetings relating to discussion of unsatisfactory performance, will be considered as part of the record without further evidentiary foundation needed. Within five days, the chairperson of the commission, with counsel, will meet with the parties and counsel to confirm anticipated witnesses and documents to be presented, including how to address any new information that the parties may wish to present, and memorialize the anticipated witnesses, documents, process, and timelines as established in the meeting.

**C.** The revocation hearing shall be conducted as follows:

(1) Counsel presenting the case for revocation shall have one hour to present evidence for revocation to the commission. The counsel presenting the case for revocation may present witness testimony or documentary evidence, and may question the school representatives in appearance, excluding legal counsel.

(2) After the commission's counsel's presentation, the school shall have one hour to present evidence to defend against the recommended revocation. The school may present witness testimony or documentary evidence, and may present witness testimony or documentary evidence, and may question the division representative in appearance or other representatives in appearance to defend against the revocation.

(3) Commission members may ask questions of the division, the commission's counsel or witnesses, the school, its attorney, and the school's witnesses during the presentations and may take up to one hour after the commission's counsel and the state charter school's presentations to ask additional questions related to grounds for revocation.

**D.** Attorneys may provide representation at the hearing, at each parties' sole cost and expense.

**E.** The hearing shall be recorded by a licensed stenographer and a copy of the transcript shall be presented to the parties within 10 days of the hearing unless additional time can be extended without prejudice to the school's right to appeal.

**F.** The hearing and deliberations of the commission shall be conducted pursuant to the Open Meetings Act.

**G.** The commission shall vote on the state charter school's revocation in a public meeting and articulate the legal grounds and supporting evidence for its decision on the record. The commission shall serve a written decision on the state charter school's representatives within 14 days of the hearing. If the commission decides to revoke the charter contract, the decision shall include the legal basis for revocation, and the factual

reasons supporting findings of legal violations, required pursuant to Subsection K and Subsection M of Section 22-8B-12 NMSA 1978 during the public hearing.

**H. Appeal.** A school may appeal to the secretary pursuant to Section 22-8B-7 NMSA 1978 and provisions of 6.80.4.14 NMAC.

[6.2.9.17 NMAC - N, 7/31/2023]

## **CHAPTER 3-5: [RESERVED]**

## **CHAPTER 6-9: STATE DEPARTMENT OF PUBLIC EDUCATION [RESERVED]**

## **CHAPTER 10: PUBLIC SCHOOL ADMINISTRATION - PROCEDURAL REQUIREMENTS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: UNITED STATES FLAG AND THE PLEDGE OF ALLEGIANCE**

#### **6.10.2.1 ISSUING AGENCY:**

State Board of Education.

[12-31-98, 07-30-99; 6.10.2.1 NMAC - Rn, 6 NMAC 1.7.1.1, 05-31-01]

#### **6.10.2.2 SCOPE:**

All public schools.

[12-31-98; 6.10.2.2 NMAC - Rn, 6 NMAC 1.7.1.2, 05-31-01]

#### **6.10.2.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to Sections 22-2-9 and 22-5-4.5, NMSA, 1978.

[12-31-98; 6.10.2.3 NMAC - Rn, 6 NMAC 1.7.1.3, 05-31-01]

#### **6.10.2.4 DURATION:**

Permanent

[12-31-98; 6.10.2.4 NMAC - Rn, 6 NMAC 1.7.1.4, 05-31-01]

#### **6.10.2.5 EFFECTIVE DATE:**

December 31, 1998

[12-31-98; 6.10.2.5 NMAC - Rn, 6 NMAC 1.7.1.5, 05-31-01]

#### **6.10.2.6 OBJECTIVE:**

To require the proper display of the United States flag and the recitation of the pledge of allegiance.

[12-31-98; 6.10.2.6 NMAC - Rn, 6 NMAC 1.7.1.6, 05-31-01]

#### **6.10.2.7 DEFINITIONS:**

**A. "Flag," "stars and stripes," and "national flag"** means the United States of America flag.

**B. "Union"** means the blue filled with stars.

[12-31-98; 6.10.2.7 NMAC - Rn, 6 NMAC 1.7.1.7, 05-31-01]

#### **6.10.2.8 GOVERNING THE UNITED STATES FLAG AND PLEDGE OF ALLEGIANCE:**

**A.** The United States flag shall be displayed and flown at all public schools throughout the state from sunrise to sunset on all days school is in session. Should another flag be flown or displayed during such period, it shall not be flown or displayed at a height greater than the height at which the United States flag is flown or displayed. No flag shall be flown or displayed in lieu of the United States flag on said property when the United States flag is not being flown or displayed.

**B.** The pledge of allegiance shall be recited each day in each public school within the state.

[12-31-98; 6.10.2.8 NMAC - Rn, 6 NMAC 1.7.1.8, 05-31-01]

#### **6.10.2.9 HOW TO DISPLAY THE FLAG:**

**A.** When displayed over the middle of the street, the flag should be suspended vertically with the union to the north in an east and west street, or to the east in a north and south street.

**B.** When displayed with another flag from crossed staffs, the flag of the United States of America should be on the right (the flag's own right) and its staff should be in front of the staff of the other flag.



**C.** When it is flown at half-mast, the flag should be hoisted to the peak for an instant and then lowered to the half-mast position; but before lowering the flag for the day, it should again be raised to the peak. By half-mast is meant hauling down the flag to one-half the distance between the top and the bottom of the staff. On Memorial Day, display at half-mast until noon only; then hoist to the top of the staff.

**D.** When flags of states or cities or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When flown from adjacent staffs, the Stars and Stripes should be hoisted first and lowered last.

**E.** When the flag is suspended over a sidewalk from a rope extending from house to pole at the edge of the sidewalk, the flag should be hoisted out from the building, toward the pole, union first.

**F.** When the flag is displayed from a staff projecting horizontally or at an angle from the windowsill, balcony, or front of a building, the union of the flag should go to the peak of the staff (unless the flag is to be displayed at half-mast).

**G.** When the flag is used to cover a casket, it should be so placed that the union is at the head and over the left shoulder.

**H.** When the flag is displayed in a manner other than being flown from a staff, it should be displayed flat, whether indoors or out. When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left. When displayed in a window, it should be displayed in the same way, that is, with the union or blue field to the left of the observer in the street. When festoons, rosettes or draping are desired, bunting of blue, white and red should be used, but never the flag.

**I.** When carried in a procession with another flag or flags, the United States of America flag should be either on the marching right, or when there is a line of other flags, in front of the center of that line.

**J.** When a number of flags of states or cities or pennants of societies are grouped and displayed from staffs with our national flag, the latter should be at the center or at the highest point of the group.

**K.** When flags of two or more nations are displayed, they should be flown from separate staffs of the same height, and the flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in peacetime.

**L.** The national flag shall be raised and lowered by hand. Do not raise the flag while it is furled. Unfurl, then hoist quickly to the top of the staff. Lower it slowly and with

dignity. Place no objects on or over the flag. A speaker's table is sometimes covered with the flag. This practice should be avoided.

**M.** The flag shall be displayed with the union up.

**N.** The flag shall not be used as a portion of a costume or athletic uniform. Do not embroider it upon cushions or handkerchiefs nor print it on paper napkins or boxes.

**O.** When the flag is used in unveiling a statue or monument, it should not serve as a covering of the object to be unveiled. If it is displayed on such occasions, do not allow the flag to fall to the ground, but let it be carried aloft to form a feature of the ceremony.

**P.** Every precaution shall be taken to prevent the flag from being soiled. It shall not be allowed to touch the ground or floor, or brush against objects.

[12-31-98; 6.10.2.9 NMAC - Rn, 6 NMAC 1.7.1.9, 05-31-01]

## **PART 3: COMPLAINT PROCEDURE**

### **6.10.3.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.10.3.1 NMAC - Rn, 6 NMAC 1.5.1.1, 11-30-00; A, 10-17-05]

### **6.10.3.2 SCOPE:**

Public education department, local educational agencies, charter schools, public agencies, or consortia of agencies.

[12-31-98; 6.10.3.2 NMAC - Rn, 6 NMAC 1.5.1.2 & A, 11-30-00; A, 10-17-05]

### **6.10.3.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-9-3 NMSA 1978; 20 US Code Sections 1681 et seq; 42 US Code Section 11432(g)(1)(c), 34 Code of Federal Regulations Parts 106 and 299.

[12-31-98; 6.10.3.3 NMAC - Rn, 6 NMAC 1.5.1.3 & A, 11-30-00; A, 10-17-05; A, 11-30-06]

### **6.10.3.4 DURATION:**

Permanent.

[12-31-98; 6.10.3.4 NMAC - Rn, 6 NMAC 1.5.1.4, 11-30-00]

#### **6.10.3.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.10.3.5 NMAC - Rn, 6 NMAC 1.5.1.5 & A, 11-30-00]

#### **6.10.3.6 OBJECTIVE:**

This rule establishes written procedures for:

**A.** receiving and resolving a complaint from an individual or organization that the public education department or an agency or consortium of agencies is violating a federal statute or regulation that applies to an applicable or covered program;

**B.** reviewing an appeal from a decision of an agency or consortium of agencies with respect to a complaint;

**C.** conducting an independent on-site investigation of a complaint if the public education department determines that an on-site investigation is necessary;

**D.** resolving complaints of discrimination based on sex regarding educational programs of the public education department that are alleged to be a violation of Title IX of the Education Amendments of 1972; and

**E.** resolving complaints brought pursuant to the McKinney-Vento Education for Homeless Children and Youth Act (42 USC Section 11432(g)(1)(c)).

[12-31-98; 6.10.3.6 NMAC - Rn, 6 NMAC 1.5.1.6 & A, 11-30-00; A, 10-17-05; A, 11-30-06]

[Complaints alleging violations of statutes or regulations governing special education and related services for children with disabilities are covered under Subsection H of 6.31.2.13 NMAC.]

#### **6.10.3.7 DEFINITIONS:**

**A. "Applicable program"** means any of the following Elementary and Secondary Education Act (20 U.S.C. 2701 et. seq.) programs:

**(1)** Part A of Title I (Improving Basic Programs Operated by Local Educational Agencies);

**(2)** Part B of Title I (Student Reading Skills Improvement Grants);

**(3)** Part C of Title I (Education of Migratory Children);

(4) Part D of Title I (Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk);

(5) Title II (Preparing, Training, and Recruiting High Quality Teachers and Principals);

(6) Language Instruction for Limited English Proficient and Immigrant Students;

(7) Title IV (21st Century Schools (other than Subpart 2 of Part A, National Programs);

(8) Title V (Promoting Informed Parental Choice and Innovative Programs) (other than Subpart 8 and Subpart 12); and

(9) Part A of Title VII (Indian, Native Hawaiian, and Alaska Native Education).

**B. "Covered program"** means a federal program not defined as an applicable program for which the state educational agency is required to provide a complaint procedure and for which a complaint procedure is not otherwise provided by public education department rule.

**C. "Department"** means the public education department.

**D. "Homeless children and youth"** means individuals who lack a fixed, regular, and adequate nighttime residence, which includes:

(1) children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(2) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) migratory children (as such term is defined in Section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in Paragraphs (1) through (3) of this subsection.

**E. "School of origin"** means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

**F. "LEA"** means local education agency.

**G. "Title IX"** means Title IX of the Education Amendments of 1972, codified as 20 US Code Sections 1681 et seq, which provides in part that, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

[12-31-98; 6.10.3.7 NMAC - Rn, 6 NMAC 1.5.1.7 & A, 11-30-00; A, 10-17-05; A, 11-30-06]

#### **6.10.3.8 FILING A COMPLAINT:**

**A.** The department will accept and investigate complaints from organizations or individuals with respect to applicable or covered programs. The complaint must:

- (1)** be written;
- (2)** be signed by the complaining party or his or her designated representative;
- (3)** contain a statement that the department or an agency or consortium of agencies has violated a requirement of a federal statute or regulation that applies to the program;
- (4)** contain a statement of the facts on which the complaint is based and the specific requirement alleged to have been violated; and
- (5)** in the case of Title IX, must contain a statement that the department or any of its employees, has discriminated against the complainant on the basis of sex in regard to an education program or activity operated or managed by the department given that the department is a recipient of federal financial assistance.

**B.** In the case of a complaint filed pursuant to the McKinney-Vento Education for Homeless Children and Youth Act relating to a dispute not resolved at the district level, the LEA shall forward the department's dispute resolution process form along with the LEA's written explanation of the school's decision to the department's homeless liaison within 5 calendar days of the LEA's final decision; The filing of these documents shall be deemed to satisfy the requirements of Paragraphs (1) through (4) of Subsection A of this section. The parent, guardian or student may also initiate the appeal by providing copies of these documents to the department's homeless liaison.

[12-31-98; 6.10.3.8 NMAC - Rn, 6 NMAC 1.5.1.8 & A, 11-30-00; A, 10-17-05; A, 11-30-06]

### **6.10.3.9 COMPLAINTS AGAINST AN AGENCY OR CONSORTIUM OF AGENCIES:**

**A.** Impartial review. Upon receipt of a complaint which meets the requirements of Section 6.10.3.8 of this rule, the department will:

- (1)** acknowledge receipt of the complaint in writing;
- (2)** provide written notice to the agency or consortium of agencies against which the violation has been alleged;
- (3)** conduct an impartial investigation which shall include a review of all relevant documentation presented and may include an independent on-site investigation, if determined necessary by the department;
- (4)** give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and
- (5)** review all relevant information and make an independent determination as to whether the agency or consortium of agencies is violating a requirement of an applicable federal statute or regulation.

**B.** Decision. A written decision, which includes findings of fact, conclusions, and the reasons for the decision and which addresses each allegation in the complaint, shall be issued by the secretary of education or designee and mailed to the parties within sixty (60) calendar days of receipt of the written complaint. In the case of a complaint filed pursuant to the McKinney-Vento Education for Homeless Children and Youth Act, the decision must be issued within thirty (30) calendar days. Such decision will further include:

- (1)** procedures for effective implementation of the final decision, if needed, including technical assistance, negotiations, and, if corrective action is required, such action shall be designated and the decision shall include the time line for correction and the possible consequences for continued noncompliance;
- (2)** a statement of the right to request the secretary of the United States department of education to review the final decision at the secretary's discretion; complaints regarding participation by private school children must be appealed to the secretary no later than thirty (30) days after the department issues its decision; an appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

**C.** Failure or refusal to comply. If the agency or consortium of agencies fails or refuses to comply with the applicable law or regulations, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance may be effected by the department by any means authorized by state or federal statute or regulation. The department will retain jurisdiction over the issue of noncompliance with the law or regulations and will retain jurisdiction over the implementation of any corrective action required.

**D.** Informal resolution.

**(1)** Nothing herein shall preclude the availability of an informal resolution between the complainant and the agency or consortium of agencies, nor shall this rule preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

**(2)** In the case of a complaint filed pursuant to the McKinney-Vento Education for Homeless Children and Youth Act, each district shall have a written policy for concerned parties to resolve disputes, and every effort should be made to resolve the dispute at the district level. The district level procedure must adhere to the following parameters:

**(a)** The dispute resolution process shall be as informal and accessible as possible and the process should be able to be initiated directly at the school of choice as well as at the district level or with the LEA homeless liaison. Every LEA is required to have a homeless liaison.

**(b)** When a dispute arises over school selection or enrollment, pending resolution of the dispute, the homeless child or youth must be immediately enrolled in the school in which the child or youth is seeking enrollment, and provided all services to which student is entitled.

**(c)** The district must create and provide a simply stated notice of rights and provide that notice of rights to the student, parent or guardian, in a language the student, parent or guardian can understand. The notice of rights shall contain:

**(i)** contact information for the LEA homeless liaison and the state coordinator, with a brief description of their roles;

**(ii)** a step by step description of how to make use of the dispute resolution process;

**(iii)** notice of the right to immediately enroll in the school of choice pending resolution of the dispute and notice that immediate enrollment includes full participation in all school activities;

- (iv) notice of the right to obtain the assistance of advocates or attorneys;
- (v) notice of the right to appeal to the department if the district-level resolution is not satisfactory;
- (vi) the timelines for resolving district and department-level appeals;
- (vii) notice of the right to provide written or oral documentation to support their position; and

(viii) a simple form that parents, guardians or the student can complete and return to the school to initiate the process.

(d) The school with the dispute must provide notice of the dispute to the LEA's homeless liaison using the department's dispute resolution process form which requires the following information:

- (i) school name, address, phone and fax number;
- (ii) student's name, identification number, grade, and address;
- (iii) parent, guardian or complaining party's name, relationship to student, address, and phone number;
- (iv) whether student lives in a shelter;
- (v) name of school child or youth chooses to be enrolled in pending resolution of dispute;
- (vi) whether school enrolled in is school of origin;
- (vii) reason for complaint;
- (viii) signature of parent guardian or complaining party; and
- (ix) the principal's actions on the complaint.

(e) The district will have 10 calendar days to review its initial determination and make a final decision as to the position taken.

(f) The district's final decision must be in writing and must state all factual information upon which it is based and the legal basis in support thereof. If the final decision of the district is adverse to the parent, guardian or student, the decision, along with the department's dispute resolution process form, must be forwarded by the LEA



homeless liaison to the department's homeless liaison within 5 calendar days of issuing its final decision.

[12-31-98; 6.10.3.9 NMAC - Rn, 6 NMAC 1.5.1.9 & A, 11-30-00; A, 10-17-05, A, 11-30-06]

#### **6.10.3.10 COMPLAINTS AGAINST THE DEPARTMENT:**

**A.** If the complaint concerns a violation by the department and meets the applicable requirements of 6.10.3.8 NMAC, the secretary of education or designee will appoint an impartial person or impartial persons to conduct an investigation.

**B.** Investigation. The person or persons appointed pursuant to this section will:

- (1)** acknowledge receipt of the complaint in writing;
- (2)** undertake an impartial investigation which shall include a review of all relevant documentation presented and may include an independent on-site investigation, if necessary;
- (3)** give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and
- (4)** review all relevant information and make an independent determination as to whether the department is violating a requirement of an applicable federal statute or regulation.

**C.** Decision. A written decision, including findings of fact, conclusions, and the reasons for the decision and addressing each allegation in the complaint, shall be issued by the person or persons appointed pursuant to this section and mailed to the parties within sixty (60) calendar days of receipt of the written complaint. The decision will include a statement of the right to request the secretary of the United States department of education to review the final decision at the secretary's discretion. Complaints regarding participation by private school children must be appealed to the secretary no later than thirty (30) days after the decision is issued. An appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

**D.** Nothing herein shall preclude the availability of an informal resolution between the complainant and the department, nor shall this rule preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

[12-31-98; 6.10.3.10 NMAC - Rn, 6 NMAC 1.5.1.10 & A, 11-30-00; A, 10-17-05]

#### **6.10.3.11 EXTENSION OF TIME LIMIT:**

An extension of the time limit under 6.10.3.9 NMAC and 6.10.3.10 NMAC of this rule will be permitted by the secretary of education or designee only if exceptional circumstances exist with respect to a particular complaint.

[12-31-98; 6.10.3.11 NMAC - Rn, 6 NMAC 1.5.1.11 & A, 11-30-00; A, 10-17-05]

#### **6.10.3.12 NOTICE TO PARENTS:**

Public school districts, charter schools and agencies will disseminate, free of charge, adequate information about the complaint procedures to parents of students, and appropriate private school officials or representatives.

[6.10.3.12 NMAC - N, 11-30-00; A, 10-17-05]

#### **6.10.3.13 CONFLICTS:**

If any statute or regulation governing any federal program subject to this rule affords procedural rights to a complainant exceeding those set forth in this rule, such statutory or regulatory right(s) shall be afforded to the complainant. In acknowledging receipt of the complaint in such a case, the secretary of education or designee shall identify the procedures applicable to that complaint.

[12-31-98; 6.10.3.13 NMAC - Rn, 6 NMAC 1.5.1.12 & A, 11-30-00; A, 10-17-05]

### **PART 4: DISENROLLMENT WHEN A STUDENT IS NOT LEGALLY ENROLLED IN SCHOOL**

#### **6.10.4.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.10.4.1 NMAC - Rn, 6 NMAC 1.5.2.1, 12-29-00; A, 11-13-09]

#### **6.10.4.2 SCOPE:**

This rule applies to local school boards and school districts.

[12-31-98; 6.10.4.2 NMAC - Rn, 6 NMAC 1.5.2.2, 12-29-00; A, 11-13-09]

#### **6.10.4.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 and 22-2-2, NMSA 1978.

[12-31-98; 6.10.4.3 NMAC - Rn, 6 NMAC 1.5.2.3, 12-29-00; A, 11-13-09]

#### **6.10.4.4 DURATION:**

Permanent

[12-31-98; 6.10.5.4 NMAC - Rn, 6 NMAC 1.5.2.4, 12-29-00]

**6.10.4.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.10.4.5 NMAC - Rn, 6 NMAC 1.5.2.5, 12-29-00]

**6.10.4.6 OBJECTIVE:**

The purpose of this rule is to establish procedures for the disenrollment of students who are not legally enrolled in school.

[12-31-98; 6.10.4.6 NMAC - Rn, 6 NMAC 1.5.2.6, 12-29-00; A, 11-13-09]

**6.10.4.7 DEFINITIONS:**

As used in this rule the following words, terms and phrases shall have the meaning set forth in this paragraph:

**A. "Administrative authority"** means the local school district superintendent, a principal or the designee of such person.

**B. "Disenrollment"** means discontinuance of the student's attendance at school.

**C. "Enrollment"** means registration as a student on the rolls of the local school district.

**D. "Invalid enrollment"** refers to an enrolled student or a conditionally enrolled student who has not met the requirements of law for enrollment in school, either as to age, residence, immunization, or other reasons, or has not complied with conditional enrollment requirements.

**E. "Mailed"** means deposited in the mail or delivered for transmission by any other means of communication with postage or cost of transmission provided for and addressed to the latest address shown by school records.

**F. "School"** means public school.

**G. "School day"** means each day of the school year during which the membership of students is computed pursuant to the Public School Finance Act.

**H. "Student"** means a "qualified student" eligible to attend public school, as that term is defined in Section 22-8-2, NMSA 1978.

[12-31-98; 6.10.4.7 NMAC - Rn, 6 NMAC 1.5.2.7, 12-29-00; A, 11-13-09]

#### **6.10.4.8      LIMITATION ON ENROLLMENT:**

Where a student is found to have an invalid enrollment the student shall be disenrolled from school in accordance with the procedure set forth in Section 6.10.4.9 NMAC below.

[12-31-98; 6.10.4.8 NMAC - Rn, 6 NMAC 1.5.2.8, 12-29-00]

#### **6.10.4.9      PROCEDURE:**

Where the administrative authority has reason to believe a student is enrolled under an invalid enrollment the administrative authority shall take the following action:

**A.** Preliminary notice of contemplated action of disenrollment. The administrative authority shall give a preliminary notice of contemplated action of disenrollment to the student, through his/her parent or guardian, of the contemplated disenrollment and the reasons therefore. The preliminary notice shall be in writing, and mailed to the student not later than ten (10) school days before the notice of disenrollment is to be mailed. The preliminary notice shall state that: (1) the student has a right to respond, either in writing or in person, to the administrative authority before the date of the contemplated action of disenrollment, and (2) the student may attempt to resolve the matter informally by presenting adequate evidence to the administrative authority to refute the alleged reasons for the contemplated action of disenrollment.

**B.** Stay of proceedings. Where the question of the student's enrollment is under review by an administrative agency in the state of New Mexico or any court of competent jurisdiction, and written documentation has been filed with the administrative authority establishing the pendency of the action, all proceedings under this rule shall be stayed pending final determination of the question by that agency or court.

**C.** Notice of disenrollment. Where the student has not presented satisfactory evidence to cure the invalid enrollment and has been afforded notice as required by Subsection A of Section 6.10.4.9 NMAC above, the administrative authority shall give written notice to the student, through his/her parent or guardian, that the student will be disenrolled. The notice of disenrollment shall be mailed ten (10) school days after the mailing of the preliminary notice of contemplated action of disenrollment. The notice of disenrollment must include a copy of this rule and must advise the student, through his/her parent or guardian, of the following.

**(1)** Subject to the procedure in Subsection C, Paragraph (2) of Section 6.10.4.9 below, if satisfactory evidence to refute the alleged reasons for the contemplated action of disenrollment is not submitted to the administrative authority within ten (10) school days from the date of mailing of the notice of disenrollment, the student will be disenrolled.

**(2)** The student may, at any time within ten (10) school days after the date of mailing of the notice of disenrollment, present the administrative authority with an oral or written request for a hearing on the matter.

**(a)** The hearing shall be held within five (5) school days after receipt of a request for hearing.

**(b)** The student may appear at the hearing, with or without counsel, to refute the alleged reasons for the disenrollment.

**(c)** The student may present witnesses or evidence at the hearing, as well as question any witnesses supporting disenrollment.

**(3)** Within five (5) school days after the hearing, the hearing officer shall issue and mail to the student, through his/her guardian, the decision setting forth his/her decision and the reasons therefore.

**(4)** If the hearing officer decides in favor of the student, the matter shall be closed. If the hearing officer decides against the student, the student shall be disenrolled from school five (5) school days from the date of mailing of the decision.

**(5)** If no request for a hearing is received within the time provided, the student shall be disenrolled from school and shall be permitted to re-enroll only when all legal requirements for enrollment are met.

**D. Hearing officer.** The administrative authority may designate one or more of its staff to act as hearing officer for disenrollment matters; who, upon referral of the case from the administrative authority, shall follow the procedures set forth herein to afford the student and his/her parent or guardian due process.

**E. Hearing procedure.** The hearing shall be set within five (5) school days after an oral or written request for hearing is received by the administrative authority.

**(1)** The administrative authority/hearing officer shall conduct the hearing informally but with dignity, firmness and fairness appropriate to the importance of the proceedings.

**(2)** Written minutes of the proceedings shall be kept. A verbatim transcript shall not be required.

**(3)** The hearing shall be conducted to afford the student due process, and shall provide:

**(a)** an opportunity for the student and his/her parent or guardian to respond at the hearing;

(b) the right to present evidence;

(c) the right to confront adverse witnesses;

(d) the right of cross examination;

(e) the right to be represented by counsel;

(f) the right to have a decision based solely on the applicable legal rules and the evidence presented at the hearing.

(4) Within five (5) school days after the hearing, the hearing officer shall prepare and mail to the student, through his/her parent or guardian, a written decision and the reasons therefore.

[12-31-98; 6.10.4.9 NMAC - Rn, 6 NMAC 1.5.2.9, 12-29-00; A, 11-13-09]

## **PART 5: SCHOOL CALENDAR REQUIREMENTS**

### **6.10.5.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.10.5.1 NMAC – Rp, 6.10.5.1 NMAC, 7/1/2024]

### **6.10.5.2 SCOPE:**

This rule applies to school districts and charter schools.

[6.10.5.2 NMAC – Rp, 6.10.5.2 NMAC, 7/1/2024]

### **6.10.5.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, 22-2-8.1, 22-8-23.14, 22-13-1, 22-13-1.1, 22-13C-10, and 22-22-1 et seq. NMSA 1978.

[6.10.5.3 NMAC – Rp, 6.10.5.3 NMAC, 7/1/2024]

### **6.10.5.4 DURATION:**

Permanent.

[6.10.5.4 NMAC – Rp, 6.10.5.4 NMAC, 7/1/2024]

### **6.10.5.5 EFFECTIVE DATE:**

July 1, 2024, unless a later date is cited at the end of a section.

[6.10.5.5 NMAC – Rp, 6.10.5.5 NMAC, 7/1/2024]

#### **6.10.5.6 OBJECTIVE:**

This rule establishes criteria for determining the length of a school year and day, instructional hours for students, and professional work hours for teachers; and for establishing a school calendar for the school year.

[6.10.5.6 NMAC – Rp, 6.10.5.6 NMAC, 7/1/2024]

#### **6.10.5.7 DEFINITIONS:**

**A. "Early college high school"** means a four-year high school that meets the qualifications outlined in 6.30.13.9 NMAC.

**B. "Four-day calendar"** means a school calendar with all weeks having at most four instructional days.

**C. "Instructional day"** means a calendar day designated by the local board for instructional hours with students that meets the length of school day requirements in Subsection E of Section 8 of this rule. Two instructional days per year may be used for parent-teacher conferences.

**D. "Instructional hour"** is a period at school during which students receive instruction aligned to academic content and performance standards, except for those instructional hours designated as "professional work hours" according to Subsection J of Section 8 of this rule, and may include:

- (1) a school program set forth in Sections 22-13-1 and 22-13-1.1 NMSA 1978;
- (2) enrichment programs that focus on problem solving and cognitive skills development;
- (3) content that provides technical knowledge, skills, and competency-based applied learning;
- (4) research- or evidence-based social, emotional, or academic interventions;  
and
- (5) instruction that occurs at the same time breakfast is served or consumed in accordance with the breakfast after the bell program or federal requirements.

**E. "Instructional hour with students"** means an instructional hour that is not a professional work hour; up to two days-worth of instructional hours with students may be for parent-teacher conferences.

**F. "K-12 plus day"** means a calendar day designated by the local board as an instructional day or a school day that is scheduled in excess of 155 instructional days for four-day calendars and 180 instructional days for five-day calendars.

**G. "Local board"** means a board of education of a school district or a governing body of a charter school.

**H. "Optional instructional programs"** means a school district instructional program in which eligible students may enroll instead of participating in the general course of study offered by the local school.

**I. "Professional work hour"** means time during which a teacher participates in professional work aligned to challenging academic content and performance standards, including:

- (1) home visiting or parent-teacher conferences;
- (2) educator training or professional development; and
- (3) mentorship, coaching, and collaboration between school employees.

**J. "Public schools"** means school districts and charter schools.

**K. "Remote instruction"** means instructional time when students are engaged with the curriculum through an online platform while not physically at the school site.

**L. "School day"** means a calendar day designated by the local board that may include either instructional hours with students or professional work hours or a combination of instructional hours with students and professional work hours.

**M. "Secretary"** means the secretary of the public education department.

**N. "Synchronous remote instruction"** means remote instruction when students are receiving instruction by teachers on an online platform in real time.

[6.10.5.7 NMAC – Rp, 6.10.5.7 NMAC, 7/1/2024]

#### **6.10.5.8 REQUIREMENTS:**

All students shall be in a minimum of 1,140 instructional hours per school year, exclusive of lunch, lunch recess, and lunch passing periods. Beginning in the 2024-2025 school year:



**A.** Secondary students shall attend a minimum of three and one-half instructional hours per instructional day, unless a secondary student provides evidence of participating for an equivalent amount of time in an apprenticeship, a work study program, a dual-credit program, in employment, in community service or other similar activities. Instructional hour requirements for students with individualized education programs (IEPs) shall follow the requirements of the IEPs.

**B.** All public schools that are not exempt shall have calendars with at least 180 instructional days.

**C.** Early college high schools shall be exempt from the minimum 180 instructional day requirement.

**D.** Reading, language arts is foundational to student achievement in core subject areas; school districts and charter schools will be exempt from the minimum 180 instructional day requirement if they meet certain proficiency and growth targets in reading, language arts as determined by the secretary.

**E.** The length of instructional days and school days shall be a minimum of five and one-half instructional hours per full day and a minimum of three and one-half instructional hours per half day. Instructional days shall be no longer than seven and one-half instructional hours.

**F.** Student lunch time shall be a minimum of 30 minutes. Lunch recess and passing periods to and from lunch do not qualify as instructional hours.

**G.** Remote instruction may comprise no more than four instructional days, or 32 hours per school year, and at least fifty percent of remote instruction must be synchronous remote instruction, except for:

(1) hardships included in Subsection I of this section; or

(2) optional instructional programs, charter schools in accordance with the contract between the school and its chartering authority, or schools without attendance boundaries.

**H.** When instructional hours are lost to weather or other events that cause the total school year instructional hours to drop below 1,140, or that cause a reduction in the total number of instructional days or school days, the school calendar shall be amended so that students receive a full school year and so that the number of scheduled K-12 plus days are maintained.

**I.** Due to hardship, the secretary may waive, on a case-by-case basis, for a current school year, the length of instructional days and the number of instructional days with students provided that that school year is adjusted to ensure that the students receive a

minimum of 1,140 instructional hours per school year. Hardships shall include but not be limited to:

- (1) severe acts of nature;
- (2) natural disasters that affect a community after which rescue, repair, and grieving are critical to the community's recovery;
- (3) community or statewide health emergencies, where warnings about pandemics or epidemics have been issued by the department of health or the department;
- (4) the passing or prolonged illness of key school staff; or
- (5) violent or other disruptive acts committed on school property that necessitate a lockdown or necessitate total or partial closure of a school.

**J.** Up to 60 instructional hours per school year for primary grades and up to 30 instructional hours for secondary grades may be used for professional work hours, provided that professional work hours are scheduled before, after, or on a day other than the required minimum 180 instructional days. When calculating a school's total number of instructional hours, time shall not be double counted as both instructional hours with students and professional work hours.

[6.10.5.8 NMAC – Rp, 6.10.5.8 NMAC, 7/1/2024]

#### **6.10.5.9 K-12 PLUS PROGRAM:**

**A.** Each school district or charter school with board-approved and PED-approved calendars longer than 180 school days for five-day school calendars and longer than 155 school days for four-day school calendars shall be eligible to receive K-12 plus program units for students in kindergarten through twelfth grade.

**B.** The number of K-12 plus program units for five-day calendars is determined by multiplying the membership in each eligible school by:

- (1) the cost differential factor of 0.012 and then by the number of K-12 plus days between 181 and 190 days; and
- (2) the cost differential factor of 0.016 and then by the number of K-12 plus days between 191 and 205 days.

**C.** The number of K-12 plus program units for four-day calendars is determined by multiplying the membership in each eligible school by:

(1) the cost differential factor of 0.012 and then by the number of K-12 plus days between 156 and 165 days; and

(2) the cost differential factor of 0.016 and then by the number of K-12 plus days between 166 and 175 days.

**D.** No later than October 15 of each year, a school district or charter school that wishes to adopt K-12 plus days for the next fiscal year shall submit to the department the actual number of students enrolled in each of its schools in the current year and an estimate of the number of students that the school district or charter school expects to be enrolled in each school in the next year.

[6.10.5.9 NMAC – Rp, 6.10.5.9 NMAC, 7/1/2024]

## **PART 6: PROHIBITION ON THE SALE OR USE OF LISTS IN DIRECT MARKETING; DEFINITION OF "LEGITIMATE EDUCATIONAL PURPOSES"**

### **6.10.6.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.10.6.1 NMAC - Rn, 6 NMAC 1.3.1.1, 12-29-00; A, 11-13-09]

### **6.10.6.2 SCOPE:**

This rule applies to local school boards, local school districts, and public schools.

[12-31-98; 6.10.6.2 NMAC - Rn, 6 NMAC 1.3.1.2, 12-29-00; A, 11-13-09]

### **6.10.6.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 and 22-21-2, NMSA 1978.

[12-31-98; 6.10.6.3 NMAC - Rn, 6 NMAC 1.3.1.3, 12-29-00; A, 11-13-09]

### **6.10.6.4 DURATION:**

Permanent.

[12-31-98; 6.10.6.4 NMAC - Rn, 6 NMAC 1.3.1.4, 12-29-00]

### **6.10.6.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.10.6.5 NMAC - Rn, 6 NMAC 1.3.1.5, 12-29-00]

**6.10.6.6 OBJECTIVE:**

This rule is intended to define "legitimate educational purposes" as required by Section 22-1-8, NMSA 1978.

[12-31-98; 6.10.6.6 NMAC - Rn, 6 NMAC 1.3.1.6, 12-29-00; A, 11-13-09]

**6.10.6.7 DEFINITIONS:**

**A. "Legitimate educational purposes"** are defined as educational opportunities, services and/or information offered or provided by accredited educational entities, professional educational organizations, the armed forces of the United States or labor organizations defined in the New Mexico Public Employee Bargaining Act conducting lawful organization and collective bargaining activities.

**B. "Personal identifying information"** means the names, addresses, telephone numbers, social security numbers and other similar identifying information about students maintained by a public school or local school district.

[12-31-98; 6.10.6.7 NMAC - Rn, 6 NMAC 1.3.1.7, 12-29-00]

**6.10.6.8 PROHIBITION:**

No person shall sell or use student, faculty or staff lists with personal identifying information obtained from a public school or local school district for the purpose of marketing goods or services directly to students, faculty or staff or their families by means of telephone or mail. The exceptions to this provision are when a parent or a student authorizes the release of the students personal identifying information in writing to the public school or local school district, or for "legitimate educational purposes", as defined in Subsection A of Section 6.10.6.7 NMAC above.

[12-31-98; 6.10.6.8 NMAC - Rn, 6 NMAC 1.3.1.8, 12-29-00]

**PART 7: STANDARDIZED TESTING PROCEDURES AND REQUIREMENTS**

**6.10.7.1 ISSUING AGENCY:**

Public Education Department, herein after the department.

[6.10.7.1 NMAC – Rp, 6.10.7.1 NMAC, 12/27/2018]

**6.10.7.2 SCOPE:**

School districts, charter schools, state institutions, and bureau of Indian education (BIE) schools, including virtual programs, that administer standardized tests, as well as their employees or volunteers who have access to those standardized tests.

[6.10.7.2 NMAC - Rp, 6.10.7.2 NMAC, 12/27/2018; A, 8/15/2023]

**6.10.7.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2 and 22-2C-4 NMSA 1978.

[6.10.7.3 NMAC - Rp, 6.10.7.3 NMAC, 12/27/2018; A, 8/15/2023]

**6.10.7.4 DURATION:**

Permanent.

[6.10.7.4 NMAC - Rp, 6.10.7.4 NMAC, 12/27/2018]

**6.10.7.5 EFFECTIVE DATE:**

December 27, 2018, unless a later date is cited at the end of a section.

[6.10.7.5 NMAC - Rp, 6.10.7.5 NMAC, 12/27/2018]

**6.10.7.6 OBJECTIVE:**

This rule establishes the roles, responsibilities, and procedures required for the preparation, storing, handling, distribution, security, and administration of standardized tests. The purpose of this rule is to maintain standardization of procedures to ensure valid and reliable results, equity of opportunity, and fairness to students.

[6.10.7.6 NMAC - Rp, 6.10.7.6 NMAC, 12/27/2018; A, 8/15/2023]

**6.10.7.7 DEFINITIONS:**

**A. "District or charter test coordinator" or "DTC"** means the licensed school instructor, counselor, student success advisor, or administrator in a school district, charter school, virtual program, state educational institution, or bureau of Indian education school (BIE) designated by the district superintendent, charter administrator, or governing authority of a state educational institution or BIE school with the overall responsibility for:

(1) handling, storing, and distributing standardized tests and test material, including student test tickets for online tests;

(2) recording standardized test distribution by booklet or answer sheet number;

- (3) collecting and administering standardized tests;
- (4) training school personnel in test security matters; and
- (5) following proper test administration procedures.

**B. "Instructional support provider"** means a licensed educational diagnostician, interpreter for the deaf, rehabilitation counselor, school counselor, school psychologist, school social worker, or speech language pathologist.

**C. "New Mexico statewide assessment program" or "NMSAP"** means the assessment program that is approved by the department and designates the required standardized tests to be administered in New Mexico public school districts, charter schools, state educational institutions, and BIE education schools.

**D. "Proctor"** means a designated, trained person who assists the test administrator during the time of testing.

**E. "School test coordinator"** means the licensed school instructor, counselor, student success advisor, administrator, or instructional support provider responsible for:

- (1) handling, storing, and distributing standardized tests for administration to test administrators;
- (2) recording standardized test distribution by booklet or answer sheet number;
- (3) collecting and administering standardized tests;
- (4) training school personnel in test security matters; and
- (5) following proper test administration procedures within the school site.

**F. "Standardized test"** means any nationally norm-referenced assessment, state or national performance assessment, or state or national criterion-referenced assessment.

**G. "Standardized test material"** means a standardized test or any related items for paper-based or online testing such as examiner guides, preparation materials, student test tickets, test security guides, answer sheets or booklets, and any student notes, answers, or essays generated during the administration of a standardized test.

**H. "Test administrator"** means the licensed school instructor, counselor, student success advisor, administrator, or instructional support provider in a school district, charter school, state educational institution, or BIE education school with the responsibility of administering tests under the guidelines outlined in 6.10.7 NMAC.

**I. "Test administration window"** means a specified period of time, as designated by the department assessment bureau, during which statewide tests shall be administered.

**J. "Testing irregularity"** means any circumstance within or beyond the control of a school district or charter that raises doubts with the department, district, or charter about the propriety of standardized testing procedures, preparation materials, standardized testing administration, standardized testing security, student scores attained from standardized testing, or educators' or individuals' conduct observed during standardized test administration.

**K. "Virtual program"** means an educational program conducted via computers online, either entirely or as a hybrid virtual program in combination with in-person educational programming.

[6.10.7.7 NMAC - Rp, 6.10.7.7 NMAC, 12/27/2018; A, 8/15/2023]

#### **6.10.7.8 RESPONSIBILITIES OF SUPERINTENDENTS AND CHARTER ADMINISTRATORS:**

It shall be the responsibility of each superintendent or charter administrator to ensure that standardized tests are handled, stored, prepared for, and administered in accordance with this rule and test manuals provided by the department or testing vendors.

**A.** Superintendents and state charter administrators shall designate one DTC and may designate a secondary test coordinator for the purpose of delegating the duties necessary to comply with 6.10.7 NMAC.

**B.** Test administration at district charters shall be the responsibility of the DTC designated by the district superintendent. District charters may submit documented requests to designate their own test coordinator. Requests shall be submitted to and approved by the superintendent at the start of the school year. Failure to meet any standardized test administration policies or practices will result in removal of the district charter test coordinator without appeal. Upon such determination, all test coordination responsibilities shall defer back to the authorizing district's test coordinator.

**C.** The designation of district, charter, and secondary test coordinators shall:

- (1) be in writing; and
- (2) identify the name, title, and contact information of the person(s) so delegated.

**D.** The superintendent or charter administrator shall complete and return the verification of test security, staff training, and accommodations requirements

documentation to the department within 10 business days after the close of all NMSAP testing at the end of each semester.

[6.10.7.8 NMAC - Rp, 6.10.7.8 NMAC, 12/27/2018; A, 8/15/2023]

**6.10.7.9 RESPONSIBILITIES OF DISTRICT OR CHARTER TEST COORDINATORS:**

**A.** The DTC shall attend all trainings indicated as mandatory by the department in their entirety. DTC attendance at mandatory trainings shall be subject to verification.

**B.** Once trained, the DTC shall provide training for all secondary test coordinators, school test coordinators, and all personnel involved in test administration, preparation, and security.

**C.** The DTC shall provide principals the same training as test administrators as well as additional training in the storing, handling, destruction, and administration of standardized test material. Assistant principals shall, at a minimum, be knowledgeable of the requirements for the administration of standardized tests set forth in Subsection C of 6.10.7.12 NMAC.

**D.** The DTC shall inform all teachers, educational assistants, substitutes, volunteers, licensed and unlicensed office staff, and anyone else who is likely to come into contact with standardized testing material of the need to maintain strict standardized test security by:

- (1) developing and disseminating handouts to these individuals;
- (2) providing training to these individuals; and
- (3) posting conspicuous signs near school copy machines prior to and during a standardized test that warn of department rules prohibiting the copying of any portion of a standardized test, including student responses and any other standardized testing material.

**E.** The DTC shall provide training participants with copies of the following:

- (1) this rule and any other relevant statute or regulation, if necessary;
- (2) written district or charter school guidance documents;
- (3) testing schedules;
- (4) test administration manuals; and



(5) the department shall inform DTCs of the test administration windows in writing at least annually. DTCs shall ensure that all required training, including online testing and test security training, is administered prior to the fall and spring test administration windows.

**F.** In the absence of a written district or charter policy that includes the procedures outlined in 6.10.7.12 NMAC, the DTC shall develop checklists and written procedures for internal use to ensure compliance with this rule.

**G.** The DTC shall, in accordance with department rules and standards:

(1) ensure all procedures for standardized testing comply with 6.10.7.12 NMAC;

(2) collaborate with appropriately licensed personnel to ensure appropriate test assignment for all students, and appropriate accommodations for students with disabilities and English learners; and

(3) carry out infrastructure trials, as necessary, and online testing preparations.

[6.10.7.9 NMAC - Rp, 6.10.7.9 NMAC, 12/27/2018; A, 8/15/2023]

#### **6.10.7.10 RESPONSIBILITIES OF SCHOOL TEST COORDINATORS:**

**A.** The school test coordinator(s) shall be trained by the DTC and shall provide training for all school personnel involved in test administration, preparation, and security, unless the DTC provides such training.

**B.** The school test coordinator(s) shall use the written district or charter policy or checklists and written procedures developed by the DTC to implement the procedures outlined in 6.10.7.12 NMAC.

[6.10.7.10 NMAC - Rp, 6.10.7.10 NMAC, 12/27/2018]

#### **6.10.7.11 RESPONSIBILITIES OF TEST ADMINISTRATORS:**

**A.** Test administrators shall be trained by the school test coordinator or the DTC.

**B.** Trainings shall inform test administrators of their duty to promptly report testing irregularities as soon as they are aware to the DTC.

**C.** Test administrators shall:

(1) review the standardized test administrator's manual so that administration procedures are understood;

(2) use test proctors stationed in the hallway to gather missing supplies or deal with medical situations;

(3) administer the standardized test according to the directions and specifications in the standardized test administrator's manual;

(4) only administer the standardized test during the designated test administration window;

(5) return the standardized tests to the school, district, or charter test coordinator after testing each day during the test administration window for secure overnight storage; and

(6) take immediate corrective action if a student is observed engaging in any prohibited conduct during a standardized test.

[6.10.7.11 NMAC - Rp, 6.10.7.11 NMAC, 12/27/2018]

#### **6.10.7.12 PROCEDURES FOR STANDARDIZED TESTING:**

All schools, including virtual programs, shall maintain a chain of custody that identifies authorized staff members and tracks the movement of secure test materials from one location to another.

##### **A. Storing and handling of standardized test material.**

(1) Standardized test material, including student test tickets for online testing, shall be counted, inventoried, and stored in a secure, locked location with limited access.

(2) Space permitting, standardized test material shall be stored in sealed containers in a secure area.

(3) Standardized test materials, as directed by the department, shall be disposed of by either shredding or returning such materials to the test vendor.

(4) Virtual programs shall document a chain of custody that includes secure storage and handling of all test administration equipment and materials from the designated delivery of vendor materials to the designated testing locations of all students eligible for testing.

##### **B. Accessing standardized test material.**

(1) Access to standardized test materials, including student test tickets for on-site, online testing, shall be restricted, limited, and controlled.

(2) Personnel with access to standardized test materials shall be designated by the superintendent or charter administrator.

(3) The removal of standardized test materials from their secure, locked location for the purposes of test administration and submittal at the close of the test administration window shall be logged and recorded. Records shall:

(a) identify the individual who removed standardized test materials;

(b) identify the name(s) and identifying number(s) of the standardized test materials that were removed;

(c) identify the number of standardized test materials that were removed;

(d) identify the date the standardized test materials that were removed;

(e) include documentation of any standardized test materials taken off school grounds and their return;

(f) be maintained for at least five calendar years; and

(g) be made available for review by the department upon request.

### **C. Administration of standardized tests.**

(1) Only licensed school instructors, counselors, student success advisors, administrators, and instructional support providers shall administer a standardized test.

(2) Substitutes, educational assistants, school nurses, and coaches shall not administer standardized tests unless the individual additionally holds valid licensure to serve as a teacher, counselor, student success advisor, administrator, or instructional support provider.

(3) Educational assistants may be permitted to support testing accommodations for one-on-one and small group testing under the supervision of a test administrator. Educational assistants administering accommodations shall:

(a) meet the requirements stated in 6.10.7.11 NMAC;

(b) receive the written approval of the DTC;

(c) be under the supervision of a test administrator as defined in Subsection H of 6.10.7.7 NMAC; and

(d) not support accommodations for a group larger than five students.

(4) Training shall be provided to all persons who administer or proctor a standardized test. Individuals shall not be permitted to administer or proctor a standardized test without first completing training in accordance with the timelines, topics, and materials designated by the department.

(a) Sign-in forms listing training topics, printed name, and signature shall be maintained as a record by date to identify all individuals who have completed the district or charter training in test security, practice materials, and administration of standardized tests.

(b) Each sign-in record shall be maintained for at least five calendar years and be made available for review by the department upon request.

(5) The ratio of test administrators to students shall not exceed 25 students per test administrator.

(a) Tests may be administered to no greater than 30 students per test administrator if, at a minimum, an additional test administrator or test proctor is present for the duration of the test.

(b) At no point shall the number of students tested simultaneously and in the same location exceed 30 students without the presence of at least two test administrators or one test administrator and one test proctor.

(6) Test proctors shall be utilized to support the following:

(a) gathering of missing supplies;

(b) assistance with medical situations; and

(c) monitoring of the testing environment in the presence of a test administrator.

(7) All mandatory statewide assessments, including those administered to students in fully virtual or hybrid programs, shall be administered in person, on site, by a test administrator on school premises or at an official district designated location.

(8) Test administrators shall prepare and manage the environment for on-site, in-person, online testing to ensure that students look only at their individual computers.

**D. Prohibited practices.** The following practices shall be prohibited:

(1) changing a student's standardized test answers, erasing double-marked or lightly erased or lightly marked answers, or directing or suggesting that a student change a standardized test answer;

- (2) providing students with a review of specific standardized test items, specific standardized test items with minor changes in settings or numbers, verbal or written restatements or paraphrasing of standardized test items, specific vocabulary from standardized test directions or standardized test items, or answers before, during or after a standardized test;
- (3) discussing, photocopying, or reproducing in any other fashion including paraphrasing, any portion of a standardized test or student responses;
- (4) affording any student under a standardized administration extra time to complete a timed subtest, unless permitted as an accommodation in the student's IEP, 504 plan, or English learner plan;
- (5) reading standardized test items aloud to students unless required in a specific standardized test or unless required as an accommodation in the student's IEP, 504 plan, or English learner plan;
- (6) permitting students during a standardized test to have on or near their desk or on their person, any unauthorized items, including scrap paper, tablets, laptop computers without secure browsers, cell phones with or without cameras, cameras, calculators, calculator watches, smart watches, media players, headphones, wireless earbuds, backpacks, and rulers unless any of these are required or permitted by standardized test instructions;
- (7) permitting students to observe standardized test vocabulary words with definitions, addition or multiplication tables (in various forms), spelling words on the standardized test, or similar assistance material during the administration of the standardized test;
- (8) permitting students to talk, become disruptive, or exchange any test materials;
- (9) permitting students to begin a subtest, leave the testing room, and return to finish the subtest;
- (10) permitting students to enter a testing room after the standardized test has already commenced;
- (11) permitting standardized test material to remain unattended in an unlocked room;
- (12) taking standardized test material off campus unless specifically authorized by the DTC;
- (13) displaying or failing to conceal visual aids that may assist students in the testing room;

(14) administering a standardized test to immediate family members or relatives including children, stepchildren, siblings, nieces, nephews, or grandchildren;

(15) teaching from, possessing, or in any way disseminating a photocopy or other reproduced or paraphrased standardized test or portion of a standardized test;

(16) copying copyrighted test preparation materials for the purpose of distribution;

(17) coaching or otherwise inappropriately assisting with the selection or writing of student answers; and

(18) accessing secure, online testing portals with unassigned log-in information.

[6.10.7.12 NMAC - N, 7/31/2012; A/E, 8/15/2023]

#### **6.10.7.13 NONDISCLOSURE OF STANDARDIZED TEST MATERIALS:**

**A.** All standardized tests in the NMSAP are the proprietary interest of the department and shall be safeguarded.

**B.** Any person permitted to review a standardized test that is part of the NMSAP or participating in a review associated with assessment development procedures shall sign a nondisclosure form offered by the department agreeing not to reveal any confidential materials, specific standardized test items, or specific concepts or skills to be measured on the standardized test to include verbal or written restatements of standardized test items, minor changes in settings or numbers, and specific vocabulary from standardized test directions or standardized test items.

**C.** Any person given permission to review an NMSAP assessment may only review the assessment on-site during department office hours with the supervision of a department employee, unless permission to follow alternative review procedures is granted by the department. No NMSAP assessment may be written on, marked, electronically copied, hand-duplicated, or otherwise removed from the premises of the department or a local education agency in possession of an NMSAP assessment.

**D.** Upon request, a person suspected of engaging in a testing irregularity shall be given as much access to an NMSAP assessment as is reasonably necessary to prepare for a pending meeting or hearing relating to the suspected testing irregularity. The original or copy of any NMSAP assessment used as evidence at any meeting or hearing shall also be subject to confidentiality by all attendees and participants.

**E.** With the permission of testing vendors, the department may choose to release select portions of standardized assessments for the purposes of training and professional development. Under no circumstance shall any part of a standardized test

not previously released by the department be released by any unauthorized individual or organization.

[6.10.7.13 NMAC - Rp, 6.10.7.13 NMAC, 12/27/2018]

#### **6.10.7.14 REPORTING STANDARDIZED TESTING IRREGULARITIES:**

To ensure the integrity of standardized tests and their results, the principles of test security shall be strictly followed. Accordingly, material violations of this rule or breaches of test security shall constitute good and just cause to suspend or revoke a person's department licensure.

**A.** School personnel and proctors shall report suspected testing irregularities to the DTC within 24 hours.

**B.** Districts and charters shall report by telephone or e-mail suspected testing irregularities to the department within three business days of being notified of a suspected testing irregularity.

**C.** The DTC shall submit a testing irregularity report within ten business days to the department assessment bureau that contains:

- (1)** the allegation(s);
- (2)** the findings from a completed investigation at the local level; and
- (3)** the corrective action taken, if any.

**D.** If a DTC is suspected of having engaged in a testing irregularity, the individual who discovers the irregularity shall notify the department assessment bureau by telephone or e-mail within three business days of learning of the suspected irregularity.

**E.** Districts and charters shall cooperate with the department if further investigation or action is needed.

[6.10.7.14 NMAC - Rp, 6.10.7.14 NMAC, 12/27/2018]

#### **6.10.7.15 CORRECTIVE MEASURES FOR STANDARDIZED TESTING IRREGULARITIES:**

**A.** The department reserves the right to investigate suspected testing irregularities and confiscate any materials deemed necessary to conclude the investigation at their discretion.

**B.** Any combination of the following corrective measures may be taken by the department:

(1) direct the district or charter or a named individual to cease and desist engaging in a particular testing irregularity or the administration of further standardized tests during the current school year;

(2) revoke access to standardized test materials to ensure test security;

(3) recommend any further action it deems reasonable and necessary to maintain test security;

(4) invalidate the standardized test results and inform the district or charter that the affected student will not receive scores on portions or all of a standardized assessment;

(5) refer the matter for possible suspension or revocation of a person's educator or administrator licensure or other department licensure pursuant to procedures set forth in 6.68.3 NMAC;

(6) refer the matter to other department divisions for appropriate action;

(7) take any other action authorized by state or federal law or regulation; or

(8) modify school, district, and charter accountability determinations.

[6.10.7.15 NMAC - N, 12/27/2018]

## **PART 8: COMPULSORY SCHOOL ATTENDANCE [REPEALED]**

[This part was repealed effective November 7, 2023.]

# **CHAPTER 11: PUBLIC SCHOOL ADMINISTRATION - STUDENT RIGHTS AND RESPONSIBILITIES**

## **PART 1: GENERAL PROVISIONS [RESERVED]**

## **PART 2: RIGHTS AND RESPONSIBILITIES OF THE PUBLIC SCHOOLS AND PUBLIC SCHOOL STUDENTS**

### **SCHOOL STUDENTS**

#### **6.11.2.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.11.2.1 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]



#### **6.11.2.2 SCOPE:**

This rule applies to public schools and public school students.

[6.11.2.2 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

#### **6.11.2.3 STATUTORY AUTHORITY:**

This rule is being promulgated pursuant to Sections 22-2-1, 22-2-2, and 22-5-4.12 NMSA 1978 and 42 U.S.C. 11431 et seq., the McKinney-Vento Homelessness Assistance Act.

[6.11.2.3 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

#### **6.11.2.4 DURATION:**

Permanent.

[6.11.2.4 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

#### **6.11.2.5 EFFECTIVE DATE:**

August 25, 2020, unless a later date is cited at the end of a section.

[6.11.2.5 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

#### **6.11.2.6 OBJECTIVE:**

To provide a comprehensive framework within which school districts, local school boards, locally chartered charter schools, state-chartered charter schools, and governing bodies of charter schools may carry out their educational mission and exercise their authority and responsibility to provide a safe environment for student learning and provide students and parents with an understanding of the basic rights and requirements necessary to effectively function in the educational community.

[6.11.2.6 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

#### **6.11.2.7 DEFINITIONS:**

**A. "Administrative authority"** means the school district superintendent, the head administrator of a state-chartered charter school, a principal, or their delegate to act officially in a matter involving school discipline or the maintenance of order. The term may include school security officers, but only to the extent of their authority as established under written local school board policies.

**B. "Child with a disability" or "student with a disability"** means a child who meets all requirements of 34 CFR Sec. 300.8 and:

(1) is age three through 21 or who will turn age three at any time during the school year;

(2) has been evaluated in accordance with 34 CFR Secs. 300.304 through 300.311 and any additional requirements of these or other department rules and standards as having one or more of the disabilities specified in 34 CFR Sec. 300.8, including an intellectual disability; a hearing impairment, including deafness, speech or language impairment; a visual impairment, including blindness; emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairment; a specific learning disability; deaf-blindness; or being developmentally delayed as defined in Paragraph (4) of Subsection B of 6.31.2.7 NMAC; and who has not received a high school diploma; and

(3) at the discretion of each local educational agency and subject to the additional requirements of Paragraph (2) of Subsection F of 6.31.2.10 NMAC, may include a child age three through nine who is evaluated as being developmentally delayed and who, because of that condition, needs special education and related services.

**C. "Criminal acts"** means acts defined as criminal under federal and state law, and any applicable municipal or county criminal ordinances.

**D. "Delinquent acts"** means acts as defined in Subsection A of Section 32A-2-3 NMSA 1978, the Delinquency Act.

**E. "Detention"** means requiring a student to remain in a designated area in the student's school outside of instructional time, such as before school, during recess, during lunch, or after school. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom.

**F. "Disciplinarian"** means a person or group authorized to impose consequence(s) after the facts of a case have been determined by a hearing authority.

**G. "Disruptive conduct"** means willful conduct that is unruly, disruptive, or abusive and interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

**H. "Expulsion"** means the removal of a student from school either permanently or for an indefinite time exceeding 10 school days or a locally established shorter period.

**I. "Hearing authority"** means a person or group designated to hear evidence and determine the facts of a case at a required formal hearing.

**J. "Immediate removal"** means the removal of a student from school for one school day or less under emergency conditions and without a prior hearing.

**K. "In-school suspension"** means requiring a student to spend time in a designated area at the same school or in an environment where the student is allowed to continue with their academic learning.

**L. "Legal limits"** include the requirements of the federal and state constitutions and governing statutes, standards, and regulations, and include the fundamental common-law requirement that rules of student conduct be reasonable exercises of the schools' authority in pursuance of legitimate educational and related functions. There are special limitations arising from constitutional guarantees of protected free speech and expression which shall be balanced against the schools need to foster an educational atmosphere free from undue disruptions to appropriate discipline.

**M. "Local school board"** includes the governing body of a charter school.

**N. "Local school district" or "school district"** includes a state-chartered charter school.

**O. "Long-term suspension"** means the removal of a student from school for a specified time exceeding either 10 school days or a locally established shorter period.

**P. "Mechanical restraint"** means the use of any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove, but "mechanical restraint" does not include mechanical supports or protective devices.

**Q. "Parent"** means the natural parent, legal guardian, or other person having custody and control of a student who is subject to Section 22-12A-1 et seq. NMSA 1978, the Attendance for Success Act, or the student if the student is not subject to compulsory attendance.

**R. "Physical restraint"** means the use of physical force without the use of any device or material that restricts the free movement of all or a portion of a student's body, but "physical restraint" does not include physical escort.

**S. "Public school"** means the campus and any building, facility, vehicle, or other item of property owned, operated, controlled by or in the possession of a local school district. For purposes of student discipline, the term also includes any non-school premises being used for school-sponsored activities.

**T. "Refusal to cooperate with school personnel"** means a student's willful refusal to obey the lawful instructions or orders of school personnel whose responsibilities include supervision of students.

**U. "Refusal to identify self"** means a person's willful refusal, upon request from school personnel known or identified as such to the person, to identify themselves accurately.

**V. "Restraint"** when not otherwise modified means mechanical or physical restraint.

**W. "Review authority"** means a person or group authorized by the local school board to review a disciplinarian's final decision to impose a long-term suspension or expulsion.

**X. "Seclusion"** means the involuntary confinement of a student alone in a room from which egress is prevented. "Seclusion" does not mean the use of a voluntary behavior management technique, including a timeout location, as part of a student's education plan, individual safety plan, behavioral plan or individualized education program that involves the student's separation from a larger group for purposes of calming.

**Y. "Sexual harassment,"** regarding students, means unwelcome or unwanted conduct of a sexual nature (verbal, non-verbal or physical) when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of the advancement of a student in school programs or activities;

(2) submission to or rejection of such conduct by a student is used as the basis for decisions or opportunities affecting the student; or

(3) such conduct substantially interferes with a student's learning or creates an intimidating, hostile, or offensive learning environment.

**Z. "School personnel"** means all members of the staff, faculty, and administration employed by the local school board. The term includes school security officers, school bus drivers, and their aides, and also authorized agents of the schools, such as volunteers or chaperones, whose responsibilities include supervision of students.

**AA. "Student"** means a person who is enrolled in one or more classes at a public school.

**BB. "Student experiencing homelessness"** means children and youth as defined by Section 725(2) of the federal McKinney-Vento Homeless Assistance Act.

**CC. "Superintendent of a school district"** includes the head administrator of a state-chartered charter school.

**DD. "Temporary suspension"** means the removal of a student from school for a specified period of 10 or fewer school days after a rudimentary hearing.

**EE. "Weapon,"** as set forth in Section 22-5-4.7 NMSA 1978, means:

(1) any firearm that is designed to, may readily be converted to, or will expel a projectile by the action of an explosion; and

(2) any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device.

[6.11.2.7 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

#### **6.11.2.8 GENERAL PROVISIONS:**

**A. Jurisdiction over students.** Public school authorities, which include all officials, employees and authorized agents of public schools, whose responsibilities include supervision of students shall have comprehensive authority within constitutional bounds to maintain order and discipline in school. In exercising this authority, such officials, employees, and authorized agents of public schools may exercise such powers of control, supervision, and correction over students as may be reasonably necessary to enable them to properly perform their duties and accomplish the purposes of education. This authority applies whenever students are lawfully subject to the schools' control, regardless of place. During such periods, public school authorities shall have the right to supervise and control the conduct of students, and students shall have the duty to submit to the schools' authority. The foregoing is intended to reflect the common law regarding the rights, duties, and liabilities of public school authorities in supervising, controlling and disciplining students. Nothing herein shall be construed as enlarging the liability of public school authorities beyond that imposed by statute, common law, or department rule.

**B. School authority over non-students.** In furtherance of the state's compelling interest in the orderly operation of public schools and school activities, school officials have the following forms of authority over non-students whose actions adversely affect school operations or activities.

(1) On school property: Local school boards may prohibit entry to and provide for the removal from any public school building or grounds any person who refuses to identify themselves and state a lawful purpose for entering. Any person who refuses to identify themselves may be removed by school authorities, who may use reasonable physical force to accomplish the removal. Alternately, a person who refuses to identify themselves and who refuses a lawful request to leave school premises may be subject to arrest by law enforcement officers for criminal offenses including but not limited to criminal trespass, interference with the educational process, or disorderly conduct. A person who identifies themselves and states a lawful purpose may nevertheless be subject to removal by school officials for engaging in activities prohibited by this rule. The person may also be subject to arrest by law enforcement officers if the person is committing any crime.

**(2)** Off school property: Public school authorities have indirect and limited authority over the activities of non-students off school property. To the extent that non-students' conduct at or near schools or school-sponsored activities may constitute a criminal offense, including the crimes of interference with the educational process, disorderly conduct or criminal trespass after refusing a lawful request to leave, school authorities may request law enforcement agencies to arrest the offenders.

**C. Statement of policy.** A primary responsibility of New Mexico public schools and their professional staff shall be to instill in students an appreciation of our representative form of government, the rights and responsibilities of the individual or group, and the legal processes whereby necessary changes are effected.

**(1)** The school is a community and the rules of a school are the laws of that community. All persons enjoying the rights of citizenship are subject to the laws of their community. Each right carries with it a corresponding obligation.

**(2)** The right to attend public school is not absolute. It is conditioned on each student's acceptance of the obligation to abide by the lawful rules of the school community until and unless the rules are changed through lawful processes.

**(3)** Teachers, administrators, and other school employees also have rights and duties. Teachers are required by law to maintain a suitable environment for learning in their classes and to assist in maintaining school order and discipline. Administrators are responsible for maintaining and facilitating the educational program by ensuring an orderly and safe environment in public schools. In discharging their duties, all school employees have the right to be free from intimidation or abuse and to have their lawful requests and instructions followed.

**(4)** Nothing in this rule shall be held to affect the due process rights of school employees or their use of any local school district grievance procedure. This rule does not address employment disputes.

**D. Local school board authority:** Local school boards have the authority and responsibility to ensure that suitable rules of student conduct and appropriate disciplinary processes are established within their school districts. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC, and subject to the minimums prescribed in this rule, local school boards have discretion to develop such rules, policies, and procedures as they deem appropriate to local conditions, including policies which afford students more protection than the minimums established here. Local school boards and administrative authorities which deem it appropriate may provide for student, community or appropriate state and local agency participation in the formulation and enforcement of school rules.

**E. Severability.** Any part of this rule found by adjudication before a competent tribunal to be contrary to law shall be stricken without effect to the remainder.

### **6.11.2.9 RULES OF CONDUCT FOR NEW MEXICO PUBLIC SCHOOLS:**

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

**A. Prohibited activities:** The commission of or participation in the activities designated below is prohibited in all public schools and is prohibited for students whenever they are subject to school control. The following acts are prohibited by this rule:

- (1)** criminal or delinquent acts;
- (2)** committing, threatening to commit, or inciting others to commit or threaten to commit any act of violence, directly or indirectly, in person or through electronic means, against a public school, student, or school personnel or official;
- (3)** sexual harassment;
- (4)** disruptive conduct;
- (5)** refusal to identify self; and
- (6)** refusal to cooperate with school personnel.

**B. Regulated activities:** Beyond those activities designated as prohibited in Subsection A of 6.11.2.9 NMAC, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non-students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC. Activities subject to local school board regulation within legal limits include:

- (1)** school attendance;
- (2)** use of and access to public schools, including:
  - (a)** restrictions on vehicular traffic on school property;
  - (b)** prohibition of, or conditions on, the presence of non-school persons on school grounds or in school buildings while school is in session; and
  - (c)** reasonable standards of conduct for all persons attending school-sponsored activities or other activities on school property;

- (3) students' dress and personal appearance;
- (4) use of controlled substances, alcohol and tobacco in public schools;
- (5) speech and assembly within public schools;
- (6) publications distributed in public schools;
- (7) the existence, scope, and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
- (8) per Section 22-5-4.7 NMSA 1978, each school district is required to adopt a policy providing for the expulsion from school, for a period of not less than one year, any student who is determined to have knowingly brought a weapon to a public school under the jurisdiction of the local school board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis; the special rule provisions of Subsection D of 6.11.2.11 NMAC, apply to students with disabilities; and
- (9) the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

[6.11.2.9 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

#### **6.11.2.10 ENFORCING RULES OF CONDUCT:**

**A.** Enforcing attendance requirements. Local school districts and public schools shall establish, maintain, and enforce attendance policies and requirements set forth in Section 22-12A-1 et seq. NMSA 1978, the Attendance for Success Act, and Section 32A-3A-1 et seq. NMSA 1978, the Family Services Act.

**B.** Search and seizure. School property assigned to a student and a student's person or property while under the authority of a public school are subject to search, and items found are subject to seizure, in accordance with the following requirements:

(1) Notice of search policy. Students shall be given reasonable notice, through distribution of written policies or otherwise, of each school's policy on searches at the beginning of each school year or upon admission for students entering during the school year.

(2) Who may search. Certified school personnel, school security personnel and school bus drivers are "authorized persons" to conduct searches when a search is permissible as set forth in Subsection B of 6.11.2.10 NMAC. An authorized person who is conducting a search may request the assistance of one or more people, who upon consent become authorized to search for the purpose of that search only.



**(3)** When a search is permissible. Unless local school board policy provides otherwise, an authorized person may conduct a search when the authorized person has a reasonable suspicion that a crime or other breach of disciplinary rules is occurring or has occurred. An administrative authority may direct or conduct a search under the same conditions and also when the administrative authority has reasonable cause to believe that a search is necessary to help maintain school discipline.

**(4)** Conduct of searches and witnesses. The following requirements govern the conduct of permissible searches by authorized persons.

**(a)** School property, including lockers and school buses, may be searched with or without students present unless a local school board or administrative authority provides otherwise. When students are not present for locker searches, another authorized person shall serve as a witness whenever possible. Locks furnished by students should not be destroyed unless a student refuses to open one or circumstances otherwise render such action necessary in the judgment of the administrative authority.

**(b)** Student vehicles when on campus or otherwise under school control and students' personal effects, which are not within their immediate physical possession, may be searched in accordance with the requirements for locker searches in Subparagraph (a) of Paragraph (4) of Subsection B of 6.11.2.10 NMAC.

**(c)** Physical searches of a student's person may be conducted only by an authorized person of the same sex as the student and, except when circumstances render it impossible, may be conducted only in the presence of another authorized person of the same sex. The extent of the search must be reasonably related to the infraction, and the search shall not be excessively intrusive in light of the student's age and sex, and the nature of the infraction.

**(5)** Seizure of items. Illegal items, legal items which threaten the safety or security of others and items which are used to disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to appropriate authorities or a student's parent or returned to the student when and if the administrative authority deems appropriate.

**(6)** Notification of law enforcement authorities. Unless a local school board policy provides otherwise, an administrative authority shall have discretion to notify the local children's court attorney, district attorney, or other law enforcement officers when a search discloses illegally possessed contraband material or evidence of some other crime or delinquent act.

**C.** Basis for disciplinary action. A student may appropriately be disciplined by administrative authorities in the following circumstances:

**(1)** for committing any act that endangers the health or safety of students, school personnel, or others for whose safety the public school is responsible, or for conduct that reasonably appears to threaten such dangers if not stopped, regardless of whether an established rule of conduct has been violated;

**(2)** for violating valid rules of student conduct established by the local school board or by an administrative authority to whom the local school board has delegated rulemaking authority, when the student knew or should have known of the rule in question or that the conduct was prohibited; or

**(3)** for committing acts prohibited by this rule, when the student knew or should have known that the conduct was prohibited.

**D. Selection of disciplinary sanctions.** Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to determine the appropriate sanction(s) to be imposed for violations of rules of student conduct or to authorize appropriate administrative authorities to make such determinations.

**(1)** School discipline and criminal charges. Appropriate disciplinary actions may be taken against students regardless of whether criminal charges are also filed in connection with an incident.

**(2)** Nondiscriminatory enforcement. Local school boards and administrative authorities shall not enforce school rules or impose disciplinary punishments in a manner which discriminates against any student on the basis of race, religion, color, national origin, ancestry, sex (including sexual orientation and transgender status), or disability, except to the extent otherwise permitted or required by law or regulation. This statement shall not be construed as requiring identical treatment of students for violation of the same rule; it shall be read as prohibiting differential treatment which is based on race, religion, color, national origin, ancestry, sex (including sexual orientation and transgender status), or disability rather than on other differences in individual cases or students.

**E. Restraint or seclusion.** In accordance with Section 22-5-4.12 NMSA 1978, each school shall establish requirements for the use of restraint and seclusion techniques.

**(1)** Schools shall establish policies and procedures, as approved by the local school board or governing body, for the use of restraint and seclusion techniques. Schools shall review such policies and procedures on a triennial basis, before submitting the school safety plan.

**(a)** A school may permit the use of restraint or seclusion techniques on any student only if the student's behavior presents an imminent danger of serious physical harm to the student or others and only if less restrictive interventions appear insufficient to mitigate the imminent danger of serious physical harm. Less restrictive interventions

include de-escalation strategies, positive behavioral intervention supports, or other comparable behavior management techniques.

**(b)** The restraint or seclusion techniques shall be used only by school employees who are trained in de-escalation strategies, positive behavioral intervention supports, and the safe and effective use of restraint and seclusion techniques, unless an emergency does not allow sufficient time to summon those trained school employees.

**(c)** The restraint or seclusion techniques shall not impede the student's ability to breathe or speak, shall be in proportion to a student's age and physical condition, and shall end when the student's behavior no longer presents an imminent danger of serious physical harm to the student or others.

**(d)** If a restraint or seclusion technique is used on a student, trained and authorized school employees shall maintain continuous visual observation and monitoring of the student while the restraint or seclusion technique is in use.

**(2)** In accordance with Section 22-5-4.12 NMSA 1978, schools shall establish policies and procedures for the use of restraint and seclusion techniques in a school safety plan.

**(a)** A school safety plan, pursuant to requirements of Paragraph (7) of Subsection D of 6.12.6.8 NMAC, shall include the following minimum requirements:

**(i)** The school safety plan shall not be specific to any individual student; and

**(ii)** The school safety planning team shall include at least one administrator, one educator, and one special education expert and may include a counselor or social worker, nurse, and school resource officer or security staff. The school safety planning team shall include personnel who are trained as designated school personnel restraint and seclusion.

**(b)** A school safety plan, pursuant to requirements of Paragraph (7) of Subsection D of 6.12.6.8 NMAC, shall be submitted to the department on a triennial basis, on a schedule determined by the department. The department will provide local education agencies notice of a deadline to submit a school safety plan 90 days prior to the due date.

**(3)** Policies and procedures for the use of restraint and seclusion techniques shall require and describe appropriate training for designated school personnel.

**(a)** School districts and charter schools shall provide training for designated school personnel regarding de-escalation strategies, positive behavioral intervention supports, or other comparable behavior management techniques and the use of

restraint or seclusion techniques. Designated school personnel shall attend training at least every two years or complete a certification course, exam, or other comparable demonstration of competency that provides evidence that the individual has up-to-date knowledge of proper restraint and seclusion techniques.

**(b)** In the event that new designated school personnel are identified within the school after the provision of the training, certification course, exam, or other comparable demonstration of competency, the school district or charter school shall ensure that a training or other competency demonstration is provided to new designated school personnel within 60 days of being designated.

**(4)** Policies regarding restraint or seclusion shall consider school district support and strategies for school employees to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.

**(5)** Schools shall implement the following review procedures for incidents in which restraint or seclusion techniques are used.

**(a)** If a student has been restrained or secluded two or more times within 30 calendar days, the school shall review strategies used to address the student's behavior and determine whether the student needs a functional behavior assessment or referral to a student assistance team, behavioral intervention plan team, or, if a student has an individualized education program, a referral to the student's individualized education program team.

**(b)** If a student has been restrained or secluded two or more times within 30 calendar days, the student's individualized education program team, behavioral intervention plan team, or student assistance team shall meet within two weeks of each subsequent use to provide recommendations for avoiding future incidents requiring the use of restraint or seclusion.

**(c)** The review shall include whether school personnel involved in the incidents were trained in the use of de-escalation strategies, positive behavioral intervention supports, or restraint and seclusion techniques. Additionally, the review shall consider whether the individual who restrained or secluded a student needs additional training.

**(d)** To improve internal practices relative to incidents of restraint or seclusion, schools shall conduct an annual review and analysis of all incidents in which restraint or seclusion techniques were used, including the number of incidents, the type of incident, personnel involved, the need for additional training, and student demographics.

**(6)** Schools shall establish documentation and reporting procedures pursuant to the requirements listed in Section 22-5-4.12 NMSA 1978. In addition, schools shall provide written or oral assurance of secure storage and access to written documentation in accordance with this rule, 20 USC. Section 1232(g), 34 CFR Part 99,

the Family Educational Rights and Privacy Act, and any other applicable federal or state laws or rules governing the privacy of such documents.

**(a)** A school employee shall provide the student's parent with written or oral notice on the same day the incident occurred, unless circumstances prevent same-day notification. If notice is not provided on the same day of the incident, notice shall be given within 24 hours after the incident.

**(b)** Within a reasonable time following the incident, no longer than two school days, a school employee shall provide the student's parent with written documentation that includes information about any persons, locations, or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used, and the duration of its use.

**(c)** Schools shall report to the department, through the department's data collection and reporting system, the following information on a timeline and reporting frequency established by the department:

- (i)** all instances in which a restraint or seclusion technique is used;
- (ii)** all instances in which law enforcement is summoned instead of using a restraint or seclusion technique;
- (iii)** the names of the students and school personnel involved in an incident in which restraint or seclusion was used; and
- (iv)** if a student was restrained, the type of restraint, including mechanical restraint or physical restraint, that was used.

**(d)** If a school summons law enforcement instead of using a restraint or seclusion technique on a student, the school shall comply with the reporting, documentation, and review procedures established pursuant to this rule and Section 22-5-4.12 NMSA 1978.

**F.** Corporal punishment. Corporal punishment shall be prohibited by each local school board pursuant to Subsection B of Section 22-5-4.3 NMSA 1978. Restraint or seclusion techniques used in compliance with Subsection E of 6.11.2.10 NMAC shall not be deemed to be corporal punishment.

**G.** Detention, suspension and expulsion. Where detention, suspension, or expulsion is determined to be the appropriate penalty, it may be imposed only in accordance with procedures that provide at least the minimum safeguards prescribed in 6.11.2.12 NMAC. Suspensions or expulsions of students with disabilities shall be subject to the further requirements of Subsection I of 6.11.2.10 NMAC and 6.11.2.11 NMAC.

**H.** Discipline of students experiencing homelessness. Removing students experiencing homelessness from school shall be used only as a last resort, pursuant to the requirements in 42 USC Sec. 11431 et seq., the McKinney-Vento Homelessness Assistance Act.

**(1)** Public schools shall develop discipline policies and procedures that are reviewed at least annually and align with local school board policies. Policies and procedures shall:

**(a)** through professional development activities, create an awareness among educators and administrators of the types of behaviors that students experiencing homelessness may exhibit due to homelessness and provide strategies and supports to address the behaviors through the student assistance team process in accordance with Subsection D of 6.29.1.9 NMAC;

**(b)** take into account the issues related to a student's homelessness by talking with the student and applicable staff and families prior to taking disciplinary action;

**(c)** consult with school behavior response teams or other applicable personnel to assign appropriate discipline related to the behavior;

**(d)** implement discipline alternatives to temporary or long-term suspensions or expulsions or classroom removals, if possible; and

**(e)** connect students with mental health services as needed.

**(2)** Public schools shall review school discipline records and data of students experiencing homelessness in order to identify any patterns in disciplinary actions that indicate an unfair bias against the students. The collection and review of such records shall be in compliance with the Family Educational Rights and Privacy Act, as well as any other applicable federal or state laws or rules governing the privacy of such documents.

**I.** Discipline of students with disabilities. Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, public schools are required by state law and rule to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

**(1)** Long-term suspensions or expulsions of students with disabilities shall be governed by the procedures set forth in 6.11.2.11 NMAC.

**(2)** Temporary suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed in Subsection D of 6.11.2.12 NMAC, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions of Paragraph (3) of Subsection I of 6.11.2.10 NMAC.

**(3)** Program prescriptions. A student with a disability's individualized education program (IEP), under the Individuals with Disabilities Education Improvement Act (IDEA), need not affirmatively authorize disciplinary actions which are not otherwise in conflict with this rule. However, the IEP team may prescribe or prohibit specified disciplinary measures for an individual student with a disability by including appropriate provisions in the student's IEP. Administrative authorities shall adhere to any such provisions contained in a student with a disability's IEP, except that an IEP team may not prohibit the initiation of proceedings for long-term suspension or expulsion which are conducted in accordance with this rule.

**(4)** Immediate removal. Immediate removal of students with disabilities may be done in accordance with the procedures of Subsection C of 6.11.2.12 NMAC.

**(5)** A student who has not been determined to be eligible for special education and related services under 6.31.2 NMAC and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in this subsection if the conditions set forth in 34 CFR Sec. 300.534 have been met.

**(6)** Referral to and action by law enforcement and judicial authorities.

**(a)** Nothing in these rules of conduct prohibits an administrative authority from reporting a crime committed by a student with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

**(b)** Transmittal of records.

**(i)** An administrative authority reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted, for consideration by the appropriate authorities, to whom the administrative authority reports the crime.

**(ii)** An administrative authority reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

[6.11.2.10 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

**6.11.2.11 DISCIPLINARY REMOVALS OF STUDENTS WITH DISABILITIES:**

**A. General.** The following rules shall apply when a student with a disability under IDEA violates a rule of conduct as set forth in this rule which may result in:

- (1) long-term suspension or expulsion; or
- (2) any other disciplinary change of the student's current educational placement as specified in the federal regulations implementing IDEA at 34 CFR Secs. 300.530 through 300.536 and these or other department rules and standards.

**B. Manifestation determination.**

(1) For disciplinary removals of students with disabilities that exceed 10 consecutive school days or result in a disciplinary change of placement as defined by 34 CFR 300.536, the administrative authority must conduct a manifestation determination to determine whether the conduct was a manifestation of the child's disability pursuant to this Subsection.

(2) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a rule of student conduct, the administrative authority, the parent, and relevant members of the child's IEP team (as determined by the parent and the administrative authority) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

(a) if the conduct in question was caused by or had a direct and substantial relationship to, the child's disability; or

(b) if the conduct in question was the direct result of the administrative authority's failure to implement the IEP.

(3) If the administrative authority, the parent, and relevant members of the child's IEP team determine the condition in either Subparagraph (a) or (b) of Paragraph (2) of Subsection B of 6.11.2.11 NMAC is met, the conduct must be determined to be a manifestation of the child's disability.

**C. Determination that behavior is a manifestation of disability.** If the administrative authority, the parent, and relevant members of the IEP team determine the conduct was a manifestation of the child's disability, the IEP team must take immediate steps to comply with 34 CFR Sec. 300.530(f) and remedy any deficiencies.

**D. Determination that behavior is not a manifestation of disability.** If the administrative authority, the parent, and relevant members of the IEP team determine



the conduct was not a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to a child with a disability in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in Subsection I of this section.

**E. Special circumstances.** School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child's behavior involves one of the special circumstances listed in 34 CFR Sec. 300.530(g). For purposes of this subsection, the definitions provided in 34 CFR Sec. 300.530(i) shall apply.

**F. Determination of setting.** The student's IEP team determines the interim alternative educational setting for service under Subsections D and E of this section.

**G. Change of placement because of disciplinary removals.** For purposes of removals of a student with a disability from the child's current educational placement under 6.11.2.11 NMAC and 6.11.2.12 NMAC, a change of placement occurs if the conditions provided in 34 CFR Sec. 300.536 are met.

**H. Parental notification.** On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the administrative authority must notify the parents of that decision, and provide the parents the procedural safeguards notice described in 34 CFR Sec. 300.504.

**I. Services.** A student with a disability who is removed from the student's current placement for 10 school days in the same school year must continue to receive special education and related services as provided in 34 CFR Sec. 300.530(b) and 34 CFR Sec. 300.530(d).

**J. Appeal.**

**(1)** The parent of a student with a disability who disagrees with any decision regarding the placement or the manifestation determination under this section, or an administrative authority that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to Subsection I of 6.31.2.13 NMAC.

**(2)** A hearing officer who hears a matter under Paragraph (1) of Subsection J of 6.11.2.11 NMAC, has the authority provided in 34 CFR Sec. 300.532(b).

**(3)** When an appeal under this subsection has been made by the parent or the administrative authority, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of

the time period specified in Subsections D or E of this section, whichever occurs first, unless the parent and the administrative authority agree otherwise.

[6.11.2.11 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

#### **6.11.2.12 PROCEDURE FOR DETENTIONS, SUSPENSIONS, AND EXPULSIONS:**

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

**A.** Post-suspension placement of students. Any student suspended from school shall be delivered directly by a school official to the student's parent(s) or an adult designated by the parent(s) or kept on school grounds until the usual end of the school day.

**B.** Students with disabilities. This section does not apply to long-term suspension or expulsion of students with disabilities pursuant to the IDEA or Section 504. The procedures for long-term suspension or expulsion of students with disabilities are set forth in Section 6.11.2.11 NMAC. School personnel under this section may remove a student with a disability who violates a rule of student conduct from the student's current placement to an appropriate interim alternative educational setting, another setting, or suspension, for no more than 10 consecutive school days to the extent those alternatives are applied to students without disabilities, and for additional removals of no more than 10 consecutive school days in the same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement under Subsection G of 6.11.2.11 NMAC.

**C. Immediate removal.** Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

**(1)** A rudimentary hearing, as required for temporary suspensions, shall follow as soon as possible;

**(2)** Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s); and

**(3)** The school shall exert reasonable efforts to inform the student's parent of the charges against the student and the action taken as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the school day following the immediate removal, the school shall on that day mail a written notice with the required information to the parent's address of record.

**D. Temporary suspension.**

**(1)** A local school board may limit temporary suspensions to periods shorter than 10 school days.

**(2)** A student facing temporary suspension shall be granted a rudimentary hearing in which the student shall first be informed of the charges against the student and, if the student denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present the student's version of the facts. The following rules apply:

**(a)** the hearing may be an informal discussion and may follow immediately after the notice of the charges is given;

**(b)** unless the administrative authority decides a delay is essential to permit a fuller exploration of the facts, informal discussion may take place and a temporary suspension may be imposed within minutes after the alleged misconduct has occurred;

**(c)** a student who denies a charge of misconduct shall be told what act(s) the student is accused of committing, shall be given an explanation of the evidence supporting the accusation(s), and shall be given the opportunity to explain the student's version of the facts. The administrative authority is not required to divulge the identity of informants, although the administrative authority should not withhold such information without good cause. The administrative authority is required to disclose the substance of all evidence on which the administrative authority proposes to base a decision in the matter;

**(d)** the administrative authority is not required to allow the student to secure counsel, to confront or cross-examine witnesses supporting the charge(s), or to call witnesses to verify the student's version of the incident, but none of these is prohibited; and

**(e)** the school shall exert reasonable efforts to inform the student's parent(s) of the charges against the student and the possible or actual consequence as soon as practicable. If the school has not communicated with the parent(s) by telephone or in person by the end of the first full day of suspension, the school shall on that day mail a written notice with the required information to the parent's address of record.

**E. In-school suspension.**

**(1)** In-school suspension may be imposed with or without further restriction of student privileges. Any student who is placed in in-school suspension which exceeds 10 school days must be provided with an instructional program that meets state and local educational requirements. Student privileges, however, may be restricted for longer than 10 school days.

**(2)** In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth in Subsection D of 6.11.2.12 NMAC. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No student in in-school suspension shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom.

**F. Detention.**

**(1)** Detention may be imposed in connection with in-school suspension, but is distinct from in-school suspension in that detention does not entail removing the student from any of the student's regular classes.

**(2)** The authority of the schools to supervise and control the conduct of students includes the authority to impose reasonable periods of detention during the day or outside normal school hours as a disciplinary measure. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.

**G. Long-term suspension and expulsion.**

**(1)** Each local school board shall authorize appropriate administrative authorities to initiate procedures leading to long-term suspension or expulsion. Where prompt action to suspend a student long-term is deemed appropriate, a temporary suspension may be imposed while the procedures for long-term suspension or expulsion are activated. However, where a decision following the required formal hearing is delayed beyond the end of the temporary suspension, the student shall be

returned to school pending the final outcome unless the provisions of Subparagraphs (j) and (k) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply.

**(2)** A student who has been validly expelled or suspended is not entitled to receive any educational services from the local school district during the period of the exclusion from school. A local school board may provide alternative arrangements, including correspondence courses at the expense of the student or parent(s) pursuant to department requirements, if the local school board deems such arrangements appropriate.

**(3)** Each local school board shall establish, or shall authorize appropriate administrative authorities to establish, appropriate processes for handling long-term suspensions and expulsions. Unless the terms expressly indicate otherwise, nothing in Paragraph (4) of Subsection G of 6.11.2.12 NMAC shall be construed as directing that any required decision be made by any particular person or body or at any particular level of administrative organization.

**(4)** The following rules shall govern the imposition of long-term suspensions or expulsions:

**(a)** Hearing authority and disciplinarian. The same person or group may perform the functions of hearing authority and disciplinarian. Where the functions are divided, the hearing authority's determination of the facts shall be conclusive to the disciplinarian, but the disciplinarian may reject any consequence(s) recommended by the hearing authority.

**(b)** Review authority. Unless the local school board provides otherwise, a review authority shall have discretion to modify or overrule the disciplinarian's decision, but may not impose harsher consequences. A review authority shall be bound by a hearing authority's factual determinations except as provided in Subparagraph (o) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

**(c)** Disqualification. No person shall act as hearing authority, disciplinarian, or review authority in a case where the person was directly involved in or witnessed the incident(s) in question, or if the person has prejudged disputed facts or is biased for or against any person who will actively participate in the proceedings.

**(d)** Local school board participation. A local school board may act as hearing authority, disciplinarian, or review authority for any cases involving proposed long-term suspensions or expulsions. However, whenever a quorum of the local school board acts in any such capacity, Section 10-15-1 et seq., NMSA 1978, the Open Meetings Act, requires a public meeting.

**(e)** Initiation of procedures. An authorized administrative authority shall initiate procedures for long-term suspension or expulsion of a student by designating a hearing authority and disciplinarian in accordance with local school board policies, scheduling a

formal hearing in consultation with the hearing authority, and preparing and serving a written notice meeting the requirements of Subparagraph (h) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

**(f)** Service of notice. The written notice shall be addressed to the student, through the student's parent(s), and shall be served upon the parent(s) personally or by mail.

**(g)** Timing of hearing. The hearing shall be scheduled no sooner than five nor later than 10 school days from the date of receipt of the notice by the parent(s). The hearing authority may grant or deny a request to delay the hearing in accordance with the provisions of Subparagraph (i) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

**(h)** Contents of notice. The written notice must contain all of the following information, parts of which may be covered by appropriate reference to copies of any policies or regulations furnished with the notice:

**(i)** the school rule(s) alleged to have been violated, a concise statement of the alleged act(s) of the student on which the charge(s) are based, and a statement of the possible penalty;

**(ii)** the date, time, and place of the hearing, and a statement that both the student and parent(s) are entitled and urged to be present;

**(iii)** a clear statement that the hearing will take place as scheduled unless the hearing authority grants a delay or the student and parent(s) agree to waive the hearing and comply voluntarily with the proposed disciplinary action or with a negotiated penalty, and a clear and conspicuous warning that a failure to appear will not delay the hearing and may lead to the imposition of the proposed penalty by default;

**(iv)** a statement that the student has the right to be represented at the hearing by legal counsel, a parent or some other representative designated in a written notice filed at least 72 hours before the hearing with the contact person named pursuant to Item (vi) of Subparagraph (h) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC;

**(v)** a description of the procedures governing the hearing;

**(vi)** the name, business address, and telephone number of a contact person through whom the student, parent(s), or designated representative may request a delay or seek further information, including access to any documentary evidence or exhibits which the school proposes to introduce at the hearing; and

**(vii)** any other information, materials or instructions deemed appropriate by the administrative authority who prepares the notice.

**(i)** Delay of hearing. The hearing authority shall have discretion to grant or deny a request by the student or the appropriate administrative authority to postpone the hearing. Such discretion may be limited or guided by local school board policies not otherwise inconsistent with this rule.

**(j)** Student status pending hearing. Where a student has been suspended temporarily and a formal hearing on long-term suspension or expulsion will not occur until after the temporary suspension has expired, the student shall be returned to school at the end of the temporary suspension unless:

**(i)** the provisions of Subparagraph (k) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply, or

**(ii)** the student and parent(s) have knowingly and voluntarily waived the student's right to return to school pending the outcome of the formal proceedings; or

**(iii)** the appropriate administrative authority has conducted an interim hearing pursuant to a written local school board policy made available to the student which affords further due process protection sufficient to support the student's continued exclusion pending the outcome of the formal procedures.

**(k)** Waiver of hearing, voluntary compliance, or negotiated penalty. A student and the student's parent(s) may elect to waive the formal hearing and review procedures and comply voluntarily with the proposed penalty, or may waive the hearing and review and negotiate a mutually acceptable penalty with the designated disciplinarian. Such a waiver and compliance agreement shall be made voluntarily, with knowledge of the rights being relinquished, and shall be evidenced by a written document signed by the student, the parent(s), and the appropriate school official.

**(l)** Procedure for hearing and decision. The formal hearing is not a trial. The formal hearing is an administrative hearing designed to ensure a calm and orderly determination by an impartial hearing authority of the facts of a case of alleged serious misconduct. Technical rules of evidence and procedure do not apply. The following rules govern the conduct of the hearing and the ultimate decision:

**(i)** The school shall have the burden of proof of misconduct.

**(ii)** The student and the student's parent(s) shall have the following rights: The right to be represented by legal counsel or other designated representative, however, the school is not required to provide representation; the right to present evidence, subject to reasonable requirements of substantiation at the discretion of the hearing authority and subject to exclusion of evidence deemed irrelevant or redundant; the right to confront and cross-examine adverse witnesses, subject to reasonable limitation by the hearing authority; the right to have a decision based solely on the evidence presented at the hearing and the applicable legal rules, including the governing rules of student conduct.

**(iii)** The hearing authority shall determine whether the alleged act(s) of misconduct have been proved by a preponderance of the evidence presented at a hearing at which the student or a designated representative have appeared.

**(iv)** If no one has appeared on the student's behalf within a reasonable time after the announced time for the hearing, the hearing authority shall determine whether the student, through the parent(s), received notice of the hearing. If so, the hearing authority shall review the schools' evidence to determine whether it is sufficient to support the charge(s) of misconduct.

**(v)** A hearing authority who is also a disciplinarian shall impose an appropriate sanction if the hearing authority finds that the allegations of misconduct have been proved under the standards of either Item (iii) or (iv) of Subparagraph (I) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC. A hearing authority who is not a disciplinarian shall report the findings, together with any recommended sanction, to the disciplinarian promptly after the hearing.

**(vi)** Arrangements to make a tape recording or keep minutes of the proceedings shall be made by the administrative authority who scheduled the hearing and prepared the written notice. A verbatim written transcript is not required, but any minutes or other written record shall fairly reflect the substance of the evidence presented.

**(vii)** The hearing authority may announce a decision on the question of whether the allegation(s) of misconduct have been proved at the close of the hearing. A hearing authority who is also a disciplinarian may also impose a penalty at the close of the hearing.

**(viii)** In any event, the hearing authority shall prepare and mail or deliver to the student, through the parent(s), a written decision within five working days after the hearing. The decision shall include a concise summary of the evidence upon which the hearing authority based its factual determinations. A hearing authority who is also a disciplinarian shall include in the report a statement of the penalty, if any, to be imposed, and shall state reasons for the chosen penalty. A hearing authority who is not a disciplinarian shall forward a copy of the hearing authority's written decision to the disciplinarian forthwith. The disciplinarian shall prepare a written decision, including reasons for choosing any penalty imposed, and mail or deliver it to the student, through the parent(s), within five working days of receipt of the hearing authority's report.

**(ix)** A disciplinarian who is not a hearing authority may observe but not participate in the proceedings at a formal hearing. If the disciplinarian is present at the formal hearing and if the hearing authority announces a decision at the close of the hearing, the disciplinarian may also announce the disciplinarian's decision at that time.

**(x)** The disciplinarian's decision shall take effect immediately upon initial notification to the parent(s), either at the close of the hearing or upon receipt of the



written decision. If initial notification is by mail, the parent(s) shall be presumed to have received the notice on the fifth calendar day after the date of mailing unless a receipt for certified mail, if used, indicates a different date of receipt.

**(m) Effect of decision.** If the hearing authority decides that no allegation(s) of misconduct have been proved, or if the disciplinarian declines to impose a penalty despite a finding that an act or acts of misconduct have been proved, the matter shall be closed. If the disciplinarian imposes any sanction on the student, the decision shall take effect immediately upon notification to the parent and shall continue in force during any subsequent review.

**(n) Right of review.** Unless the local school board was the disciplinarian, a student aggrieved by a disciplinarian's decision after a formal hearing shall have the right to have the decision reviewed if the penalty imposed was at least as severe as a long-term suspension or expulsion, an in-school suspension exceeding one school semester, or a denial or restriction of student privileges for one semester or longer. A local school board may grant a right of review for less severe penalties. Local school boards shall establish appropriate mechanisms for review except where the local board was the disciplinarian, in which case the local school board decision is final and not reviewable administratively. A student request for review must be submitted to the review authority within 10 school days after the student is informed of the disciplinarian's decision.

**(o) Conduct of review.** Unless the local school board provides otherwise, a review authority shall have discretion to modify the disciplinarian's decision, including imposing any lesser sanction deemed appropriate. A review authority shall be bound by the hearing authority's factual determinations unless the student persuades the review authority that a finding of fact was arbitrary, capricious, or unsupported by substantial evidence or that new evidence, which has come to light since the hearing and which could not with reasonable diligence have been discovered in time for the hearing, would manifestly change the factual determination. Upon any such finding, the review authority shall have discretion to receive new evidence, reconsider evidence introduced at the hearing, or conduct a de novo hearing. In the absence of any such finding, the review shall be limited to an inquiry into the appropriateness of the penalty imposed.

**(p) Form of review.** Unless the local school board provides otherwise, a review authority shall have discretion to conduct a review on the written record of the hearing and decision in the case, to limit new submissions by the aggrieved student and school authorities to written materials, or to grant a conference or hearing at which the student and the student's representative and school authorities may present their respective views in person. Where a conference or hearing is granted, the record-keeping requirements of Item (vi) of Subparagraph (I) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply.

**(q)** Timing of review. Except in extraordinary circumstances, a review shall be concluded no later than 15 working days after a student's written request for review is received by the appropriate administrative authority.

**(r)** Decision. A review authority may announce a decision at the close of any conference or hearing held on review. In any event, the review authority shall prepare a written decision, including concise reasons, and mail or deliver it to the disciplinarian, the hearing authority and the student, through the parent(s), within 10 working days after the review is concluded.

**(s)** Effect of decision. Unless the local school board provides otherwise, a review authority's decision shall be the final administrative action to which a student is entitled.

[6.11.2.12 NMAC – Rp, 6.11.2.7 NMAC, 8/25/2020]

## **CHAPTER 12: PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: HEALTH SERVICES**

#### **6.12.2.1 ISSUING AGENCY:**

Public Education Department.

[6.12.2.1 NMAC - Rp, 6.12.2.1 NMAC, 11-15-05]

#### **6.12.2.2 SCOPE:**

This regulation applies to children attending public, nonpublic, or home schools in New Mexico unless otherwise expressly limited.

[6.12.2.2 NMAC - Rp, 6.12.2.2 NMAC, 11-15-05]

#### **6.12.2.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to Section 22-2-1 NMSA 1978.

[6.12.2.3 NMAC - Rp, 6.12.2.3 NMAC, 11-15-05]

#### **6.12.2.4 DURATION:**

Permanent.

[6.12.2.4 NMAC - Rp, 6.12.2.4 NMAC, 11-15-05]

**6.12.2.5 EFFECTIVE DATE:**

11-15-05, unless a later date is cited at the end of a section.

[6.12.2.5 NMAC - Rp, 6.12.2.5 NMAC, 11-15-05]

**6.12.2.6 OBJECTIVE:**

This rule addresses health services for children attending schools in New Mexico.

[6.12.2.6 NMAC - Rp, 6.12.2.6 NMAC, 11-15-05]

**6.12.2.7 DEFINITIONS:**

[RESERVED]

**6.12.2.8 REQUIREMENTS FOR IMMUNIZATION OF CHILDREN ATTENDING PUBLIC, NONPUBLIC, OR HOME SCHOOLS:**

A. The following definitions apply to this section.

(1) **"Active duty"** means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.

(2) **"Administrative authority"** means the superintendent, principal or the designee of such person.

(3) **"Children of military families"** means children enrolled in kindergarten through twelfth grade in the household of an active duty member.

(4) **"Public health division regulations"** means those regulations adopted by the public health division of the department of health pursuant to the authority granted in Sections 24-5-1 to 24-5-6, NMSA 1978 and including the immunization schedule.

(5) **"Licensed physician"** means a physician licensed to practice medicine or osteopathic medicine in New Mexico, another state or territory.

(6) **"Certified nurse practitioner"** means an individual licensed as a certified nurse practitioner with prescriptive authority by the New Mexico board of nursing, another state or territory.

**(7) "Required immunizations"** means those immunizations against diseases deemed to be dangerous to the public health by the public health division and set forth in its immunization schedule effective at date of enrollment.

**(8) "Satisfactory evidence of commencement and completion of immunization"** means satisfactory evidence of a person having begun the process of immunizations in a statement, certificate or record signed by a duly licensed physician, certified nurse practitioner, or other recognized public or private health facility stating that the person has received at least the first in the series of required immunizations and is proceeding with the immunizations according to the prescribed schedule. Persons enrolling in schools who have begun the process of immunization shall have one month following the date of enrollment to complete the required immunizations and submit satisfactory evidence of completing the required immunizations or having continued the process of the required series.

**(9) "Satisfactory evidence of immunization"** means a statement, certificate or record signed by a duly licensed physician, certified nurse practitioner, or other recognized, licensed health facility stating that the required immunizations have been administered to the person.

**B.** No student shall be enrolled in the public, nonpublic, or home schools in the state unless the student can present satisfactory evidence of commencement or completion of immunization in accordance with the immunization schedule and rules and regulations of the public health division.

**C.** Exemptions from immunization:

**(1)** The student is exempt from immunization as required by Subsection B of this rule upon filing with the governing authority:

**(a)** a statement or certificate signed by a licensed physician or certified nurse practitioner stating that the physical condition of the person seeking enrollment is such that immunization would seriously endanger the life or health of the person; or

**(b)** an exemption granted by the public health division on the basis of:

**(i)** notarized affidavits or written affirmation from an officer of a recognized religious denomination that such child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing; or

**(ii)** notarized affidavits or written affirmation from his parent or legal guardian that his religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agent.

(2) Exemptions from obtaining the required immunizations, as listed under Subsection C of 6.12.2.8 NMAC are valid for a period not to exceed nine (9) months and will not extend beyond the end of the school year in which the child is currently enrolled.

D. Children of military families: Children of military families shall be enrolled and conditionally placed in any public, nonpublic or home school to which they are eligible for thirty (30) days while the student obtains the required immunizations. For a series of required immunizations, students of active military families must obtain at least the first in the series of required immunizations within thirty (30) days of the date of enrollment.

E. Disenrollment: If satisfactory evidence of commencement or completion of immunization or an exemption from immunization in accordance with Subsections C and D of 6.12.2.8 NMAC is subsequently determined to be invalid for any reasons and the student is unable to provide either valid satisfactory evidence of commencement or completion of immunization or a valid exemption from immunization in accordance with Subsections C and D of 6.12.2.8 NMAC, the administrative authority shall commence disenrollment proceedings.

F. Administrative duty to report:

(1) It is the duty of each school superintendent, whether of a public or nonpublic school, to cause to be prepared a record showing the required immunization status of every child enrolled in or attending a school under his (her) jurisdiction.

(2) These records must be kept current and available to public health authorities.

(3) The name of any parent or guardian who neglects or refuses to permit his (her) child to be immunized against diseases as required by rules and regulations promulgated by the public health division shall be reported by the school superintendent to the director of the public health division within a reasonable time after such facts become known to the superintendent.

[6.12.2.8 NMAC - Rp, 6.12.2.7, 8, 9, 10 & 11 NMAC, 11-15-05; A, 10-31-11]

#### **6.12.2.9 STUDENT'S RIGHT TO SELF ADMINISTER CERTAIN MEDICATIONS:**

A. The following definitions apply to this section.

(1) **"Health care practitioner"** means a person authorized under law in New Mexico to prescribe drugs for the treatment of asthma and anaphylaxis associated medical conditions.

**(2) "Medication"** means a drug as that term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) and includes inhaled bronchodilators, inhaled corticosteroids and auto-injectable epinephrine.

**(3) "Self-administration"** means a student's discretionary use of his or her prescribed asthma or anaphylaxis medication, pursuant to prescription or written direction from a health care practitioner.

## **B. Requirements**

**(1) General rights:** Schools (whether public or nonpublic) must grant to any student in grades kindergarten through 12 authorization to carry and self-administer health care practitioner prescribed asthma treatment medications and anaphylaxis emergency treatment medication if the following conditions are met:

**(a)** a health care practitioner has prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication; and

**(b)** the student has demonstrated the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed by the health care practitioner (or such practitioner's designee) and the school nurse or other school official who is a public education department licensed health care provider; and

**(c)** the school nurse (if available) with the health care practitioner formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours; and

**(d)** the school has, in writing, informed the parent or guardian of the student that the school, including its employees and agents, is to incur no liability as a result of any injury arising from the self-administration of medication pursuant to this section; and

**(e)** the student's parent or guardian has completed and submitted to the school:

**(i)** any written documentation required by the school, including the statement required by Paragraph (1);

**(ii)** the treatment plan formulated under Subparagraph (c) of this paragraph; and

**(iii)** a signed statement from the parent or guardian of the student acknowledging that, notwithstanding any provision of state law to the contrary, the school (including its employees and agents) is to incur no liability as a result of any injury arising from such self-administration of medication and the parent or guardian will

indemnify and hold harmless the school (including its employees and agents) against any claim arising out of such self-administration of medication.

**(2)** Extent of authorization: An authorization granted under Paragraph (1) of Subsection B must allow the student involved to possess and use his/her medication:

**(a)** while in school;

**(b)** while at a school-sponsored activity;

**(c)** during normal before-school and after-school activities such as before-school or after school care on school-operated property; and,

**(d)** in transit to or from school or school-sponsored activities.

**(3)** Duration of authorization. An authorization granted under Subsection B:

**(a)** must be effective only for the school year for which it is granted; and

**(b)** must be renewed by the parent or guardian each subsequent school year in accordance with this section.

**(4)** The school must ensure that back-up medication, if provided by a student's parent or guardian, be kept at the student's school at a location easily accessible to the student in event of an asthma or anaphylaxis emergency. Each school must develop policies and procedures to address the safekeeping of back-up medication in a manner that ensures the medication is easily accessible by the student. Authorized school personnel who in good faith provide a person with backup medication as provided in this paragraph are not liable for civil damages as a result of providing the medication.

**(5)** Maintenance of information: Information described in Subparagraphs (c) and (e) of Paragraph (1) shall be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency. Each school must develop policies and procedures to address the safekeeping and confidentiality of the required information.

[6.12.2.9 NMAC - N, 11-15-05]

#### **6.12.2.10 HUMAN IMMUNODEFICIENCY VIRUS (HIV):**

**A.** This section applies to local school boards, local school districts, and charter schools and governs policies to be implemented by local school districts with regards to students and school employees infected with HIV, provides for appropriate curricula regarding HIV, and requires community involvement in the development of policies and the review of instructional materials.

**B.** Each school district shall implement a policy that will ensure that all students infected with HIV have appropriate access to public education and that their rights to privacy are protected and to further ensure that the rights to privacy of all school employees infected with HIV are protected.

**C. Curricula:**

**(1)** Each school district shall provide instruction about HIV and related issues in the curriculum of the required health education content area to all students in the elementary grades, in the middle/junior high school grades, and in the senior high school grades.

**(2)** Educational materials and grade levels of instruction shall be determined by the local school district and shall be appropriate to the age group being taught.

**(3)** The instructional program shall include, but not necessarily be limited to:

- (a)** definition of HIV and acquired immune deficiency syndrome (AIDS);
- (b)** the symptoms and prognosis of HIV and AIDS;
- (c)** how the virus is spread;
- (d)** how the virus is not spread;
- (e)** ways to reduce the risks of getting HIV/AIDS, stressing abstinence;
- (f)** societal implications for this disease;
- (g)** local resources for appropriate medical care; and
- (h)** ability to demonstrate refusal skills, overcome peer pressure, and use decision-making skills.

**D. Community involvement.** Each local board of education shall insure the involvement of parents, staff; and students in the development of policies and the review of instructional materials.

[6.12.2.10 NMAC - Rp, 6.12.3.8, 9 & 10 NMAC, 11-15-05]

### **PART 3: HEALTH - ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) [REPEALED]**

[This part was repealed on November 15, 2005.]

### **PART 4: TOBACCO, ALCOHOL AND DRUG FREE SCHOOL DISTRICTS**



#### **6.12.4.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.12.4.1 NMAC - Rp, 6.12.4.1 NMAC, 11/7/2023]

#### **6.12.4.2 SCOPE:**

This rule applies to school districts, local school boards and to state-chartered charter schools and governing bodies.

[6.12.4.2 NMAC - Rp, 6.12.4.2 NMAC, 11/7/2023]

#### **6.12.4.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2 and 22-5-4.4 NMSA 1978.

[6.12.4.3 NMAC - Rp, 6.12.4.3 NMAC, 11/7/2023]

#### **6.12.4.4 DURATION:**

Permanent.

[6.12.4.4 NMAC - Rp, 6.12.4.4 NMAC, 11/7/2023]

#### **6.12.4.5 EFFECTIVE DATE:**

November 7, 2023, unless a later date is cited at the end of a section.

[6.12.4.5 NMAC - Rp, 6.12.4.5 NMAC, 11/7/2023]

#### **6.12.4.6 OBJECTIVE:**

The objective of this rule is to prohibit the use, possession and distribution of commercial tobacco products, electronic tobacco delivery devices, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs on school property and at off-campus school-sponsored events by students, school personnel, and visitors.

[6.12.4.6 NMAC - Rp, 6.12.4.6 NMAC, 11/7/2023]

#### **6.12.4.7 DEFINITIONS:**

**A. "Administration"** means any person who has disciplinary and managerial authority to enforce school policies including but not limited to principals, vice-principals, and office personnel.

**B. "Alcoholic beverage"** means any beverage containing more than one-half percent alcohol by volume, and includes all distilled or rectified spirits, potable alcohol or any similar alcoholic beverages, including all fermented or blended beverages and dilutions or mixtures of one or more of these alcoholic beverages.

**C. "Charter school"** means a public school authorized by a chartering authority.

**D. "Commercial tobacco product":**

(1) means any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

(2) any electronic delivery device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

(3) any component, part, or accessory of Paragraph (1) or Paragraph (2) of this subsection, whether or not any of these contain tobacco or nicotine, including but not limited to, filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes; and

(4) does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

**E. "E-cigarette" and "electronic nicotine delivery system":**

(1) means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device;

(2) includes, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, e-hookahs, vape pens, mods tank systems, or under any other product name or descriptor;

(3) includes any component, part, or accessory of the device, whether marketed or sold separately, including e-liquids, e-juice, cartridges, or pods, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; and

(4) does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq.

**F. "Illicit drugs"** means prescription and over-the-counter medications used for non-medical purposes, or not used as medically prescribed by lawfully authorized practitioners or as directed by the manufacturer's literature, and include all supplemental dietary or nutrition ergogenic aids, stimulants, nootropics, adaptogens, painkillers, sedatives and anxiolytics, blood boosters, and other performance-enhancing drugs.

**G. "Lighter"** means a mechanical or electrical device typically used for lighting tobacco products.

**H. "Mood-altering substances"** means substances that change, or are capable of changing, a person's emotional state, and include all stimulants, opioids, intoxicative inhalants, and hallucinogens.

**I. "Off-campus, school-sponsored event"** means any event sponsored by the school or school district that is not on school property, including sporting events, day camps, field trips, dances, or theatrical productions.

**J. "Parent" or "Guardian"** means any person that has status as the legal guardian of a student.

**K. "School district"** means school districts or state-chartered charter schools.

**L. "School personnel"** means any person employed by a public school in New Mexico.

**M. "School property"** means all facilities and property, including land, whether owned, rented, or leased by a school district, and all vehicles owned, leased, rented, contracted for, or controlled by a school district used for transporting students, school personnel, or visitors.

**N. "Signage"** means signs declaring that all school property is commercial tobacco and nicotine product, electronic delivery device, alcoholic beverage, mood-altering substance, and illicit drug free.

**O. "Student"** means any person enrolled in the state of New Mexico's public school educational system.

**P. "Visitor"** means any person subject to this policy that is not a student or school personnel as defined above and includes school volunteers.

[6.12.4.7 NMAC - Rp, 6.12.4.7 NMAC, 11/7/2023]

#### **6.12.4.8 REQUIREMENTS:**

Each local school board or governing body shall establish a tobacco, alcohol and drug free school policy:

**A.** The policy shall provide specific rules of conduct prohibiting the use, possession, and distribution of commercial tobacco and nicotine products, electronic delivery devices, alcoholic beverages, mood-altering substances and illicit drugs on school property and at off-campus school-sponsored events by students, school personnel, and visitors. These activities are prohibited at all times.

**B.** Each school district shall detail the prohibited acts and activities under the policy, and shall establish adequate provisions for its enforcement, including the enumeration of possible sanctions or disciplinary action, consistent with applicable statutory and case law.

**C.** Each policy shall include progressive and supportive disciplinary action beginning with options to promote positive student outcomes such as tobacco education or referral to counseling, parent conferences, and school or community service. Referrals to resources to help students overcome nicotine addictions shall be provided when developmentally appropriate. Parents or guardians shall be notified of all violations and actions taken by each school district.

**D.** All school personnel shall abide by the policy and are responsible for enforcement of the policy. Each school district may establish procedures necessary to implement the policy among school personnel. Disciplinary penalties may be imposed in accord with policies of the district regarding conduct and disciplinary actions.

**E.** Referrals to resources to help school personnel overcome nicotine addictions shall be provided to school personnel who are found to be in violation of this policy. Each school district may establish procedures for school personnel to receive training in the provisions of this policy, existing and emerging commercial tobacco products, trends in youth commercial tobacco and nicotine use, prevention education, and cessation support on an annual basis.

**F.** Each school district shall prohibit the promotion of tobacco products, electronic delivery devices, alcoholic beverages, mood-altering substances or illicit drugs on the school property or at off-campus, school-sponsored events. This includes promotion of these products via gear, technology accessories, bags, clothing, any personal articles, signs, structures, vehicles, flyers, or any other materials.

**G.** Each school district policy shall require school administration to provide referrals to resources to help students and school personnel overcome nicotine addiction.

**H.** The policy shall provide that no school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood-altering substances or illicit drugs shall be held liable for any civil damages as a result of such report or efforts to enforce the policy.

**I.** Each school district shall develop and implement a procedure for effectively communicating the policy to students, their parents and families, school personnel,

visitors on school property, and to local residents, groups, businesses and organizations served by the school. Such communication may include publishing information in student and employee handbooks, school district websites, announcements at school-sponsored events, and posting conspicuous, appropriate signage in buildings and on school property, including at entrances to school buildings and athletic events, in a manner and location that adequately informs students, school personnel, and visitors of the policy.

**J.** Each school district shall post conspicuous notices on all school property prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school property, and by students at off-campus, school-sponsored events away from school grounds. Each school district shall post appropriate signage on school premises prohibiting the use, possession and distribution of commercial tobacco products, electronic delivery devices, on school property and by students at off-campus school-sponsored events in a manner and location that adequately notifies students, school personnel, and visitors, including at the entrance to school buildings and athletic events.

[6.12.4.8 NMAC - Rp, 6.12.4.8 NMAC, 11/7/2023]

**6.12.4.9 EXCEPTION:**

**A.** Section 8 of this rule shall not include the lawful possession or use of a tobacco-cessation product approved by the United States food and drug administration.

**B.** It shall not be a violation of this policy for a person to possess or provide tobacco or lighters to any other person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice. It shall not be a violation of this policy to use tobacco or a lighter as part of an educational experience related to indigenous tobacco practices that has been approved by administration.

[6.12.4.9 NMAC – Rp, 6.12.4.9 NMAC, 11/7/2023]

**PART 5: NUTRITION: IMPLEMENTATION OF FEDERAL REQUIREMENTS FOR COMPETITIVE FOODS**

**6.12.5.1 ISSUING AGENCY:**

Public Education Department.

[6.12.5.1 NMAC - Rp, 6.12.5.1 NMAC, 12-30-14]

**6.12.5.2 SCOPE:**

This rule applies to New Mexico schools that participate in programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 unless otherwise expressly limited.

[6.12.5.2 NMAC - Rp, 6.12.5.2 NMAC, 12-30-14]

**6.12.5.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 and 9-24-8, NMSA 1978.

[6.12.5.3 NMAC - Rp, 6.12.5.3 NMAC, 12-30-14]

**6.12.5.4 DURATION:**

Permanent.

[6.12.5.4 NMAC - Rp, 6.12.5.4 NMAC, 12-30-14]

**6.12.5.5 EFFECTIVE DATE:**

December 30, 2014, unless a later date is cited at the end of a section.

[6.12.5.5 NMAC - Rp, 6.12.5.5 NMAC, 12-30-14]

**6.12.5.6 OBJECTIVE:**

This rule addresses the sale of competitive food sold to children attending New Mexico schools that participate in a United States department of agriculture school meal program.

[6.12.5.6 NMAC - Rp, 6.12.5.6 NMAC, 12-30-14]

**6.12.5.7 DEFINITIONS:**

**[RESERVED]**

[6.12.5.7 NMAC - Rp, 6.12.5.7 NMAC, 12-30-14]

**6.12.5.8 IMPLEMENTATION OF FEDERAL REQUIREMENTS FOR COMPETITIVE FOODS:**

**A.** Terms defined by federal laws and regulations. Terms defined in United States agriculture department competitive foods rules at 7 CFR 210.11 and 7 CFR 210.11a implementing the all foods sold in schools and smart snacks provisions of the Healthy, Hunger-Free Kids Act of 2010, the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 are incorporated for purposes of these rules.

**B.** Federal law, rule and guidance limitations regarding beverages and foods sold in schools shall govern the participation in and implementation of New Mexico school meal programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966, except that the public education department shall set a limit on the number of fundraisers permitted on a school campus during each school term. A fundraiser is a sale on a school campus to benefit a school or school organization of beverage or food products limited by a United States department of agriculture school meal program for use, consumption or sale during the school day. No fundraiser may be conducted in competition with school meals in the food service area during meal service. A fundraiser may be conducted only for up to one school day on two occasions per semester or trimester term in a school that participates in United States department of agriculture school meal programs.

**C.** A wellness policy created pursuant to requirements of 6.12.6 NMAC shall incorporate the limitations stated in Subsection B of this section in annual assurances by a school district or a charter school to the New Mexico public education department. Such assurances shall be reviewed in conjunction with the administrative review of a school food authority.

[6.12.5.8 NMAC - Rp, 6.12.5.8 NMAC, 12-30-14]

## **PART 6: SCHOOL DISTRICT WELLNESS POLICY**

### **6.12.6.1 ISSUING AGENCY:**

Public Education Department.

[6.12.6.1 NMAC - N, 02-28-06]

### **6.12.6.2 SCOPE:**

This regulation applies to public schools in New Mexico unless otherwise expressly limited.

[6.12.6.2 NMAC - N, 02-28-06]

### **6.12.6.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to Sections 22-2-1 and 9-24-8 NMSA 1978.

[6.12.6.3 NMAC - N, 02-28-06]

### **6.12.6.4 DURATION:**

Permanent.

[6.12.6.4 NMAC - N, 02-28-06]

**6.12.6.5 EFFECTIVE DATE:**

February 28, 2006, unless a later date is cited at the end of a section.

[6.12.6.5 NMAC - N, 02-28-06]

**6.12.6.6 OBJECTIVE:**

This rule requires the adoption of local school district wellness policies.

[6.12.6.6 NMAC - N, 02-28-06]

**6.12.6.7 DEFINITIONS:**

**A. "Coordinated school health approach"** means the framework for linking health and education. The focus is healthy and successful students. There are eight interactive components of coordinated school health: health education; physical education and activity; nutrition; social and emotional well-being; healthy and safe environment; health services; staff wellness; and family, school and community involvement.

**B. "Family, school and community involvement"** means an integrated family, school and community approach for enhancing the health and well-being of students by establishing a district school health advisory council that has the responsibility to make recommendations to the local school board in the development or revision, implementation, and evaluation of the wellness policy.

**C. "Fund raiser"** means a sale on a school campus to benefit a school or school organization of beverage or food products limited by a United States department of agriculture school meal program for use, consumption or sale during the school day in competition with school meals. A fundraiser may be conducted only for up to one school day on two occasions per semester or trimester term in a school that participates in United States department of agriculture school meal programs. The wellness policy implemented through 6.12.6 NMAC shall include annual assurances to the New Mexico public education department of compliance with limitations on "fund raisers" pursuant to this subsection and subject to review as part of the administrative review of a school food authority.

**D. "Health education"** means the instructional program that provides the opportunity to motivate and assist all students to maintain and improve their health, prevent disease, and reduce health-related risk behaviors. It allows students to develop and demonstrate increasingly sophisticated health-related knowledge, attitudes, skills, and practices. It meets the content standards with benchmarks and performance standards as set forth in 6.30.2.19 NMAC.



**E. "Health services"** means services provided for students to appraise, protect, and promote health. These services are designed to ensure access or referral to primary health care or behavioral health services or both, foster appropriate use of primary health care services, behavioral health services, prevent and control communicable diseases and other health problems, provide emergency care for illness or injury, promote and provide optimum sanitary conditions for a safe school facility and school environment, and provide educational and counseling opportunities for promoting and maintaining individual, family, and community health.

**F. "Healthy and safe environment"** means the physical and aesthetic surroundings and the psychosocial climate and culture of the school. It supports a total learning experience that promotes personal growth, healthy interpersonal relationships, wellness, and freedom from discrimination and abuse.

**G. "Nutrition"** means programs that provide access to a variety of nutritious and appealing meals and snacks that accommodate the health and nutrition needs of all students.

**H. "Physical activity"** means body movement of any type which include recreational, fitness, and sport activities.

**I. "Physical education"** means the instructional program that provides cognitive content and learning experiences in a variety of activity areas. It provides the opportunity for all students to learn and develop the skills, knowledge and attitudes necessary to personally decide to participate in a lifetime of healthful physical activity. It meets the content standards with benchmarks and performance standards as set forth in Section 6.30.2.20 NMAC.

**J. "Social and emotional wellbeing"** means services provided to maintain or improve students' mental, emotional, behavioral, and social health.

**K. "Staff wellness"** means opportunities for school staff to improve their health status through activities such as health assessments, health education and health-related fitness activities. These opportunities encourage school staff to pursue a healthy lifestyle that contributes to their improved health status, improved morale, and a greater personal commitment to the school's overall coordinated school health approach.

**L. "Emergency Operation Plan (EOP)"** means the document which outlines and explains functions, resources and coordination procedures for responding to and supporting crisis, emergency, terrorist-response, and disaster operations, and is that portion of a safe school plan that details risk assessments and establishes the plans or procedures to manage a crisis, emergency, terrorist or disaster event before, during and after it has occurred and includes, but is not limited to, emergency routes and staff assignments as they relate to immediate actions, delayed actions, mitigation actions, facility evacuations and facility reentry.

[6.12.6.7 NMAC - N, 02-28-06; A, 11-30-06; A, 05-15-14; A, 12-30-14]

#### **6.12.6.8 REQUIREMENTS:**

**A.** This section applies to local school boards, local school districts, and charter schools and governs policies to be implemented by local school districts with regards to student and school employee wellness.

**B.** Each school district and charter school shall develop and implement a policy that addresses student and school employee wellness through a coordinated school health approach.

**C.** Each school district and charter school shall submit the wellness policy to the public education department for approval.

**(1)** Sections of the wellness policy that meet the requirements set forth in Paragraphs (3), (4), (5) and (10) of Subsection D and the requirements set forth in Subsection E of this section shall be submitted to the public education department on or before August 30, 2006.

**(2)** Sections of the wellness policy that meet the requirements set forth in Paragraphs (1), (2), (6), (7), (8) and (9) of Subsection D of this section shall be submitted to the public education department on or before January 30, 2007.

**D.** The wellness policy shall include, but shall not be limited to:

**(1)** a planned, sequential, K-12 health education curriculum that addresses the physical, mental, emotional, and social dimensions of health and is aligned to the health education content standards with benchmarks and performance standards as set forth in 6.30.2.19 NMAC;

**(2)** a planned, sequential, K-12 physical education curriculum that provides the optimal opportunity for all students to learn and develop skills, knowledge and attitudes necessary to personally decide to participate in lifetime healthful physical activity and is aligned to the physical education content standards with benchmarks and performance standards as set forth in 6.30.2.20 NMAC;

**(3)** guidelines to provide physical activity opportunities to students before, during and after school;

**(4)** nutrition guidelines meeting standards established by federal rules at 7 CFR 210.11 and 7 CFR 210.11a, the Healthy Hunger-Free Kids Act of 2010, the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966;

**(5)** guidelines for fund raisers established at 6.12.5 NMAC and an annual assurance of compliance with limitations on fund raisers established at 6.12.5 NMAC;

(6) a plan addressing the behavioral health needs of all students in the educational process by focusing on students' social and emotional wellbeing;

(7) school safety plans at each school building focused on supporting healthy and safe learning environments; the school safety plan must be submitted to the public education department for approval on a three-year cycle and must include the following minimum components:

(a) introduction;

(b) school policies and procedures;

(c) prevention; and

(d) a school EOP;

(8) a plan addressing the health services needs of students in the educational process;

(9) a plan addressing the staff wellness needs of all school staff that minimally ensures an equitable work environment and meets the American with Disabilities Act, Part III;

(10) a plan for measuring implementation and evaluation of the wellness policy, including the designation of one or more persons within the school district, or at each school, as appropriate, charged with operational responsibility for ensuring that each school fulfills the district's wellness policy.

**E.** Family, school and community involvement. Each local board of education shall establish a district school health advisory council that consists of parent(s), school food authority personnel, school board member(s), school administrator(s), school staff; student(s); and community member(s). The school health advisory council shall have the responsibility to make recommendations to the local school board in the development or revision, implementation, and evaluation of the wellness policy consistent with this rule. The school health advisory council shall meet for this purpose a minimum of two times annually.

[6.12.6.8 NMAC - N, 02-28-06; A, 11-30-06; A, 05-15-14; A, 12-30-14]

## **PART 7: SAFE SCHOOLS FOR ALL STUDENTS**

### **6.12.7.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.12.7.1 NMAC - Rp, 6.12.7.1 NMAC, 11/12/2019]

#### **6.12.7.2 SCOPE:**

This rule applies to school districts, local school boards, state-chartered charter schools and governing bodies.

[6.12.7.2 NMAC - Rp, 6.12.7.2 NMAC, 11/12/2019]

#### **6.12.7.3 STATUTORY AUTHORITY:**

This rule is promulgated by the secretary of the department and the department under the authority of Sections 9-24-8, 22-2-1, 22-2-2, and 22-35-1 through 22-35-5 NMSA 1978.

[6.12.7.3 NMAC - Rp, 6.12.7.3 NMAC, 11/12/2019]

#### **6.12.7.4 DURATION:**

Permanent.

[6.12.7.4 NMAC - Rp, 6.12.7.4 NMAC, 11/12/2019]

#### **6.12.7.5 EFFECTIVE DATE:**

November 12, 2019, unless a later date is cited at the end of a section.

[6.12.7.5 NMAC - Rp, 6.12.7.5 NMAC, 11/12/2019]

#### **6.12.7.6 OBJECTIVE:**

To establish requirements for local school boards and public schools, including charter schools and governing bodies, to develop and implement bullying prevention policies and programs and to report on the implementation of the Safe Schools for All Students Act per the parameters established within the provisions of this rule.

[6.12.7.6 NMAC - Rp, 6.12.7.6 NMAC, 11/12/2019]

#### **6.12.7.7 DEFINITIONS:**

**A. "Bullying"** means any severe, pervasive, or persistent act or conduct that targets a student, whether physically, electronically, or verbally, and that:

**(1)** may be based on a student's actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identify, spousal affiliation, physical or cognitive disability, or any other distinguishing characteristic; or an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics; and

(2) can be reasonably predicted to:

(a) place a student in reasonable fear of physical harm to the student's person or property;

(b) cause a substantial detrimental effect on a student's physical or mental health;

(c) substantially interfere with a student's academic performance, attendance, or participation in extracurricular activities; or

(d) substantially interfere with a student's ability to participate in or benefit from the services, activities, or privileges provided by a school or school-affiliated entity.

**B. "Cyberbullying"** means any bullying that takes place through electronic communication.

**C. "Electronic communication"** means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, electronic tablet, pager or video or audio recording device.

**D. "Gender identity"** means a student's self-perception, or perception by another, of the student's identity as a male or female based upon the student's appearance, behavior, or physical characteristics that are in accord with, or opposed to, the student's physical anatomy, chromosomal sex, or sex at birth.

**E. "Harassment"** means a pattern of conduct that is intended to annoy, seriously alarm, or terrorize another person or group of people.

**F. "Physical or cognitive disability"** means a physical or cognitive impairment that substantially limits one or more of a student's major life activities.

**G. "Progressive discipline"** means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

(1) meeting with the student and the student's parents;

(2) reflective activities, such as requiring the student to write an essay about the student's

misbehavior;

(3) counseling;

- (4) anger management;
- (5) health counseling or intervention;
- (6) mental health counseling or intervention;
- (7) participation in skill-building and conflict resolution activities;
- (8) community service; and
- (9) in-school detention or in-school suspension that is for a constructive purpose and may take place during lunchtime, recess, after school, or during weekends.

**H. "Regular volunteers"** means those persons, including relatives of students, who commit to serve on a regular basis at a school district, charter school, or other educational entity without compensation.

**I. "Sexual orientation"** means heterosexuality, homosexuality, or bisexuality, whether actual or perceived.

[6.12.7.7 NMAC - Rp, 6.12.7.7 NMAC, 11/12/2019]

#### **6.12.7.8 BULLYING PREVENTION POLICIES - ADOPTION AND ENFORCEMENT:**

**A.** By January 1, 2020, each local school board or governing body shall adopt and enforce policies to:

- (1) prevent bullying and cyberbullying:
  - (a) on its property, including electronic communication on or with the use of its property;
  - (b) at school or district-sponsored events; and
  - (c) on any school-sponsored transportation; and
- (2) prohibit electronic communication directed at a student that is published with the intent

that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the public school.

**B.** Each local school board and governing body shall control the content of its policy, provided that the policy includes:

- (1)** the definitions as set forth in this rule;
- (2)** a statement prohibiting bullying;
- (3)** a statement prohibiting retaliation against persons who report or witness incidents of bullying;
- (4)** a list of consequences, exclusive of suspension and expulsion, that can result from an incident of bullying, and with consequences that are designed to:
  - (a)** appropriately correct the bullying behavior;
  - (b)** prevent another occurrence of bullying or retaliation;
  - (c)** protect the target of the bullying;
  - (d)** be flexible so that, in application, the consequences can vary in method and severity based on:
    - (i)** the nature of the incident;
    - (ii)** the developmental age and/or cognitive level of the student who is bullying; and
    - (iii)** historical problem behavior from the student who is bullying; and
  - (e)** limit the restrictive nature of consequences for cyberbullying incidents, such that while correcting cyberbullying behavior and preventing further incidents of cyberbullying, a student with cyberbullying behavior is able to participate in or benefit from the services, activities, or privileges provided by the school to the greatest extent possible;
- (5)** a procedure for reporting bullying and for reporting retaliation for reporting an act of bullying, including:
  - (a)** an allowance for reporting orally and in the preferred language of the person reporting;
  - (b)** a method for anonymous reporting; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report of an actual bullying incident; and
  - (c)** a method for parents to file written reports of suspected bullying; and
- (6)** a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:

(a) designation of a school or district administrator who has the responsibility to:

(i) investigate or supervise the investigation of all reports of bullying and

(ii) to ensure that investigations are completed promptly after the receipt of any report made under this rule;

(b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the student targeted by the alleged act; provided that if, in the administrator's professional opinion, notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate;

(c) a requirement that school employees who witness bullying or who receive reports of bullying notify the designated administrator within two calendar days of the employee witnessing or receiving a report of bullying;

(d) an appeal process for a student who is accused of bullying or who is the target of bullying and who is unsatisfied with the outcome of the initial investigation; and

(e) development of a student safety support plan for students who are targets of bullying that addresses safety measures the school will take to protect targeted students against further acts of bullying.

**C.** Each local school board and governing body shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language. Policies shall be produced and disseminated in appropriate languages in any school district in which a substantial portion of the student population speaks a language other than English at home.

**D.** Each public school shall document reports and investigations of bullying and shall maintain those records for no less than four years.

**E.** Each local school board or governing body shall establish procedures for public schools to report the number of bullying incidents and the number of harassment incidents, as defined by federal or state law, along with responses to these incidents, and shall report this information annually to the department at such time as determined by the department and through the department's student teacher accountability reporting or through other means as determined by the department.

[6.12.7.8 NMAC - Rp, 6.12.7.8 NMAC, 11/12/2019]

#### **6.12.7.9 BULLYING PREVENTION PROGRAMS - ESTABLISHMENT:**



**A.** Following adoption of a bullying prevention policy, each public school shall:

(1) establish an annual bullying prevention program for students aligned with New Mexico's health education content standards with benchmarks and performance standards;

(2) provide annual training beginning with the 2020-2021 school year and each school year thereafter on bullying prevention to all school personnel and regular volunteers who have significant contact with students; and

(3) incorporate information on the bullying prevention policy into new employee training.

**B.** Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

(1) making each school district's bullying prevention policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on district and/or school public websites;

(2) identifying a point of contact for bullying-related concerns; and

(3) informing parents and students about the policy at least annually through student handbooks and other resources.

[6.12.7.9 NMAC - N, 11/12/2019]

#### **6.12.7.10 REPORTING REQUIREMENTS:**

**A.** Beginning with the 2020-2021 school year, each school district and state-chartered charter school shall annually submit the following to the department in a method prescribed by the department and in a timeframe determined by the department:

(1) a status report on the implementation of the provisions of this rule;

(2) data elements on the implementation of this rule including:

(a) the aggregate number of bullying incidents of students within the district or state-chartered charter school;

(b) the aggregate number of harassment incidents of students within the district or state-chartered charter school; and

(c) the corresponding responsive action or disposition taken by the district or state-chartered charter school, by type of action, for each bullying incident of a student and for each harassment incident of a student.

B. Each school district and state-chartered charter school shall include, in its reporting, when known, a tabulation of the number of bullying incidents of students and the number of harassment incidents of students associated with each of the following actual or perceived distinguishing characteristic:

- (1) race;
- (2) color;
- (3) national origin;
- (4) ancestry;
- (5) sex;
- (6) sexual orientation;
- (7) gender identity;
- (8) spousal affiliation;
- (9) physical or cognitive disability; or
- (10) an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics.

[6.12.7.10 NMAC - N, 11/12/2019]

## **PART 8: DIABETES SELF-MANAGEMENT BY STUDENTS IN THE SCHOOL SETTING**

### **6.12.8.1 ISSUING AGENCY:**

New Mexico Department of Health.

[6.12.8.1 NMAC - N, 02/01/2009]

### **6.12.8.2 SCOPE:**

This rule applies to students enrolled in public, private, home or parochial schools in New Mexico unless otherwise expressly limited.

[6.12.8.2 NMAC - N, 02/01/2009]

**6.12.8.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to the Department of Health Act, Section 9-7-6(E) and the Public Health Act, Sections 24-1-3(B), 24-1-3(G), and 24-1-3(O) NMSA 1978.

[6.12.8.3 NMAC - N, 02/01/2009]

**6.12.8.4 DURATION:**

Permanent.

[6.12.8.4 NMAC - N, 02/01/2009]

**6.12.8.5 EFFECTIVE DATE:**

February 1, 2009 unless a later date is cited in the history at the end of a section.

[6.12.8.5 NMAC - N, 02/01/2009]

**6.12.8.6 OBJECTIVE:**

The purpose of this rule is to grant students who are authorized pursuant to this rule the right to self-manage their diabetes care in the school setting and to develop mechanisms that support safe diabetes self-management in the school environment.

[6.12.8.6 NMAC - N, 02/01/2009]

**6.12.8.7 DEFINITIONS:**

**A. "Developmental level"** means the appropriate age-specific stage of emotional, mental and physical growth as determined by the school nurse or other designated registered nurse or clinician.

**B. "Equipment and supplies"** means those materials required to store or dispose of sharps, to perform self-assessment procedures, or to self-administer medication.

**C. "Health care practitioner"** means a person authorized under law in New Mexico to prescribe drugs for the treatment of diabetes and associated medical conditions.

**D. "Individualized healthcare plan"** means a written plan that identifies the student's health care needs and is developed by the school nurse or designated registered nurse or clinician cooperatively with the student and parent or guardian based on the orders provided by the student's health care practitioner.

**E. "Medication"** means a drug as that term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) and includes oral and non-oral drugs in a pharmacy-labeled container.

**F. "Other designated registered nurse or clinician"** means a registered nurse or clinician designated by the school district to act in the capacity of a school nurse.

**G. "School nurse"** means a registered nurse (RN), clinical nurse specialist (CNS) or certified nurse practitioner (CNP) licensed by the New Mexico public education department to provide nursing services in the school setting.

**H. "Self-administration"** means a student's own use of prescribed diabetes medication pursuant to a prescription from a health care practitioner.

**I. "Self-assessment"** means a student's monitoring of his/her blood glucose levels and for the presence of ketones.

**J. "Sharps"** means a device with a keen edge or sharp point used to puncture the skin for the purpose of self-assessment or a needle used to inject medication.

[6.12.8.7 NMAC - N, 02/01/2009]

#### **6.12.8.8 REQUIREMENTS:**

**A. General rights:** Schools (whether public or nonpublic) are required to grant to any student in grades kindergarten through 12 authorization to carry and use equipment and supplies, for storage and disposal of sharps, for self-assessment and for self-administration of diabetes treatment medications prescribed by a health care practitioner if all of the following conditions are met.

**(1)** A health care practitioner has prescribed the medication, directed the instruction of the student in the correct and responsible use of the medication, and approved the student's ability to perform self-assessment and medication self-administration, pursuant to Subsection B of 6.12.8.8 NMAC.

**(2)** The student has demonstrated to the school nurse or other designated registered nurse or clinician the skill level and developmental level necessary to correctly store and use any equipment and supplies required to perform self-assessment and self-administration of such medication as prescribed by the health care practitioner (or the practitioner's designee).

**(3)** The school nurse or other designated registered nurse or clinician, with input from the parent or guardian and based on the student's health care practitioner's medical orders, has formulated a written individualized healthcare plan for management of diabetes care for the student that includes but is not limited to the correct storage and

disposal of sharps by the student, the performance of self-assessment procedures and the self-administration of medication.

(4) The school has informed the parent or guardian of the student in writing that the school, including its employees and agents, is to incur no liability as a result of any injury arising from the performance of self-assessment procedures and the self-administration of medication nor from any injury arising from the student carrying and disposing of equipment and supplies to perform these procedures.

(5) The student's parent or guardian has completed and submitted to the school:

(a) all written documentation required by school policy; and

(b) the required treatment plan/medical orders; and

(c) a signed statement from the parent or guardian of the student acknowledging that the school, including its employees and agents, is to incur no liability as a result of any injury arising from the performance of self-assessment procedures and the self-administration of medication nor from any injury arising from the student carrying and disposing of equipment and supplies to perform these procedures, and the parent or guardian will indemnify and hold harmless the school, including its employees and agents, against any claim arising out of the performance of these procedures or storing and disposing of equipment and supplies to perform them.

**B. Terms and limits of the student's rights:** A student granted authorization under Subsection A of 6.12.8.8 NMAC shall:

(1) retain these rights not to exceed the duration of the current school year, but may lose these rights if, as determined by the school nurse and the school administrator, endangerment to the student's person or other persons occurs through the misuse of equipment, supplies, or medication or if the student's self-administration of medication is inconsistent with the prescribed dosage; and

(2) be responsible for storing and disposing of all sharps as agreed upon with the school nurse or other designated registered nurse or clinician; and

(3) be allowed to possess equipment and to perform routine self-assessment and self-treatment at locations identified in Subsection C of 6.12.8.8 NMAC but away from major traffic pathways as agreed upon with the school nurse or other designated registered nurse or clinician.

**C. Extent of authorization:** An authorization granted under Subsection A of 6.12.8.8 NMAC must allow the student granted authorization to store and dispose of equipment and supplies necessary for self-treatment and self-assessment in the school setting including:

(1) while at any location on school property, including the classroom, but away from major traffic pathways as agreed upon with the school nurse or other designated registered nurse or clinician;

(2) while at a school-sponsored activity;

(3) during regular before-school and after-school activities; and

(4) in transit to or from school or school-sponsored activities.

**D. Duration of authorization:** An authorization granted under Subsection A of 6.12.8.8 NMAC is effective only for the duration of the school year for which it is granted and must be renewed each subsequent school year in accordance with this subsection. It may be revoked at any time for failure to comply with Subsection B of 6.12.8.8 NMAC.

**E. Back-up medication:** The school must ensure that in the event of a diabetes emergency any back-up medication and equipment and supplies provided by the parent or guardian are kept at an easily accessible location agreed upon by the student and authorized individuals. The school must develop policies and procedures to address the safekeeping of these materials. Authorized school personnel who in case of an emergency and in good faith provide a person with back-up medication, equipment, or supplies are to incur no liability as a result of providing the materials and medication to an authorized student or individual.

**F. Maintenance of information:** Information described in Paragraphs (3) and (5) of Subsection A of 6.12.8.8 NMAC shall be kept on file at the student's school of enrollment in a location easily accessible by authorized individuals who have a legitimate need to know. Each school district must have in place policies and procedures that are in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and Health Insurance Portability and Accountability Act of 1996 (HIPAA) to address the safekeeping and confidentiality of the described information.

[6.12.8.8 NMAC - N, 02/01/2009]

## **PART 9: ELEMENTARY SCHOOL FREE BREAKFAST PROGRAM DURING INSTRUCTIONAL TIME**

### **6.12.9.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.12.9.1 NMAC – Rp, 6.12.9.1 NMAC, 1/28/2020]

### **6.12.9.2 SCOPE:**

All public schools, bureau of Indian education schools, state-supported schools, state-sponsored schools, and residential child care institutions eligible to participate in the breakfast program established by Section 22-13-13.2 NMSA 1978.

[6.12.9.2 NMAC – Rp, 6.12.9.2 NMAC, 1/28/2020]

**6.12.9.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-13-13.2, and 9-24-8 NMSA 1978.

[6.12.9.3 NMAC – Rp, 6.12.9.3 NMAC, 1/28/2020]

**6.12.9.4 DURATION:**

Permanent.

[6.12.9.4 NMAC – Rp, 6.12.9.4 NMAC, 1/28/2020]

**6.12.9.5 EFFECTIVE DATE:**

January 28, 2020 unless a later date is cited in the history note at the end of a section.

[6.12.9.5 NMAC – Rp, 6.12.9.5 NMAC, 1/28/2020]

**6.12.9.6 OBJECTIVE:**

To establish the standards, procedures for waiver requests and the award of waivers, and procedures for funding necessary to implement the breakfast program established by Section 22-13-13.2 NMSA 1978.

[6.12.9.6 NMAC – Rp, 6.12.9.6 NMAC, 1/28/2020]

**6.12.9.7 DEFINITIONS:**

**A. "Breakfast program"** means the free breakfast program established by Section 22-13-13.2 NMSA 1978.

**B. "Community eligibility provision" or "CEP"** means a non-pricing meal service option for schools and school districts in low-income areas. Schools that adopt the CEP are reimbursed with federal USDA funds using a formula based on the percentage of students categorically eligible for free meals based on their participation in other means-tested programs such as the supplemental nutrition assistance program (SNAP) and temporary assistance for needy families (TANF).

**C. "Congregate feeding"** means all eligible students remain with their classmates for breakfast program service, and one or more students may not be separated from their classmates to access a meal.

**D. "Eligible school"** means a public school in which eighty-five percent or more of enrolled students were eligible for free or reduced-price lunch under the national school lunch act during the prior school year or a public school implementing the CEP or Provision 2. Eligible schools shall not include private, parochial, or home schools.

**E. "Eligible student"** means a student enrolled in an eligible school.

**F. "Federal reimbursement rate"** means an amount prescribed annually by the United States secretary of agriculture for federal payments toward each meal served. The federal reimbursement rate differs for free, reduced-price, and paid meals and whether the school is in "severe need," as defined in 7 CFR Part 220.2 and according to the criteria in 7 CFR 220.9.

**G. "Financial hardship"** means the situation in which implementation of the breakfast program would cause a school to operate at a financial loss such that cost would exceed revenue and the use of funds from the state equalization guarantee would be required to cover the cost of serving breakfast. Financial hardship shall not include a school's or staff's non-interest or refusal to participate in the breakfast program.

**H. "Multiplier"** means the number established by the USDA to generate meal reimbursement rate percentages.

**I. "Provision 1"** means an alternative provision to the normal requirements for annual determinations of eligibility for free and reduced-price school meals, as defined in section 104(a) of the Healthy, Hunger Free Kids Act. Provision 1 allows free eligibility to be certified for a two-year period. There is no requirement to offer meals at no charge to all students.

**J. "Provision 2"** means an alternative provision to the normal requirements for annual determinations of eligibility for free and reduced-price school meals, as defined in section 104(a) of the Healthy, Hunger Free Kids Act. Provision 2 allows schools to establish claiming percentages and to serve meals at no charge to all participating children for a four-year period.

**K. "Provision 3"** means an alternative provision to the normal requirements for annual determinations of eligibility for free and reduced price school meals, as defined in section 104(a) of the Healthy, Hunger Free Kids Act. Provision 3 allows schools to receive the same level of federal cash and commodity assistance each year, with some adjustments, for a four-year period and to serve meals at no charge to all participating children for a four-year period.



**L. "United States Department of Agriculture" or "USDA"** means the federal agency that provides oversight and funding for school meal programs through food and nutrition service programs.

**M. "Voluntary school"** means a public school in which fewer than eighty-five percent of students were eligible for free or reduced-price lunch under the national school lunch act during the prior school year that selects to establish a breakfast program, so long as state funds exist.

[6.12.9.7 NMAC – Rp, 6.12.9.7 NMAC, 1/28/2020]

#### **6.12.9.8 BREAKFAST PROGRAM REQUIREMENTS:**

**A.** All eligible schools shall establish a breakfast program unless the school is granted a waiver by the department pursuant to 6.12.9.9 NMAC.

**B.** Voluntary schools may establish a breakfast program provided that state funding is available and the voluntary school complies with 6.12.9 NMAC and applicable state and federal laws.

**C.** Eligible and voluntary schools participating in the breakfast program shall offer breakfast to all eligible students, including to students arriving as much as two hours after the start of the instructional day.

**D.** Eligible and voluntary schools serving breakfast may:

**(1)** choose to offer breakfast service before the start of the instructional day, provided that the school shall also serve breakfast after the beginning of the instructional day;

**(2)** select the location of breakfast delivery, including the cafeteria, classroom, bus, or by providing a hand-carried breakfast; and

**(3)** determine whether or not instruction will occur simultaneously while breakfast is served or consumed.

**E.** Eligible schools and voluntary schools serving students in prekindergarten, preschool, and kindergarten through grade 6 shall serve breakfast to all students by congregate feeding. Eligible and voluntary schools serving students in grades seven through 12 may serve breakfast by congregate feeding.

[6.12.9.8 NMAC – Rp, 6.12.9.8 NMAC, 1/28/2020]

#### **6.12.9.9 BREAKFAST PROGRAM WAIVER:**

**A.** Eligible schools may apply for a waiver of breakfast program participation if the eligible school can demonstrate that implementation of the breakfast program will result in financial hardship.

**B.** Waiver requests shall be submitted using the department's breakfast program waiver request form no later than 30 calendar days after receiving a breakfast award.

**C.** Breakfast program waivers for eligible schools shall be posted on the department's website.

[6.12.9.9 NMAC – Rp, 6.12.9.9 NMAC, 1/28/2020]

#### **6.12.9.10 FUNDING OF BREAKFAST PROGRAMS:**

**A.** CEP schools with a post-multiplier amount of one-hundred percent or higher shall not be eligible to receive a breakfast program award.

**B.** CEP schools with a post-multiplier amount greater than eighty-five percent but less than one-hundred percent shall be considered an eligible school and shall receive a breakfast program award. The award shall be for the amount calculated by subtracting the school's post-multiplier amount from one-hundred percent.

**C.** Provision 1, 2, and 3 schools may be eligible for the breakfast program and shall be reimbursed at the federal reduced and free paid rates.

**D.** The department shall award eligible public schools serving students in grades 7 through 12 based on availability of funding.

**E.** The department shall award voluntary schools funding after all funds for eligible schools have been disbursed.

**(1)** The department shall award voluntary schools with the highest percentage of enrolled students eligible for free and reduced-lunch first.

**(2)** The department shall provide voluntary schools a preliminary estimate of funding to be used for planning purposes within 30 calendar days of the release of the federal reimbursement rate.

**F.** The department shall reimburse eligible and voluntary schools participating in the breakfast program:

**(1)** for students eligible for free or reduced-price lunch on a per meal basis at the federal reimbursement rate; and

(2) for students not eligible for free or reduced-price lunch on a per meal basis at a rate calculated by subtracting the school's post-multiplier amount from one-hundred percent.

[6.12.9.10 NMAC – Rp, 6.12.9.10 NMAC, 1/28/2020]

## **PART 10: MEDICAL CANNABIS IN SCHOOLS**

### **6.12.10.1 ISSUING AGENCY:**

Public Education Department, herein after the department.

[6.12.10.1 NMAC – N, 8/27/2019]

### **6.12.10.2 SCOPE:**

This rule applies to school districts, local school boards, state-chartered charter schools and governing bodies.

[6.12.10.2 NMAC – N, 8/27/2019]

### **6.12.10.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2 and 22-33-5 NMSA 1978.

[6.12.10.3 NMAC – N, 8/27/2019]

### **6.12.10.4 DURATION:**

Permanent.

[6.12.10.4 NMAC – N, 8/27/2019]

### **6.12.10.5 EFFECTIVE DATE:**

August 27, 2019, unless a later date is cited at the end of a section.

[6.12.10.5 NMAC – N, 8/27/2019]

### **6.12.10.6 OBJECTIVE:**

The objective of this rule is to provide parameters for the possession, storage, and administration of medical cannabis to qualified students for use in school settings.

[6.12.10.6 NMAC – N, 8/27/2019]

#### **6.12.10.7 DEFINITIONS:**

**A. "Cannabis"** means all parts of the plant cannabis, including any and all varieties, species, and subspecies of the genus cannabis, and excludes the plant cannabis sativa L. and any party of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis.

**B. "Cannabis producer"** means a person or entity licensed by the department of health to possess, produce, dispense, distribute, and manufacture cannabis and cannabis products and sell wholesale or by direct sale to qualified patients and primary caregivers.

**C. "Certifying practitioner"** means a health care practitioner who is licensed in New Mexico to diagnose a qualified patient and recommend medical cannabis as a course of treatment.

**D. "Designated school personnel"** means a school employee whom a public school, charter school, or school district authorizes to possess, store, and administer medical cannabis to a qualified student in accordance with the provisions of Section 22-33-5 NMSA 1978, this rule, the Lynn and Erin Compassionate Use Act, and New Mexico department of health rules regarding the Lynn and Erin Compassionate Use Act.

**E. "Hemp"** means the plant cannabis sativa L. and any part of the plant, whether growing, or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis, and is exempt from the New Mexico Controlled Substances Act.

**F. "License"** means written authorization to licensees issued by the New Mexico department of health to implement the provisions of Section 22-33-5 NMSA 1978, this rule, the Lynn and Erin Compassionate Use Act, and New Mexico department of health rules regarding the Lynn and Erin Compassionate Use Act.

**G. "Licensee"** means a person or entity issued a license by the New Mexico department of health pursuant to the Lynn and Erin Compassionate Use Act and includes school districts, local school boards, locally-chartered charter schools, state-chartered charter schools, and governing bodies of state-chartered charter schools.

**H. "Licensee representative"** means designated school personnel who work for a licensee and possess, store, or administer medical cannabis to a qualified student in a school setting.

**I. "Medical Cannabis"** means cannabis:

(1) recommended for treatment of a debilitating medical condition as defined in the Lynn and Erin Compassionate Use Act, in a written certification by a certified practitioner;

(2) dispensed by a cannabis producer that has received approval from the New Mexico department of health to conduct sales of medical cannabis;

(3) is in the form of a capsule, extract, or concentrate to be ingested through the mouth that:

(a) may be safely divided into measurable doses;

(b) is not an aerosol product consumable through smoking or in particulate form as a vapor or by burning;

(c) is not a food or beverage product;

(d) is not a salve, balm, or other topical product;

(e) does not require refrigerated storage; and

(4) is provided to a school in package or container clearly labeled with:

(a) the student's name and date of birth; and

(b) the dosage allotment.

**J. "Primary caregiver"** means a parent or legal guardian.

**K. "Qualified patient"** means a person who has:

(1) been diagnosed by a certifying practitioner;

(2) received written certification from a certifying practitioner; and

(3) is currently enrolled in the New Mexico department of health's medical cannabis program and has received a current and valid registry identification card pursuant to the Lynn and Erin Compassionate Use Act.

**L. "Qualified student"** means a student who demonstrates evidence to the school that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis.

**M. "Self-administering"** means the ingestion of medical cannabis by a qualified student without the presence of a primary caregiver or designated school personnel in a school setting.

**N. "School"** means a public school, including a charter school.

**O. "School setting"** means any of the following locations during a school day:

- (1) a school building;
- (2) a school bus used within the state during, in transit to, or in transit from a school-sponsored activity;
- (3) a public vehicle used within the state during, in transit to, or in transit from a school-sponsored activity in the state; or
- (4) a public site in the state where a school-sponsored activity takes place.

**P. "Written certification"** means a statement written by a qualified student's certifying practitioner:

- (1) in a qualified student's medical records or in the written treatment plan statement;
- (2) certifying that the qualified student has a debilitating medical condition pursuant to the Lynn and Erin Compassionate Use Act;
- (3) certifying that the certifying practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified student; and
- (4) signed by the certifying practitioner.

**Q. "Written treatment plan"** means a document developed by the primary caregiver in collaboration with the certifying practitioner that:

- (1) includes the certifying practitioner's diagnosis and description the qualified student's debilitating medical condition per the Lynn and Erin Compassionate Use Act;
- (2) describes the plan for recommended treatment with medical cannabis, including:
  - (a) the recommended dosage allotment;
  - (b) the recommended frequency of administration of medical cannabis in a school setting; and
  - (c) is signed by the primary caregiver and the certifying practitioner.

#### **6.12.10.8 POSSESSION, STORAGE, AND ADMINISTRATION:**

**A. Policies and Procedures.** Each local school board or governing body shall establish policies and procedures for the possession, storage, and administration of medical cannabis that:

(1) address the administration of medical cannabis in school settings during the school day by:

(a) primary caregivers; and/or

(b) designated school personnel;

(2) require the primary caregiver to deliver the medical cannabis in a container clearly labeled with:

(a) the student's name and date of birth; and

(b) the dosage allotment;

(3) require the provision of a secure location with a locked storage container accessible only by designated school personnel;

(4) require the immediate return of medical cannabis used in a school setting outside of school premises to a locked storage container;

(5) require the designated school personnel responsible for storage of the qualified student's medical cannabis to return any unused medical cannabis to the primary caregiver at the end of each school year or upon disenrollment, withdrawal, transfer, or graduation of the qualified student, whichever occurs first;

(6) require districts to provide appropriate training to all school personnel on medical cannabis policies; and

(7) require witnessed clean-up and witnessed destruction of medical cannabis in the event of spillage and waste and notification to the primary caregiver within the same day in which spillage or waste occurs.

**B. Prohibitions.** Each local school board or governing body shall establish policies and procedures for the possession, storage, and administration of medical cannabis that:

(1) prohibit a primary caregiver from administering medical cannabis in a manner that creates disruption to the education environment or causes other students to be exposed to medical cannabis;

(2) prohibit disciplining a school employee who refuses to administer medical cannabis; and

(3) prohibit students from possessing, storing, or self-administering medical cannabis in a school setting.

[6.12.10.8 NMAC – N, 8/27/2019]

#### **6.12.10.9 PRIMARY CAREGIVER:**

School districts and charter schools' policies and procedures regarding primary caregivers' responsibilities shall address a primary caregiver's duty to:

**A.** Demonstrate evidence to the school that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act.

**B.** Provide a written certification.

**C.** provide a written treatment plan, using the written treatment form posted on the department's website.

**D.** Submit a written release of liability that:

(1) releases from civil liability the following persons and entities for acting in accordance with the provisions of Section 22-33-5 NMSA 1978 and this rule, as well as the Lynn and Erin Compassionate Use Act and applicable department of health rules:

(a) school districts, school district personnel and volunteers, schools, school personnel and volunteers, local school boards, and local school board members; and

(b) charter schools, charter school personnel and volunteers, governing bodies of charter schools, and governing body members;

(2) releases the persons and entities listed in Subparagraph (a) of Paragraph (4) of Section B of 6.12.10.9 NMAC, above, from any liability and reimbursement claims for costs associated with accidental spillage or waste of medical cannabis; and

(3) acknowledge that the qualified student shall not be entitled to the implementation of the provisions of Section 22-33-5 NMSA 1978 and this rule, as well as the Lynn and Erin Compassionate Use Act and applicable department of health rules, outside of this state.

**E.** Submit to the school a signed Health Insurance Portability and Accountability Act (HIPAA) authorization, using the HIPAA authorization form posted on the New Mexico department of health's website, that permits the school to obtain current information from the department of health regarding the enrollment status of the qualified student in



the department of health's medical cannabis program. The HIPAA authorization form shall be retained as a medical record.

**F.** Indicate that a written certification and a written treatment plan shall be valid for no more than one year from the date of issuance and shall be presented to the school at, or prior to, the beginning of the school year for which the written certification and written treatment plan shall apply.

**G.** Pick up from the designated school personnel any unused medical cannabis at the end of each school year or upon disenrollment, withdrawal, transfer, or graduation of the qualified student, whichever occurs first.

**H.** Provide the written certification and a written treatment plan, a new release from liability, and a new package or container with clearly labeled identifiers including the qualified student's name, date of birth, and dosage allotment, upon enrollment in a new public school following disenrollment, withdrawal, transfer, or graduation from another school.

[6.12.10.9 NMAC – N, 8/27/2019]

#### **6.12.10.10 DESIGNATED SCHOOL PERSONNEL:**

For each local school board or governing body that identifies the school personnel who will serve as designated school personnel under Section 22-33-5 NMSA 1978, policies shall address possession, storage, and administration of medical cannabis to a qualified student.

[6.12.10.10 NMAC – N, 8/27/2019]

#### **6.12.10.11 STUDENTS:**

**A.** Each school district and charter school shall ban a student's possession, use, distribution, sale, or being under the influence of a cannabis product in a manner inconsistent with provisions of the Lynn and Erin Compassionate Use Act.

**B.** No school shall discipline a student who is a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school.

**C.** No school shall deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.

[6.12.10.11 NMAC – N, 8/27/2019]

#### **6.12.10.12 EXEMPTION FROM RULE; APPEAL PROCEDURES:**

**A.** A school district or charter school may seek an exemption from implementing the provisions of this rule if it receives written communication from the federal government that implementation would result in federal education funding being withheld or withdrawn. The school district or charter school shall deliver electronically such written communication from the federal government to the secretary, who shall review the written communication for compliance with this paragraph. After the secretary confirms compliance with this paragraph, the school district or charter school shall post on its website the written communication from the federal government and notice of the exemption from implementing the provisions of this rule.

**B.** A primary caregiver may appeal the school district's or charter school's exemption by submitting a signed letter to the secretary containing a statement of the facts on which the appeal is based, detailing the basis of the appeal. The secretary or secretary's designee may require additional documentation to be provided by the primary caregiver, school district, or charter school before responding to the appeal. Such additional documentation, if requested, shall be due within 10 days of the request. The secretary shall provide a written response with a final decision within 30 days of receipt of the appeal or within 30 days of receipt of the additional documentation requested, whichever is later. The secretary, at the secretary's discretion, may require a hearing, to be conducted within 60 days of receipt of the appeal, and to include a representative of the school district or charter school, before the secretary or secretary's designee. The secretary shall issue a final decision within 30 days of the hearing.

[6.12.10.12 NMAC – N, 8/27/2019]

#### **6.12.10.13 EXEMPTION FROM STATE CRIMINAL AND CIVIL PENALTIES:**

In accordance with this rule and New Mexico department of health rules:

**A.** Designated school personnel shall be exempt from civil liability and are authorized within their scope of employment, and their licensure if applicable, to possess, store, and administer cannabis to qualified students in school settings for purposes of implementing the provisions of Section 22-33-5 NMSA 1978, this rule, the Lynn and Erin Compassionate Use Act, and New Mexico department of health rules regarding the Lynn and Erin Compassionate Use Act.

**B.** Designated school personnel shall be exempt from criminal liability, as the department of health deems public schools to be licensees, and deems designated school personnel to be licensee representatives, authorized within their scope of employment, and their licensure if applicable, to possess and store medical cannabis on behalf of qualified students, and to administer medical cannabis to qualified students in school settings, in accordance with Section 22-33-5 NMSA 1978, this rule, the Lynn and Erin Compassionate Use Act, and New Mexico department of health rules regarding the Lynn and Erin Compassionate Use Act. The department of health deems the public schools and designated school personnel to be entitled to immunity from arrest, prosecution or penalty, in any manner, for activities conducted within their scope of

employment and their licensure, if applicable, and in accordance with the Public School Code.

[6.12.10.13 NMAC – N, 8/27/2019]

**6.12.10.14 HEMP EXEMPTED:**

School districts and charter schools are encouraged to have policies and procedures relating to hemp, which is not subject to the same civil or criminal laws as cannabis or medical cannabis.

[6.12.10.14 NMAC – N, 8/27/2019]

**PART 11: STUDENT DIABETES MANAGEMENT**

**6.12.11.1 ISSUING AGENCY:**

Public Education Department herein after the department.

[6.12.11.1 NMAC – N, 11/26/2019]

**6.12.11.2 SCOPE:**

This rule applies to school districts, local school boards, state-chartered charter schools and governing bodies, and private schools.

[6.12.11.2 NMAC – N, 11/26/2019]

**6.12.11.3 STATUTORY AUTHORITY:**

This rule is promulgated by the secretary of public education and the public education department under the authority of Sections 9-24-8, 22-2-1, 22-2-2, and 22-34-1 through 22-34-9 NMSA 1978.

[6.12.11.3 NMAC – N, 11/26/2019]

**6.12.11.4 DURATION:**

Permanent.

[6.12.11.4 NMAC – N, 11/26/2019]

**6.12.11.5 EFFECTIVE DATE:**

November 26, 2019, unless a later date is cited at the end of a section.

[6.12.11.5 NMAC – N, 11/26/2019]

**6.12.11.6 OBJECTIVE:**

The objective of this rule is to provide parameters for diabetes care personnel training and diabetes care management of students with diabetes in public schools.

[6.12.11.6 NMAC – N, 11/26/2019]

**6.12.11.7 DEFINITIONS:**

**A. "Diabetes"** means a metabolic disorder of type one or type two diabetes mellitus, complications related to diabetes mellitus, or prediabetes.

**B. "Diabetes care personnel"** means a school employee who volunteers to be trained and is trained in accordance with the provisions of this rule.

**C. "Diabetes medical management plan"** means a document developed and signed by a student's personal health care practitioner and parent or guardian that describes the health services a student needs at school.

**D. "Governing body"** means:

- (1) the school board of a school district;
- (2) the entity that governs a state-chartered or locally chartered charter school; or
- (3) the entity that governs a private school.

**E. "Hyperglycemia"** means blood glucose levels higher than normal medically established parameters.

**F. "Hypoglycemia"** means blood glucose levels lower than normal medically established parameters.

**G. "School"** means a public school, including a charter school, or private school that students attend in person.

**H. "School employee"** means a person employed by a school, a person employed by the department of health or a local health department or by the public education department who is assigned to a school or a contractor designated to provide diabetes management services at a school pursuant to the provisions of this rule.

**I. "Self-administration"** means a student's own use of prescribed diabetes medication pursuant to a prescription from a health care practitioner.

**J. "Self-management"** means a student's monitoring of blood glucose levels and for the presence of ketones.

[6.12.11.7 NMAC – N, 11/26/2019]

**6.12.11.8 DIABETES CARE PERSONNEL TRAINING:**

**A.** Each governing body shall ensure annual diabetes training programs are provided to all school nurses and diabetes care personnel. Training content for the annual diabetes training program, at a minimum, shall include:

- (1) identification and treatment of hyperglycemia and hypoglycemia;
- (2) appropriate actions to take when blood glucose levels are outside the target ranges indicated by a student's diabetes medical management plan;
- (3) understanding interpretation of health care practitioner instructions regarding diabetes medication drug dosage, frequency, and manner of administration;
- (4) performance of finger stick blood glucose testing, scanning of continuous glucose monitors, ketone testing, and recording of results;
- (5) administration of glucagon and insulin and recording of results;
- (6) administration of glucagon and insulin through the insulin delivery system;
- (7) recognizing diabetes-related complications that require emergency assistance; and
- (8) recommended schedules for food intake, the effect of physical activity upon blood glucose levels, and appropriate actions to be implemented in the case of a schedule disruption.

**B.** Each governing body shall ensure a minimum of two school employees, at each school attended by a student with diabetes, receive the training outlined in this rule.

**C.** Each governing body shall not require that diabetes care personnel be health care practitioners.

**D.** If at any time fewer than two school employees are available to be trained at a school, the principal or other school administrator shall distribute to all staff a written notice stating that the school is seeking volunteers to serve as diabetes care personnel. This notice shall inform staff of the following:

- (1) the school is required to provide diabetes care to one or more students with diabetes and is seeking personnel willing to be trained to provide that care;

- (2) the tasks to be performed by diabetes care personnel;
- (3) participation is voluntary and no school, school district or governing body will take action against any staff member who does not volunteer to be designated;
- (4) training will be provided to employees who volunteer to provide care; and
- (5) the contact information of the person whom staff should contact in order to volunteer to be diabetes care personnel.

**E.** Annual diabetes training programs shall be provided by the school nurse if the school has a licensed school nurse or by a licensed health care practitioner with expertise in diabetes.

**F.** Each governing body shall also ensure annual training is provided to all school personnel with a primary responsibility for supervising a student with diabetes during some portion of the school day that includes bus drivers responsible for transporting a student with diabetes. Training for these individuals must include:

- (1) recognition of hyperglycemia;
- (2) recognition of hypoglycemia; and
- (3) actions to take in response to diabetes-related emergency situations.

[6.12.11.8 NMAC – N, 11/26/2019; A, 10/10/2023]

#### **6.12.11.9 DIABETES MEDICAL MANAGEMENT PLAN:**

**A.** The parent or legal guardian of the student with diabetes who seeks diabetes care while at school shall submit a diabetes medical management plan to the school.

**B.** Each school that receives a diabetes medical management plan shall review and implement the plan.

[6.12.11.9 NMAC – N, 11/26/2019]

#### **6.12.11.10 SCHOOL DIABETES CARE:**

**A.** Each governing body shall ensure that all students diagnosed with diabetes receive appropriate and necessary diabetes care as specified in the student's diabetes medical management plan.

**B.** In accordance with the request of a parent or guardian of a student with diabetes and the student's diabetes medical management plan, a school nurse, or in the absence

of a school nurse, diabetes care personnel shall perform diabetes care functions that may include:

- (1) checking and recording the student's blood glucose or ketone levels and assisting the student with recording these levels;
- (2) responding to blood glucose levels that are outside of the student's target range;
- (3) administering glucagon and other emergency treatments as prescribed;
- (4) administering insulin or assisting a student in administering insulin;
- (5) providing oral diabetes medications as prescribed; and
- (6) following instructions regarding meals, snacks and physical activity.

**C.** A school nurse or at least one diabetes care personnel shall be at each school where a student with diabetes is attending and shall be available to provide care to each student with diabetes pursuant to this rule during regular school hours, all school-sponsored activities, trips, extended offsite school-sponsored excursions, extracurricular activities where a student with diabetes is a participant, and on buses where the bus driver has not been trained in diabetes care and a student with diabetes is a passenger.

[6.12.11.10 NMAC – N, 11/26/2019; A, 10/10/2023]

#### **6.12.11.11 SCHOOL ASSIGNMENT: DIABETES CARE PROVISION:**

**A.** Students diagnosed with diabetes shall attend the school they would otherwise attend if they were not diagnosed with diabetes, and the diabetes care specified in the student's diabetes medical management plan shall be provided at the student's school.

**B.** Each governing body shall not restrict a student diagnosed with diabetes from attending any school on the basis that;

- (1) the student is diagnosed with diabetes;
- (2) the school does not have a full-time school nurse; or
- (3) the school does not have trained diabetes care personnel.

**C.** A school shall not require nor compel parents or guardians to provide diabetes care for a student with diabetes at school or school-related activities.

**D.** Each governing body may allow a parent or guardian to volunteer to assume the official responsibility of diabetes care for a student diagnosed with diabetes should the

parent or guardian be attending a school sponsored activity, trip, extended offsite excursion, or extracurricular activity in which the student with diabetes is participating.

[6.12.11.11 NMAC – N, 11/26/2019]

#### **6.12.11.12 DIABETES SELF-MANAGEMENT:**

**A.** Upon written request of a parent or guardian of a student with diabetes and authorization by the student's diabetes medical management plan, and upon demonstrated proficiency, a student shall be permitted to:

(1) perform self-management blood glucose monitoring to check blood glucose and ketones;

(2) administer prescribed medication for the treatment of diabetes including the self-administration of insulin through the insulin delivery system that the student uses as determined in the student's diabetes medical management plan;

(3) treat hyperglycemia as determined in the student's diabetes medical management plan; and

(4) treat hypoglycemia as determined in the student's diabetes medical management plan.

**B.** A student with diabetes shall be permitted to self-manage in any area of the school or school grounds, and at any school-related activity.

**C.** A student with diabetes shall be permitted to possess on the student's person at all times all necessary supplies and equipment to perform these monitoring and treatment functions.

**D.** If a student's parent or guardian or the student requests, the student shall have access to a private area for performing diabetes care tasks.

**E.** Each governing body shall develop written policies or procedures to address safe storage of medical supplies and for the safe and appropriate storage of diabetes medication.

[6.12.11.12 NMAC – N, 11/26/2019; A, 10/10/2023]

#### **6.12.11.13 ENFORCEMENT AND REPORTING:**

**A.** A student with diabetes and the student's parent or guardian may submit a written administrative complaint, via e-mail or via mail, to the secretary or secretary's designee containing a statement of the facts on which the complaint is based specific to any school or governing body that fails to meet its obligations to train school personnel



to provide diabetes care, or to permit self-management of diabetes per the Student Diabetes Management Act. The secretary or secretary's designee may require additional documentation to be provided by the parent or guardian, school district or charter school before responding to the complaint. Such additional documentation, if requested, shall be due within 10 days of the request. The secretary or secretary's designee, at the secretary's discretion, may require a hearing to be conducted within 60 days of receipt of the complaint or additional documentation, whichever is later, and to include a representative of the school district or charter school, before the secretary or secretary's designee. The secretary or the secretary's designee shall provide a written response with a final decision within 30 days of receipt of the complaint or within 30 days of the hearing's conclusion, whichever is later.

**B.** Governing bodies shall report the following data to the department annually, no later than October 15, in a format required by the department for the preceding school year:

(1) the number of students within the school district or state charter school with a diagnosis of diabetes;

(2) the number of school sites attended by students with diabetes;

(3) the number of designated diabetes care personnel trained in diabetes management; and

(4) the number of additional staff members trained in diabetes management, not including assigned diabetes care personnel.

**C.** The department shall post each district, state-chartered charter school, and locally chartered charter school report on the department's website annually by November 15.

[6.12.11.13 NMAC – N, 11/26/2019; A, 10/10/2023]

#### **6.12.11.14 APPLICATION OF OTHER LAWS:**

**A.** The provisions in this rule shall not constitute the practice of nursing and school districts and governing bodies shall be exempted from all applicable statutory or regulatory provisions that restrict what activities can be delegated to or performed by a person who is not a licensed health care practitioner in the provision of diabetes care as provided within this rule.

**B.** The provisions in this rule shall not alter, diminish or limit the rights and remedies of eligible students and parents or guardians as made available under any other state or federal law, including Section 504 of the Federal Rehabilitation Act, the Federal Americans with Disabilities Act of 1990 and the Federal Individuals with Disabilities Education Act.

[6.12.11.14 NMAC – N, 11/26/2019]

## **PART 12: ARMED PUBLIC SCHOOL SECURITY PERSONNEL**

### **6.12.12.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.12.12.1 NMAC – N, 7/28/2020]

### **6.12.12.2 SCOPE:**

This rule applies to school districts, local school boards, state-chartered charter schools, and governing bodies of charter schools.

[6.12.12.2 NMAC – N, 7/28/2020]

### **6.12.12.3 STATUTORY AUTHORITY:**

This rule is promulgated pursuant to Sections 9-24-8, 22-2-1, 22-2-2, 22-5-18, 22-10A-5, 22-10A-40, 22-10A-41, and 28-2-4 NMSA 1978.

[6.12.12.3 NMAC – N, 7/28/2020]

### **6.12.12.4 DURATION:**

Permanent.

[6.12.12.4 NMAC – N, 7/28/2020]

### **6.12.12.5 EFFECTIVE DATE:**

July 28, 2020, unless a later date is cited at the end of a section.

[6.12.12.5 NMAC – N, 7/28/2020]

### **6.12.12.6 OBJECTIVE:**

The objective of this rule is to provide parameters for a local school board or governing body of a charter school to authorize formerly certified and commissioned law enforcement officers employed by a school district or charter school as school security personnel to carry a firearm on school premises or other school property to mitigate loss of life during an emergency and until local law enforcement arrives.

[6.12.12.6 NMAC – N, 7/28/2020]

#### **6.12.12.7 DEFINITIONS:**

**A. "Firearm"** means a handgun, as recommended by the department of public safety and authorized by the public school insurance authority, adopted for use by a local law enforcement agency in the jurisdiction within which a school district or charter school is located.

**B. "School premises"** means:

(1) the building and grounds, including playgrounds, playing fields, and parking areas, and any school bus or vehicle of a public school, whether owned or under contract by the school district or charter school, in or on which school or school-related activities are being conducted under the supervision of the local school board or governing body of a charter school; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which school-related and school-sanctioned activities are being performed.

**C. "School security personnel"** means formerly certified and commissioned law enforcement officers employed by a school district or governing body of a charter school and authorized by department rules and local school board or governing body policy to carry a firearm on school premises.

[6.12.12.7 NMAC – N, 7/28/2020]

#### **6.12.12.8 PROHIBITION OF EMPLOYMENT AS SCHOOL SECURITY PERSONNEL:**

Persons prohibited from employment as school security personnel include the following:

**A.** an individual who has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction relates to the employment as school security personnel;

**B.** an individual who has been convicted of trafficking in controlled substances, criminal sexual penetration or a related sexual offense, child abuse, or sexual exploitation of children;

**C.** an individual who has been subject to an employment investigation under Subsection H of Section 22-10A-5 NMSA 1978 that resulted in a finding of ethical misconduct, including:

(1) inappropriate touching;

(2) sexual harassment;

- (3) sexual assault;
- (4) sexual abuse;
- (5) discrimination; or
- (6) behavior intended to induce a child into engaging in illegal, immoral, or other prohibited behavior.

D. an individual who has been convicted of battery on a household member or dependent, criminal damage to property of a household member or dependent, or stalking;

E. an individual who has been convicted of the negligent or illegal use of a firearm; or

F. an individual who has received formal discipline for the use of excessive force.

[6.12.12.8 NMAC – N, 7/28/2020]

#### **6.12.12.9 EMPLOYMENT REQUIREMENTS OF SCHOOL SECURITY PERSONNEL:**

Each local school board and governing body of a charter school shall establish policies and procedures addressing pre-employment and continuing employment requirements for school security personnel. Policies and procedures shall include the following:

A. requirement of proof that the former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;

B. successful completion of a 16-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, for working with students with special needs, prior to employment as school security personnel;

C. successful completion of a four-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, on cultural competency and prohibited profiling practices, prior to employment as school security personnel; and

D. proof of current firearms training and successful firearms qualification provided by a certified use-of-force instructor through a local law enforcement agency, or through a New Mexico law enforcement academy certified firearms instructor approved by a local law enforcement agency in the jurisdiction in which the school district or charter school is located. Firearms training shall include the following:

**(1)** an initial use-of-force training program of eight hours, prior to employment as school security personnel, including the following topics:

- (a)** resistance;
- (b)** confrontational dynamics;
- (c)** deadly force (when it is justifiable);
- (d)** communication;
- (e)** self-control, fear, and anger management in the use of force;
- (f)** consequences of unreasonable force;
- (g)** vicarious liability;
- (h)** legality of use of force in school setting by school security personnel;
- (i)** documenting use of force;
- (j)** search and seizure; and
- (k)** other topics as recommended by the local law enforcement agency, school district, or charter school;

**(2)** an initial firearms training program of 16 hours prior to employment as school security personnel;

**(3)** prior to employment as school security personnel and annually thereafter, a qualification shoot requiring qualifying scores that meet or exceed the New Mexico law enforcement academy standard scores in daytime qualification shoot and night or low light qualification shoot; and

**(4)** an annual firearms manipulation training program of four hours.

**E.** a background check indicating the individual has not been convicted of a crime or engaged in behavior that violates prohibitions against ethical misconduct pursuant to the New Mexico School Personnel Act, Section 22-10A-5 NMSA 1978, as ethical misconduct; or Subsection A of 6.12.12.8 NMAC; and

**F.** any other conditions required by law, department rule, or school district or charter school policy.

#### **6.12.12.10 LIMITING SCOPE OF WORK OF ARMED SCHOOL SECURITY PERSONNEL:**

Each school board or governing body of a charter school shall adopt policies and procedures prohibiting armed school security personnel from performing any other job in the school district or charter school, by title or duty, other than school security, while carrying a firearm. School security personnel do not have the power of arrest or detention as do school resource officers and law enforcement agents.

[6.12.12.10 NMAC – N, 7/28/2020]

#### **6.12.12.11 ADDITIONAL SCHOOL SECURITY PERSONNEL REQUIREMENTS:**

**A.** Prior to school security personnel being permitted to carry firearms as authorized by department rule and local school board or governing body policy, school security personnel shall successfully pass a physical and psychological evaluation to determine suitability to carry a firearm.

**(1)** The physical examination shall:

- (a)** be conducted and signed by a licensed medical doctor;
- (b)** be completed on the department-approved form; and
- (c)** indicate the individual is fit for duty.

**(2)** The psychological evaluation shall:

- (a)** be conducted and signed by a licensed psychologist;
- (b)** be completed on the department-approved form; and
- (c)** indicate the individual is fit for duty.

**B.** The school district or charter school shall bear the cost of the physical and psychological evaluations for current and potential school security personnel.

[6.12.12.11 NMAC – N, 7/28/2020]

#### **6.12.12.12 SCHOOL SECURITY PERSONNEL CONSTRUCTION:**

Nothing in this rule shall be construed as:

**A.** Allowing armed school security personnel to carry firearms on school premises if doing so would be a violation of state or federal law; or

B. Applying to school resource officers.

[6.12.12.12 NMAC – N, 7/28/2020]

## **PART 13: STUDENT DENTAL EXAMINATION REQUIREMENTS FOR ENROLLMENT**

### **6.12.13.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.12.13.1 NMAC – N, 4/20/2021]

### **6.12.13.2 SCOPE:**

This rule applies to all school districts and public schools, including charter schools.

[6.12.13.2 NMAC – N, 4/20/2021]

### **6.12.13.3 STATUTORY AUTHORITY:**

This rule is promulgated by the secretary of public education and the public education department under the authority of Section 22-1-14 NMSA 1978.

[6.12.13.3 NMAC – N, 4/20/2021]

### **6.12.13.4 DURATION:**

Permanent.

[6.12.13.4 NMAC – N, 4/20/2021]

### **6.12.13.5 EFFECTIVE DATE:**

April 20, 2021, unless a later date is cited at the end of a section.

[6.12.13.5 NMAC – N, 4/20/2021]

### **6.12.13.6 OBJECTIVE:**

This rule provides parameters for the requirements of schools to verify student records of dental examination prior to initial enrollment in a New Mexico school district or charter school, providing an exception for an informed opt-out process based on parent or guardian understanding of the risks associated with not having a dental examination. The rule also provides parameters for the requirements of schools to report annual end-of-year compliance data to the department.

[6.12.13.6 NMAC – N, 4/20/2021]

**6.12.13.7 DEFINITIONS:**

**A. "Dental examination"** means an assessment conducted by a licensed dental health care provider such as a dental hygienist, dental therapist or dentist that includes the review and documentation of the oral condition, and the recognition and documentation of deviations from healthy oral condition, with or without a diagnosis to determine the cause or nature of disease or its treatment.

**B. "Initial enrollment" or "initially enroll"** means the first time a student registers at a New Mexico school district or charter school.

**C. "Student dental examination waiver"** means a designated field within a school district or charter school's enrollment application, signed by the parent or guardian, and collected and stored by schools, indicating the parent or guardian acknowledges the risks associated with the student not receiving a dental examination and opts not to obtain a dental examination for the student.

[6.12.13.7 NMAC – N, 4/20/2021]

**6.12.13.8 DENTAL EXAMINATION REQUIREMENTS AND EXCEPTIONS FOR INITIAL ENROLLMENT:**

**A.** Beginning July 1, 2021, a student shall not initially enroll in a school district or charter school unless the parent or guardian has provided:

- (1)** satisfactory evidence, as determined by the school district or charter school, of having received a dental examination within the past year; or
- (2)** the student dental examination waiver signed by a parent or guardian.

**B.** Students shall obtain the required dental examination at their own expense or the expense of any dental health coverage they may have.

[6.12.13.8 NMAC – N, 4/20/2021]

**6.12.13.9 REPORTING REQUIREMENTS:**

**A.** Beginning July 1, 2022, and each year thereafter, all school districts and charter schools shall report to the department end-of-year student data for dental examinations.

**B.** End-of-year student data shall include:



(1) total number of students enrolled with satisfactory evidence, as determined by the district or charter school, of a dental examination within the past year; and

(2) total number of students enrolled with a signed student dental examination waiver opting not to obtain a dental examination.

[6.12.13.9 NMAC – N, 4/20/2021]

## **PART 14 COVID-19 SCHOOL REENTRY REQUIREMENTS**

### **6.12.14.1 ISSUING AGENCY:**

Public Education Department hereinafter referred to as the department.

[6.12.14.1 NMAC – N/E, 12/3/2020]

### **6.12.14.2 SCOPE:**

The provisions of this regulation apply to all public schools in New Mexico.

[6.12.14.2 NMAC - N/E, 12/3/2020]

### **6.12.14.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 12-10-10, 22-2-1, and 22-2-2 NMSA 1978.

[6.12.14.3 NMAC - N/E, 12/3/2020]

### **6.12.14.4 DURATION:**

Permanent.

[6.12.14.4 NMAC - N/E, 12/3/2020]

### **6.12.14.5 EFFECTIVE DATE:**

December 3, 2020, unless a later date is cited at the end of a section.

[6.12.14.5 NMAC - N/E, 12/3/2020]

### **6.12.14.6 OBJECTIVE:**

This rule establishes the requirements for public schools' operation during the pandemic.

[6.12.14.6 NMAC – N/E, 12/3/2020, A/E, 2/11/2021]

### **6.12.14.7 DEFINITIONS:**

A. "Alternate work" means a temporary change to the location, conditions, duties, schedules, reduction in number of contacts with students and other staff and individuals,

etc., due to public health emergency-necessitated circumstances. Alternate work does not automatically mean working from home.

**B. "Full reentry operating category"** means the instructional model that permits all students to return to in-person learning for the full school week, with continued use of preventative measures including COVID-Safe Practices and other practices in department guidance.

**C. "High-risk staff"** means a person employed by a school or school district who is 65 years of age or older or has one or more of the following conditions that places the person at an increased risk of severe illness from the virus that causes COVID-19:

- (1) cancer;
- (2) chronic kidney disease;
- (3) chronic obstructive pulmonary disease;
- (4) down syndrome;
- (5) heart conditions such as heart failure, coronary artery disease or cardiomyopathies;
- (6) immunocompromised state (weakened immune system) from solid organ transplant;
- (7) severe obesity (body mass index greater than 40 kg/m<sup>2</sup>);
- (8) pregnancy;
- (9) sickle cell disease;
- (10) type 2 diabetes mellitus;

**D. "Hybrid operating category"** means the instructional model wherein schools assign a combination of some in-person learning days and some remote learning days, while limiting the number of students who may be in the school building at any given time by the number that can be accommodated while adhering to at least six feet of social distancing and other criteria provided in guidance documents, including limitations on the percentage of students eligible to be on school premises at one time.

**E. "Remote operating category"** means the instructional model that requires all students to engage in remote learning, with limited possible exceptions, as defined in department guidance, of students with disabilities and students in grades pre-kindergarten through grade three to engage in in-person learning. Schools should take

all practical measures to provide each student with a digital device and to provide support for in-home internet connectivity.

[6.12.14.7 NMAC – N/E, 12/3/2021, A/E, 1/29/2021, A/E, 2/11/2021, A/E, 3/24/2021]

#### **6.12.14.8 REQUIREMENTS FOR SCHOOLS:**

**A.** All public schools and local school districts shall:

- (1)** follow all public health orders and executive orders and department guidance for the operation of schools and school premises, including school transportation; testing programs detailed in department guidance;
- (2)** participate in surveillance testing programs detailed in department guidance;
- (3)** adhere to social distancing requirements;
- (4)** require all persons on school premises, and in school vehicles, to wear face coverings per department guidance and current statewide public health orders;
- (5)** cooperate immediately and fully with department officials, environment department officials, fire marshals, state police and other officials conducting site visits and investigating COVID-safe practices; and
- (6)** to the extent possible, implement practices to promote social emotional learning, support high quality teaching and learning, and effectively communicate with tribal communities and families.

**B. COVID-19 safe practices.** All local school districts and public schools shall maintain communication with department of health officials shall report all confirmed cases of COVID-19 in students, staff, contractors and volunteers to the department and the environment department as appropriate; and shall perform all COVID-19 safe practices described or referenced in department guidance, such as:

- (1)** working with school administrators, school nurses, and other healthcare providers to identify an isolation room or area to separate anyone who exhibits COVID-like symptoms;
- (2)** closing off and limiting access to areas potentially affected by COVID-19 exposure and, if possible, wait 24 hours before cleaning and disinfecting;
- (3)** requiring school nurses and other healthcare providers to use centers for disease control and prevention (CDC) recommended standard precautions when caring for sick people, including:

- (a) engaging in frequent hand hygiene;
  - (b) using personal protective equipment when there is an expectation of possible exposure to infectious material;
  - (c) following respiratory hygiene and coughing etiquette;
  - (d) ensuring appropriate patient placement in quarantine or isolation;
  - (e) ensuring the proper handling and disinfection of patient care equipment and instruments;
  - (f) ensuring the careful handling of textiles and laundry;
  - (g) following safe injection practices; and
  - (h) ensuring healthcare provider safety, including proper handling and disposal of needles and other sharps.
- (4) requiring school nurses and other healthcare providers to use CDC recommended transmission-based precautions when caring for sick people, including:
- (a) establishing procedures for safely transporting anyone who is sick home or to a healthcare facility;
  - (b) closing for 24 hours parts of school buildings if used by a COVID-19 infected person then clean and disinfect before re-opening affected areas;
  - (c) advising sick staff members and children not to return until they have met New Mexico department of health criteria to discontinue home isolation; and
  - (d) informing those who have had close contact with a person diagnosed with COVID-19 to stay home and follow New Mexico department of health guidance.

**C. Small group instruction.** School districts and schools are permitted to provide small group instruction pursuant to department guidance regardless of whether the school district or school is in the remote learning, hybrid learning, or full reentry operational model.

**D. Continuation of Remote Learning.** When in-person learning is available through a hybrid operational model or full reentry operational model, school districts and schools shall continue to offer remote learning to students who choose remote learning.

**E. Transportation.** School districts and schools shall follow department guidance, which requires students to sit in spaced and assigned seating while being transported to and from schools, limits the number of students who may be seated together on a bus

seat, and sets forth detailed requirements and suggestions for COVID-19 safe practices for the transportation of students.

**F. Student movement and gathering.** School districts and schools in the hybrid or full reentry operating category shall keep students' and student groups' movements and gatherings safe pursuant to current department guidance, which presently includes:

(1) limiting mixing among different student groups to the greatest extent practicable;

(2) for class changes and other transitions throughout the day:

(a) designating flow paths in hallways to keep students separated and minimize the congregation of students;

(b) planning staggered class changes to decrease the number of students in the hallways at one time;

(c) having the same group of students stay with the same staff in elementary school; and

(3) for student gatherings:

(a) avoiding large group gatherings, and abiding by the maximum number of people allowed to congregate as defined by current public health orders;

(b) prohibiting the congregation of students in parking lots and common areas;

(c) staggering the schedules for group gatherings such as recess or meals;

(d) identifying and utilizing large spaces, such as gymnasiums, auditoriums, and outdoor spaces as weather permits for social distancing; and

(e) following the New Mexico activities association's guidelines for extracurricular activities and similar congregate events.

**G. Staffing.** All school districts and schools shall follow public health orders, executive orders and department guidance as updated from time to time and shall:

(1) train staff in local and state rules regarding health and safety procedures, such as appropriate use of personal protective equipment and procedures for when school personnel or students exhibit symptoms of COVID-19; and

(2) establish processes, aligned with school district or charter school human resource departments to process formal requests for reasonable accommodations

under the Americans with Disabilities Act (ADA) and leave under the Family Medical Leave Act (FMLA). Professional development, other trainings and staff meetings conducted in-person on school premises require staff to remain socially distanced at a distance of six feet or more apart from each other and adhere to all other COVID-Safe Practices; otherwise, professional development, other trainings and staff meetings must be conducted remotely.

**H. Tribal sovereignty.** School districts and schools shall honor tribal sovereignty and abide by applicable tribal public health orders, tribal executive orders and tribal council resolutions.

[6.12.14.8 NMAC – N/E, 12/3/2020, A/E, 1/29/2021, A/E, 2/11/2021, A/E, 3/24/2021]

**6.12.14.9 [RESERVED]**

[6.12.14.9 NMAC – N/E, 12/3/2020, A/E, 1/29/2021; Repealed 2/11/2021]

**6.12.14.10 [RESERVED]**

[6.12.14.10 NMAC – N/E, 12/3/2020, A/E, 1/29/2021; Repealed 2/11/2021]

**6.12.14.11 [RESERVED]**

[6.12.14.11 NMAC – N/E, 12/3/2020, A/E, 1/29/2021; Repealed 2/11/2021]

**6.12.14.12 [RESERVED]**

[6.12.14.12 NMAC – N/E, 12/3/2020; Repealed 2/11/2021]

## **PART 15 COVID-19 SCHOOL REQUIREMENTS**

**6.12.15.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.12.15.1 NMAC – N, 10/13/2021; A, 7/31/2023]

**6.12.15.2 SCOPE:**

The provisions of this regulation apply to all public schools in New Mexico.

[6.12.15.2 NMAC - N, 10/13/2021]

**6.12.15.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 12-10-10, 22-2-1, and 22-2-2 NMSA 1978.

[6.12.15.3 NMAC - N, 10/13/2021]

**6.12.15.4 DURATION:**

Permanent.

[6.12.15.4 NMAC - N, 10/13/2021]

**6.12.15.5 EFFECTIVE DATE:**

October 13, 2021, unless a later date is cited at the end of a section.

[6.12.15.5 NMAC - N, 10/13/2021]

**6.12.15.6 OBJECTIVE:**

This rule establishes the requirements for public schools to adhere to public health orders, executive orders, and department guidance.

[6.12.15.6 NMAC – N, 10/13/2021; A, 7/31/2023]

**6.12.15.7 DEFINITIONS:**

[RESERVED]

**6.12.15.8 REQUIREMENTS FOR SCHOOLS:**

**A.** School districts and charter schools shall follow all public health orders, executive orders, and department guidance for the operation of schools, school sponsored activities, and school premises, including school transportation; and

**B.** School districts and charter schools shall honor tribal sovereignty and abide by applicable tribal public health orders, tribal executive orders, and tribal council resolutions.

[6.12.15.8 NMAC – N, 10/13/2021; A, 7/31/2023]

**6.12.15.9 [RESERVED]**

**6.12.15.10 [RESERVED]**

**6.12.15.11 [RESERVED]**

**6.12.15.12 [RESERVED]**

**PART 16 HEALTHY UNIVERSAL SCHOOL MEALS:**

**6.12.16.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.12.16.1 NMAC – N, 9/24/2024]

**6.12.16.2 SCOPE:**

All school food authorities that operate the national school lunch program and the school breakfast program.

[6.12.16.2 NMAC – N, 9/24/2024]

**6.12.16.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, 22-13-13, 22-13-13.2, and 22-13C-1 et seq. NMSA 1978.

[6.12.16.3 NMAC – N, 9/24/2024]

**6.12.16.4 DURATION:**

Permanent.

[6.12.16.4 NMAC – N, 9/24/2024]

**6.12.16.5 EFFECTIVE DATE:**

September 24, 2024, unless a later date is cited in the history note at the end of a section.

[6.12.16.5 NMAC – N, 9/24/2024]

**6.12.16.6 OBJECTIVE:**

To establish the accountability measures and procedures for certification to implement the Healthy, Hunger-Free Students' Bill of Rights Act, Section 22-13C-1 et seq. NMSA 1978.

[6.12.16.6 NMAC – N, 9/24/2024]

**6.12.16.7 DEFINITIONS:**

**A. "Eligible meals"** means meals served to full-price, paid students that qualify for reimbursement under the national school lunch program (NSLP) and the school breakfast program (SBP).



**B. "Federal free meal reimbursement"** means the free meal reimbursement paid by the United States Department of Agriculture (USDA) under 42 U.S.C. 1759a for meals that qualify for reimbursement pursuant to the national school lunch program and the school breakfast program.

**C. "Federal paid meal reimbursement rate"** means the paid reimbursement rate as set annually by the USDA under 42 U.S.C. 1759a for meals that qualify for reimbursement under the NSLP and the SBP.

**D. "Freshly prepared"** means meal pattern components that are prepared and cooked for same day consumption utilizing scratch cooking or speed scratch preparation methods.

**E. "Healthy universal school meals program"** means the universal school meals for children program created pursuant to the Healthy Hunger-Free Students' Bill of Rights Act.

**F. "Meal pattern components"** means food groups established by the USDA in 7 C.F.R. § 226.20 to provide the basis for the NSLP and SBP meal patterns, each component of which is based on the nutrient content of the food items in each category, which shall include meats or meat alternates, grains, fruits, vegetables, and milk.

**G. "Meal quality improvement requirements"** means performance standards created to improve school meal quality pursuant to the Healthy Hunger-Free Students' Bill of Rights Act.

**H. "National school lunch program" or "NSLP"** means the federally assisted meal program that provides nutritious, low-cost, or free lunches to children in public schools, private schools, and residential childcare institutions.

**I. "Paid meal rate"** means the paid student rate reported by the department to the USDA based on the average paid meal rate charged by school food authorities in the prior school year.

**J. "Reimbursable meal line"** means the designated area in a school where students queue to receive meals that are eligible for reimbursement.

**K. "School breakfast program" or "SBP"** means the federally assisted meal program that provides reimbursement to states to operate nonprofit breakfast programs in public schools, private schools, and residential childcare institutions.

**L. "School food authority"** means public school districts, charter schools, Bureau of Indian Education schools, tribally controlled schools, and private schools that operate the NSLP and the SBP.

**M. "Scratch cooking"** means the use of whole, fresh ingredients that may include, but are not limited to, raw proteins, whole grains, and fresh fruits and vegetables. This preparation method omits the utilization of premade commercial food products.

**N. "Speed scratch"** means the blending of fresh ingredients together with pre-prepared and ready-made minimally processed ingredients that are processed in a way that does not fundamentally alter the product and does not substantially change the nutritional content, to prepare a meal for same day consumption.

**O. "Unprocessed and minimally processed products"** means raw or frozen products, products that retain their inherent character, such as shredded carrots or ground beef, and dried products, such as beans, but does not include any products that are heated, cooked or canned.

**P. "Value-added processed products"** means products that are altered from their unprocessed or minimally processed state through preservation techniques, including cooking, baking, or canning.

[6.12.16.7 NMAC – N, 9/24/2024]

#### **6.12.16.8 REQUIREMENTS:**

**A.** All public schools that operate the NSLP and the SBP shall establish a healthy universal school meals program.

**B.** Bureau of Indian education schools, tribally controlled schools, and private schools that operate the NSLP and the SBP may establish a healthy universal school meals program to offer high-quality meals at no charge to students provided that state and federal funding is available, and the school complies with applicable state and federal laws.

**C.** Each school food authority that establishes a healthy universal school meals program shall seek to achieve certification for meal quality improvement requirements by July 1, 2025.

**D.** Meal quality improvement requirements shall include the following:

(1) Fifty percent of all weekly required meal pattern components, with the exception of milk, shall be freshly prepared; and

(a) to determine the quantity of meal pattern components necessary to meet requirements, school food authorities must calculate the weekly total of each required component, per grade grouping, for breakfast and lunch;

(b) fifty percent of the total number of weekly components per meal pattern component category shall be freshly prepared;

(c) if any site in a school food authority operates more than one reimbursable meal line, the fifty percent requirement of freshly prepared meal pattern components must be met for each reimbursable meal line.

(2) Achievement of the lowest level of food waste, by:

(a) permitting students in grades kindergarten through five to have up to twenty minutes of seated lunch time each school day to provide lunch periods that are sufficiently long to give all students adequate time to eat; and

(b) requiring share tables be provided where food service staff, students, and parents may return allowable food; allowable food placed on the share tables that is not taken by a student during the course of a regular school meal period shall be donated to students, food banks, or other nonprofit charitable organizations.

(3) Utilization of New Mexico-grown foods, pursuant to the following:

(a) school food authorities are eligible to receive an incentive grant pursuant to this section to purchase New Mexico-grown, -raised, or -processed products;

(b) participating school food authorities may use the amount received pursuant to this paragraph to support implementation of meal quality improvement requirements;

(c) school food authorities shall use the money received pursuant to this section to purchase New Mexico-grown, -raised, or -processed products, with a minimum of seventy-five percent of funds used to purchase unprocessed and minimally processed products, and with up to twenty-five percent of funds that may be used to purchase value-added processed products;

(d) by August 1 of each year, subject to available appropriations, the department shall distribute to each participating school food authority the greater of one thousand dollars or an amount equal to ten cents multiplied by the number of lunches that qualified for federal free meal reimbursement that the participating school food authority served to students in the preceding school year; and

(e) when calculating the amount of program funding that is due to a school food authority, the department shall assume that student participation will remain at the same level as the previous year.

[6.12.16.8 NMAC – N, 9/24/2024]

#### **6.12.16.9 ANNUAL CERTIFICATION PROCEDURES:**

**A.** Each school food authority that operates the healthy universal school meals program shall submit to the department for approval annual certification documentation.

**B.** Beginning in 2025, the annual certification documentation for the healthy universal school meals program shall be submitted by a date to be determined by the department, and shall include the following components:

- (1) breakfast and lunch menus, productions records, recipes, and food labels for the selected review period, as determined by the department;
- (2) subject to available appropriations, documentation that New Mexico-grown foods were purchased and utilized to improve meal quality;
- (3) documentation that student and family feedback was considered in menu development and recipe improvements; and
- (4) documentation of efforts to minimize food waste.

**C.** The department may contact a school food authority to schedule an on-site visit for monitoring purposes.

[6.12.16.9 NMAC – N, 9/24/2024]

#### **6.12.16.10 FUNDING DISTRIBUTION:**

**A.** The department shall distribute funding to each school food authority that establishes a healthy universal school meals program:

- (1) In school year 2024-2025, the department shall distribute to each such school food authority an amount that is equal to the federal free meal reimbursement rate multiplied by the total number of eligible meals served during the applicable budget year, minus an amount equal to the federal paid meal reimbursement for eligible meal served during the applicable budget year.
- (2) Beginning in school year 2025-2026, to school food authorities that meet meal quality improvement requirements by July 1 each year, the department shall distribute an amount that is equal to the federal free meal reimbursement rate multiplied by the total number of eligible meals served during the applicable budget year, minus an amount equal to the federal paid meal reimbursement for eligible meals served during the applicable budget year.
- (3) Beginning in school year 2025-2026, to school food authorities that do not meet meal quality improvement requirements by July 1 each year, the department shall distribute an amount that is equal to the paid meal rate multiplied by the total number of eligible meals served during the applicable budget year.

**B.** School food authorities shall use funding to purchase commodities necessary to improve meal quality, including food and other consumables, equipment, staffing, labor needs, or training and technical assistance.

[6.12.16.10 NMAC – N, 9/24/2024]

## **CHAPTER 13: PUBLIC SCHOOL ADMINISTRATION - INTERSCHOLASTIC ACTIVITIES**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: INTERSCHOLASTIC ACTIVITIES PROMULGATED BY THE NEW MEXICO ACTIVITIES ASSOCIATION**

#### **6.13.2.1 ISSUING AGENCY:**

Public Education Department.

[10-30-97, 01-15-99, 07-30-99; 6.13.2.1 NMAC - Rn, 6 NMAC 1.2.1.1, 12-29-00; A, 11-13-09]

#### **6.13.2.2 SCOPE:**

This rule governs the process by which rules promulgated by the New Mexico activities association are considered by the public education department for approval or disapproval pursuant to Subsection L of Section 22-2-2 NMSA 1978, and the process for the review of decisions made by the governing board or officials of the New Mexico activities association pursuant to Subsection M of Section 22-2-2 NMSA 1978.

[11-03-95, 10-30-97, 01-15-99; 6.13.2.2 NMAC - Rn, 6 NMAC 1.2.1.2, 12-29-00; A, 11-13-09]

#### **6.13.2.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 and 22-2-2 NMSA 1978.

[11-03-95, 10-30-97, 01-15-99; 6.13.2.3 NMAC - Rn, 6 NMAC 1.2.1.3, 12-29-00; A, 11-13-09]

#### **6.13.2.4 DURATION:**

Permanent.

[10-30-97, 01-15-99, 01-29-99; 6.13.2.4 NMAC - Rn, 6 NMAC 1.2.1.4, 12-29-00]

#### **6.13.2.5 EFFECTIVE DATE:**

October 15, 1997, unless a different date is cited at the end of a section.

**6.13.2.6 OBJECTIVE:**

The purpose of this rule is to set forth the requirements applicable to the regulation of interscholastic activities by the New Mexico activities association.

**A.** The New Mexico activities association may establish rules for the organization, regulation and enforcement of interscholastic activities for its member schools, subject to the approval or disapproval of said rules by the public education department. The public education department, however, shall have no power or control over the rules or regulations or bylaws governing the administration of the internal organization of the New Mexico activities association.

**B.** The rules established by the New Mexico activities association for the organization, regulation and enforcement of interscholastic activities shall support equal educational opportunities for every student.

**C.** The New Mexico activities association shall establish a process for the proposed adoption or amendment of rules by its member schools. A majority vote of eligible member schools affected by the proposed process shall be required before the proposed process is presented to the public education department for approval or disapproval. The public education department may also promulgate its own rules governing interscholastic activities in accordance with the provisions of the Public School Code.

**D.** The New Mexico activities association shall compile all existing rules having been voted upon by the affected member schools and submit them to the public education department for approval or disapproval. All newly proposed rules or amendments to existing rules shall thereafter be submitted to the public education department for approval or disapproval. The public education department will approve or disapprove newly proposed rules or amendments to existing rules within sixty (60) days of receipt. The public education department may, at its sole option and without cause, extend the time period from sixty (60) days to ninety (90) days by providing written notification to the New Mexico activities association within the initial sixty (60) day time period. If the public education department has taken no action on a newly proposed rule or amendment to an existing rule within the specified time period, the rule or amendment will be deemed to be approved. If the public education department disapproves a proposed rule(s) or amendment to an existing rule, the public education department, or its designee(s), will consult with the New Mexico activities association regarding potential alternatives.

**E.** The New Mexico activities association shall provide the public education department with an annual performance and financial audit.

[11-03-95, 10-30-97, 01-15-99; 6.13.2.6 NMAC - Rn, 6 NMAC 1.2.1.6, 12-29-00; A, 11-13-09]

#### **6.13.2.7 DEFINITIONS:**

**[RESERVED]**

[01-15-99; 6.13.2.7 NMAC - Rn, 6 NMAC 1.2.1.7, 12-29-00]

#### **6.13.2.8 REQUIREMENTS:**

The following requirements apply to the state administrative review of decisions of the New Mexico activities association:

**A.** A decision of the New Mexico activities association, in which a party is aggrieved, may be appealed to the secretary of public education or his/her designee after all New Mexico activities association grievance and appeal procedures have been followed.

**B.** All requests for state administrative review shall be made in writing to the secretary of public education and be filed with his/her office within fifteen (15) days of the date of mailing of the decision of the New Mexico activities association's review authority. Filing shall be accomplished when the request for state administrative review is received in the office of the secretary of public education. The aggrieved party shall further send a copy of the request for state administrative review to the executive director of the New Mexico activities association.

**C.** The request for state administrative review shall be signed by the aggrieved party or his/her designated representative and shall state specifically the questions raised before the New Mexico activities association's review authority which the secretary of public education is requested to review with reference to the applicable rules of the New Mexico activities association.

**D.** Within five (5) calendar days of the receipt of the copy of the request for state administrative review, the executive director of the New Mexico activities association shall send to the secretary of public education by certified mail the decision of the New Mexico activities association's review authority, the record of the hearing before the review authority, including any exhibits admitted into evidence before the review authority, and the document evidencing the date on which the decision of the review authority was mailed to the aggrieved party.

**E.** Upon receipt of the record from the executive director of the New Mexico activities association, the secretary of public education shall appoint a hearing officer and administrative review panel to review the decision of the New Mexico activities association. The hearing officer and administrative review panel shall consist of employees of the public education department knowledgeable about the practices and

procedures of the New Mexico activities association who can discharge their responsibilities in a fair, reasonable and unbiased manner.

**F.** The state administrative review panel and its hearing officer shall provide a recommended decision, including recommended findings and the basis for such findings, to the secretary of public education within twenty-five (25) calendar days of the filing of the request for state administrative review.

**G.** The review by the secretary of public education or his/her designee(s) shall be on the record and shall be limited to the questions raised in the hearing before the New Mexico activities association's review authority and set forth in the request for state administrative review.

**H.** The secretary of public education shall issue a written decision, including findings of fact and the basis for such findings, within thirty (30) calendar days of the filing of the request for state administrative review, unless such time is extended by the secretary of public education for good cause. Such written decision shall be sent to the parties by certified mail.

[11-03-95, 01-15-99; 6.13.2.8 NMAC - Rn, 6 NMAC 1.2.1.8, 12-29-00; A, 11-13-09]

#### **6.13.2.9 ISSUING AUTHORITY:**

**A.** Interscholastic activities are an integral and essential component of New Mexico youth, and the curricula within New Mexico schools. In order to provide such opportunities for students, these activities must be organized, supervised and regulated in a fair, open and consistent manner. Effective programs require that the public education department and the New Mexico activities association work in a cooperative and supportive partnership for the benefit of students. The purpose of this rule is to establish a procedure by which the public education department and the New Mexico activities association can accomplish their respective roles in the regulation of interscholastic activities.

**B.** A copy of this rule, which should be identified as a public education department rule, shall be included by the New Mexico activities association as part of its public education department approved rules. Any rule or regulation of the New Mexico activities association in conflict with this rule is hereby invalidated in accordance with the provisions of the Public School Code.

[11-03-95; 01-15-99; 6.13.2.9 NMAC - Rn, 6 NMAC 1.2.1.9, 12-29-00; A, 11-13-09]

### **PART 3: INTERSCHOLASTIC STUDENT ACTIVITIES [REPEALED]**

[This part was repealed on November 13, 2009]

### **PART 4: GOVERNING PARTICIPATION IN INTERSCHOLASTIC SPORTS**



**6.13.4.1 ISSUING AGENCY:**

Public Education Department.

[01-29-99, 07-30-99; 6.13.4.1 NMAC - Rn, 6 NMAC 1.2.3.1, 12-29-00; A, 11-13-09]

**6.13.4.2 SCOPE:**

This rule applies to school districts and charter schools.

[01-29-99; 6.13.4.2 NMAC - Rn, 6 NMAC 1.2.3.2, 12-29-00; A, 11-13-09]

**6.13.4.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1, 22-2-2 NMSA 1978, the School Athletics Equity Act [22-31-1 to 22-31-6 NMSA 1978], and 20 U.S. Code 1681, et seq.

[01-29-99; 6.13.4.3 NMAC - Rn, 6 NMAC 1.2.3.3, 12-29-00; A, 11-13-09]

**6.13.4.4 DURATION:**

Permanent.

[01-29-99; 6.13.4.4 NMAC - Rn, 6 NMAC 1.2.3.4, 12-29-00]

**6.13.4.5 EFFECTIVE DATE:**

January 29, 1999, unless a later date is cited at the end of a section.

[01-29-99; 6.13.4.5 NMAC - Rn, 6 NMAC 1.2.3.5, 12-29-00]

**6.13.4.6 OBJECTIVE:**

The purpose of this rule is to prohibit discrimination on the basis of gender in interscholastic sports.

[01-29-99; 6.13.4.6 NMAC - Rn, 6 NMAC 1.2.3.6, 12-29-00; A, 11-13-09]

**6.13.4.7 DEFINITIONS:**

**A. "Department"** means the public education department.

**B. "School Athletics Equity Act"** means a state law enacted to require annual data collection and reporting to ensure that any public school operating an athletics program for grades seven through twelve shall do so in a manner that does not discriminate against students or staff on the basis of gender.

**C. "Title 9"** means federal Public Law 92-318, Title 9 of the Education Amendments of 1972 which is codified at 20 U.S. Code 1681, et seq.

[01-29-99; 6.13.4.7 NMAC - Rn, 6 NMAC 1.2.3.7, 12-29-00; A, 11-13-09]

#### **6.13.4.8 REQUIREMENTS:**

**A.** No officer, agent or employee of any local school board, school district or charter school shall subject any person to discrimination based on gender in any interscholastic sport. Nor shall any public school operate its interscholastic program in a manner that discriminates against students or staff on the basis of gender.

**B.** School districts and charter schools shall provide comparable athletic opportunity in interscholastic sports for both genders. Each school district and charter school has the option of prohibiting participation by both genders on the same team, where comparable or separate athletic opportunity exists for both genders. Comparable athletic opportunity exists only where a good faith effort is made so that teams are provided with comparable facilities, equipment, supplies, game and practice schedules, travel and per diem allowances, coaching (including assignment and compensation of coaches), academic tutoring, housing, dining facilities and publicity.

**C.** All school districts and charter schools shall designate at least one Title 9 coordinator whose name, title, school address and telephone number shall be prominently displayed on the district's or charter school's website and in school publications and handbooks. A Title 9 coordinator shall at a minimum have the following responsibilities:

- (1) to receive and process complaints and inquiries related to Title 9;
- (2) to make recommendations to the school administration on best practices for avoiding and correcting sex discrimination in school athletics programs;
- (3) to carry out the local school's athletic non-discrimination policy; and
- (4) to enforce corrective measures to comply with Title 9 after an adjudication or determination of non-compliance.

**D.** In determining comparable athletic opportunity, each public school that has an athletics program for grades seven through twelve shall undertake self-evaluation and continuing reappraisal of student needs as determined by the total educational program. To assist in the self-evaluation, each public school that has an athletics program for grades seven through twelve shall report the following data to the department;

- (1) Beginning August 31, 2011 and each year thereafter no later than August 31st, the following data shall be submitted to the department in a format required by the department:

**(a)** the following information pertaining to enrollment:

- (i)** the total enrollment in each public school as an average of enrollment at the eightieth and one hundred twentieth days of the school year;
- (ii)** student enrollment by gender;
- (iii)** total number of students participating in athletics;
- (iv)** athletics participation by gender; and
- (v)** the number of boys' teams and girls' teams by sport and by competition level;

**(b)** the following information pertaining to athletic directors, coaches and other school personnel:

- (i)** the name and gender of each public school's athletic director;
- (ii)** the name of each team's coaches and other team personnel, with their gender, job title and employment status, such as full-time, part-time, contract or seasonal, specified;
- (iii)** the coach-to-athlete and staff-to-athlete ratio for each team; and
- (iv)** the stipend or other compensation for coaching paid to coaches of boys' teams and to coaches of girls' teams for each public school.

**(2)** Beginning August 31, 2012 and each year thereafter no later than August 31st, the following data shall be submitted to the department in a format required by the department:

**(a)** an accounting of the funding sources that are used to support the school's athletics programs and to which teams those funds are allocated funding sources include;

- (i)** state funding;
- (ii)** federal funding;
- (iii)** fund raising or booster clubs;
- (iv)** game and concession receipts;
- (v)** gate receipts;;

(vi) cash or in-kind donations;

(vii) grants; and

(viii) any other sources;

(b) the following information regarding expenditures;

(i) any capital outlay expenditures for each public school's athletics programs;

(ii) the expenditures for each public school's athletics programs; and

(iii) the expenditures of individual teams, including travel expenses such as transportation, meal allowances and overnight accommodations; equipment; uniforms; facilities; facilities improvements; publicity expenses; awards; banquets; insurance; and other expenses incurred by each team;

(c) a statement of benefits and services to each team.

E. Each public school shall:

(1) make the above referenced data available to the public including all materials relied upon to compile the data;

(2) at least annually inform all students attending their school of their right to review the data;

(3) maintain in a retrievable form its data and all materials relied upon to complete the data for at least three years;

(4) annually publish its data in a newspaper of general circulation in the state or make the data available on its publicly accessible website; and

(5) no later than August 31st of each year submit an assurance of compliance with Title 9 to its local school board or governing body and provide a copy to the department.

F. The department shall publish and submit an annual report to the governor and legislature including the following information:

(1) each public school's data;

(2) a list of public schools that did not submit fully completed data;

(3) a list of public school that fail to submit the assurance of compliance with Title 9; and

(4) recommendations on how to increase gender equity in athletics in public schools.

[01-29-99; 6.13.4.8 NMAC - Rn, 6 NMAC 1.2.3.8, 12-29-00; A, 11-13-09]

## **CHAPTER 14-18: [RESERVED]**

## **CHAPTER 19: PUBLIC SCHOOL ACCOUNTABILITY**

### **PART 1: GENERAL PROVISIONS [REPEALED]**

[This part was repealed, effective December 31, 2018]

### **PART 2: PUBLIC SCHOOL ACCOUNTABILITY SYSTEM FOR SCHOOLS RATED PROBATIONARY [REPEALED]**

[This part was repealed on November 13, 2009]

### **PART 3: UNSAFE SCHOOL CHOICE OPTION**

#### **6.19.3.1 ISSUING AGENCY:**

Public Education Department.

[6.19.3.1 NMAC - N, 08-31-04]

#### **6.19.3.2 SCOPE:**

This rule applies to all school districts and public schools, including charter schools.

[6.19.3.2 NMAC - N, 08-31-04]

#### **6.19.3.3 STATUTORY AUTHORITY:**

Subsection B of Section 22-2-1, NMSA 1978 and Section 9532 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001.

[6.19.3.3 NMAC - N, 08-31-04]

#### **6.19.3.4 DURATION:**

Permanent.

[6.19.3.4 NMAC - N, 08-31-04]

**6.19.3.5 EFFECTIVE DATE:**

August 31, 2004, unless a later date is cited at the end of a section.

[6.19.3.5 NMAC - N, 08-31-04]

**6.19.3.6 OBJECTIVE:**

The rule establishes the definitions and requirements to implement the mandate of the No Child Left Behind Act that a student attending a persistently dangerous school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of a public school that the student attends, to be allowed to attend a safe public school within the school district, including a public charter school.

[6.19.3.6 NMAC - N, 08-31-04]

**6.19.3.7 DEFINITIONS:**

**A. "Safe public school"** means a school that has developed and successfully implemented a public education department ("department") approved safe schools plan and does not meet the definition of a persistently dangerous school.

**B. "Persistently dangerous public school"** means a school, in which for three (3) consecutive school years, the school has experienced expulsions for greater than five percent (5%) of the student enrollment for incidents reported in the school district's "safe schools report," as required by Section 22-10A-33, NMSA 1978, under the violence and vandalism codes and definitions - violence codes 01 through 06 "assault and battery," and has expelled one or more student (s) for knowingly bringing a weapon to school in violation of Section 22-5-4.7, NMSA 1978, and/or any policy of the district implementing this provision (violence and vandalism codes and definitions - firearms possession codes 61 through 63).

**C. "Timely implementation"** means:

**(1)** that parents and guardians of each student attending the school shall be notified within ten (10) school days from the time that the district has been notified by the department that the school has been designated as persistently dangerous and that students are offered the opportunity to transfer to a safe public school, including a safe public charter school, within the district;

(2) that a student who is a victim of a violent criminal offense shall be offered the opportunity to transfer to a safe public school, including a safe public charter school, within the district within ten (10) calendar days, subject to space availability.

(3) that the corrective action plan shall be developed and implemented within twenty (20) school days from the time that the district has been notified by the department that the school has been designated as persistently dangerous; and

(4) that transfers of students shall be within thirty (30) school days after the district is notified that the school has been designated as persistently dangerous and/or after a student has become a victim of a violent criminal offense.

**D. "Corrective action plan"** means a written document that explains what changes/new actions will be taken at the school to ensure that the school will become a safe public school.

**E. "Violent criminal offenses"** mean the following offenses when committed against a student while in or on the grounds of a public school that the student attends:

(1) Criminal sexual penetration in the first degree, as provided in Subsection C of Section 30-9-11, NMSA 1978; or

(2) Criminal sexual penetration in the second degree, as provided in Subsection D of Section 30-9-11, NMSA 1978; or

(3) Kidnapping, as provided in Section 30-4-1, NMSA 1978; or

(4) Aggravated battery, as provided in Subsection C of Section 30-3-5, NMSA 1978; or

(5) Assault with the intent to commit a violent felony, as provided in Section 30-3-3, NMSA 1978; or

(6) Dangerous use of explosives, as provided in Section 30-7-5, NMSA 1978; or

(7) Robbery, as provided in Section 30-16-2, NMSA 1978; or

(8) Aggravated burglary, as provided in Section 30-16-4, NMSA 1978; or

(9) Aggravated arson, as provided in Section 30-17-6, NMSA 1978.

[6.19.3.7 NMAC - N, 08-31-04]

#### **6.19.3.8 IMPLEMENTATION:**

**A. Identifying persistently dangerous schools:** The department is responsible for identifying persistently dangerous schools in New Mexico, will utilize the criteria described above for this purpose and will send an annual report of persistently dangerous schools to the United State department of education.

**(1)** The district shall send the department the persistently dangerous school corrective action plan (s) for approval within twenty (20) school days from the date that the district has been notified by the department that the school has been designated as persistently dangerous.

**(2)** The district shall identify appropriate state and local funds to be used to help implement corrective action plans.

**(3)** The department shall annually review relevant data and corrective action plans that have been approved to reassess the status of public schools identified as persistently dangerous.

**B. Providing a safe public school choice option to students attending persistently dangerous schools:** A school district having one or more public schools identified as persistently dangerous shall:

**(1)** Within ten (10) school days from the date that the district has been notified by the department that the school has been designated as persistently dangerous, notify the parents or guardians of each student attending the school that the school has been identified as persistently dangerous and simultaneously offer all students the opportunity to transfer to a safe public school, including a safe public charter school, within the school district that is making adequate yearly progress (AYP) and that has not been identified as being in school improvement, corrective action, or restructuring. A student who seeks to transfer to a charter school within the district may do so, subject to the Charter Schools Act, the department's rules, and/or federal guidelines and restrictions.

**(2)** Complete the transfer (s) within thirty (30) school days after the district is notified that the school has been designated as persistently dangerous for the student (s) who accept the offer. Transfers may be temporary or permanent, but will be in effect as long as the student's original school is identified as persistently dangerous.

**(3)** Develop and implement a corrective action plan within twenty (20) school days from the time that the department has notified the district that the school has been designated as persistently dangerous.

**C. Providing a safe public school choice option to students who have been victims of a violent criminal offense:** A school district shall:

**(1)** Within ten (10) school days from the date a student has become the victim of a violent criminal offense while in or on the grounds of a public school that the



student attends, offer a student the opportunity to transfer to a safe public school, including a safe public charter school, within the school district that is making adequate yearly progress (AYP) and that has not been identified as being in school improvement, corrective action, or restructuring. A student who seeks to transfer to a charter school within the district may do so, subject to the Charter Schools Act, the department's rules, and/or federal guidelines and restrictions.

**(2)** Complete the transfer within thirty (30) school days of the criminal incident. Transfers may be temporary or permanent, but will be in effect until such time as the parents of the victim and the school determine a permanent placement of the student.

[6.19.3.8 NMAC - N, 08-31-04]

## **PART 4: ACCREDITATION PROCEDURES**

### **6.19.4.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.19.4.1 NMAC - N, 7/1/2024]

### **6.19.4.2 SCOPE:**

This rule applies to all school districts, charter schools, the educational programs of state institutions, bureau of Indian education (BIE) schools, and private schools.

[6.19.4.2 NMAC - N, 7/1/2024]

### **6.19.4.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 12-6-1, et seq., 22-1-11, 22-2-1, 22-2-2.1, 22-2-2, 22-2-8.1, 22-2-14, 22-4-3, 22-5-4.13, 22-5-13, 22-8-6, 22-8-11, 22-8-13, 22-8-13.1, 22-8B-5, 22-8B-12.2, 22-8-19, 22-13-1, 22-13-14, 22-23A-7, and 24-5-4 NMSA 1978, and Section 1111(c)(4)(E) of the federal Every Student Succeeds Act.

[6.19.4.3 NMAC - N, 7/1/2024]

### **6.19.4.4 DURATION:**

Permanent.

[6.19.4.4 NMAC - N, 7/1/2024]

### **6.19.4.5 EFFECTIVE DATE:**

July 1, 2024, unless a later date is cited at the end of a section.

[6.19.4.5 NMAC - N, 7/1/2024]

#### **6.19.4.6 OBJECTIVE:**

This rule establishes procedures for accreditation of all school districts and public schools, and for the accreditation of the education programs of all state institutions except the New Mexico military institute. This rule also establishes procedures for the accreditation of private schools choosing to seek state accreditation and BIE schools choosing to seek state accreditation and establishes requirements for reporting to the department by private schools not choosing to seek state accreditation and BIE schools not choosing to seek state accreditation. This rule includes procedures for department approval of accrediting entities. For all schools within its scope, this rule outlines the consequences of failure to submit required reports to the department and the consequences of disapproval accreditation status.

[6.19.4.6 NMAC - N, 7/1/2024]

#### **6.19.4.7 DEFINITIONS:**

**A. "Accreditation status"** means either approval or disapproval by the secretary of the adequacy and functionality of an educational program. Public schools other than locally chartered charter schools shall be designated with the annual accreditation status of their LEA unless otherwise determined by the secretary.

**B. "Accrediting entity"** means an organization capable of evaluating the quality of an educational program pursuant to this rule.

**C. "Attendance improvement plan"** means a tiered, data-informed system for public schools and school districts to identify students who are chronically or excessively absent and to aid public schools in developing whole-school prevention strategies and targeted interventions, as defined in Section 22-12A-2 NMSA 1978.

**D. "Bureau of Indian education school" or "BIE school"** means a school that is funded by the bureau of Indian education, located in New Mexico, provides instruction for first through twelfth grades, and is not sectarian or denominational, and includes schools that are tribally controlled.

**E. "Days"** means, unless otherwise specified in a provision in this rule or applicable statute, business days when the period referenced is 10 days or less, and calendar days when the period referenced is 11 days or more. In computing the number of days, exclude the day of the event that triggers the period, and include the last day of the period. If the last day is a day when the department is closed, the period continues to run until the end of the next business day that the department is not closed. Whenever a person or entity shall act under this rule within a prescribed period after service of a notice or paper upon the person or entity, and the notice or paper is served by mail or courier service, three calendar days are added to the prescribed period.

**F. "Educational program"** means a program that provides for the education of school-age persons in state institutions, public, nonpublic, or BIE schools.

**G. "Evidence-based practices"** means activities, strategies, and interventions informed and supported by rigorous research that demonstrate consistent, positive impacts on student outcomes, and may include practices that are supported by strong, moderate, promising, or rationale-demonstrating evidence.

**H. "Historically defined Indian-impacted"** means a school district or a charter school that:

(1) serves at least 175 American Indian or Alaska Native students and is located wholly or partially on tribal land;

(2) identified at least ten percent of its overall student population as American Indian or Alaska Native and is located wholly or partially on tribal land; or

(3) identifies at least forty-five percent of its overall student population as American Indian or Alaska Native.

**I. "Local Education Agency" or "LEA"** means a school district or state-chartered charter school.

**J. "Nonpublic school or private school"** means a school, other than a home school, that offers programs of instruction and is not under the control, supervision, or management of a local school board or a charter school governing body.

**K. "School index score"** means the total score a school earns on all required measures as defined by the department according to the state's system for annual meaningful differentiation detailed in the state's ESSA plan.

**L. "Secretary"** means the secretary of the department.

**M. "State accreditation"** means approval by the secretary of an educational program's adequacy of student outcomes and activities, organizational effectiveness, staff preparation, and other educational matters, as determined by the department. State accreditation of a nonpublic or BIE school means recognition by the department that the school meets standards set by an accrediting entity recognized by the department and has submitted required reports to the department.

**N. "State institution"** means any state agency except the New Mexico military institute that is responsible for educating resident school-age persons, including the New Mexico school for the blind and visually impaired and the New Mexico school for the deaf.

#### **6.19.4.8 PUBLIC SCHOOL ANNUAL ACCREDITATION REVIEW:**

Public school districts, public schools, and educational programs of state institutions shall report information to the department pursuant to Subsection I of Section 22-2-2 NMSA 1978. The quality and content of required reports and of the educational programs represented by the reports will be evaluated by the department for approval or disapproval accreditation status. Pursuant to Subsection F of Section 22-2-2 NMSA 1978, the secretary's accreditation decision is based upon evidence of the adequacy of student outcomes and activities, organizational effectiveness, staff preparation, and other educational matters such as factors contributing to school index scores. Local school districts, charter schools, and educational programs of state institutions shall follow department guidance in submitting satisfactory reports.

**A.** Annual accreditation review requirements. Local school districts, charter schools, and state institutions shall provide reports to the department, either via the statewide data reporting system or by another method prescribed by the department, of the following requirements:

(1) Board training. Local school districts and charter schools shall submit a report of the training completed in the current fiscal year by each member of the school board as required by Sections 22-5-13 NMSA 1978 or by each member of the charter school governing body as required by Section 22-8B-5.1 NMSA 1978, with the number of hours of training in each area as required by Paragraph (3) of Subsection A of 6.29.1.9 NMAC and Sections 8 and 9 of 6.80.5 NMAC.

(2) Financial audit. Local school districts, charter schools, and state institutions shall submit a report of the previous fiscal year's financial audit. The report shall include the date the audit was submitted as established in Paragraph (1) of Subsection A of 2.2.2.9 NMAC.

(3) Program plans, budget, and actual expenditures. Local school districts and charter schools shall:

(a) update and submit by a department-assigned due date district-level plans, and, as applicable, all school-level plans pursuant to Section 22-8-6 NMSA 1978 and 6.29.1 NMAC;

(b) update and submit an operating budget that is complete by the department-assigned due date. The budget shall prioritize resources toward proven programs and methods that are linked to improved student achievement and demonstrate parental involvement in the budgeting process, pursuant to Sections 22-8-10 and 22-8-11, NMSA 1978;

(c) budget into the department-directed funding codes at least as much funding for special education, gifted education, and at-risk programs as revenue

generated by the corresponding program units, pursuant to Paragraph 2 of Subsection B of Section 22-8-11 NMSA 1978;

(d) ensure that each program generating program units in an operating budget shall meet the requirements of law and the department's rules and procedures, pursuant to Paragraph 2 of Subsection B of Section 22-8-11 NMSA 1978; and

(d) report actual expenditures for each school, pursuant to Subsection F of Section 22-2C-11 NMSA 1978.

(4) School enrollment. Via the statewide data system, local school districts and charter schools shall submit data for each school pursuant to Section 22-8-13 NMSA 1978.

(5) School accountability data. Local school districts and charter schools shall submit to the department student assessment data required by Section 22-2C-11 NMSA 1978 and longitudinal accountability data required by Subsection K of Section 22-1-11 NMSA 1978.

(6) Attendance improvement. Local school districts and charter schools shall submit reports of attendance improvement and absence prevention strategies for each school, including attendance improvement plans submitted to the department no later than 45 days after the beginning of the school year pursuant to Section 22-12A-7 NMSA 1978 of the attendance for success act.

(7) School safety plans. Local school districts and charter schools shall submit school safety plans by the department-determined due date and on a three-year cycle as required in 6.12.6.8 NMAC.

(8) Postsecondary plans. Local school districts, charter schools, and state institutions shall submit to the department a report of all students in grades eight through 12 at each school who have on file a new or updated, complete, and signed individualized next step plan, pursuant to Section 22-13-1.1 NMSA 1978 or an updated individual education plan (IEP) or gifted individual education plan (GIEP) with transition plan that meets next step plan requirements.

(9) Class loads, caseloads, and subjects of instruction. Local school districts, charter schools, and state institutions shall report class loads, caseloads, and instructional subject areas for each school. Charter schools may cite in their report a current, nondiscretionary waiver of department requirements for class load, teaching load, staffing patterns, and subject areas pursuant to Section 22-8B-5 NMSA 1978.

(a) Class loads. The report of the number of students in general education classrooms shall include: the class load for each elementary school teacher and, where applicable, indication of the support of educational assistants; for each school, the average class load for classrooms in grades one, two, and three; for each school the

average class load for classrooms in grades four, five, and six; the daily teaching load for teachers in grades seven through 12, indicating those teaching required English courses; and any conditions supporting a request for waiver of class load requirements, pursuant to Subsection G of Section 22-10A-20 NMSA 1978 and Subsection H of 6.29.1.9 NMAC.

(b) Caseloads. The report shall include the student caseloads of school staff providing instruction or services required of students' individualized education programs (IEPs) and gifted individualized education programs (GIEPs), categorized by level of service pursuant to Subsection I of 6.29.1.9 NMAC.

(c) Counselors. The report shall include the staff-to-student ratios, caseloads, and licensure types for school counselors at each school.

(d) Subject areas. The report shall include the instructional subject areas provided at each school, addressing department-approved content and performance standards. A school or school district failing to meet these minimum requirements shall not receive approved accreditation status. Reports for grades nine through 12 shall include all credit-earning courses that are required or may contribute to student graduation requirements as provided for in Section 22-13-1.1 NMSA 1978, including those that are advanced placement, international baccalaureate, honors, or dual credit courses, and credits earned in the process of completing an industry-recognized credential, certificate, or degree. An assurance that final examinations are administered as part of all credit-earning courses in grades nine through 12 shall accompany the report of instructional subject areas. Reports for kindergarten through grade eight shall include all required instructional areas of Section 22-13-1 NMSA 1978:

<b>Table 1 Required instructional subject areas in grades K-8</b>	
Grades	Subjects
K-3	daily instruction in mathematics, reading, and language arts skills, including phonemic awareness, phonics, and comprehension
1-3	art music a language other than English science mathematics reading and language arts, including structured literacy instruction social studies physical education health education
4-8	reading and language arts skills, with an emphasis on writing and editing for at least one year and an emphasis on grammar and writing for at least one year mathematics reading and language arts, including structured literacy instruction language other than English

	communication skills science art music social studies New Mexico history United States history geography physical education health education electives that contribute to academic growth and skill development and that provide career and technical education.
8	algebra 1 shall be offered in general education classroom settings, online, or by agreement with high schools
6-8	media literacy may be offered as an elective

(10) Tribal consultation, tribal education status reports, student needs assessments.

(a) Local school districts with tribal lands in their boundaries shall include in the report the districtwide tribal education status report provided to tribes and evidence of tribal consultation pursuant to Section 22-23A-7 NMSA 1978 and 6.35.2.13 NMAC;

(b) Historically defined Indian-impacted local school districts and charter schools shall include in the report the most recent student needs assessment, systemic framework, accountability tool, annual evaluation of the systemic framework, any requests to amend the systemic framework or accountability tool, and the public statement as required by Sections 11 and 12 of 6.35.2 NMAC.

(c) Local school districts contemplating opening or closing a school on tribal land for any reason shall include in the report evidence of consultation with tribal leaders and members and families of students who will be eligible to attend the public school pursuant to Section 22-5-4.13 NMSA 1978.

(d) Charter schools contemplating opening or closing a school on tribal land for any reason shall include in the report evidence of negotiation with the tribal government and consultation with leaders, and members and families of students who will be eligible to attend the public school pursuant to Section 22-8B-12.2 NMSA 1978.

(e) A school district or charter school that is required under federal law to consult with tribal entities as a condition of receiving impact aid funds shall include in its report the detailed narrative of its consultations with tribal entities and the results of those consultations as reported in the education plan pursuant to Section 22-8-6 NMSA 1978.

**B.** Citation of any current waivers of educational program requirements shall accompany reports.

[6.19.4.8 NMAC - N, 7/1/2024]

#### **6.19.4.9 ACCREDITATION OF NONPUBLIC AND BIE SCHOOLS:**

**A.** Nonpublic schools choosing to seek state accreditation and BIE schools choosing to seek state accreditation shall obtain and maintain accreditation from one of the accrediting entities approved by the department. The school's accreditation status conferred by the approved accrediting entity shall satisfy the requirement of Paragraph (1) of Subsection B of this section unless the entity's approval is later suspended, limited, or terminated by the department or unless the school's accreditation status is suspended, limited, or terminated by its own accrediting entity.

**B.** Annual report to ensure the health and safety of New Mexico children. All nonpublic and BIE schools shall submit an annual report, whether choosing to seek state accreditation or not choosing to seek state accreditation. On a date set by the department and in a method prescribed by the department, nonpublic and BIE schools shall update and submit the following information to the department:

- (1) the current accreditation status and schedule for reaccreditation by a department-approved accrediting entity if applicable;
- (2) a report of immunization status records pursuant to Section 24-5-4 NMSA 1978;
- (3) a report of the completion of required emergency drills, pursuant to Section 22-13-14 NMSA 1978;
- (4) a report of attendance pursuant to Subsection I of Section 22-2-2 NMSA 1978; and
- (5) the school's current attendance policy enforcing Sections 22-12A-1 through 22-12A-14 NMSA 1978, the Attendance for Success Act, pursuant to Section 22-12A-6 NMSA 1978.

**C.** For nonpublic schools choosing to seek state accreditation and BIE schools choosing to seek state accreditation, approval accreditation status shall be based on review of the completeness and sufficiency of the annual report described in Subsection B of this section.

**D.** The department may observe the operation of a nonpublic school choosing to seek state accreditation or BIE school choosing to seek state accreditation.



**E.** Any accrediting entity seeking approval by the department shall contact the department by written inquiry and provide information requested by the department demonstrating the accrediting entity's:

- (1) capacity to evaluate a school under set, rigorous standards;
- (2) reliance on accreditation standards for evidence-based educational practices that facilitate student academic achievement;
- (3) success outside the state of New Mexico, if any, as an accrediting agency;
- (4) policy and procedures for sharing educational research data and results, academic standards, and school-specific accreditation reports with the department;
- (5) use of peer evaluation and periodic site visits to assess whether a nonpublic school meets that entity's standards and continues to meet those standards;
- (6) collection of documentation to verify that a nonpublic school meets and continues to meet that entity's standards; and
- (7) authority to suspend, limit, or terminate its accreditation of a school.

[6.19.4.9 NMAC - N, 7/1/2024]

#### **6.19.4.10 ANNUAL ACCREDITATION CYCLE:**

Before the end of each fiscal year, school districts, charter schools, state institutions, and those nonpublic schools choosing to seek state accreditation and BIE schools choosing to seek state accreditation shall submit all required reports for accreditation.

**A.** The secretary shall determine the accreditation status of school districts, public schools, educational programs of state institutions, and any nonpublic schools or BIE schools seeking accreditation.

**B.** A school district's or school's accreditation status will remain in effect until the next determination has been made by the secretary.

[6.19.4.10 NMAC - N, 7/1/2024]

#### **6.19.4.11 ADMINISTRATIVE APPEAL HEARING PROCEDURES:**

A school district, charter school, nonpublic school, or BIE school may request a hearing with regard to the determination of its accreditation status within 30 days of its issuance.

**A.** A hearing shall be held within 30 days of the date the secretary receives the request to convene the hearing.

**B.** The local school board, charter school governing body, or governing body of a nonpublic or BIE school subject to disapproval accreditation status may submit to the secretary along with the request for hearing a written statement explaining why the school should receive approval accreditation status.

(1) The written statement shall address only the cause or causes for disapproval specified in the notice and the reasons for opposing the decision, which, for public schools, shall address the factors outlined in Section 8 of this rule, and for nonpublic or BIE schools, shall address the factors outlined in Section 9 of this rule.

(2) The written statement shall be submitted to the department's office of general counsel.

**C.** Only matters relevant to the contents of notice of disapproval accreditation status and the statement from the local school board, charter school governing body, or governing body of a nonpublic or BIE school required by this section may be raised at the hearing.

**D.** The secretary or hearing officer may have the department's legal counsel and other department staff present at the hearing and may seek their advice at any time.

**E.** The rules of evidence and rules of civil procedure shall not apply to the hearing.

**F.** The hearing shall be presided over by the secretary, or a hearing officer designated by the secretary, and shall be open to the public. A hearing officer shall, within 30 days after the hearing, or sooner if requested by the secretary, submit a recommended decision to the secretary.

**G.** The secretary or hearing officer shall open the hearing by presenting a summary of the reasons for the disapproval accreditation status.

**H.** The local school board, charter school governing body, or governing body of a nonpublic or BIE school shall then commence a presentation to show why the secretary should not issue disapproval accreditation status.

**I.** The local school board, charter school governing body, or governing body of a nonpublic or BIE school may present witnesses and introduce documentary evidence to rebut the secretary's rationale for issuing disapproval accreditation status. The local school board's, charter school governing body's, or nonpublic or BIE school governing body's presentation and witnesses may be subject to objection or cross-examination. The department may also present witnesses and introduce documentary evidence related to the disapproval accreditation status. The department's presentation and witnesses may also be subject to objection or cross-examination.

**J.** The secretary or hearing officer may question department staff or the local school board, charter school governing body, or governing body of a nonpublic or BIE school

subject to the accreditation decision regarding the causes for the disapproval and the reasons stated by the recipient for opposing the decision. The local school board, charter school governing body, or governing body of a nonpublic or BIE school may also question the department's witnesses regarding the causes for the decision and the reasons stated by the recipient for opposing the disapproval.

**K.** The secretary or hearing officer may question witnesses and rule on admission of testimony or documentary evidence, including exercising discretion to exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence.

**L.** The secretary shall retain, modify, or withdraw the disapproval accreditation status within 10 days after the date of submission of the hearing officer's recommended decision.

(1) The secretary's decision shall be in writing and delivered to the local school board, charter school governing body, or governing body of a nonpublic or BIE school subject to the accreditation decision.

(2) The secretary's written decision shall provide reasons for the decision.

(3) The decision may be delivered by physical or electronic mail to the address or email address of the recipient of disapproval accreditation status.

**M.** The local school board, charter school governing body, or governing body of a nonpublic or BIE school subject to the accreditation decision may waive the timelines provided in this rule by submitting such waiver to the secretary in writing and signed by a person with authority to make the submission.

**N.** An administrative record shall be made, including a record of the proceedings, which may be an audio recording. Payment may be required for receipt of the administrative record.

**O.** The matter may be settled by the parties at any time prior to the conclusion of the hearing. Any such agreement shall address the timelines provided in this rule and shall be included in the administrative record.

[6.19.4.11 NMAC - N, 7/1/2024]

#### **6.19.4.12 CONSEQUENCES OF PUBLIC SCHOOL DISAPPROVAL ACCREDITATION STATUS:**

**A.** A local school district or public school that has received disapproval accreditation status shall not operate a school-based early childhood education program, pursuant to Subsection B of Section 22-8-19.1 NMSA 1978.

**B.** In addition to conferring disapproval accreditation status upon a local school district, a local school district's school or educational program of a state institution, the department may:

- (1) require a locally developed plan to correct the organizational or programmatic deficiencies contributing to disapproval;
- (2) direct the organizational and educational program planning of the local school district or a local school district's school;
- (3) suspend from authority and responsibility the school board, superintendent, or school principal pursuant to Section 22-2-14 NMSA 1978;
- (4) bring action in the district court for an order of consolidation of school districts, pursuant to Section 22-4-3 NMSA 1978;
- (5) close the local school district's school; or
- (6) execute other remedies in the public school code that may be appropriate.

**C.** In addition to conferring disapproval accreditation status upon a state-chartered or locally chartered school, the department may:

- (1) suspend the principal from authority or responsibility pursuant to Section 22-2-14 NMSA 1978;
- (2) notify a charter school's authorizer for purposes of the suspension, revocation, or non-renewal of the charter of a state-chartered or locally chartered school by the authorizer, as provided for in Paragraph (5) of Subsection K of Section 22-8B-12 NMSA 1978; or
- (3) execute other remedies in the public school code that may be appropriate.

[6.19.4.12 NMAC - N, 7/1/2024]

## **PART 5: STUDENT IDENTIFICATION SYSTEM AND ACCOUNTABILITY DATA SYSTEM: SECURITY MEASURES**

### **6.19.5.1 ISSUING AGENCY:**

Public Education Department.

[6.19.5.1 NMAC - N, 12-30-04]

### **6.19.5.2 SCOPE:**

This rule applies to all school districts and public schools, including charter schools.

[6.19.5.2 NMAC - N, 12-30-04]

**6.19.5.3 STATUTORY AUTHORITY:**

Paragraph (1) of Subsection B of Section 22-2-1, Paragraph (1) of Subsection A of Section 22-2C-11, and Subsection I of Section 22-2C-11 NMSA 1978

[6.19.5.3 NMAC - N, 12-30-04]

**6.19.5.4 DURATION:**

Permanent.

[6.19.5.4 NMAC - N, 12-30-04]

**6.19.5.5 EFFECTIVE DATE:**

December 30, 2004, unless a later date is cited at the end of a section.

[6.19.5.5 NMAC - N, 12-30-04]

**6.19.5.6 OBJECTIVE:**

The rule establishes security measures that shall be adhered to in the implementation of the system designed to address the requirement that the public education department issue a state identification number for each public school student for use in the accountability data system.

[6.19.5.6 NMAC - N, 12-30-04]

**6.19.5.7 DEFINITIONS:**

**A. "Accountability data system ("ADS")"** means that system through which data from each public school and each school district is compiled and reviewed.

**B. "Accountability data system coordinator ("ADS coordinator")"** means that employee designated by the public education department ("PED") as the point of contact for the implementation of ADS.

**C. "FERPA"** means the Family Educational Rights and Privacy Act of 1974, codified at 20 United States Code 1232g, and the implementing regulations at 34 Code of Federal Regulations Part 99.

**D. "Need to know"** means the determination made by the local school district superintendent or charter school administrator that an employee granted access to the student identification system in the performance of the employee's official duties has a legitimate educational reason for accessing individual student records. This determination must be made subsequent to the beginning of each school year.

**E. "Student identification number"** means that unique and consistent number assigned to each student enrolled in the New Mexico public school system for whom data is reported to the accountability data system.

**F. "Student information system"** means that collective system designed and implemented by a local school district or charter school to record individual student information.

[6.19.5.7 NMAC - N, 12-30-04]

#### **6.19.5.8 SECURITY MEASURES: LOCAL SCHOOL DISTRICT AND CHARTER SCHOOL REQUIREMENTS:**

**A.** Each local school board and each charter school must develop and implement a student information system security policy that addresses the following minimum components:

(1) establishes requirements for the issuance of passwords to ensure system integrity (for example, the policy may specify the number of characters to be used, require that at least three (3) different types of characters be used, and preclude the use of spaces);

(2) requires the use of password protected screensavers with time-out;

(3) prohibits sharing of passwords;

(4) establishes an internal system for tracking and identifying individuals with access to the student identification system, the type of access authorized, and the date, time, and location of any access; and

(5) ensures that access is immediately terminated upon cessation of an individual's authority for access.

**B.** Each local school board and each charter school shall regularly review and, as appropriate, revise its student information system security policy.

**C.** The local school district or charter school may not use the student identification number on student identification cards or display or utilize the student identification number within any other identification system that is not part of the student identification system.

**D.** Local school district superintendents and charter school administrators shall inform employees to whom access to the student identification system is approved of the requirements of FERPA and the implementing regulations to FERPA. If the local school district superintendent or charter school administrator has reason to believe that the requirements of FERPA have not been adhered to by an employee having access to the student identification system, the superintendent or administrator shall immediately cancel the individual's access authorization.

**E.** Breach of security: The local superintendent or administrator of a charter school shall immediately notify the PED's ADS coordinator if the superintendent or administrator has reason to believe that a breach of security has occurred with respect to the student identification system.

[6.19.5.8 NMAC - N, 12-30-04]

#### **6.19.5.9 SECURITY MEASURES: PUBLIC EDUCATION DEPARTMENT:**

**A.** The PED shall, at least annually, assess and strengthen as appropriate the system designed to prevent unauthorized access to the student identification system.

**B.** The PED shall install and utilize appropriate intrusion detection systems to collect information from a variety of vantage points within its computer systems and networks and analyze this information for symptoms of security breaches.

**C.** The PED shall, on an annual basis, delete all user identification numbers and passwords, subject to the following:

**(1)** The PED shall inform local school superintendents and administrators of charter schools at least twenty (20) days in advance of the deletion date.

**(2)** The PED shall inform local school district superintendents and administrators of charter schools of the procedures and timelines for reactivating user identification numbers and passwords.

[6.19.5.9 NMAC - N, 12-30-04]

### **PART 6: TITLE I SUPPLEMENTAL EDUCATIONAL SERVICES [REPEALED]**

[This rule was repealed on 11/27/2017, effective 12/12/2017]

### **PART 7: DEMONSTRATION OF COMPETENCY FOR HIGH SCHOOL GRADUATION [REPEALED]**

[This part was repealed on June 25, 2024.]

## **PART 8: SCHOOL IMPROVEMENT DESIGNATIONS**

### **6.19.8.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.19.8.1 NMAC - Rp, 6.19.8.1 NMAC, 10/24/2023]

### **6.19.8.2 SCOPE:**

This rule shall apply to all public schools in New Mexico. If any part or application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.

[6.19.8.2 NMAC - Rp, 6.19.8.2 NMAC, 10/24/2023]

### **6.19.8.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, 22-2C-1 through 22-2C-13, and 22-2F-1 through 22-2F-3 NMSA 1978; 20 USC 6303.

[6.19.8.3 NMAC - Rp, 6.19.8.3 NMAC, 10/24/2023]

### **6.19.8.4 DURATION:**

Permanent.

[6.19.8.4 NMAC - Rp, 6.19.8.4 NMAC, 10/24/2023]

### **6.19.8.5 EFFECTIVE DATE:**

October 10, 2023, unless a later date is cited at the end of a section.

[6.19.8.5 NMAC - Rp, 6.19.8.5 NMAC, 10/24/2023]

### **6.19.8.6 OBJECTIVE:**

This rule provides for the recognition of high-performing schools and schools that have exited categories of improvement or intervention, and for the designation of schools needing improvement or intervention. This rule complies with requirements for statewide accountability systems based on challenging academic standards for language arts and mathematics and for school improvement designations and actions of the department as detailed by the state's system of annual meaningful differentiation and by the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA).

[6.19.8.6 NMAC - Rp, 6.19.8.6 NMAC, 10/24/2023]



#### 6.19.8.7 DEFINITIONS:

**A. "Annual meaningful differentiation"** means the state system of accountability for defining school performance and categorizing schools in compliance with 20 USC 6303. Performance indicators for all schools include academic proficiency, progress toward English language proficiency for English learners, and at least one measure of school quality and student success. Performance indicators for elementary schools include student growth. Performance indicators for high schools include graduation rate.

**B. "Chronically absent"** means a student who missed ten percent or more of school days in which they were enrolled during the school year.

**C. "College and career readiness indicator"** means an indicator calculated for high schools consisting of the participation rate and success rate of students in college and career readiness opportunities, as defined by the department.

**D. "Consistently underperforming"** means a priority group index score below the threshold determined by department for two of the most recent three years.

**E. "ESSA plan"** means the most recent state plan and any addendums issued by the department pursuant to ESEA, as amended by ESSA, and approved by the United States department of education in accordance with 20 USC 6303.

**F. "Evidence-based practices"** means activities, strategies, and interventions informed and supported by rigorous research that demonstrate consistent, positive impacts on student outcomes.

**G. "Graduation rate"** means an indicator equal to the percentage of students in an assigned cohort who earned a diploma within a specified number of years.

(1) Four-year cohort graduation rate means the percentage of students in the four-year cohort who earned a diploma within four years.

(2) Five-year cohort graduation rate means the percentage of students in the five-year cohort who earned a diploma within five years.

(3) Six-year cohort graduation rate means the percentage of students in the six-year cohort who earned a diploma within six years.

**H. "Identification cycle"** means the timeframe determined by the department after which school identification categories shall be reevaluated.

**I. "Local education agency" or "LEA"** means a school district or a state-chartered charter school.

**J. "Priority group"** means a subgroup of students defined in USC 20 6311(c)(2) as economically disadvantaged students, students from major racial and ethnic groups; children with disabilities, or English learners.

**K. "Priority group index score"** means the total score for each priority group in the school based on the accountability model methodology described in department guidance.

**L. "Resource inequity"** means difference in levels of resources, including funding and expenditures, instructional materials, administration, student-teacher ratios, teacher experience and credentials, or caseloads for noninstructional staff. Resource inequities may be between schools or between student priority groups within a school.

**M. "School index score"** means the total score a school earns on all required measures as defined by the department according to the state's system for annual meaningful differentiation detailed in the state's ESSA plan.

**N. "Statewide assessment"** means the collection of instruments administered annually that assess students' academic performance and students' progress toward meeting content standards in kindergarten through grade 12.

**O. "Supplemental accountability model school" or "SAM school"** means a school for which the department uses alternate school quality and student success indicators for differentiation as defined in the ESSA plan subject to a federally approved waiver and in which, based on the 40th day reporting, the following categories of students total thirty percent or more of the student population:

- (1) students age 19 or older;
- (2) non-gifted students who require class C or D special education programs;
- (3) pregnant or parenting teens; or
- (4) return-to-school students who are currently enrolled in school but have been chronically absent from school or have earned fewer than the minimum required units typical for their age and are off track to graduate.

**P. "Support threshold"** means the school index score differentiating the lowest performing group of schools as defined by the department in each identification cycle.

[6.19.8.7 NMAC - Rp, 6.19.8.7 NMAC, 10/24/2023]

#### **6.19.8.8 [RESERVED]:**

[6.19.8.8 NMAC - Repealed, 10/24/2023]

#### **6.19.8.9 DETERMINATION OF A SCHOOL'S INDEX SCORE:**

**A.** Each public school shall earn a school index score as calculated by the department according to the state's system for annual meaningful differentiation detailed in the state's ESSA plan or department guidance. The school's index score and priority group index scores will be used to annually differentiate schools and to identify schools in need of comprehensive support and improvement as specified in this rule.

**B.** All enrolled students in eligible grades and courses, as determined by the department, must be assessed with the appropriate state assessment, including the state-approved alternate assessment when applicable. At least ninety-five percent of all eligible students shall participate in statewide assessment.

[6.19.8.9 NMAC - Rp, 6.19.8.9 NMAC, 10/24/2023]

#### **6.19.8.10 PRIORITIZATION OF RESOURCES:**

Pursuant to Sections 22-8-11 and 22-8-18 NMSA 1978, the department may disapprove or make corrections, revisions, or amendments to the budget of a school district or charter school that does not prioritize resources toward evidence-based practices, interventions, and methods required by department guidance and linked to improved student achievement.

[6.19.8.10 NMAC - Rp, 6.19.8.10 NMAC, 10/24/2023]

#### **6.19.8.11 ANNUAL DIFFERENTIATION CYCLE:**

Pursuant to 20 USC 6303, the department shall annually differentiate categories for school support and improvement. School designation categories differentiated annually include spotlight schools, traditional support schools, schools in need of targeted support and improvement (TSI), and schools in need of additional targeted support and improvement (ATSI).

**A. Spotlight school identification.** A school shall be identified as a spotlight school if its school index score is above the seventy-fifth percentile of all public schools and the school is not in need of improvement or intervention due to specific priority group index scores. Spotlight schools shall develop and implement school-level plans in accordance with department guidance.

**B. Traditional support school identification.** A school shall be identified as a traditional support school if the school index score is above the support threshold, at or below the seventy-fifth percentile, and does not meet criteria for TSI or ATSI schools. Traditional support schools shall develop and implement school-level plans in accordance with department guidance.

**C. TSI school identification.** A school shall be identified as a TSI school if one or more priority groups meet the department's definition of consistently underperforming. A TSI school shall develop and implement a school-level, targeted support and improvement plan that includes evidence-based practices and is in accordance with department guidance.

**D. ATSI school identification.** A Title I school shall be identified as an ATSI school if one or more priority groups has an index score that falls below the support threshold. An ATSI school shall develop and implement a school-level targeted support and improvement plan that includes evidence-based practices, identifies resource inequities to be addressed through implementation of the plan, and is in accordance with department guidance.

[6.19.8.11 NMAC - Rp, 6.19.8.11 NMAC, 10/24/2023]

#### **6.19.8.12 MULTI-YEAR IDENTIFICATION CYCLE:**

In a multi-year identification cycle, using the system of annual meaningful differentiation, the department shall designate cohorts of schools in the following categories: comprehensive support and improvement (CSI), and more rigorous interventions (MRI). For each CSI and MRI school, an LEA shall submit to the department a school improvement plan. The school improvement plan shall follow department guidance and be submitted in a format and on a due date specified by the department. Improvement plans shall include but not be limited to a description of how the LEA will monitor improvement, an assurance that funds will not be supplanted, and a description of a rigorous review process to recruit, screen, select, and evaluate any external partners for school improvement.

**A. CSI school identification.** A school shall be identified as a CSI school if the school:

(1) is a Title I school that has not improved sufficiently to exit ATSI status in the previous identification cycle;

(2) is a Title I school that has a school index score below the support threshold; or

(3) has a four-year graduation rate less than or equal to sixty-six and two-thirds percent for two of the most recent three years;

**B. CSI school exit criteria.** A CSI school may exit CSI status in the next identification cycle by attaining the following improvements:

(1) Title I schools identified as CSI schools due to insufficient priority group scores may exit CSI status when all the school's priority group index scores exceed the support threshold.

(2) Title I schools with school index scores previously below the support threshold may exit CSI status by raising the school index score above the support threshold.

(3) High schools identified due to low graduation rates may exit CSI status by increasing the four-year graduation rate above sixty-six and two-thirds percent for two of the previous three years.

**C. MRI school identification.** A school shall be identified as an MRI school if by the end of an identification cycle it has not demonstrated sufficient improvement to exit CSI status as described in Subsection B of this section.

**D. MRI school plans.** The LEA shall submit to the department an MRI school intervention plan to significantly restructure and redesign the school. Interventions for restructure and redesign shall be evidence-based and include significant restructure and redesign through:

- (1) implementation of evidence-based strategies;
- (2) restart; or
- (3) school closure.

**E. MRI plan approval.** If an LEA does not identify and obtain department approval for a school's intervention plan, the department will select the intervention for the school. The department may approve or deny any MRI plan chosen and developed by an LEA. The department may monitor and require execution of the approved MRI plan for the duration of the identification cycle.

**F. MRI exit criteria.** An MRI school shall exit MRI status in the next identification cycle upon attaining improvements defined in Subsection B of this section for CSI school exit criteria.

[6.19.8.12 NMAC - Rp, 6.19.8.12 NMAC, 10/24/2023]

#### **6.19.8.13 SUPPLEMENTAL ACCOUNTABILITY MODEL:**

When calculating a SAM school index score, the department may include the rate of senior completion in the four-year graduation cohort and may include additional department-approved assessments in the college and career readiness indicator. Schools eligible for SAM school status remain subject to the assessment participation requirement described in 6.19.8.9 NMAC.

[6.19.8.13 NMAC - Rp, 6.19.8.13 NMAC, 10/24/2023]

#### **6.19.8.14 [RESERVED]:**

[6.19.8.14 NMAC – N/E, 6.19.8.14 NMAC, 5/23/2023; Repealed, 10/24/2023]

#### **6.19.8.15 OVERSIGHT AND SUPPORT FOR CSI AND MRI SCHOOLS:**

CSI and MRI schools may exit department oversight before the end of a multi-year identification cycle by meeting exit criteria described in Section 12 of this rule, but shall continue to receive support from the department for the remainder of the identification cycle, at which time they may exit CSI or MRI status.

**A.** For oversight of schools designated CSI or MRI, the department may require LEAs to:

- (1) implement the use of department-approved, high-quality instructional materials, best practices, and evidence-based programs;
- (2) conduct department-approved LEA support and readiness assessments and publicly post summary findings;
- (3) conduct department-approved school support and readiness assessments and publicly post summary findings;
- (4) participate in department monitoring and technical assistance visits;
- (5) require schools to redirect or repurpose funds in accordance with their department-approved CSI or MRI plan;
- (6) for MRI schools, require a department-provided transformational coach; or
- (7) for MRI schools, require restart or closure of an MRI school that has failed to exit MRI status within three school years.

**B.** The department will continue to provide the support to CSI and MRI schools until the end of the multi-year identification cycle as described in department guidance and ESSA plan.

[6.19.8.15 NMAC - N, 10/24/2023]

## **CHAPTER 20: PUBLIC SCHOOL FINANCE - BUDGETING AND ACCOUNTING**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: GOVERNING BUDGETING AND ACCOUNTING FOR NEW MEXICO PUBLIC SCHOOLS AND SCHOOL DISTRICTS**

#### **6.20.2.1 ISSUING AGENCY:**

Public Education Department.

[11-01-97, 01-15-99, 09-15-99; 6.20.2.1 NMAC - Rn, 6 NMAC 2.2.1.1, 05-31-01; A, 11-30-06]

#### **6.20.2.2 SCOPE:**

This regulation applies to public school districts, charter schools, and regional education cooperatives in the state of New Mexico.

[11-01-97, 01-15-99; 6.20.2.2 NMAC - Rn, 6 NMAC 2.2.1.2, 05-31-01; A, 10-15-03]

#### **6.20.2.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 9-24-8, 22-2-1, 22-2-2, and 22-8-5, NMSA 1978.

[11-01-97, 01-15-99; 6.20.2.3 NMAC - Rn, 6 NMAC 2.2.1.3, 05-31-01; A, 11-30-06]

#### **6.20.2.4 DURATION:**

Permanent.

[11-01-97, 01-15-99; 6.20.2.4 NMAC - Rn, 6 NMAC 2.2.1.4, 05-31-01]

#### **6.20.2.5 EFFECTIVE DATE:**

November 1, 1997, unless a later date is cited at the end of a section.

[11-01-97, 01-15-99; 6.20.2.5 NMAC - Rn, 6 NMAC 2.2.1.5, 05-31-01; A, 11-30-06]

#### **6.20.2.6 OBJECTIVE:**

To establish standards in budgets and uniform financial accounting for all New Mexico public schools and school districts. All budgets and financial accounting of public schools and school districts of the state of New Mexico are to be maintained in accordance with the Public School Code, Chapter 22, NMSA, 1978 Compilation, and Generally Accepted Accounting Principles (GAAP), and federal laws and regulations.

[11-01-97, 01-15-99; 6.20.2.6 NMAC - Rn, 6 NMAC 2.2.1.6, 05-31-01]

#### **6.20.2.7 DEFINITIONS:**

**A. "Budget"** - A written plan of financial operation for one fiscal year to include an estimate of revenues and proposed expenditures.

**B. "Department"** means the public education department.

**C. "Operating budget"** - The budget submitted and approved by the local board by June 20 and certified by the department on or before July 1.

**D. "Fiscal year"** - A twelve-month period, beginning July 1 and ending June 30, to which the annual operating budget applies.

**E. "Fixed assets"** - Land, buildings, improvements other than buildings, equipment, machinery, construction work in progress, and capital leased assets with a cost of \$500 or more. The definition of fixed assets applies to all assets purchased regardless of funding source.

**F. "GAAP"** - generally accepted accounting principles.

**G. "Local school board" or "board"** means the governing body of a school district or charter school.

**H. "School districts"** means public school districts, charter schools and regional education cooperatives (RECs).

[02-03-93, 11-01-97, 01-15-99, 09-15-99; 6.20.2.7 NMAC - Rn, 6 NMAC 2.2.1.7, 05-31-01; A, 10-15-03; A, 11-30-06]

#### **6.20.2.8 PROCEDURAL REQUIREMENTS:**

**A.** All school districts shall account for financial transactions and develop and maintain their budgets in accordance with the Public School Code, GAAP and department procedures for public school accounting and budgeting, which are referenced where applicable.

**B.** The deadlines identified in this regulation pertaining to the submittal of required reports and documents may be extended by the secretary of education or his designee after a request has been submitted by the school district, provided the extension is not in violation of state or federal law.

**C.** If reporting requirements and deadlines are not met, the department may withhold funds, suspend payments or both, pursuant to 6.21.2.10 NMAC and 6.21.2.11 NMAC.

**D.** Business officials, serving in the capacity of a supervisor or director or manager of accounting and/or bookkeeping as mentioned in 6.63.12.8 NMAC, responsible for the



preparation and presentation of all financial documentation and budget maintenance will meet the competency requirements enumerated in 6.63.12.9 NMAC.

[02-03-93, 11-01-97, 01-15-99; 6.20.2.8 NMAC - Rn, 6 NMAC 2.2.1.8, 05-31-01; A, 10-15-03; A, 11-30-06]

#### **6.20.2.9 BUDGET PREPARATION STANDARDS:**

**A.** Every school district shall follow budget requirements stated in Sections 22-8-5 through 22-8-12.2, NMSA 1978, and procedures of the department in preparing, submitting, maintaining and reporting budgetary information. Budgetary control shall be at the function level. Over-expenditure of a function shall not be allowed.

**B.** The proposed budget for the ensuing fiscal year shall be submitted to the department by April 15 of each year unless extended to a later date by the secretary of education.

**C.** The department shall review the school district's projected revenues, including estimated tax production based on the most current assessed valuation from the local taxing authority and estimated cash carryover for all funds. The department shall confer with the school district before determining where additions or reductions to the budget will be incorporated.

**D.** Approval of the proposed budget by the local board shall be in a public hearing held prior to June 20. The notice of public hearing for the adoption of the budget shall be published in accordance with the Open Meetings Act, Section 10-15-1 et seq. 1978, Public School Code, and local board policy. Certification of the proposed budget by the department shall be on or before July 1. The approved and certified budget then constitutes the operating budget.

**E.** On or before July 31, school districts shall determine their actual cash balances in all funds and report them on the most current form prescribed by the department. The operational subfund cash balance shall be adjusted by the amount of June credits for revenues received in that month from local school tax levy federal impact aid, and federal forest reserve, if any. The June credits shall be categorized as restricted cash balance and are unavailable for budgeting in the ensuing fiscal year. Cash balance carried forward from the previous fiscal year in the operational subfund shall not be used for salaries and benefits.

**F.** The operating budget and any authorized adjustments, shall be integrated into the school district's accounting system after required approvals. Encumbrances shall be used as an element of control and integrated into the budget system.

[12-08-89, 02-03-93, 11-01-97, 01-15-99, 09-15-99; 6.20.2.9 NMAC - Rn, 6 NMAC 2.2.1.9, 05-31-01; A, 11-30-06]

#### **6.20.2.10 BUDGET MAINTENANCE STANDARDS:**

**A.** Budget adjustment requests shall be submitted on the most current form prescribed by the department. The school district shall maintain a log of all budget adjustment requests to account for status, numerical sequence, and timely approval at each level. The log is to be retained for audit purposes.

**B.** School districts shall submit budget adjustment requests for the operating budget to the department for budget increases, budget decreases, transfers between functional categories, and transfers from the emergency reserve account. The department must take action on budget adjustment requests within 30 calendar days from the date of receipt by the department or such requests will otherwise be considered approved. Expenditures shall not be made by the school district until budget authority has been established and approval received from the department. Budget adjustments shall not be incorporated into the school district's accounting system until approval is received by the department.

**C.** School districts shall submit periodic financial reports to the department using the department-approved format. Reporting shall be either monthly or quarterly at the discretion of the department. The school district shall be notified of its required reporting frequency in writing by the department. Required reporting frequency may be changed by the department at any time during the year. Reports are due at the department by the last working day of the month following the end of the required reporting period, unless extended to a later date by the secretary of education.

[12-08-89, 02-03-93, 11-01-97, 01-15-99, 09-15-99; 6.20.2.10 NMAC - Rn, 6 NMAC 2.2.1.10, 05-31-01; A, 10-15-03; A, 11-30-06]

#### **6.20.2.11 INTERNAL CONTROL STRUCTURE STANDARDS:**

**A.** Every school district shall establish and maintain an internal control structure to provide management with reasonable assurance that assets are safe-guarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of general purpose financial statements in accordance with GAAP, and that state and federal programs are managed in compliance with applicable laws and regulations. The internal control structure shall include written administrative controls (rules, procedures and practices, and policies that affect the organization) and accounting controls (activity cycles, financial statement captions, accounting applications including computer systems) that are in accordance with GAAP.

**B.** Each school district shall develop, establish and maintain a structure of internal accounting controls and written procedures to provide for segregation of duties, a system of authorization and recording procedures, and sound accounting practices in performance of duties and functions. The duties to be segregated are the authorization

to execute a transaction, recording the transaction, and custody of assets involved in the transaction.

**(1)** School district management must ensure that protection of the public trust is a major focus when granting the authorization to execute business of the school district.

**(2)** Employees handling significant amounts of cash must be adequately bonded. Access to assets is permitted only in accordance with school district authorization.

**(3)** Receipts, checks or warrants, purchase orders, and vouchers shall be sequentially pre-numbered.

**(4)** School districts shall have proper safeguards to protect unused checks and other pre-numbered forms, undeposited cash and other receipts, and facsimile signature plates.

**(5)** Transactions are to be recorded as necessary to permit preparation of financial statements in conformity with GAAP. In addition, school districts shall establish any other criteria applicable to such statements to maintain accountability for assets.

**(6)** School districts shall conduct independent checks on performance and proper valuation of recorded amounts, such as clerical checks, reconciliations, comparison of assets with recorded accountability, computer-programmed controls, management review of reports that summarize the detail of account balances, and user review of computer generated reports.

**C.** An internal control structure is required to demonstrate the school district's ability to record, process, summarize and report financial data consistent with the following financial statement assertions:

- (1)** rights and ownership;
- (2)** existence and occurrence;
- (3)** valuation and allocations;
- (4)** completeness; and,
- (5)** presentation and disclosure.

**D.** The internal control structure shall demonstrate that the school district identifies applicable laws and regulations, and that procedures are designed to provide reasonable assurance that the school district complies with those laws and regulations. Internal control procedures shall be established, implemented and documented through

school district correspondence, manuals, training, and other additional methods. Appropriate internal control procedures shall be adopted by the local board within a school district to safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies. The internal control structure shall address all school district transactions.

[02-03-93, 11-01-97, 01-15-99; 6.20.2.11 NMAC - Rn, 6 NMAC 2.2.1.11, 05-31-01]

#### **6.20.2.12 ORGANIZATIONAL STRUCTURE:**

School districts shall develop, establish and maintain an effective organizational structure that includes the following:

- A.** Devise a system for the measurement of and accountability for employee performance.
- B.** Establish a policy in which the delegation of responsibility for employee actions is combined with sufficient authority to perform the assigned activities.
- C.** Create and maintain budgets and financial reports which facilitate the discharge of assigned responsibilities and monitors activities at each level of the organizational structure.
- D.** Develop a system of checks and balances which separates incompatible activities to preclude absolute control by any individual or unit and provides for supervision by higher levels of management and for the monitoring of overall school district activities.

[11-01-97, 01-15-99; 6.20.2.12 NMAC - Rn, 6 NMAC 2.2.1.12, 05-31-01]

#### **6.20.2.13 FINANCIAL STANDARDS:**

- A.** General ledger: All school districts shall establish and maintain a general ledger in accordance with GAAP. The general ledger will be comprised of individual funds and account groups using the department's uniform chart of accounts and shall be reconciled every fiscal year with department records.
- B.** Funds and account groups: School districts shall use funds and account groups to report their financial position and operating results. Funds are classified into three broad categories: a) governmental funds, b) proprietary funds and c) fiduciary funds. There are two account groups: a) general fixed assets and b) general long-term debt.
- C.** Chart of accounts: All school districts shall prepare, maintain, and report budget and financial information utilizing a standard and uniform chart of accounts.

**D. Basis of accounting:** In accordance with GASB 34, school districts shall use a full accrual basis of accounting in preparation of annual financial statements and cash basis of accounting for budgeting and reporting.

**E. Financial statements:** Financial statements are the responsibility of the school district. The school district shall maintain adequate accounting records, prepare financial statements in accordance with GAAP (specifically, GASB 34), and provide complete, accurate, and timely information to the independent public accountant (IPA) as requested. If there are differences between the financial statements, school district records and department records, the IPA should provide the adjusting entries to the school district to reconcile the report to the school district records. If the IPA prepared the financial statements, this fact must be disclosed in the notes to the financial statements. If the IPA prepared the financial statements, this fact must be disclosed in the notes to the financial statements. All efforts should be made by the school district to assist the IPA with financial statement preparation.

**F. Financial and compliance audit:** All school districts shall have a yearly audit performed on its financial records as required by Section 12-6-3, NMSA 1978.

**G. Financial reporting:** All school districts shall provide periodic financial information to the local board as prescribed by local board action. Information shall be presented at a regularly scheduled board meeting.

[12-08-89, 02-03-93, 11-01-97, 01-15-99; 6.20.2.13 NMAC - Rn, 6 NMAC 2.2.1.13, 05-31-01; A, 10-15-03; A, 11-30-06]

#### **6.20.2.14 CASH CONTROL STANDARDS:**

**A.** School districts shall establish and maintain a cash management program to safeguard cash and provide prompt and accurate reporting that adheres to cash management requirements of the office of management and budget (OMB) Circular A-102, and applicable state and federal laws and regulations.

**B.** The school district shall issue a factory pre-numbered receipt for all money received. Pre-numbered receipts are to be controlled and secured. If a receipt is voided, all copies shall be marked "VOID" and retained in the receipt book.

**C.** Money received and receipted shall be deposited in the bank within twenty-four (24) hours or one banking day. If the distance to the bank is considerable, or the cash collection is limited to small amounts and/or low volume and it is impractical to meet the twenty-four hour/one banking day requirement, the local board may request approval from the department for an alternative plan. The bank deposit slip shall have the numbers from applicable receipts entered on it or attached as a reference.

**D.** A cash receipts journal is to be used for each fiscal year beginning July 1 and ending June 30, and is to be presented to the school district's auditor during the annual audit.

**E.** The school district shall verify that there is sufficient cash and budget prior to the disbursement of cash. A revenue ledger is required for each revenue code as approved in the finalized budget, and additional revenue ledgers may be added as necessary.

**F.** The school district shall establish a cash control ledger for each fund/subfund. Inter-fund transfers of cash among separate and distinct funds are not receipts or expenditures. Permanent transfers of previously receipted cash require local board and SIDE approval prior to the transfer. All other types of cash transfers require only local board approval.

**(1)** Temporary transfers of cash are to be posted as "due from" and "due to" to indicate inter-fund receivables and payables.

**(2)** Posting errors are not to be erased, crossed out, or in any other manner eliminated from the ledger. A separate entry is required to incorporate necessary corrections. Cross-referencing of a correcting entry to the original error should be inserted under the "description" column of the ledger.

**G.** Clearing accounts or pooled accounts may be used to combine more than one fund in one bank account. Clearing accounts shall reconcile to a zero balance at the end of each month. Bank reconciliations for clearing accounts shall be completed on a monthly basis.

**H.** A local board, through the issuance of a formal board resolution, may authorize the superintendent of schools or his/her designee to approve vouchers for payment prior to a board meeting. A summary listing of the vouchers and any additional information prescribed by the local board shall be presented at the next regular board meeting for formal approval and entry in the minutes.

**I.** Vouchers shall be numbered in such a manner as to provide a cross-reference between the voucher, the check, and the check register. All blank checks shall be properly safeguarded and an inventory of unused checks shall be taken periodically. Completed vouchers and supporting documentation is to be placed in numerical sequence, by the month in which they were paid, and filed for future reference and annual audit.

**(1)** Each warrant or check issued shall have printed on its face the words, "void after one year from date". Whenever any warrant or check is unpaid for one year, the fiscal officer shall cancel it in accordance with Section 6-10-57(A), NMSA 1978.

**(2)** The fiscal officer shall keep a register of all canceled warrants/checks. The register shall show the number, date and amount, name of payee, fund out of which it

was payable, and date of cancellation. The face amount shall revert and be credited to the fund against which the warrant/check was drawn.

**J.** The school district shall maintain a cash control ledger for each fund/subfund where all transactions affecting cash are recorded. Cash balances reported to the department shall be the same as the district's cash control ledger and annual audit.

**K.** All bank accounts shall be reconciled on a monthly basis. Reconciled bank statements are to be reviewed by the business manager and/or assistant superintendent for business administration. The bank statement, deposit slips, and canceled checks shall be made available to the district's auditor during the annual audit.

**L.** The school district shall submit cash reports to the department by the last working day of the month following the end of the reporting period, unless extended to a later date by the secretary of education.

**M.** Petty cash funds shall be utilized only in rare instances to facilitate small payments. Petty cash funds are established by drawing a check made payable to the employee charged with responsibility for the fund. The petty cash fund shall contain cash and/or invoices totaling the full amount of the petty cash fund and is to remain at the amount originally established.

**(1)** Petty cash funds are to be reflected on the school district's balance sheet as cash on hand.

**(2)** Petty cash and change funds shall not be used to make loans to employees or for cashing checks.

**(3)** Petty cash may not contain more than \$100 unless more is authorized through local board action.

**(4)** Change funds shall be established pursuant to school district procedure.

**N.** School districts shall obtain a surety bond for persons who handle or manage cash or funds.

[12-08-89, 02-03-93, 11-01-97, 01-15-99, 09-15-99; 6.20.2.14 NMAC - Rn, 6 NMAC 2.2.1.14, 05-31-01; A, 11-30-06]

#### **6.20.2.15 INVESTMENTS:**

**A.** The school district shall account for public money placed in interest-bearing deposits in accordance with Sections 22-8-40(C) through (G), NMSA 1978; Section 6-10-17, NMSA 1978; Section 6-10-31, NMSA 1978, and other federal and state laws applicable to the investment of public school money.

**B.** Pledged collateral: School districts shall require pledged collateral for all cash and investments in accordance with Section 22-8-40, NMSA 1978.

[12-08-89, 02-03-93, 11-01-97, 01-15-99, 09-15-99; 6.20.2.15 NMAC - Rn, 6 NMAC 2.2.1.15, 05-31-01]

#### **6.20.2.16 WAREHOUSE/SUPPLY INVENTORY:**

This section pertains to districts that maintain a warehouse. At fiscal year end, each school district shall take a physical inventory of remaining goods and materials of an expendable nature (items that are consumed in the normal course of operating the district). School districts shall establish adequate internal accounting control procedures over supplies inventory in accordance with GAAP.

[12-08-89, 02-03-93, 11-01-97, 01-15-99; 6.20.2.16 NMAC - Rn, 6 NMAC 2.2.1.16, 05-31-01]

#### **6.20.2.17 PURCHASING:**

**A.** Each school district shall establish and implement written policies and procedures for purchasing which shall be in compliance with the Procurement Code, Section 13-1-21 et seq., NMSA 1978. Purchasing policies and procedures for grant funding shall comply with requirements established within the grant and the Procurement Code. An internal control structure over purchasing shall be established and maintained to assure compliance with school district policy, and state and federal regulations.

**B.** A school district may contract with a business which has a current price agreement with the state purchasing agent or a central purchasing office of another district, for services, construction, or items of tangible personal property without the use of competitive sealed bids or competitive sealed proposals provided that the following conditions are met:

(1) the services or construction meet the same standards and specifications as the items to be procured;

(2) the total quantity to be purchased would not exceed the quantity which may be purchased under the existing applicable price agreement;

(3) the purchase order clearly identifies the price agreement relied upon;

(4) the price agreement relied upon is available for public inspection and for inspection by auditors; and



(5) in the case of an agreement with the central purchasing office for another district, the district with the agreement being relied upon has consented in writing to such reliance.

[12-08-89, 02-03-93, 11-01-97, 01-15-99; 6.20.2.17 NMAC - Rn, 6 NMAC 2.2.1.17, 05-31-01; A, 11-30-06]

#### **6.20.2.18 PAYROLL:**

The local board shall establish written payroll policies and procedures which comply with state and federal regulations on payroll as well as maintaining strict internal controls, close supervision and financial accounting in accordance with GAAP. School districts shall maintain and have available for inspection the following employee record documentation: employment contracts (including increments), personnel/payroll action forms, certification records, employment eligibility verification (federal form I-9 for citizenship certification), federal and state withholding allowance certificates, pay deduction authorizations, pay or position change notices, Educational Retirement Act plan application, and direct deposit authorizations.

[02-03-93, 11-01-97, 01-15-99; 6.20.2.18 NMAC - Rn, 6 NMAC 2.2.1.18, 05-31-01]

#### **6.20.2.19 TRAVEL AND TRAINING:**

Each school district shall establish and implement written policies and procedures for travel and training. Travel policies and procedures shall be in compliance with the Per Diem and Mileage Act, Sections 10-8-1 through 10-8-8, NMSA 1978, and department of finance and administration (DFA) regulations.

[02-03-93, 11-01-97, 01-15-99, 09-15-99; 6.20.2.19 NMAC - Rn, 6 NMAC 2.2.1.19, 05-31-01]

#### **6.20.2.20 INSURANCE:**

**A.** Each school district shall maintain adequate insurance coverage addressed in the Tort Claims Act, Section 41-4-1 et seq., NMSA 1978; the Workers' Compensation Act, Section 52-1-1 et seq., NMSA 1978; Insurance of Public Buildings, Section 13-5-1 et seq., NMSA 1978; Officers and Surety Bonds, Section 22-5-7, NMSA 1978; and the Public School Insurance Authority Act, Sections 22-2-6.1 through 22-2-6.10, NMSA 1978.

**B.** Surety bonds paid from the operational subfund shall be approved by the department and filed with the secretary of the department of finance and administration pursuant to Subsection D of Section 22-5-7, NMSA, 1978 Compilation.

[12-08-89, 02-03-93, 11-01-97, 01-15-99; 6.20.2.20 NMAC - Rn, 6 NMAC 2.2.1.20, 05-31-01; A, 11-30-06]

#### **6.20.2.21 DEBT SERVICE AND BONDS:**

**A.** A debt service fund shall be created to account for resources that will be used to service general long-term debt that is recorded in the general long-term debt account group. General long-term debt includes noncurrent bonds, as well as other noncurrent liabilities that might arise from compensated absences.

**B.** Debt service funds shall be established only if legally required or when resources are being accumulated to meet principal and interest payments that will be made in future periods. A single debt service fund shall be used to account for a restricted portion of a general property tax that is used to finance principal and interest payments on all general obligation bonds. Debt service funds shall be used only for the retirement of general long-term debt and for payment of county collection costs. Any funds remaining after all debts have been paid may be transferred after request for transfer has been approved by the department and DFA pursuant to Section 6-10-43, NMSA 1978.

**C.** All general obligation bonds, except refunding bonds, issued under lawful authority by any school district shall be issued in accordance with Sections 6-15-3 through 6-15-8, NMSA 1978. Refunding bonds are encompassed in Sections 6-15-11 through 6-15-13, NMSA 1978.

**D.** In accordance with Section 6-15-9, NMSA, 1978, no bonds shall be issued or sold by any school district after the expiration of three (3) years from the date of initiation of proceedings for the election authorizing the issue, except as provided in Sections 6-15-9 supra, and 6-15-10, NMSA, 1978.

**E.** Arbitrage: The school district shall not earn any income on invested bond proceeds which is in excess of the amount which would have been earned if the bond proceeds had been invested at a yield equal to the yield on bonds. The school district shall prevent the issuance of tax exempt bonds for the purpose of investing the proceeds to make a profit. A long-term investment can be made only at an interest rate equal to or less than the interest paid on the tax exempt bonds.

[02-03-93, 11-01-97, 01-15-99; 6.20.2.21 NMAC - Rn, 6 NMAC 2.2.1.21, 05-31-01; A, 11-30-06]

#### **6.20.2.22 FIXED ASSETS:**

**A.** Cost is the generally accepted basis of accounting for governmental fixed assets. Donated assets are to be recorded at their estimated fair market value at the time of the donation.

**B.** Fixed assets related to specific proprietary or trust funds shall be accounted for in those funds. All other fixed assets shall be accounted for in the general fixed asset account group.

**C. Property control system:** Assets of a long-term character which are intended to continue to be held or used, such as land (including acquisition and improvements to grounds), buildings (including initial, acquisition, improvements, remodeling, additions, and replacement), furniture, machinery and equipment shall be acquired and accounted for through the development and implementation of a complete property control system which shall be adopted by the local board and in accordance with GAAP. General services department (GSD) rules(s), the state Procurement Code, and any other applicable state and federal requirements.

**D. Capital projects:** The acquisition, accountability and disposition of fixed assets for capital projects shall be in accordance with GAAP. Funds used to erect, remodel, make additions to school buildings, or to purchase and improve public school grounds shall be classified under capital projects.

[02-03-93, 11-01-97, 01-15-99, 09-15-99; 6.20.2.22 NMAC - Rn, 6 NMAC 2.2.1.22, 05-31-01]

#### **6.20.2.23 OTHER SERVICES:**

**A. Food services:** Food service funds are to be accounted for in the special revenue fund or the enterprise fund. All monies collected from the sale of food for the food service operation are to be accounted for in accordance with GAAP, U.S. department of agriculture (USDA) requirements, and Section 22-13-13, NMSA 1978.

**B. Legal fees:** No district funds shall be used for payment of personal legal fees, including attorney's fees and costs, of any school district or charter school employee or local school board member. Any payment of legal fees must serve a clearly identifiable public interest. Personal legal fees include, but are not limited to:

(1) legal fees expended in obtaining or retaining any elected position;

(2) legal fees incurred by any employee or board member in any civil action filed by or against the employee or board member in his or her personal capacity, unless, in the case of an action against the employee or board member, the allegations are based upon acts taken by that individual in the course and scope of his or her employment or service; and

(3) legal fees incurred by any employee or board member in the defense of any criminal case, unless the charges are based upon acts taken in the course and scope of his or her employment or service.

**C. Federal/state grants:**

(1) Flowthrough funds: For grant money that flows through the department, school districts shall utilize the funding for the purpose in which it was awarded. School districts shall submit complete and accurate reports required by the grant and the

department within the prescribed time. This funding shall be accounted for in accordance with GAAP, applicable federal regulations, and procedures set forth in the grant award.

**(2)** Direct funds: For grant money that is sent direct, school districts shall utilize the funding for the purpose in which it was awarded. School districts shall submit complete and accurate reports required by the grant within the prescribed time. This funding shall be accounted for in accordance with GAAP, applicable federal regulations, and procedures set forth in the grant award. These direct funds shall be incorporated into the school district operating budget without prior approval provided that a budget adjustment request is submitted to the department.

**D.** Student activity funds (non-instructional activities): Funds set aside for non-instructional activities shall be accounted for the same as any other funding budgeted in the operational subfund. Other assets held by the school district in a trustee capacity or as an agent for school organizations are considered agency funds, shall be accounted for in accordance with GAAP, and are not required to be budgeted. The school district is responsible for the accountability of agency funds. These funds are not considered public money for purposes of the state Procurement Code. School districts shall follow all applicable laws, rules and regulations in the disbursement of activity funds.

**E.** Joint powers agreements: Accounting for joint powers agreements, entered into pursuant to the Joint Powers Agreement Act, Sections 11-1-1 through 11-1-7, NMSA 1978, shall be in accordance with the agreement.

[02-03-93, 11-01-97, 01-15-99; 6.20.2.23 NMAC - Rn, 6 NMAC 2.2.1.23, 05-31-01; A, 10-15-03; A, 11-30-06]

#### **6.20.2.24 OTHER ADMINISTRATIVE STANDARDS:**

**A.** Instructional materials: School districts shall be allowed credit for textbooks and supplementary instructional materials adopted by the department pursuant to the Instructional Materials Act, Section 22-15-9, NMSA 1978. Districts shall report in accordance with the Instructional Materials Act and account for instructional materials in accordance with GAAP. Audited instructional material records are the official accounting of these funds.

**B.** Transportation: Student transportation is provided for in Section 22-16-1 et seq., NMSA 1978. Monies allocated by the transportation unit of the department shall be utilized for transportation expenditures only and accounted for in accordance with department transportation regulations and GAAP.

**C.** Records retention/disposition: The management of school district records shall be in accordance with the Public Records Act, Section 14-3-1 et seq., NMSA 1978.

**D. Open Meetings Act:** School districts shall comply with the provisions of the Open Meetings Act, Section 10-15-1 supra, NMSA 1978.

[02-03-93, 11-01-97, 01-15-99; 6.20.2.24 NMAC - Rn, 6 NMAC 2.2.1.24, 05-31-01; A, 10-15-03; A, 11-30-06]

**6.20.2.25 SAVE HARMLESS CALCULATION:**

Beginning January 26, 2021 and thereafter, the department shall calculate funding of program units under the save harmless provision for a school district or charter school with fewer than 200 students. Save harmless calculations shall include:

**A.** the number of program units to which a school district or charter school is entitled using the MEM of the first reporting period of the current year;

**B.** size adjustment program units; and

**C.** enrollment growth program units.

[6.20.2.25 NMAC - N, 1/26/2021]

**PART 3: PROCEDURES FOR THE PAYMENT OF SETTLEMENT AGREEMENTS**

**6.20.3.1 ISSUING AGENCY:**

Public Education Department.

[01-15-99, 07-30-99; 6.20.3.1 NMAC - Rn, 6 NMAC 2.2.4.1, 12-29-00; A, 3-15-07]

**6.20.3.2 SCOPE:**

This rule applies to local school boards and governing bodies of charter schools.

[01-15-99; 6.20.3.2 NMAC - Rn, 6 NMAC 2.2.4.2, 12-29-00; A, 3-15-07]

**6.20.3.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1, 22-2-2, 22-8-11, 22-8-13, and 22-8-42 NMSA 1978.

[01-15-99; 6.20.3.3 NMAC - Rn, 6 NMAC 2.2.4.3, 12-29-00; A, 3-15-07]

**6.20.3.4 DURATION:**

Permanent.

[01-15-99; 6.20.3.4 NMAC - Rn, 6 NMAC 2.2.4.4, 12-29-00]

#### **6.20.3.5 EFFECTIVE DATE:**

January 15, 1999, unless a later date is cited at the end of a section.

[01-15-99; 6.20.3.5 NMAC - Rn, 6 NMAC 2.2.4.5, 12-29-00]

#### **6.20.3.6 OBJECTIVE:**

This rule establishes procedures to be followed if a local school board or governing body of a charter school intends to use public funds to pay a settlement to an administrator whose contract has been terminated prior to the end of the term of the contract.

[01-15-99; 6.20.3.6 NMAC - Rn, 6 NMAC 2.2.4.6, 12-29-00; A, 3-15-07]

#### **6.20.3.7 DEFINITIONS:**

**A. "Administrator"** means an individual licensed in education administration and employed in an administrative capacity, including but not limited to superintendents, assistant superintendents, principals, and assistant principals.

**B. "Department"** means the public education department (PED).

**C. "Local school board"** means the governing body of a school district or charter school.

**D. "Secretary"** means the secretary of public education.

**E. "Superintendent"** means the superintendent of schools of the local school district.

[01-15-99; 6.20.3.7 NMAC - Rn, 6 NMAC 2.2.4.7, 12-29-00; A, 3-15-07]

#### **6.20.3.8 REQUIREMENTS:**

**A.** The following procedures will be adhered to if a local board or charter school intends to use public funds to make payment pursuant to a settlement agreement entered into with an administrator as a result of a contract termination.

**(1)** As soon as it becomes apparent that a local board or charter school intends to take such action, the board or the superintendent will immediately notify the secretary of such an intention in writing.

**(2)** No amount of money from the school district or charter school's budget will be allowed to be paid pursuant to any settlement agreement which does not have the prior written approval of the secretary or his/her designee. Any request for approval by the secretary must be accompanied by a detailed statement outlining:

- (a)** the dispute between the local board and the administrator;
- (b)** a description of the negotiations leading to the settlement agreement;
- (c)** a detailed accounting of the damages which have been or may be incurred, including any setoff due to the administrator's mitigation of any damages;
- (d)** a copy of all pleadings to be filed with the court relative to the dispute; and
- (e)** a copy of the administrator's current employment contract.

**B.** In addition, the approval of a court of competent jurisdiction will be required, and a copy of the court approved settlement agreement shall be submitted to the secretary.

**C.** No settlement agreement may provide for, nor may any local school board permit, the payment of any funds until the secretary has issued written approval of the settlement. This prohibition does not include compensation or benefits that the administrator has earned and is otherwise entitled by applicable rule, policy or employment agreement.

[01-15-99; 6.20.3.8 NMAC - Rn, 6 NMAC 2.2.4.8, 12-29-00; A, 3-15-07]

#### **6.20.3.9 UNAUTHORIZED PAYMENTS TO ADMINISTRATORS:**

**A.** A settlement with and subsequent payment to an administrator made prior to obtaining written approval of the secretary shall be considered an unauthorized payment.

**B.** An unauthorized payment may be considered mismanagement and may constitute grounds for suspension of the local school board from acting as a board of finance.

**C.** An unauthorized payment may constitute a violation of the anti-donation clause of the New Mexico constitution and may be reported to the attorney general or state auditor, or be subject to further civil or criminal referrals or other sanctions.

[6.20.3.9 NMAC - N, 3-15-07]

## **PART 4: DEFINITIONS OF FULL-TIME AND PART-TIME SCHOOL INSTRUCTORS**

#### **6.20.4.1 ISSUING AGENCY:**

Public Education Department.

[02-15-99, 07-30-99; 6.20.4.1 NMAC - Rn, 6 NMAC 2.2.5.1, 12-29-00; A, 11-13-09]

#### **6.20.4.2 SCOPE:**

This rule applies to local school boards, local school districts and certified school instructors.

[02-15-99; 6.20.4.2 NMAC - Rn, 6 NMAC 2.2.5.2, 12-29-00; A, 11-13-09]

#### **6.20.4.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 and 22-2-2, NMSA 1978.

[02-15-99; 6.20.4.3 NMAC - Rn, 6 NMAC 2.2.5.3, 12-29-00; A, 11-13-09]

#### **6.20.4.4 DURATION:**

Permanent.

[02-15-99; 6.20.4.4 NMAC - Rn, 6 NMAC 2.2.5.4, 12-29-00]

#### **6.20.4.5 EFFECTIVE DATE:**

February 15, 1999, unless a later date is cited at the end of a section.

[02-15-99; 6.20.4.5 NMAC - Rn, 6 NMAC 2.2.5.5, 12-29-00]

#### **6.20.4.6 OBJECTIVE:**

The purpose of this rule is to provide local school boards and local school districts with a definition of full-time and part-time school instructors.

[02-15-99; 6.20.4.6 NMAC - Rn, 6 NMAC 2.2.5.6, 12-29-00; A, 11-13-09]

#### **6.20.4.7 DEFINITIONS:**

**A. "Full-time school instructors"** are certified school instructors who occupy positions the duties of which require them to be on the job on school days, throughout the school year, at least the number of hours the schools in the system are in session.

**B. "Part-time school instructors"** are certified school instructors who occupy positions the duties of which require less than full time service. This includes those



employed full-time for part of the school year, part-time for all of the school year, and part-time for part of the school year.

[02-15-99; 6.20.4.7 NMAC - Rn, 6 NMAC 2.2.5.7, 12-29-00]

## **PART 5: PROCEDURES FOR PROVIDING PUBLIC SCHOOL DISTRICTS WITH FINANCIAL ASSISTANCE REGARDING GENERAL OBLIGATION INDEBTEDNESS**

### **6.20.5.1 ISSUING AGENCY:**

Public Education Department.

[01-15-99, 07-30-99; 6.20.5.1 NMAC - Rn, 6 NMAC 2.2.3.1, 06-14-01; A, 11-13-09]

### **6.20.5.2 SCOPE:**

This rule applies to local school boards and local school districts.

[01-15-99; 6.20.5.2 NMAC - Rn, 6 NMAC 2.2.3.2, 06-14-01; A, 11-13-09]

### **6.20.5.3 STATUTORY AUTHORITY:**

This rule is promulgated pursuant to Section 22-18A-4, NMSA 1978.

[01-15-99; 6.20.5.3 NMAC - Rn, 6 NMAC 2.2.3.3, 06-14-01; A, 11-13-09]

### **6.20.5.4 DURATION:**

Permanent.

[01-15-99; 6.20.5.4 NMAC - Rn, 6 NMAC 2.2.3.4, 06-14-01]

### **6.20.5.5 EFFECTIVE DATE:**

January 15, 1999

[01-15-99; 6.20.5.5 NMAC - Rn, 6 NMAC 2.2.3.5, 06-14-01]

### **6.20.5.6 OBJECTIVE:**

This rule establishes procedures and requirements to provide principal and interest due on outstanding school district general obligation indebtedness in the event ad valorem taxes or other revenues of the public school district are either insufficient or are not received by the public school district at the time due or anticipated.

[01-15-99; 6.20.5.6 NMAC - Rn, 6 NMAC 2.2.3.6, 06-14-01; A, 11-13-09]

#### **6.20.5.7 DEFINITIONS:**

**A. "School District Loan Act"** means the act, Sections 22-18A-1 through 5 NMSA 1978, creating a revolving loan fund to provide loans when property tax proceeds are insufficient to meet debt service on general obligation indebtedness.

**B. "Public school district general obligation bond loan fund"** means the revolving loan fund created in the state treasury as an additional source for payments of principal and interest due on public school district general obligation indebtedness already incurred or incurred in the future or for payments of any other obligations arising in connection with that indebtedness.

[01-15-99; 6.20.5.7 NMAC - Rn, 6 NMAC 2.2.3.7, 06-14-01]

#### **6.20.5.8 FINANCIAL CRITERIA:**

If it is determined by the public education department and the department of finance and administration that there are insufficient ad valorem taxes or other public school district revenues to meet a payment of principal or interest due on public school district general obligation indebtedness or to meet any other obligation arising in connection with that indebtedness lawfully payable from ad valorem taxes, or that the receipt of ad valorem taxes or other revenues to be used to make any such payment will be delayed and not available to make the payment when due, the public education department and the department of finance and administration may request the state board of finance to direct a temporary transfer of a sufficient amount of money to the public school district general obligation loan fund so that the payment becoming due may be made and a default avoided.

[01-15-99; 6.20.5.8 NMAC - Rn, 6 NMAC 2.2.3.8, 06-14-01; A, 11-13-09]

#### **6.20.5.9 REQUIREMENTS:**

Application procedures:

**A.** A public school district may apply for a loan from the public school district general obligation bond loan fund upon certification by the local board of education that there are insufficient ad valorem taxes or other school district revenues to meet the payment of principal or interest or both, due on the school district's general obligation indebtedness or to meet other obligations arising in connection with that indebtedness lawfully payable from ad valorem taxes, or that the receipt of ad valorem taxes to make such payment will be delayed and not be available to make the payment when due.

**B.** The application will be made on forms developed by the public education department and will require the following minimum information from the applicant public school district:

(1) a detailed explanation as to the reasons for the public school district's inability to meet its general obligation indebtedness;

(2) a certified statement from the local board of education of the public school district's current financial status;

(3) a detailed explanation on efforts taken by the public school district to generate additional revenues to meet its general obligation indebtedness;

(4) a proposed repayment schedule by the applicant public school district must be submitted with the application; such proposed repayment schedule shall be for a period of time not to exceed five (5) years.

**C.** The application must be submitted to the public education department forty five (45) days prior to the due date of the payment on the public school district's general obligation indebtedness. An application submitted after the forty-five (45) days will be considered only upon the public education department's determination that the public school district has demonstrated compelling circumstances.

**D.** The applicant public school district must meet the financial criteria set forth in Sections 8 and 9 of this rule.

**E.** The applicant shall provide any other information required by the public education department to determine a public school district's eligibility for a loan pursuant to the School District Loan Act.

**F.** With prior approval from the state board of finance, all loans requested by public school districts from the public school district general obligation bonds loan fund shall be made by the public education department.

[01-15-99; 6.20.5.9 NMAC - Rn, 6 NMAC 2.2.3.9, 06-14-01; A, 11-13-09]

#### **6.20.5.10 REPAYMENT PROCEDURES:**

**A.** The loan shall be made for a period of time not to exceed five years with an annual interest rate to be the lesser of five (5) percent or a rate of interest determined by the public education department comply with federal arbitrage requirements.

**B.** The loan shall be repaid in annual installments as determined by the public education department in consultation with the department of finance and administration.

**C.** Notwithstanding, the provisions of Subsections A and B of 6.20.5.10 NMAC, loans made to a public school district to meet its general obligation indebtedness due to late or delayed receipts of ad valorem taxes shall be repaid within ten (10) working days following receipt of these taxes in order to reduce interest expenses.

[01-15-99; 6.20.5.10 NMAC - Rn, 6 NMAC 2.2.3.10, 06-14-01; A, 11-13-09]

**6.20.5.11 SEVERABILITY:**

If any part or application of this rule is held invalid, the remainder or its application to other situations or persons shall not be affected.

[01-15-99; 6.20.5.11 NMAC - Rn, 6 NMAC 2.2.3.11, 06-14-01; A, 11-13-09]

## **CHAPTER 21: PUBLIC SCHOOL FINANCE - AUDIT**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: AUDIT RESOLUTION PROCESS, APPLICATION HEARING PROCESS, ENFORCEMENT PROCESS**

**6.21.2.1 ISSUING AGENCY:**

Public Education Department.

[01-15-99, 07-30-99; 6.21.2.1 NMAC - Rn, 6 NMAC 2.3.1.1, 05-31-01; A, 11-13-09]

**6.21.2.2 SCOPE:**

This rule applies to all public school districts, post-secondary institutions, state supported schools, state agencies, private nonprofit organizations, and other entities receiving state appropriated funds or federal funds through the department, and for direct grant programs for which the department has monitoring and enforcement responsibility and authority. This rule does not apply to federal or state funds received through the division of vocational rehabilitation.

[01-15-99; 6.21.2.2 NMAC - Rn, 6 NMAC 2.3.1.2, 05-31-01; A, 11-13-09]

**6.21.2.3 STATUTORY AUTHORITY:**

**A.** New Mexico State Constitution, Article XII, Section 6, and the Public School Code, Section 22-1- 1, et seq., set forth the responsibilities, powers, and duties of the public education department pertaining to the control, management and direction, including financial direction, distribution of school funds, and financial accounting of all public schools, pursuant to authority and powers provided by law.

**B.** Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, issued under the authority of 31 United States Code (U.S.C.) Sections 503, 1111, and 7501 et. seq. and Executive Orders 8248 and 11541. OMB Circular A-133 was issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156. It sets forth standards for obtaining consistency and uniformity among federal agencies for the audits of states, local governments, and non-profit organizations expending federal awards.

**C.** 20 U.S.C. Section 1231 b-2 (a) provides for any applicant or recipient aggrieved by the final action of the department may, within 30 days of such action by the department, request a hearing alleging a violation of state or federal law, rules, regulations, or guidelines governing the applicable program in:

- (1) disapproving or failing to approve its application or program in whole or in part;
- (2) failing to provide funds in amounts in accord with the requirements of law and regulation;
- (3) ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds; or
- (4) terminating further assistance for an approved program.

[01-15-99; 6.21.2.3 NMAC - Rn, 6 NMAC 2.3.1.3, 05-31-01; A, 11-13-09]

**6.21.2.4 DURATION:**

Permanent.

[01-15-99; 6.21.2.4 NMAC - Rn, 6 NMAC 2.3.1.4, 05-31-01]

**6.21.2.5 EFFECTIVE DATE:**

January 15, 1999

[01-15-99; 6.21.2.5 NMAC - Rn, 6 NMAC 2.3.1.5, 05-31-01]

**6.21.2.6 OBJECTIVE:**

The objective of this rule is to establish standard operating procedures covering the audit resolution process (ARP) as it relates to federal and state funds and to set forth the application hearing process as provided for by federal statutes and regulations. These standard operating procedures further set forth the process by which the department may enforce federal and state requirements under any applicable program.

**6.21.2.7 DEFINITIONS:**

**A. "Applicant"** means a party requesting a subgrant under a program of the department.

**B. "Audit(s)"** means an audit(s) of a subgrantee which is either conducted by an independent auditor (certified public accountant) in accordance with the Single Audit Act of 1984, as amended or the Audit Act, Sections, 12-6-1 through 12-6-14 NMSA 1978, or those audits/monitoring reviews/program evaluations conducted by department personnel.

**C. "Audit finding"** means a written explanation of errors, noncompliance with legal requirements, use of funds for improper purposes, weakness; deficiencies, adverse conditions, or the need for improvement or changes.

**D. "Audit recommendation"** means a written suggestion/recommendation for specific action to correct a deficient condition, prevent a recurrence of the condition, and to alleviate the adverse effect of the condition or request repayment of funds used improperly.

**E. "Audit resolution process"** means a method by which audit finding(s) and recommendation(s) are resolved in a uniform and timely manner and within a predetermined time frame.

**F. "Crosscutting issues"** means audit finding(s) applicable to the overall operation (i.e., internal control, procurement, inventory, etc.).

**G. "Days"** means calendar days unless specified as workdays.

**H. "Department"** means the public education department.

**I. "Direct grants"** means those federal funds which flow directly from the federal government to a grantee.

**J. "Enforcement process"** means a mechanism by which the department may enforce the federal or state requirements under any applicable program.

**K. "Final letter of determination/notice of intended action"** means a letter issued by the department setting forth:

(1) notice of intent to disapprove or failure to approve an application or program in whole or in part;

(2) notice ordering, in accordance with the department audit resolution determination, the repayment of misspent or misapplied federal funds;

(3) notice terminating further assistance for an approved program;

(4) notice of intent to suspend partially or entirely the distribution of federal funds; and

(5) notice ordering in accordance with a final state audit resolution determination, compliance with the audit resolution request.

**L. "Grant"** means an award of financial assistance in the form of money to an eligible grantee.

**M. "Grantee"** means a government or other legal entity to which a grant is awarded.

**N. "Management decision"** means the evaluation by the department of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

**O. "Secretary"** means the secretary of the federal awarding agency.

**P. "Secretary of public education"** means the New Mexico secretary of public education appointed by the governor and confirmed by the senate.

**Q. "Subgrant"** means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by the department to an eligible subgrantee.

**R. "Subgrantee"** means the government or other legal entity to which a subgrant is awarded and which is accountable to the department for the use of the funds provided.

**S. "Written ruling"** means a letter issued by the department outlining the department's position based on the results of the hearing as presented by the hearing officer.

[01-15-99; 6.21.2.7 NMAC - Rn, 6 NMAC 2.3.1.7, 05-31-01; A, 11-13-09]

#### **6.21.2.8 PROCESSING AUDIT REPORTS CONDUCTED IN ACCORDANCE WITH THE SINGLE AUDIT ACT OF 1984, AS AMENDED, OMB CIRCULAR A-133, AND/OR THE STATE AUDIT ACT:**

**A. Purpose of audits:** Audits conducted in accordance with the Single Audit Act of 1984, as amended, OMB Circular A-133 and/or the Audit Act Sections 12-6-1 through 12-6-14 NMSA 1978 serve to provide the department with information on activities

performed under subgrants. These audits provide an opinion as to whether legal requirements regarding expenditure of funds are being met with regard to:

- (1)** contract, grant, subgrant or cooperative agreement obligations are met;
- (2)** all applicable federal and state laws, rules, and regulations are being adhered to;
- (3)** claimed costs are eligible; and
- (4)** adequate internal control systems are in place.

**B.** The receipt date of the audit report marks the commencement of the timeframe in which the department will ultimately issue its management decision on any audit finding noted.

**(1)** Desk review: A desk review is conducted on all audit reports received. The objectives of the review are as follows:

**(a)** determine if the audit report contains the required components pursuant to OMB Circular A-133;

**(b)** identify audit finding(s), and/or recommendation(s);

**(c)** identify any crosscutting issues;

**(d)** coordinate and solicit input from the appropriate agencies/individuals in determining the department's resolution request on audit findings) and/or recommendation(s);

**(e)** determine if appropriate department personnel should provide technical assistance to the subgrantee, when applicable;

**(f)** develop and forward to the subgrantee a letter outlining the results of the desk review, to include the identification of any outstanding audit findings) or recommendation(s), the subrecipient's response to the state auditor, if applicable, the department's resolution and corrective action request, and the due date for a response from the subgrantee.

**(g)** forward a closeout letter for those audit reports, which do not contain audit findings.

**(h)** if any subgrantee audit report includes audit finding(s) and/or recommendations) concerning direct grants, the resolution of these findings will be the responsibility of the awarding agency; if, however, these audit findings are considered



by the department to involve crosscutting issues, the resolution of the audit finding(s) will also be addressed in the desk review letter.

(2) After the desk review is conducted, the department will issue a desk review letter to the subgrantee outlining the results of the desk review relative to the subgrantee's audit report. The department will attempt to resolve any audit findings through written correspondence, submission of documentation or any other method deemed appropriate such as telephone conversation, or on-site visits. A public school district's response to the department with regard to the resolution of any audit findings shall be approved by the local school board at a legally scheduled meeting.

(3) A final letter of determination will be issued to a subgrantee and will include those desk audit finding(s) or recommendation(s) which were not resolved as a result of a subgrantee's failure to comply with the department's resolution and corrective action request as identified in the desk review letter. The following components must be included in this letter:

- (a) audit findings) or recommendation(s);
- (b) the subgrantee's response to the state auditor, if applicable;
- (c) the department's resolution and corrective action request;
- (d) activities subsequent to the issuance of the desk review letter;
- (e) due date for response from the subgrantee; and
- (f) the subgrantee's right to appeal.

[01-15-99; 6.21.2.8 NMAC - Rn, 6 NMAC 2.3.1.8, 05-31-01]

#### **6.21.2.9 APPLICANTS OR SUBGRANTEES AGGRIEVED BY FINAL LETTER OF DETERMINATION OR NOTICE OF INTENDED ACTION - OPPORTUNITY FOR A HEARING:**

**A. Scope:** The procedures set forth in this section shall be implemented to comply with the statutory and regulatory requirements of 20 U.S.C. Section 1231 b-2(a) and 34 CFR 76.401 so as to afford the opportunity for a hearing to any applicant or subgrantee aggrieved by a final action of the department and alleging a violation of state or federal law, rules, regulations, or guidelines governing the applicable program with regard to the department's (i) disapproving or failing to approve its application or program in whole or in part; (ii) failing to provide funds in amounts in accord with the requirements of laws and regulations; (iii) ordering, in accordance with the department's audit resolution determination, the repayment of misspent or misapplied federal funds; or (iv) terminating further assistance for an approved program.

**(1)** The department will, if required by federal statute or regulation, provide an opportunity for a hearing prior to disapproval of the application.

**(2)** If the department is not required to provide the opportunity for a hearing prior to the disapproval of the application, the department will provide the opportunity for the hearing either before or after disapproval of the application.

## **B. Procedures**

**(1)** Request for hearing: The applicant or subgrantee shall request in writing the hearing within thirty (30) days of the date of the final letter of determination or notice of intended action.

**(2)** Availability of records: The department shall make available, at reasonable times and places, to each applicant or subgrantee all records of the department pertaining to the review or appeal the applicant is conducting, including records of other applicants.

**(3)** Hearing: Within thirty (30) days after the department receives a request for a hearing pursuant to this section, the department shall hold a hearing on the record and shall review its action or proposed action. The following procedures shall apply:

**(a)** a written notice of hearing to all parties;

**(b)** an opportunity for all parties to participate in the hearing:

**(c)** prohibition of ex parte contacts between one party and the impartial hearing officer;

**(d)** an impartial hearing officer, who has not taken part in the investigation and who is not under the supervision of a department employee who did, shall be appointed by the secretary of public education;

**(e)** the right of the parties to appear with counsel;

**(f)** the right to present oral and written evidence and to conduct cross examinations;

**(g)** the right to submit proposed findings of fact and conclusions of law; and

**(h)** the compiling and availability of a record upon which the impartial hearing officer's recommended findings of fact, conclusions of law, and decision are based.

**(4)** Ruling

**(a)** No later than ten (10) days after the hearing, the department shall issue its written ruling, including findings of fact and reasons for the ruling.

**(b)** If the department determines that its action or proposed action in whole or in part was contrary to federal or state statutes, regulations, and guidelines governing the applicable program, the department shall rescind its action or proposed action in whole or in part.

**(5)** Appeal to the secretary: If the department does not rescind its final action or proposed action after a review under this section, the applicant may appeal to the secretary. The applicant shall file a notice of the appeal with the secretary within twenty (20) days after the applicant has been notified by the department of the department's ruling.

**C. Repayment:** Repayment of misspent or misapplied federal funds, as determined through the audit resolution determination, shall be made from nonfederal sources or from federal funds, no accountability for which is required to the federal government.

[01-15-99; 6.21.2.9 NMAC - Rn, 6 NMAC 2.3.1.9, 05-31-01; A, 11-13-09]

#### **6.21.2.10 FEDERAL FUNDS ENFORCEMENT PROCESS:**

##### **A. Scope**

**(1)** This section shall apply only to those actions encompassed by 20 U.S.C. 1232 c(b) and shall not apply to those actions encompassed by 20 U.S.C. Section 1231 b-2(a) that are subject to the procedures set forth in section 9.

**(2)** Notwithstanding any other remedies available to the department, and specifically reserving such remedies, the department, in order to enforce the federal requirements under any applicable program, may:

**(a)** withhold approval, in whole or in part, of an application for funds under an applicable program until the department is satisfied that the federal requirements will be met; except the department shall not finally disapprove an application unless the department provides an opportunity for a hearing before an impartial hearing officer and such officer determines that there has been a substantial failure to comply with any of such requirements;

**(b)** suspend payments, in whole or in part, under an applicable program if the department has reason to believe that there has been substantial failure to comply with any of such requirements;

**(i)** the department shall not suspend such payments until fifteen (15) days after the department provides an opportunity to show cause why such action should not be taken;

(ii) no suspension shall continue in effect longer than sixty (60) days unless the department within such period provides the notice for a hearing required under Subsection A., Paragraph (2), Subparagraph (c) of 6.21.2.10 NMAC;

(c) withhold payments, in whole or in part, under any such program if the department finds, after reasonable notice and opportunity to be heard before an impartial hearing officer, that the subgrantee has failed substantially to comply with any such requirements; any withholding of payments shall continue until the department is satisfied that there is no longer a failure to comply substantially with any of such requirements.

## **B. Procedures**

(1) When a hearing is required under these rules or other applicable federal requirements, the secretary of public education shall appoint an impartial hearing officer to conduct the proceeding. The impartial hearing officer shall be an impartial decision-maker who has not taken part in the investigation and who is not under the supervision of a department employee who did and who shall not have personal, economic, or professional interest in the outcome of the hearing other than the proper application of federal laws, regulations, and policies.

(2) The following procedures shall apply:

(a) a written notice of hearing;

(b) an opportunity for the aggrieved party to be heard; and

(c) a prohibition of ex parte contacts between one party and the impartial hearing officer.

(3) The impartial hearing officer shall issue a written decision that includes findings of fact and conclusions of law.

**C.** Appeal to the secretary of the United States department of education: Nothing in this chapter shall abrogate any right of appeal to the secretary of the United States department of education or other appropriate federal agency as provided for by federal statute or regulation.

[01-15-99; 6.21.2.10 NMAC - Rn, 6 NMAC 2.3.1.10, 05-31-01; A, 11-13-09]

## **6.21.2.11 STATE FUNDS ENFORCEMENT PROCESS:**

**A.** Scope: This section shall apply to the accountability of state funds where there is a failure to correct a deficiency cited in an audit. The remedies set forth in this section may be used only after the department has requested in writing that the deficiency or deficiencies in question be corrected and there has been a failure to correct the

deficiency or deficiencies after a reasonable opportunity to do so. When applicable, the department may avail itself of any of the remedies hereinafter set forth in this section, notwithstanding the fact that other remedies are available to or may have been used by the department.

**B. Procedures:** In order to enforce the provisions of the Public School Code of the state of New Mexico, Section 22-1-1 et. seq., NMSA 1978, any other applicable state or federal law, or as a result of an unresolved audit finding, the department may, pursuant to applicable state law:

(1) recommend suspension of a local school board which has been designated as its own board of finance from acting as a board of finance if the secretary of public education reasonably believes there is mismanagement, improper recording or improper reporting of public school funds under the local school board's control, in accordance the provisions of Sections 22-8-39 NMSA 1978;

(2) disapprove instructional units or administrative functions which are determined to be detrimental to the educational process in accordance with the provisions of Section 22-2-14 NMSA 1978;

(3) suspend from authority and responsibility any local school board, which has notice of disapproval and fails to comply with procedures of Subsection B, Paragraph (2) of 6.21.2.11 NMAC in accordance with the provisions of Section 22-2-14 NMSA 1978;

(4) institute legal proceedings for violation or enforcement of the Public School Code in accordance with the provisions of Sections 22-2-2 and 22-8-42 NMSA 1978;

(5) refer audit finding(s) to the proper law or other enforcement agency (ies) as appropriate;

(6) institute legal proceedings of other enforcement provisions as provided by any applicable state law.

**C. Withholding of funds:** In accordance with Subsection D of Section 22-8-13, the department shall withhold allotments of funds to any school district where the superintendent has failed to comply with the requirements of Section 22-8-13 NMSA 1978 until the superintendent complies with and agrees to continue complying with requirements. The following procedures shall apply:

(1) The secretary of public education or his designee will advise the business manager of the district/charter school of the deficiency(ies) and establish timelines for compliance.

(2) If compliance is not effectuated in accordance with the timeline(s) established in paragraph (1), the director of the school budget planning unit or his designee will advise the district/charter school superintendent that the district/charter school has not made progress toward resolution of the issues. At the discretion of the director of the school budget planning unit, further technical assistance may be provided to the district/charter school.

(3) Upon a determination by the director of the school budget planning unit that the district/charter school has not made adequate progress toward resolution of the issues, the secretary of public education or his designee will inform the appropriate district/charter school personnel in writing that the district/charter school has been given ample opportunity to correct the deficiencies and progress has not been made. A copy of the letter will also be sent to the local school board or the governance council of the applicable charter school. As a result, the department will begin withholding of funds until the district/charter school has corrected the problem(s) or made significant progress toward the resolution of the problem areas.

[01-15-99; 6.21.2.11 NMAC - Rn, 6 NMAC 2.3.1.11, 05-31-01; A, 10-15-03; A, 11-13-09]

#### **6.21.2.12 CONFLICTS:**

If any statute or regulation governing any federal program subject to this rule affords procedural rights exceeding those set forth in this rule, or otherwise establishes additional or inconsistent requirements, such statutory or regulatory right(s) shall be afforded and such requirements shall govern.

[01-15-99; 6.21.2.12 NMAC - Rn, 6 NMAC 2.3.1.12, 05-31-01; A, 11-13-09]

## **CHAPTER 22: PUBLIC SCHOOL FINANCE - ALLOCATION AND DISTRIBUTION**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: ALLOCATION AND DISTRIBUTION OF THE ADULT BASIC EDUCATION FUND[REPEALED]**

[The State Board of Education has repealed 6.22.2 NMAC (filed as 6 NMAC 8.2.1) ALLOCATION AND DISTRIBUTION OF THE ADULT BASIC EDUCATION FUND. Laws 2003, Chapter 394 transferred the authority from the State Board of Education to the Commission on Higher Education to establish an equitable formula for distribution of the adult basic education fund and to distribute the fund pursuant to the formula.]

[See 5.3.13 NMAC]

## **PART 3: CHARTER SCHOOL STIMULUS FUND**

### **6.22.3.1 ISSUING AGENCY:**

Public Education Department.

[6.22.3.1 NMAC - Rp, 6.22.3.1 NMAC, 09-15-08]

### **6.22.3.2 SCOPE:**

Start-up and conversion charter schools

[6.22.3.2 NMAC - Rp, 6.22.3.2 NMAC, 09-15-08]

### **6.22.3.3 STATUTORY AUTHORITY:**

Sections 22-2-1 and 22-8B-14, NMSA 1978

[6.22.3.3 NMAC - Rp, 6.22.3.3 NMAC, 09-15-08]

### **6.22.3.4 DURATION:**

Permanent.

[6.22.3.4 NMAC - Rp, 6.22.3.4 NMAC, 09-15-08]

### **6.22.3.5 EFFECTIVE DATE:**

September 15, 2008, unless a later date is cited at the end of a section.

[6.22.3.5 NMAC - Rp, 6.22.3.5 NMAC, 09-15-08]

### **6.22.3.6 OBJECTIVE:**

To establish the application process and requirements for start-up charter schools to request financial support for start-up costs and initial costs associated with renovating or remodeling existing public buildings and structures.

[6.22.3.6 NMAC - Rp, 6.22.3.6 NMAC, 09-15-08]

### **6.22.3.7 DEFINITIONS:**

**A. "Authorizer"** means either a local school board or the commission that permits the operation of a charter school.

**B. "Charter school"** means a conversion school or start-up school authorized by a chartering authority to operate as a charter school.

**C. "Chartering authority"** means either a local school board or the commission.

**D. "Commission"** means the public education commission.

**E. "Conversion school"** means an existing public school within a school district that was authorized by a local school board to become a charter school.

**F. "Department"** means the public education department.

**G. "Division"** means the charter school division of the department.

**H. "Governing body"** means the governing body of a charter school as set forth in the school's charter.

**I. "Secretary"** means the New Mexico secretary of public education.

**J. "Start-up cost"** means the initial costs associated with opening a start-up school.

**K. "Start-up school"** means a public school developed by one or more parents, teachers or community members authorized by a chartering authority to become a charter school.

[6.22.3.7 NMAC - Rp, 6.22.3.7 NMAC, 09-15-08]

#### **6.22.3.8 CONTENTS OF APPLICATION FOR CHARTER SCHOOL STIMULUS FUNDS:**

The charter school shall submit an application to the division which shall include the following descriptions, outlines and plans.

**A.** The official minutes of the meeting at which the chartering authority approved the charter school application.

**B.** The amount of funds requested.

**C.** A budget plan that specifies in detail on what items of start-up cost the charter school will expend the funds and a specific time line for those expenditures.

**D.** A description of other resources or matching funds to be used in conjunction with the charter school stimulus funds.



**E.** A description of how these expenditures will support the establishment and initial operations of the charter school.

[6.22.3.8 NMAC - Rp, 6.22.3.8 NMAC, 09-15-08]

#### **6.22.3.9 ALLOWABLE START-UP COST:**

**A.** Start-up cost are limited to obligations which were incurred by the charter school on or after the date of the award letter granting the charter school stimulus funds and which were included in the charter school's stimulus budget as approved by the division.

**B.** The division may approve the use of stimulus funds for the reasonable and necessary cost for initial start-up of a charter school which may include furniture, equipment, classroom and administrative supplies and materials, curriculum materials, technology, professional development, consultant, architect and attorney fees, other necessary professional, educational or financial services and initial costs associated with renovating or remodeling of existing public buildings and structures.

**C.** Stimulus funds shall not be used for payment of salaries, out-of-state travel, and attorney costs for litigation or advice relating to litigation or any potential legal issues that are not directly related to start-up activities. The division shall not approve the use of stimulus funds for any costs associated with renovating or remodeling of existing non-public buildings and structures.

**D.** The division's approval or disapproval of allowable start-up costs shall be final and cannot be appealed to the secretary.

[6.22.3.9 NMAC - N, 09-15-08]

#### **6.22.3.10 DISTRIBUTION OF FUNDS:**

**A.** The division shall recommend to the secretary an amount to be awarded to the charter school based on approved start-up costs and projected enrollment.

**B.** The secretary shall issue an award letter that specifies the amount of stimulus funds the charter school shall receive and the period of time those funds will be available to the school.

**C.** Upon receipt from a charter school of a payment request with invoices or other supporting documentation required by the division, the division shall verify that the expenditures are allowable in order to approve, partially approve or deny the payment request.

**D.** All charter school stimulus funds awarded to a charter school must be expended or obligated within eighteen months from the date of the award letter.

**E.** Charter schools that receive charter school stimulus funds shall file periodic financial reports, as required by the department, to account for all stimulus funds awarded to the charter school.

**F.** If the charter school receives charter school stimulus funds and fails to expend all funds awarded within eighteen months from the date of the award letter, the charter school shall immediately reimburse the balance of any remaining charter school stimulus funds to the department.

**G.** If the charter school receives charter school stimulus funds and fails to begin operating within eighteen months from the date of the award letter, the charter school shall immediately reimburse all charter school stimulus funds to the department.

[6.22.3.10 NMAC - Rp, 6.22.3.9 NMAC, 09-15-08]

## **CHAPTER 23: PUBLIC SCHOOL FINANCE - COOPERATIVE AGREEMENTS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: REGIONAL CENTER COOPERATIVES [REPEALED]**

[This part was repealed on November 13, 2009]

### **PART 3: REGIONAL EDUCATION COOPERATIVES**

#### **6.23.3.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 7-30-99; 6.23.3.1 NMAC - Rn, 6 NMAC 11.3.2.1, 06-14-01; A, 11-13-09]

#### **6.23.3.2 SCOPE:**

6.23.3 NMAC governs the establishment and procedures for regional education cooperatives

[12-31-98; 6.23.3.2 NMAC - Rn, 6 NMAC 11.3.2.2, 06-14-01]

#### **6.23.3.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2B-3, 22-2B-4, and 22-2B-5 NMSA 1978

[12-31-98; 6.23.3.3 NMAC - Rn, 6 NMAC 11.3.2.3, 06-14-01]

#### **6.23.3.4 DURATION:**

Permanent.

[12-31-98; 6.23.3.4 NMAC - Rn, 6 NMAC 11.3.2.4, 06-14-01]

#### **6.23.3.5 EFFECTIVE DATE:**

December 31, 1998.

[12-31-98; 6.23.3.5 NMAC - Rn, 6 NMAC 11.3.2.5, 06-14-01]

#### **6.23.3.6 OBJECTIVE:**

This part establishes minimum criteria for the establishment, operation, and oversight of regional education cooperatives and authorizes the establishment of additional regional education cooperatives if the secretary determines that the establishment and operation of such additional regional education cooperatives will not be detrimental to the delivery of services by the existing regional education cooperatives.

[12-31-98; 6.23.3.6 NMAC - Rn, 6 NMAC 11.3.2.6, 06-14-01; A, 11-13-09]

#### **6.23.3.7 DEFINITIONS:**

**A. "Council"** means a regional education coordinating council.

**B. "Cooperative"** means a regional education cooperative as authorized by the secretary pursuant to this rule.

**C. "IDEA-Part B"** means Part B of the Education of the Handicapped Act of 1975, amended and redesignated as the Individuals with Disabilities Education Act.

**D. "Local school board"** means the governing body of a school district.

**E. "Department"** means the public education department.

**F. "Secretary"** means the secretary of public education.

**G. "State agency" or "state institution"** means an entity enumerated in Section 22-1-2(X) NMSA 1978.

[12-31-98; 6.23.3.7 NMAC - Rn, 6 NMAC 11.3.2.7, 06-14-01; A, 11-13-09]

#### **6.23.3.8 ESTABLISHMENT OF REGIONAL EDUCATION COOPERATIVES:**

**A.** The secretary may authorize the existence and operation of one or more cooperatives.

**(1)** The authorization process is initiated by the receipt of applications and supporting resolutions requesting such authorization by two or more local school boards. By application of their governing authorities, state agencies or state institutions may be included.

**(2)** No local school board or state agency or state institution may be a member of more than one cooperative.

**B. Procedures**

**(1)** The department shall develop application procedures consistent with the requirements set forth in this rule. Applications submitted to the secretary requesting authorization for the existence and operation of a cooperative must address the following minimum criteria:

**(a)** an accurate description of the geographical service area of the proposed cooperative;

**(b)** a detailed description of the services contemplated;

**(c)** a detailed description of why the services contemplated cannot be delivered by any currently existing cooperative(s), together with documentation that any existing cooperative(s) within the proposed geographical service area have been consulted regarding the proposed cooperative and the recommendation of the existing cooperative(s) as to the establishment of the proposed cooperative;

**(d)** a detailed description of the ability of the proposed cooperative to provide the proposed services, including the history of needs within the geographical service area of the proposed cooperative and the historical ability of the applicants to meet those needs;

**(e)** a description of the management capabilities, including fiscal management, of the proposed cooperative, including the history of needs within the geographical service area of the proposed cooperative and the historical ability of the applicants to meet those needs;

**(f)** a showing of the commonality of missions among the applicants;

**(g)** a cost/benefit fiscal analysis of the proposed cooperative;

**(h)** the proposed budget for the first year of the cooperative's operation;

**(i)** proposed policies and procedures of the cooperative; and

**(j)** the acknowledgment by the local school boards and governing authorities of state agencies or state institutions that participation in a cooperative will not relieve said local school boards and governing authorities of state and federal statutory and regulatory responsibilities.

**(2)** After review of the application, the secretary may request such additional information as he or she deems necessary.

**(3)** Within ninety (90) days after receipt of the application, the secretary will review the application and will either grant or deny the application for authorization of the cooperative. In making the determination, the secretary will determine whether the authorization of the cooperative is in the best interests of public education in the school districts seeking such authorization and is in the best interests of public education in the state, and will consider the following factors:

- (a)** relationship of the application to the accreditation status of the applicants;
- (b)** relationship of the application to educational improvement within the geographical service area of the proposed cooperative;
- (c)** sufficient size and scope of proposed programs and services;
- (d)** sufficient management capacity;
- (e)** sufficient fiscal capacity and management;
- (f)** relationship of geographical service area to size and scope of proposed programs and services; and
- (g)** such other factors deemed relevant by the secretary.

**(4)** Upon authorization by the secretary for the existence and operation of a cooperative, the local school boards and governing authorities of the state agencies or state institutions shall enter into a joint powers agreement. The joint powers agreement, in addition to meeting all requirements of the Joint Powers Agreements Act, shall address those components as may be required by the secretary and shall be subject to the approval of the secretary. The joint powers agreement shall further:

- (a)** establish a mechanism whereby participating local school boards and governing authorities of state agencies or state institutions electing to cooperatively participate in programs funded by monies other than IDEA-Part B notify the council and the department;
- (b)** include a provision requiring participating local school boards and governing authorities of state agencies or state institutions desiring to participate in cooperative programs funded by monies other than IDEA-Part B to execute a

memorandum of understanding in accordance with requirements established by the department.

**C. Changed circumstances**

**(1)** An authorized cooperative shall notify the secretary upon receipt of notice by a local school board or governing authority of a state agency or state institution that said local school board or governing authority wishes to withdraw from membership in the cooperative.

**(a)** The secretary will review the cooperative and will determine whether said cooperative will continue to meet the criteria established in Subsection B, Paragraph (3) of 6.23.3.8 NMAC.

**(b)** If the secretary determines that the cooperative will no longer meet the criteria established in Subsection B, Paragraph (3) of 6.23.3.8 NMAC, the secretary may order the dissolution of the cooperative.

**(2)** An authorized cooperative shall further notify the secretary upon receipt of notice by a local school board or governing authority of a state agency or state institution that the local school board or governing authority wishes to establish membership in the cooperative.

**(a)** The secretary will review the cooperative and will determine whether said cooperative will continue to meet the criteria established in Subsection B, Paragraph (3) of 6.23.3.8 NMAC.

**(b)** If the secretary determines that the cooperative will continue to meet the criteria established in Subsection B, Paragraph (3) of 6.23.3.8 NMAC, the secretary will allow the requesting entity(ies) to participate and will establish the terms thereof.

[12-31-98; 6.23.3.8 NMAC - Rn, 6 NMAC 11.3.2.8, 06-14-01; A, 11-13-09]

**6.23.3.9 REGIONAL EDUCATION COORDINATING COUNCIL:**

**A.** Each cooperative shall be governed by a regional education coordinating council ("council").

**(1)** Each council will develop and adopt by-laws for the purpose of the governance of the cooperative.

**(2)** The by-laws shall include the following provisions:

**(a)** procedures for electing a council chairperson;

**(b)** the term of office for the council chairperson;

(c) procedures to establish any committees the council may deem necessary or desirable; and

(d) procedures to amend the by-laws as the council deems necessary or desirable.

(3) The council shall be composed of the superintendents or chief administrative officers of each local school district or state agency or state institution participating in the cooperative.

(4) Members of each council shall elect a chairperson from its members.

(5) Meetings of the council shall be held at the call of the chairperson, subject to the council's open meetings policy and the Open Meetings Act, Sections 10-15-1 through 10-15-4, NMSA 1978.

(6) A meeting of a majority of the members of the council constitutes a quorum for the purpose of conducting business.

**B.** The council shall oversee the operation of the cooperative and shall develop a manual of policies and procedures governing the operation of the cooperative. At the direction of the council, the cooperative shall provide:

(1) education-related services to members of the cooperative;

(2) technical assistance and staff development opportunities to members of the cooperative;

(3) cooperative purchasing capabilities and fiscal management opportunities to members of the cooperative;

(4) such additional services to participating entities as may be determined by the council to be appropriate; and

(5) revenue-generating education-related services to nonmembers when the council determines that the provision of such services will not interfere with the cooperative's ability to fulfill its responsibilities to its members.

**C.** The council shall have such other powers and duties as are reasonably necessary to carry out the purpose of the Regional Cooperative Education Act, Sections 22-2B-1 through 22-2B-5 NMSA 1978 and which are not inconsistent with the provisions of applicable state or federal statutes or regulations.

**D.** Each council shall hire an executive director and necessary additional staff and, subject to the provisions of law, fix the salaries of all employees.

(1) The council shall ensure that all employees meet all applicable certification or licensure requirements.

(2) The council shall further ensure that all applicable provisions of the School Personnel Act, Chapter 22, Article 10A NMSA 1978 are adhered to and reflected in its policies and procedures.

(3) The council shall include within its policies and procedures the following policies relating to employees:

(a) the salary schedule(s) for all employees of the cooperative;

(b) policies related to the accrual and utilization of leave by employees; and

(c) policies relating to performance evaluations of employees.

(4) The administrative and supervisory functions of the council shall be delegated to the executive director.

(5) The council shall, subject to the provisions of law, approve or disapprove the employment, termination, or discharge of all employees and certified school personnel of the cooperative upon a recommendation of employment, termination, or discharge by the executive director. Any employment, termination, or discharge without the prior recommendation of the executive director is void.

[12-31-98; 6.23.3.9 NMAC - Rn, 6 NMAC 11.3.2.9, 06-14-01; A, 11-13-09]

#### **6.23.3.10 ACCOUNTABILITY:**

##### **A. Fiscal and budget accountability**

(1) The department shall develop procedures for personnel and program reporting for the cooperative(s). Each cooperative shall be required to adhere to such procedures. The reporting shall include the cooperative's evaluation of the effectiveness of the technical assistance and other services provided to members of the cooperative and to any nonmember public and private entities to which the cooperative provided educational services.

(2) The department shall develop procedures for budgets and fiscal reporting. Each cooperative shall be required to adhere to such procedures. Such procedures shall ensure compliance with the requirements of all applicable state and federal statutes and regulations.

(3) The department shall establish procedures, including timelines, for the preparation of cooperative budgets and the approval of said budgets by the department. Each cooperative shall be required to adhere to such procedures.



(4) The cooperative shall assure compliance with the provisions of the Procurement Code, Sections 13-1-28 et seq. NMSA 1978.

(5) The cooperative shall assure compliance with all applicable department of finance and administration regulations.

B. The department shall further develop procedures to ensure that the cooperatives are assessed and evaluated in accordance with the applicable requirements of Section 22-2-2(F) NMSA 1978.

[12-31-98; 6.23.3.10 NMAC - Rn, 6 NMAC 11.3.2.10, 06-14-01; A, 11-13-09]

#### **6.23.3.11 ENFORCEMENT OF REQUIREMENTS:**

A. The secretary shall give written notification to a cooperative and its member entities of any failure of the cooperative to meet applicable requirements in any of its programs or activities. The notice shall specify the deficiency. Within thirty days after receipt of the notice of failure to meet requirements, the council shall:

- (1) comply with the specific and attendant requirements; or
- (2) submit plans satisfactory to the secretary to meet such requirements.

B. The secretary shall suspend from authority and responsibility any council which has had notice of deficiency(ies) pursuant to Subsection A of 6.23.3.11 NMAC and fails to comply with procedures set forth in Subsection A, Paragraphs (1) and (2) of 6.23.3.11 NMAC. The secretary or the secretary's designee shall act in lieu of the suspended council until the suspension is removed.

C. To suspend a council, the secretary shall deliver to the council an alternative order of suspension, stating the cause for the suspension and the effective date and time the suspension will begin. The alternative order shall also contain notice of a time, date, and place for a public hearing, prior to the beginning of suspension, to be held by the secretary or the secretary's designee, at which the council may appear and show cause why it should not be suspended. Within five days after the hearing, the secretary shall continue, modify or withdraw the alternative order.

D. Within one-hundred eighty (180) days after the entry of the order of suspension, the secretary shall withdraw the order of suspension or continue the order of suspension for an additional period of up to one-hundred eighty (180) days.

(1) Upon the secretary's withdrawal of the order of suspension, the council shall be restored to its full authority and responsibility.

(2) Upon the secretary's determination that the order of suspension be continued for an additional period of up to one-hundred eighty (180) days, the secretary

shall afford the council the opportunity for a hearing within a reasonable time. At this hearing, the council may appear and show cause why the order of suspension should not be continued. After the hearing, the secretary shall continue the order of suspension for a period not to exceed one-hundred eighty (180) days or withdraw the order of suspension.

**E.** Within one-hundred eighty (180) days after the entry of an order of continued suspension pursuant to Subsection D, Paragraph (2) of 6.23.3.11 NMAC, the secretary shall determine that the order of suspension be withdrawn or that the council should appear and show cause why the order of suspension should not be made permanent. Upon the secretary's determination that the order of suspension be withdrawn, the council shall be restored to its full authority and responsibility. Upon the secretary's determination that the council should appear and show cause why the order of suspension should not be made permanent, the secretary shall afford the council the opportunity for a hearing within a reasonable time. At this hearing, the council may appear and show cause why the order of suspension should not be made permanent. After the hearing, the secretary shall withdraw the order of suspension or make the order of suspension permanent. A permanent order of suspension shall result in the dissolution of the cooperative.

[12-31-98; 6.23.3.11 NMAC - Rn, 6 NMAC 11.3.2.11, 06-14-01; A, 11-13-09]

#### **6.23.3.12 FUNDING SOURCES:**

**A.** Funding sources may include funds from federal grant allocations and general revenues of the membership and revenue from revenue-generating education-related services to nonmembers.

**B.** With council approval, a cooperative may apply for and receive public and private grants, gifts, donations, bequests and devises and use them to further the purposes and goals of the cooperative.

**C.** All revenues shall be receipted by the cooperative and budgeted in accordance with procedures established by the department in accordance with Subsection A, Paragraph (2) of 6.23.3.10 NMAC.

[12-31-98; 6.23.3.12 NMAC - Rn, 6 NMAC 11.3.2.12, 06-14-01; A, 11-13-09]

## **CHAPTER 24-26: [RESERVED]**

## **CHAPTER 27: PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL**

### **PART 1: GENERAL PROVISIONS**

**6.27.1.1 ISSUING AGENCY:**

Public School Capital Outlay Council.

[6.27.1.1 NMAC - N, 11/14/2000]

**6.27.1.2 SCOPE:**

Public school capital outlay council and public school districts.

[6.27.1.2 NMAC - N, 11/14/2000]

**6.27.1.3 STATUTORY AUTHORITY:**

The Public School Capital Outlay Act, Sections 22-24-1 to 22-24-11 NMSA 1978.

[6.27.1.3 NMAC - N, 11/14/2000; A, 07/15/2010]

**6.27.1.4 DURATION:**

Permanent.

[6.27.1.4 NMAC - N, 11/14/2000]

**6.27.1.5 EFFECTIVE DATE:**

November 14, 2000, unless a later date is cited at the end of a section.

[6.27.1.5 NMAC - N, 11/14/2000]

**6.27.1.6 OBJECTIVE:**

The objective of the rule is to establish the definitions for rules filed in this chapter and rules for the general operation of the public school capital outlay council.

[6.27.1.6 NMAC - N, 11/14/2000; A, 07/15/2010]

**6.27.1.7 DEFINITIONS:**

As used in this chapter:

**A. "public school facilities authority ("authority")"** means that entity created under the public school capital outlay council pursuant to Subsection A of Section 22-24-9 NMSA 1978;

**B. "council"** means the public school capital outlay council;

**C. "department"** means the public education department;

**D. "director"** means the director of the public school facilities authority;

**E. "secretary"** means the secretary of public education; and

**F. "school district"** means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes; for purposes of the rules within this chapter, references to "school district" or "district" shall also be applicable to state chartered charter schools, the New Mexico school for the blind and visually impaired ("NMSBVI") and the New Mexico school for the deaf ("NMSD").

[6.27.1.7 NMAC - N, 11/14/2000; A, 06/15/2004; A, 07/15/2010]

#### **6.27.1.8 NOTICE OF OPEN MEETINGS:**

**A.** All meetings will be conducted pursuant to the provisions of the Open Meetings Act, Sections 10-15-1 to 10-15-4 NMSA 1978. At its first meeting of each fiscal year, the council will determine what notice to the public of its meetings is reasonable and will establish the schedule of its regular meetings.

**B.** Notice of open meetings will be consistent with the open meetings resolution adopted by the council as follows.

**(1)** All meetings will be held in Santa Fe, New Mexico or as otherwise indicated on the meeting notice.

**(2)** At least ten (10) days notice will be given in advance of the meeting date. Notice requirements are met if notice of the date, time and place of the meeting and an agenda for the meeting, or information on how the public may obtain a copy of such an agenda, is placed in one newspaper of general circulation in the state. The council will also disseminate copies of the written notice to those broadcast stations licensed by the federal communications commission, newspapers of general circulation, local school district superintendents, and all others who have made a written request for notice of public meetings.

**(3)** Special meetings may be called by the chair or a majority of the members upon three (3) days notice. The council will disseminate copies of the written notice to those broadcast stations licensed by the federal communications commission and newspapers of general circulation that have made a written request for notice of public meetings by expedited mail, e-mail, FAX, or other expedited manner. The council will further disseminate by e-mail or fax copies of the written notice to local school district superintendents and to others who have made a request for notice of public meetings.

**(4)** Emergency meetings will be called only under unforeseen circumstances that, if not addressed, will likely result in injury or damage to persons or property or substantial financial loss. Emergency meetings may be called by the chair or a majority of the members upon twenty-four (24) hours notice, unless threat of personal injury or property damage require less notice. The notice for all emergency meetings will include an agenda for the meeting or information on how the public may obtain a copy of the agenda. The council will disseminate copies of the written notice to those broadcast stations licensed by the federal communications commission and newspapers of general circulation that have made a written request for notice of public meetings by expedited mail, e-mail, FAX, or other expedited manner. The council will further disseminate by e-mail or fax copies of the written notice to local school district superintendents and to others who have made a request for notice of public meetings.

**C.** All notices will include the following language: If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the meeting, please contact \_\_\_\_\_ at \_\_\_\_\_ at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact \_\_\_\_\_ at \_\_\_\_\_ if a summary or other type of accessible format is needed.

**D.** The council may close a meeting to the public only if the subject matter of such discussion or action is excepted from the open meeting requirement under Subsection H of Section 10-15-1 NMSA 1978 of the Open Meetings Act. If any meeting is closed pursuant to the exclusions contained in Subsection H of Section 10-15-1 NMSA 1978 of the Open Meetings Act, the following requirements will be adhered to:

**(1)** if made in an open meeting, closure shall be approved by a majority vote of a quorum of the council; the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting, the vote shall be taken in an open meeting, and the vote of each individual member shall be recorded in the minutes; only those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting; and

**(2)** if called for when the council is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed is given to the members and to the general public; and

**(3)** following completion of any closed meeting, the minutes of the open meeting that was closed or the minutes of the next open meeting if the closed meeting was separately scheduled shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting; this statement shall be approved by the council as part of the minutes.

[6.27.1.8 NMAC - N, 11/14/2000; A, 08/31/05]

**6.27.1.9 COUNCIL ORGANIZATION:**

**A.** A majority of the membership of the council constitutes a quorum.

**B.** The council will elect a chair and vice-chair. The chair and vice-chair will serve two-year terms. If an interim vacancy results in the office of chair or vice-chair, the council will select an officer or officers to serve in the interim.

**C.** The chair will preside at council meetings and will have powers and duties including, but not limited to, the following:

- (1)** to rule on matters of parliamentary procedure;
- (2)** to execute documents approved by the council on behalf of the council;
- (3)** to coordinate with council staff; and

**(4)** to appoint subcommittees of the council as the chair deems necessary and advisable to enable the council to conduct its business in an efficient manner. Subcommittees will be composed of fewer than a quorum of the council membership and will make recommendations to the council on issues and matters as directed by the chair. Subcommittees will act in an advisory capacity to the council. Subcommittees may not take any final or binding action.

**D.** The vice-chair will serve in the absence of the chair.

**E.** If a council member is unable to attend a council meeting, the member may provide a written designation to the chair authorizing a specified individual to act on behalf of the council member for the meeting.

[6.27.1.9 NMAC - N, 11/14/2000; A, 06/15/04]

**6.27.1.10 APPEALS:**

**A.** A school district aggrieved by a decision or recommendation of the authority that is not otherwise subject to review and final decision by the council may appeal the matter to the council.

**B.** The following procedures will govern appeals.

**(1)** An aggrieved district must file an appeal to the council within thirty (30) days of the authority's decision or recommendation.

(2) The notice of appeal, including a statement of the grounds upon which the school district is aggrieved, must be filed with the authority. The authority will forward the notice of appeal to the chair within two (2) working days of receipt of the notice of appeal.

(3) The chairperson will inform the school district and the authority of the date, time and location of the hearing. No later than five (5) days prior to the hearing, the school district and the authority will exchange documents that will be relied upon in making presentations to the council. The authority will duplicate all documents and make copies available to council members.

(4) At the hearing, the school district, the authority and other interested parties may make informal presentations to the council in accordance with rules of order established by the chair.

C. Notwithstanding Subsections A and B of this section, if a charter school requests that the school district appeal a decision or recommendation of the authority that is not otherwise subject to review and final decision by the council and which relates to a charter school facility and the school district does not file the appeal, the charter school may submit its appeal directly to the council. The charter school must submit its appeal no later than thirty (30) days after the expiration of the time period established in Paragraph (1) of Subsection B of this section.

D. The council will decide the matter within ten (10) days after the hearing and notify the school district and the authority of its decision.

E. The filing of an appeal will suspend any decision or recommendation of the authority pending a decision by the council.

[6.27.1.10 NMAC - N, 06/15/04]

## **PART 2: PUBLIC SCHOOL FACILITIES AUTHORITY**

### **6.27.2.1 ISSUING AGENCY:**

Public School Capital Outlay Council.

[6.27.2.1 NMAC - N, 06/15/04]

### **6.27.2.2 SCOPE:**

Public school capital outlay council and public schools facilities authority.

[6.27.2.2 NMAC - N, 06/15/04]

### **6.27.2.3 STATUTORY AUTHORITY:**

The Public School Capital Outlay Act, Sections 22-24-1 to 22-24-11 and 22-20-1 NMSA 1978.

[6.27.2.3 NMAC - N, 06/15/04; A, 07/15/10]

**6.27.2.4 DURATION:**

Permanent.

[6.27.2.4 NMAC - N, 06/15/04]

**6.27.2.5 EFFECTIVE DATE:**

June 15, 2004, unless a later date is cited at the end of a section.

[6.27.2.5 NMAC - N, 06/15/04]

**6.27.2.6 OBJECTIVE:**

The objective of the rule is to establish the general provisions for rules filed in this chapter.

[6.27.2.6 NMAC - N, 06/15/04]

**6.27.2.7 DEFINITIONS:**

**[RESERVED]**

**6.27.2.8 GENERAL PROVISIONS: DIRECTOR**

**A.** The council shall select the director of the authority, who shall serve at the pleasure of the council.

**(1)** The director may hire no more than two deputy directors with the approval of the council. The deputy directors shall serve at the pleasure of the director.

**(2)** The director shall hire, fire and otherwise take personnel actions for personnel as may be employed by the authority.

**B.** The director shall present an organizational chart and budget for the operation of the authority and the execution of the duties of the authority to the council for its review and approval at such times as directed by the council.

**C.** The director shall present an annual calendar and work schedule to the council at such time as directed by the council.



**D.** The director shall provide reports and other information as requested by the council.

[6.27.2.8 NMAC - N, 06/15/04]

#### **6.27.2.9 AUTHORITY: DUTIES**

**A.** The authority shall perform duties as provided by law and as directed by the council.

**B.** As required by law and rule, or in addition to such duties as set forth in law and rule, the authority shall:

- (1)** consult with the secretary of public education or the secretary's designee prior to recommending building standards for public school facilities to the council;
- (2)** maintain the statewide database that reflects the condition of each public school facility;
- (3)** develop, implement and maintain a uniform web-based facility information management systems (FIMS);
- (4)** assist public school districts with implementation and maintenance of FIMS;
- (5)** account for all distributions of grant assistance from the fund for which the initial award was made after July 1, 2004, and make annual reports to the department, the governor, the legislative education study committee, the legislative finance committee, the public school capital outlay oversight task force and the legislature; and
- (6)** administer all appropriations, monies, projects, contracts, agreements, records, property, equipment and supplies previously administered by the deficiencies correction unit of the public school capital outlay council.

**C.** Advise the council of the need to make allocations for emergencies that require immediate action by the authority to safeguard the health or safety of students or school personnel, or where there is a threat of significant property damage if immediate action is not taken. All applications for emergency capital outlay grant assistance must be submitted to the authority on the current, approved, and designated form, and which form shall be signed by the school board president, the school district superintendent and the regional manager of the authority for the region in which the school is located. As part of the application, a quorum of the school board submitting the application must meet either in a regular meeting or a special meeting called for the purpose of declaring an emergency. The school board, in addition to declaring an emergency, must certify that no other funds are available to address the emergency. Depending upon the amount of the emergency grant request, the following procedures shall apply.

(1) If the grant request is for \$150,000 or less, the director, with the approval of the council chair, may grant or advance up to \$150,000 for school district emergencies if it is determined by the director that sufficient district funds are not available. In instances where district cash flow or cash balances prevent available funds from being used for the emergency, emergency assistance may be offered in the form of an advance to be repaid as opposed to a grant.

(2) If the grant request is for more than \$150,000, consideration of the request must be by a quorum of the council in a public meeting. The district will be notified of when and where the meeting will be held and will be provided the opportunity to appear before the council to address the emergency funding request. In instances where district cash flow or cash balances prevent available funds from being used for the emergency, emergency assistance may be offered in the form of an advance to be repaid by the district.

[6.27.2.9 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10]

#### **6.27.2.10 PRE-IMPLEMENTATION PHASE FOR PROJECTS FUNDED WHOLLY OR IN PART BY THE COUNCIL:**

The authority shall:

**A.** assist districts in developing scope of project, budget, timeline for completion and best procurement method based on final budget;

**B.** work with the school district to determine:

(1) the feasibility of using design, build and finance arrangements for the public school capital outlay project;

(2) the potential use of more durable construction materials that may reduce long-term operating costs; and

(3) any other financing or construction concept that may maximize the dollar effect of the state grant assistance, including competitive proposal contracts entered into pursuant to rules adopted through a public rulemaking process in accordance with the Procurement Code.

[6.27.2.10 NMAC - N, 06/15/04]

#### **6.27.2.11 OVERSIGHT AND IMPLEMENTATION OF PROJECTS FUNDED WHOLLY OR IN PART BY THE COUNCIL:**

**A.** The authority shall:

(1) oversee the procurement process;

(2) require the use of standardized construction documents and the use of a standardized process for change orders;

(3) review plans and specifications for compliance with the statewide adequacy standards and all applicable codes and regulations;

(4) coordinate all required reviews and approvals;

(5) require standardized reporting and use of the construction information management system (CIMS) to monitor progress of projects;

(6) conduct periodic on-site inspections and inspection of documents to ensure compliance with project specifications;

(7) ensure timely payments for completed work;

(8) on or before the 12<sup>th</sup> month following substantial completion of the project or phase, the authority will schedule a review of all project expenditures that apply to both the scope of work and to the statewide adequacy standards to insure that the overall expenditures align with the match percentages after necessary offsets and waivers as identified in the memorandum of understanding for the project; following mutual agreement on the overall and final financial project status, project balances will be reallocated by the council; all council awards must be fully reconciled and reallocated no later than eighteen (18) months after substantial completion; and

(9) maintain records for completed projects, including warranties.

**B.** Management and oversight involvement by the authority shall be either direct or indirect, depending on the degree of qualified personnel in the district and ability to provide proper oversight of the project. Even with respect to responsibilities granted to the district, the authority must be consulted and must approve the actions taken in order for the authority to authorize payment for the work.

**C.** The authority shall develop an agreement for each project defining the respective roles and responsibilities of the authority and the district. The process shall be defined in the district agreement and may include responsibilities for the following, which shall be accomplished through the use of standardized documents, procedures, and reports, the construction information management system (CIMS), and also include review, approval and payment for completed work at each phase.

(1) Pre-design phase:

(a) assist districts in developing initial scope of project and budget;

(b) assist districts in development of educational specifications where required; and

**(c)** assist districts in developing the request for proposals for design professionals where necessary.

**(2)** Design phase:

**(a)** prepare or assist in developing contracts for design professionals, consultants and other required services;

**(b)** final review and approval of the various submittal phases including but not limited to; program statement, schematic design, design development and construction documents for completeness;

**(c)** periodic review and validation of scope of work, budget, schedule, value engineering, and plans and specifications;

**(d)** issue or review invitation to bid;

**(e)** assist or conduct pre-bid conference;

**(f)** coordinate bid opening; and

**(g)** review and evaluate bids.

**(3)** Construction phase:

**(a)** prepare or assist in development of contracts for construction;

**(b)** assist or conduct pre-construction conference;

**(c)** coordinate weekly project meeting with architect, engineer, consultants, district personnel, contractors and sub-contractors;

**(d)** provide interface for understanding of issues, disputes, and mediation;

**(e)** review, approve and oversee changes to the work; and

**(f)** periodic review and validation of work to insure conformance with contract and industry standards of quality.

**(4)** Project close-out:

**(a)** verify all work complete;

**(b)** coordinate operations and maintenance training;

**(c)** review as-built drawings;

- (d) approve final close-out documents;
- (e) review warranties;
- (f) ensure final acceptance by district;
- (g) update facility information management system (FIMS) for new facilities and equipment;
- (h) ensure all required documents related to the projects are properly held and archived;
- (i) ensure that one-year warranty inspections are conducted and oversee any required repairs or remedies; and
- (j) schedule and conduct project budget closeout review with the district.

**D.** The authority shall report to the council concerning the progress of projects.

(1) The authority shall identify and make recommendations to the council concerning any substantial noncompliance with any reporting requirement or condition.

(2) The authority shall identify and make recommendations to the council regarding any misfeasance or malfeasance in the implementation of the project warranting the withholding of all or part of the grant assistance for the project.

[6.27.2.11 NMAC - N, 06/15/04; A, 07/15/10]

#### **6.27.2.12 OTHER SCHOOL CONSTRUCTION PROJECTS; REQUIRED APPROVALS UNDER SECTION 22-20-1 NMSA 1978:**

**A.** Each local school board must secure the approval of the director or the director's designee prior to the construction or letting of contracts for construction of any school building or related school structure or before reopening an existing structure that was formerly used as a school building but that has not been used for that purpose during the previous year. As used in this subsection, "construction" means any project for which the construction industries division of the regulation and licensing department (CID) requires permitting. A "related school structure" means a project involving any structure or part of a structure under the control of the local school district for which the construction industries division requires permitting.

**B.** Excepted from the requirements of Subsection A of this section, but not from permitting requirements of CID or other jurisdictions having authority are school construction projects with a value of \$200,000 or less, exclusive of gross receipts tax. For such projects, however, the local school board shall complete a notice of school construction, on the current, approved and designated form, which form shall be

submitted to the authority at least ten (10) days prior to the construction or the letting of contracts for construction of the project. It shall be the responsibility of the local school board or its designee to obtain all required permits and approvals from local, state and federal agencies having jurisdiction over any portion of the proposed construction. Additionally, if the construction project involves the construction of new buildings or structures, additions to existing structures or the demolition of existing structures, the local school board or its designee shall submit to the authority a dimensioned or scaled floor plan and site plan showing the proposed construction and any building or structure to be demolished. The site plan shall illustrate the distance of the new construction or demolition from existing structures and shall be sufficiently detailed to provide an accurate representation of the proposed construction or demolition.

**C.** A written request for approval meeting the requirements of Subsection A of Section 22-20-1 NMSA 1978 must be submitted to the director on a form prescribed by the director. The form shall include an assurance that any contract for the construction of a public school facility, including contracts funded in whole or in part with insurance proceeds, shall contain provisions requiring the construction to be in compliance with the statewide adequacy standards.

**D.** The director or the director's designee shall approve the request if the director reasonably determines that the conditions set forth in Subsection B of Section 22-20-1 NMSA 1978 have been met, including:

**(1)** certification by the secretary that the construction shall support the educational program of the school district; and

**(2)** determination that the construction project is in compliance with the statewide adequacy standards.

**E.** Within thirty (30) days of receipt of the request for approval, the director or the director's designee shall notify the local school board and the department of the approval or disapproval of the request.

**F.** No local school board may construct, or cause the construction of, any public school building within four hundred (400) feet of any main artery of travel without the prior written approval of the department or its designee.

**G.** The authority will coordinate all required reviews and approvals.

[6.27.2.12 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10]

## **PART 3: APPLICATION AND GRANT ASSISTANCE PROCEDURES AND REQUIREMENTS RELATING TO PREVENTIVE MAINTENANCE PLANS**

### **6.27.3.1 ISSUING AGENCY:**

Public School Capital Outlay Council.

[6.27.3.1 NMAC - Rp, 6.27.2.1 NMAC, 06/15/04]

**6.27.3.2 SCOPE:**

Public school capital outlay council, public school facilities authority, and public school districts.

[6.27.3.2 NMAC - Rp, 6.27.2.2 NMAC, 06/15/04]

**6.27.3.3 STATUTORY AUTHORITY:**

The Public School Capital Outlay Act, Sections 22-24-1 to 22-24-11 NMSA 1978.

[6.27.3.3 NMAC - Rp, 6.27.2.3 NMAC, 06/15/04; A, 07/15/10]

**6.27.3.4 DURATION:**

Permanent.

[6.27.3.4 NMAC - Rp, 6.27.2.4 NMAC, 06/15/04]

**6.27.3.5 EFFECTIVE DATE:**

June 15, 2004, unless a later date is cited at the end of a section.

[6.27.3.5 NMAC - Rp, 6.27.2.5 NMAC, 06/15/04]

**6.27.3.6 OBJECTIVE:**

The objective of the rule is to establish application and grant assistance procedures pursuant to the Public School Capital Outlay Act.

[6.27.3.6 NMAC - Rp, 6.27.2.6 NMAC, 06/15/04]

**6.27.3.7 DEFINITIONS:**

**[RESERVED]**

[6.27.3.7 NMAC - Rp, 6.27.2.7 NMAC, 06/15/04]

**6.27.3.8 GENERAL PROCEDURES:**

**A.** The authority shall present a proposed calendar and proposed application to the council prior to the beginning of the allocation cycle for a given year.

**B.** The council shall determine the estimated available funding for the allocation cycle for a given year. The authority, at the direction of the council, shall advise school districts of the funding available for each allocation cycle and the resultant potential applicant pool. In making the determination, the council shall consider prior awards for phased projects, contingencies, and phasing requirements as they pertain to current rankings and estimated funding.

**C.** Condition index ranking:

**(1)** In accordance with the calendar established by the council, the authority shall report to the council regarding the methodology used to determine the condition index ranking, including any recommendations for affirming or refining the methodology.

**(2)** The authority, in cooperation with school districts, shall regularly review and update the statewide data used to determine the condition index ranking. School districts shall regularly review and provide corrections of inaccurate or missing data to the authority with respect to the statewide data used to determine the condition index rating. In accordance with the timelines established by the council, the authority shall transmit the application, the calendar, the condition index rankings, and such other information as the council deems relevant to all school districts.

**(3)** A school district aggrieved by a determination of the authority regarding the condition index ranking of a public school under the authority of the district may appeal the matter to the council in accordance with the procedures established in 6.27.1.10 NMAC. The appeal must specify the data that the school district believes to be erroneous.

**D.** The authority shall provide assistance to school districts with respect to the application process and requirements, and preparation of the application, if necessary.

**E.** The authority shall provide on-going analyses and technical assistance to school districts with regard to:

- (1)** adequacy standards;
- (2)** master plans;
- (3)** educational specifications;
- (4)** preventive maintenance programs, including the implementation and maintenance of the facility information management system (FIMS);
- (5)** assessments used to determine whether a school building is renovated or replaced;
- (6)** space utilization; and



(7) phasing, financing and cost benefit analyses.

F. The authority shall establish procedures to ensure consultation with the secretary in the event of any potential or perceived conflict between a proposed action of the authority and an educational program.

[6.27.3.8 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10]

#### **6.27.3.9 STATE/LOCAL MATCH DETERMINATION:**

The department shall notify the council and each school district of the state/local match for each school district for every allocation cycle in accordance with the calendar established by the council.

A. The match shall be calculated annually in accordance with the requirements of Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978. In calculating the match:

(1) the final prior year net taxable value for the school district means the net taxable value for the calendar year immediately preceding the calendar year in which the allocation is made;

(2) the MEM for the school district is the average full-time-equivalent enrollment of students attending public schools, including charter schools, in a school district on the eightieth and one hundred twentieth days of the prior school year; the state MEM is the total final funded MEM for the prior school year as reported by the department.

B. The notification shall include the net taxable value, the sum of the property tax mill levies, and the MEM used to determine the state/local match.

C. If a school district believes that either the prior year net taxable value for the school district or the MEM used to calculate the state/local match is incorrect, the school district shall notify the department within thirty (30) days of receiving the notification and shall provide documentation as to the data the school district believes to be correct. The department shall review the information provided by the school district and notify the school district and the council of its determination within thirty (30) days of receiving the school district's objections.

D. A school district recognized by the council for conducting an exemplary preventive maintenance program pursuant to Subsection G of 6.27.3.11 NMAC, may be eligible for a reduction in local match of up to five percent (5%) on capital outlay awards.

E. Projects which receive phased project funding over multiple award cycles will maintain the state/local match ratio of the year when the project was initially awarded, except in extraordinary circumstances as determined by the council.

**6.27.3.10 SPECIAL APPROPRIATION REJECTION: OFFSET.**

**A.** The school district must determine whether to accept or reject any legislative appropriation made after January 1, 2003 for non-operating purposes either directly to the subject school district or to another governmental entity for the purpose of passing the money through directly to the subject school district, but excluding educational technology appropriations made prior to January 1, 2005 and reauthorizations of appropriations previously made to the school district. This includes determinations with regard to direct appropriations for charter schools within the school district. After January 1, 2007, determinations regarding appropriations for non-operating purposes to a specific state-chartered charter school shall be made by the charter school unless the appropriation was previously used to calculate a reduction pursuant to this section regardless of whether the charter school is a state-chartered charter school at the time of the appropriation or later becomes a state-chartered school.

**(1)** The school district must notify the department of finance and administration and the public education department in writing that it is rejecting an appropriation prior to June 1 of the fiscal year during which the appropriation is made.

**(2)** The rejection of the direct appropriation must be supported by the affirmative action of the local school board.

**(3)** Submission of the completed questionnaire for a project funded by a direct legislative appropriation and the corresponding sale of the bonds will be deemed to constitute the school district's acceptance of the project.

**B.** Any direct appropriation not otherwise excepted from this requirement and not rejected by the school district shall result in the application of the offset as calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978. The total of direct appropriations shall include an amount, certified to the council by the department, equal to the educational technology appropriations made to the subject school district on or after January 1, 2003 and prior to January 1, 2005 and not previously used to offset distributions pursuant to the Technology for Education Act. All federal money disbursed to a school district for non-operating purposes pursuant to Title XIV of the American Recovery and Reinvestment Act of 2009 shall also result in the application of the offset pursuant to this subsection.

**(1)** The total shall exclude one-half of the amount of any appropriation made or reauthorized after January 1, 2007 if the purpose of the appropriation or reauthorization is to fund, in whole or in part, a capital outlay project that, when prioritized by the council pursuant to this section either in the immediately preceding funding cycle or in the current funding cycle, ranked in the top one hundred and fifty projects statewide.

**(2)** The total shall exclude the proportionate share of any appropriation made or reauthorized after January 1, 2008 for a capital project that will be jointly used by a governmental entity other than the subject school district. A school district proposing to jointly use a facility funded from a capital outlay appropriation shall submit a joint-use agreement executed between the district and governmental entity which details the terms of the proportional use as well as any future capital, operational and maintenance costs associated with the facility. The council shall determine the proportionate share to be used by the district and provide this information to the department to include in the calculation of the applicable offset. Joint-use agreements requests received prior to June 1 of the fiscal year will be calculated into the offset applicable to each school district for the current standards-based award cycle. Joint-use agreements requests received after June 1 of the fiscal year will carry-forward and be applicable to future award cycles under the standards-based process.

[6.27.3.10 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10]

#### **6.27.3.11 PREVENTIVE MAINTENANCE PROGRAM:**

**A.** Each school district, including those school districts not applying for grant assistance pursuant to the Public School Capital Outlay Act, shall develop and implement a preventive maintenance plan meeting the requirements of this section.

**B.** A school district shall not be eligible for funding pursuant to Section 22-24-5 NMSA 1978 unless:

**(1)** the school district has implemented a preventive maintenance plan that has been approved by the council; and which plan has subsequently been updated within the last twelve (12) months for any changes in facilities, equipment, available resources, new policies, new procedures, and added capabilities; and

**(2)** the school district is effectively using the facility information management system (FIMS).

**C.** The preventive maintenance plan for each public school building, including portable classrooms and any charter school buildings under the authority of the school district, must at a minimum include:

**(1)** the maintenance mission statement and maintenance goals which specify the broad purpose of the maintenance department and list the goals to be undertaken during the next twelve (12) months;

**(2)** the maintenance organization and staffing responsibilities, by providing an organization chart depicting the supervisory chain for directing maintenance and custodial activities, and listing the general responsibilities of each group;

(3) the maintenance priorities and procedures, by listing the priorities for the accomplishment of maintenance related work and providing implemented procedures for the conduct of the maintenance program, such as work order processing, material and equipment acquisition, contractor oversight, safety, staff professional development, equipment upgrades and data updates;

(4) equipment inspection and maintenance schedules which shall provide the schedule for the reoccurring inspection and maintenance, at prescribed frequencies, for all facility systems and equipment;

(5) scheduled preventive maintenance tasks which detail the specific inspection and maintenance requirements to be employed;

(6) established custodial duties, responsibilities, and a schedule of tasks performed at each of its schools; and

(7) major maintenance, repair and replacement projects required to be in its current facility master plan that the school district will execute under the capital renewal program.

**D.** The school district's preventive maintenance program includes scheduled activities intended to provide fully functional and reliable building systems aimed at advancing the learning process, providing healthy, safe conditions and preventing breakdowns and premature failures. Common tasks consist of diagnostic tests, inspections, cleaning, lubrication, calibration and replacement of expendable components of building systems and equipment to address each of the following school facility systems and elements:

(1) substructure; including foundations and floor slabs;

(2) shell; including exterior walls, doors, windows, roof coverings and openings;

(3) interior; floors, walls, partitions, ceilings, interior doors, equipment rooms and restrooms;

(4) services; including electrical distribution, lighting, fire and life safety equipment, heating; ventilation, air conditioning and refrigeration equipment, plumbing fixtures, elevators and lifts;

(5) equipment; including kitchen equipment and furnishings; and

(6) sitework; including roadways and parking lots, fencing and walls, sidewalks, grounds drainage, signage, playgrounds and exterior utility distribution.

**E.** All school districts shall participate in the facility information management system (FIMS) in accordance with the schedule and policies adopted by the council. The facility information management system shall:

(1) provide for a comprehensive and systematized process for identifying maintenance requirements, scheduling work and documenting completed work; and

(2) provide a database of maintenance and related service activities to allow for analysis and decision making for school district and statewide maintenance efforts, with maintenance measures established and periodic analysis conducted by both school districts and the authority to identify opportunities for improved school facilities.

**F.** Commensurate with the above provisions, school districts shall provide comprehensive professional development programs for its maintenance personnel to provide requisite skills and the authority will assist as necessary with implementing such programs.

**G.** A school district identified by the council to have an exemplary preventive maintenance program may be eligible for up to a five percent (5%) reduction in its local match on a capital outlay award.

(1) Exemplary maintenance is demonstrated by achieving and sustaining optimum performance of all building systems expected useful life anticipated to be met or exceeded through highly efficient use of resources.

(2) The council shall annually review and adopt the specific criteria and process for confirming that a district is demonstrating exemplary maintenance.

[6.27.2.11 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10]

#### **6.27.3.12 APPLICATIONS: MINIMUM REQUIREMENTS:**

**A.** The application must verify that the school district has submitted a five-year facilities plan. The facilities plan must include:

(1) enrollment projections, which are updated at the beginning of each fiscal year and reflect the final funded membership for the prior school year;

(2) projections for facilities needed to maintain a full-day kindergarten program;

(3) the school district's mission statement, facility goals and objectives, and the steps taken by the school district to address the priority of needs. The goals and objectives should address how the master plan supports the educational programs and needs of the district;

**(4)** a prioritization of the district's capital needs, including maintenance-related capital renewal;

**(5)** description of community involvement in the development of the master plan;

**(6)** if the application or master plan establish ranked priorities for public school capital outlay projects within the district that do not conform with the condition index rankings of public school buildings within the school district, the school district must provide a detailed explanation as to the rationale for the difference;

**(7)** a map of the school district addressing, at a minimum, the following factors: location of all current sites, land owned by the school district, location of any planned expansion (indicating whether the site is owned by the school district), school district growth areas and other school district facilities; and

**(8)** addressing of the facilities needs of charter schools located within the school district.

**B.** The application must assure that the school district is willing and able to pay any portion of the public school capital outlay project that is not funded with grant assistance from the fund and must provide information on the anticipated source of the local share, the timelines for ensuring the local share and any known contingencies in ensuring the local share.

**C.** The application must address the needs of any charter school located in the school district or provide documentation that the facilities of the charter school has a smaller deviation from the statewide adequacy standards than other district facilities included in the application.

**D.** The application must include a preventive maintenance program meeting the requirements of 6.27.3.11 NMAC.

**E.** The application must address how the school district preventive maintenance program complies with the requirements of 6.27.3.11 NMAC.

**F.** If the proposed project exceeds the statewide adequacy standards, the application must provide a detailed explanation of the variance and a cost analysis of the cost of meeting the statewide adequacy standards and the excess costs associated with exceeding the statewide adequacy standards.

**G.** If the application is for a charter school located in privately owned facilities, the district must include documentation sufficient to ensure that the provisions of Article IX, Section 14 of the Constitution of New Mexico (the "anti-donation clause") are not violated and that there were no violations of any conflict of interest laws.

#### **H. Special provision: building systems initiative.**

(1) A school district desiring a grant award for building system repair, renovation or replacement shall submit an application on a form approved by the council. The application shall include an assessment of the building system that the repair, renovation or replacement of which would extend the useful life of the building itself.

(2) The authority shall verify the assessment. The council shall prioritize applications for assistance pursuant to the building systems initiative using a special condition ranking index.

(3) The council shall approve applications on the established priority basis to the extent of available funds. No project shall be approved unless the council determines that the school district is willing and able to pay the portion of the total project cost not funded with grant assistance from the fund. The state share of the cost of an approved project is calculated pursuant to the methodology in Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978.

(4) Building system repair, renovation or replacement funded under this program shall be expeditiously completed. Any grants made pursuant to this subsection shall be expended by the school district within three years of the grant allocation.

[6.27.3.12 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10; A, 06/15/16]

#### **6.27.3.13 GRANT ASSISTANCE DETERMINATIONS:**

**A.** The council shall consider all applications meeting the requirements of this rule and, after public hearing and consideration of recommendations by the authority and by any subcommittee that may be appointed by the chair for this purpose, approve those applications selected for grant assistance during the allocation cycle.

**B.** The council shall prioritize all applications using the statewide adequacy standards. The amount of outstanding deviation from the standards as shown in the New Mexico condition index ranking shall be used by the council in evaluating and prioritizing public school capital outlay projects; provided however, that the council may fashion such solutions to the needs established by the rankings as appropriate and also, in making its awards based on the priorities, the council may consider:

- (1) the timeliness of a district's ability to provide its match;
- (2) phasing possibilities or the ability to totally fund and complete a project;
- (3) the need for additional planning time;

(4) the inability of a district to be able to effectuate multiple awards in terms of actual construction;

(5) the status of the district's financial audits;

(6) the impact on its educational program; and

(7) such other factors as the council may deem relevant or appropriate.

**C.** Notwithstanding the provisions of subsection B of this section, in an emergency in which the council determines that the health or safety of students or school personnel is at immediate risk or where there is a threat of significant property damage if immediate action is not taken, the council may award emergency grant assistance pursuant to Subsection C of 6.27.2.9 NMAC for a project using criteria other than the statewide adequacy standards.

**D.** The council shall make its allocations for grant assistance in a manner that the council determines will maximize the utilization of the available funding for any given allocation cycle. This determination may include allocations for grant assistance for one or more phases of a project upon the recommendation of the authority and any subcommittee of the council appointed by the chair for this purpose.

**E.** An application for grant assistance shall not be approved unless the council makes a determination that:

(1) the public school capital outlay project is needed and is included in the school district's top priorities;

(2) the school district has used its resources in a prudent manner as demonstrated by the school district's adherence to the priorities established in its master plan, its implementation of a preventive maintenance plan and such other information as the council finds relevant;

(3) the school district has provided insurance for buildings of the local school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(4) the school district has submitted a five-year facilities plan that meets the requirements of Subsection A of Section 6.27.3.12 of this rule;

(5) the school district has implemented an updated preventive maintenance plan and is effectively utilizing the facility information management system (FIMS) to meet the requirements of 6.27.3.11 of this rule;

(6) school district is willing and able to pay any portion of the total cost of the public school capital outlay project not funded with grant assistance from the fund;



(7) the school district has addressed the capital needs of any charter schools located in the district by including the needs in the application or demonstrating that the facilities of the charter school has a smaller deviation from the statewide adequacy standards than other district facilities included in the application; and

(8) the school district has agreed in writing to comply with any reporting requirements or conditions established by the council pursuant to Section 22-24-5.1 NMSA 1978. The school district must acknowledge that the council may direct that the authority manage and provide direct administration of the project, either as a condition of approval of the project or upon a finding by the council that the project is repeatedly in substantial noncompliance with any reporting requirement or condition.

F. Upon recommendation of the authority, the council shall determine whether direct or indirect project management by the authority shall apply to the project. In making its recommendation, the authority shall consider:

(1) the district's preference and financial capabilities, including a determination by the council authorizing direct payment to the contractor;

(2) the district's capacity, including training and certification in procurement and contract requirements; and

(3) the authority's staffing capacity.

G. Approval of a project by the council may include such necessary and reasonable conditions or contingencies imposed by the council to ensure that the project meets the requirements of law and rule and is effectively and prudently administered and managed.

[6.27.3.13 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10]

#### **6.27.3.14 CALCULATION OF GRANT ASSISTANCE:**

A. The amount of an award for grant assistance for a project shall be determined as follows:

(1) Total project cost means the total amount necessary to complete the public school capital outlay project less:

(a) any insurance reimbursement received by the school district for the project; and

(b) any amount attributable to costs associated with aspects of a project that exceed the statewide adequacy standards.

(2) The final state share amount of the total project cost is determined by:

**(a)** applying the ratio calculated pursuant to 6.27.3.9 NMAC in accordance with the requirements of Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 to the total project cost to produce the state share amount;

**(b)** subtracting from the state share amount the amount calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978; and

**(c)** in instances where a project will utilize a lease with option to purchase arrangement, the final state share amount may be in the form of additional lease costs for leasehold improvements.

**B.** Notwithstanding the requirements of Subsection A of this section:

**(1)** If the council determines that a district has used all of its local resources and that the district is not expected to have any available local resources by a date determined annually by the council, the council may adjust the amount of local share otherwise required. Before making any adjustment to the local share, the council shall consider whether:

**(a)** the school district has insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and, for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds; or

**(b)** the school district:

**(i)** has fewer than an average of eight hundred full-time-equivalent students on the fortieth, eightieth and one hundred twentieth days of the prior school year;

**(ii)** has at least seventy percent of its students eligible for free or reduced fee lunch;

**(iii)** has a share of the total project cost, as calculated pursuant to provisions of this section, that would be greater than fifty percent; and

**(iv)** for all educational purposes, has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds; or

**(c)** the school district has:

(i) an enrollment growth rate over the previous school year of at least two and one-half percent;

(ii) pursuant to its five-year facilities plan, will be building a new school within the next two years; and

(iii) for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds.

(2) Allocations from the fund made by the council for the purpose of demolishing abandoned school district facilities provide that the council may enter into an agreement with the school district under which an amount equal to the savings to the district in lower insurance premiums are used to reimburse the fund fully or partially for the demolition costs allocated to the district.

C. Amounts awarded to school districts may be adjusted if the council determines that a previous award is insufficient to bring a project to statewide adequacy standards. A school district may apply for an adjustment to a previous award of grant assistance by submitting an application on the current, approved, and designated form detailing the additional state and local match funds necessary to bring the school to adequacy.

D. In instances where the district lacks the additional funds to meet the local share of the project, the award may be adjusted by the council upon approval of an application submitted by the district on the current, approved, and designated form. The authority, in consultation with the public education department shall review the applicant school district's financial position presented in the application and make a recommendation to the council whether an awards adjustment should be considered. The council shall use the criteria provided in Section 22-24-5(B)(8)(a) and (b) NMSA 1978 to determine whether an adjustment be made. An adjustment may include increasing the state share together with an increase for the local match for the project.

E. In addition to considering an adjustment of the local share pursuant to Subsections B or D of this section, the council may consider granting a local share advance if the council determines that a need exists to complete the project in a timely manner and the school district affirms its willingness and ability to repay the advance within 48 months of the granting of the advance.

[6.27.3.14 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10]

#### **6.27.3.15 PORTABLE CLASSROOMS:**

A. The council may authorize expenditures from the public school capital outlay fund to purchase portable classroom buildings for loan to school districts to meet a

temporary requirement. The council has authorized the authority to administer its portable classroom loan program in the manner set forth in this rule. Purchases of portable classroom buildings not associated with a capital outlay project award require specific authorization by the council. When an award includes provisions to use allocations from the public school capital outlay fund to purchase portable classroom buildings as part of that project, no further approval is required from the council for the portables to be purchased. Such portables, however, remain the property of the council, and when they are no longer needed by a school district because of the construction of permanent facilities, the school district shall return the portables to the authority. Nothing in this rule applies to portable classroom buildings purchased with school district funds. Should a school district find that it no longer needs a portable classroom building purchased with school district funds, the authority, may purchase the portable classroom building from the school district. Such a purchase would need council approval only if the purchase is not associated with a capital outlay award for another district.

**B.** The authority shall develop applications for loan, transfer or return of state-owned portable classroom buildings. Applications shall be signed by the school district superintendent and shall be delivered to the authority regional manager of the region in which the school district is located. The application for loan of portable classrooms shall address, at a minimum:

- (1) the need for loan of portable classrooms, including explanation of why the needs of district cannot be met using existing facilities;
- (2) description of the proposed use of portable classrooms;
- (3) the anticipated duration of the loan;
- (4) the ability of the district to maintain and provide insurance of the portable classrooms while in the custody of the district, and that the portable classrooms will be included in the district preventive maintenance program;
- (5) the number of units requested; and
- (6) the anticipated duration of the loan.

**C.** The application for return or transfer of portable classrooms shall address, at a minimum:

- (1) the reason(s) the district no longer needs the portable classrooms or no longer needs the portable classroom at its present location but needs them elsewhere;
- (2) the manner in which the district is addressing the need(s) that occasioned the request for portable classrooms;

- (3) the effective date of the proposed return or transfer; and
- (4) a detailed description of the current condition of the portable classrooms.

**D.** Applications for loan, transfer or return of state owned portable classroom buildings shall be submitted to the authority. The application will be reviewed by the director of the authority, who shall make a determination of approval or denial, and notify the school district of the determination in writing. The director shall periodically report to the council with respect to the applications granted or denied.

**E.** A portable classroom use agreement shall be required for portable classroom units loaned for each school site. The agreement shall require the signatures of the district superintendent and the director, or their designees. The term of use shall not exceed five (5) years. Such agreements may be renewed and the term extended for additional five (5) year intervals if the district makes a written request to the authority no later than sixty (60) days prior to the end of the term of the current agreement. If the school district determines that a portable classroom is no longer required during the term of the current agreement, the school district must provide written notification to the authority at least one hundred twenty (120) days prior to the date the portable classroom is no longer required. All rights and responsibilities of the parties to the portable classroom use agreement shall remain in effect under the terms of the agreement until such time as the authority determines to allow early release of the school district from the terms of the agreement.

**F.** The school district is responsible for making the arrangements for and paying all expenses related to disconnecting and transporting the portable classroom from its current location, and all site preparation, utility extensions, permits and other costs for placement at a new location. Additionally, the relocation of the portable must comply with the requirements of 6.27.2.12 NMAC.

**G.** The school district, at its sole expense shall keep, repair and maintain the portable classroom and all related improvements in a reasonable state of repair and preservation and shall not suffer or permit any continuing nuisance thereon. The portable classroom shall be maintained in an as is or better condition as existed when the district took possession of the building. This will include preventive maintenance on the building systems and installed equipment in accordance with the school district's preventive maintenance plan. All renovations, upgrades and building modifications shall become the responsibility of the receiving school district.

**H.** The council may, in its discretion, authorize the authority to permanently transfer portable classrooms to the district or otherwise permanently dispose of the portable classrooms in accordance with Chapter 13, Article 6 NMSA 1978.

[6.27.3.15 NMAC - Rp, 6.27.2.13 NMAC, 06/15/04; A, 07/15/10]

#### **6.27.3.16 ASSISTANCE FOR PUBLIC SCHOOL LEASE PAYMENTS:**

**A.** Applications for assistance to school districts for the purpose of making lease payments for classroom facilities shall be made to the authority by the school district. Classroom facilities include the space needed, as determined by the minimum required under statewide adequacy standards for the direct administration of school activities. Only charter schools are eligible to receive grants for the purpose of assistance with making lease payments for classroom facilities pursuant to a lease purchase agreement. Applications for such lease assistance on behalf of locally chartered charter schools shall be made to the authority through the school district; provided, however, that if the school district fails to make an application on behalf of a charter school, the charter school may submit its application directly to the authority. A state chartered charter school shall submit its application directly to the authority. The application must contain all supporting documentation, including:

- (1)** a copy of the lease or lease purchase agreement;
- (2)** the annualized cost of the lease for the fiscal year for which the school seeks assistance; and
- (3)** the MEM using leased classroom facilities, as determined by calculating:
  - (a)** the average full-time-equivalent enrollment using leased classroom facilities on the eightieth and one hundred twentieth days of the prior school year; or
  - (b)** in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased classroom facilities in the first year of instruction, as shown in the approved charter school application, provided that, after the eightieth day of the school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date.

**B.** The amount of a grant to a school district shall not exceed:

- (1)** the actual annual lease payments owed for leasing classroom space for schools, including charter schools, in the district; or
- (2)** seven hundred dollars (\$700) multiplied by the number of MEM using the leased classroom facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage increase between the penultimate calendar year and the immediately preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor.

**C.** A grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants.

**D.** At the end of each fiscal year, any unexpended or unencumbered balance of the appropriation shall revert to the fund.

**E.** The authority shall consult with the department regarding applications for charter school lease assistance and provide recommendations to the council regarding the applications.

[6.27.3.16 NMAC - N, 06/15/04; A, 08/31/05, A, 07/15/10]

**6.27.3.17 ASSISTANCE FOR FACILITY MASTER PLANNING:**

**A.** All facility master plans are required to meet the requirements and guidelines of the authority's school district facilities master plan components and guidelines.

**B.** Council assistance will be granted only to create a new facility master plan and upon expiration of a current plan, except in cases of high growth within a school district which may warrant modification of the plan prior to expiration of its five-year term. Annual updates to existing master plans are the responsibility of the school district.

**C.** The school district shall not be under current contract with a facilities master plan contractor prior to award by the council to be eligible for funding in the award cycle.

**D.** The facilities master plan shall be completed and reviewed by the authority within one year of the grant award or awarded funds may revert.

**E.** Except as provided in Paragraph (1) below, no grant for facilities master planning shall be made unless the council determines that the school district is willing and able to pay the local portion of the total cost of developing or updating the facility master plan. The local portion shall be determined pursuant to 6.27.3.9 NMAC.

**(1)** An allocation from the fund may be used to pay the total cost of developing or updating the facility master plan if:

**(a)** the school district has fewer than an average of six hundred full-time-equivalent students on the eightieth and one hundred twentieth days of the prior school year; or

**(b)** the school district meets all of the following requirements;

**(i)** the school district has fewer than an average of one thousand full-time equivalent students on the eightieth and one hundred twentieth days of the prior school year;

**(ii)** the school district has at least seventy percent of its students eligible for free or reduced-fee lunch;

**(iii)** the state share of the total cost, if calculated pursuant to the methodology in Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978, would be less than fifty percent; and

(iv) for all educational purposes, the school district has a residential property tax rate of at least seven dollars on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds.

(2) If reduction/waiver or advance of local match is being requested, a school district must submit an application on the current, approved, and designated form and certify that no other funds are available.

[6.27.3.17 NMAC - N, 08/31/05; 6.27.3.17 NMAC - N, 07/15/10]

**6.27.3.18 CHARTER SCHOOL FACILITIES: REQUIREMENTS AND GRANT ASSISTANCE:**

**A.** The facilities of a charter school approved on or after July 1, 2005 and before July 1, 2010 shall meet educational occupancy standards required by applicable New Mexico construction codes. Existing facilities of a charter school approved prior to July 1, 2005 shall be evaluated, prioritized and eligible for grants pursuant to the Public School Capital Outlay Act in the same manner as all other public schools; provided that for charter schools in leased facilities, grants may only be used as additional lease payments for leasehold improvements.

**B.** On or after July 1, 2010, an application for a charter shall not be approved and an existing charter shall not be renewed unless the charter school:

(1) is housed in a public facility that is:

(a) owned by the charter school, the school district, the state, an institution of the state, another political subdivision of the state, the federal government or one of its agencies or a tribal government; and

(b) subject to evaluation and prioritization and eligible for grants pursuant to the Public School Capital Outlay Act in the same manner as all other public schools in the state; or

(2) if it is not housed in a public building described in Subparagraph (a) of Paragraph (1) of this subsection, demonstrates that:

(a) the facility in which the charter school is housed meets the statewide adequacy standards developed pursuant to the Public School Capital Outlay Act and the owner of the facility is contractually obligated to maintain those standards at no additional cost to the charter school or the state; and

(b) either:



(i) public buildings are not available or adequate for the educational program of the charter school; or

(ii) the owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility for the charter school.

**C.** When a charter school proposes to use a public facility, prior to the occupancy of the public facility by the charter school the charter school shall notify the council of the intended use, together with such other information as requested by the authority.

(1) Within sixty days of the notification to the council, the authority shall assess the public facility in order to determine the extent of compliance with the statewide adequacy standards and the amount of outstanding deviation from those standards. The results of the assessment shall be submitted to the charter school, the school district in which the charter school is located and the council.

(2) Once assessed pursuant to Paragraph (1) of this subsection, the public facility shall be prioritized and eligible for grants pursuant to the Public School Capital Outlay Act in the same manner as all other public schools in the state.

**D.** All charter schools shall have an established preventive maintenance program, either through its host school district, the property owner or its own resources. The established preventive maintenance procedures shall be in writing, be updated annually, and must include provisions for the timely inspection of life safety systems.

[6.27.3.18 NMAC - Rn & A, 6.27.3.17 NMAC, 07/15/10]

## **PART 4: POST-GRANT PROCEDURES**

### **6.27.4.1 ISSUING AGENCY:**

Public School Capital Outlay Council.

[6.27.4.1 NMAC - Rp, 6.27.3.1 NMAC, 06/15/04]

### **6.27.4.2 SCOPE:**

Public school capital outlay council, public school facilities authority and public school districts.

[6.27.4.2 NMAC - Rp, 6.27.3.2 NMAC, 06/15/04]

### **6.27.4.3 STATUTORY AUTHORITY:**

The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978.

[6.27.4.3 NMAC - Rp, 6.27.3.3 NMAC, 06/15/04]

**6.27.4.4 DURATION:**

Permanent.

[6.27.4.4 NMAC - Rp, 6.27.3.4 NMAC, 06/15/04]

**6.27.4.5 EFFECTIVE DATE:**

June 15, 2004, unless a later date is cited at the end of a section.

[6.27.4.5 NMAC - Rp, 6.27.3.5 NMAC, 06/15/04]

**6.27.4.6 OBJECTIVE:**

The objective of the rule is to establish the post-award grant assistance procedures for grants made by the public school capital outlay council.

[6.27.4.6 NMAC - Rp, 6.27.3.6 NMAC, 06/15/04]

**6.27.4.7 DEFINITIONS:**

**[RESERVED]**

**6.27.4.8 NOTIFICATION OF AWARD OF GRANT ASSISTANCE:**

The authority will notify school districts of grant assistance by a certified letter, return receipt requested. The notification will include:

- A.** the amount allocated for a specific project;
- B.** any contingencies upon or conditions for the award established by the council;  
and
- C.** the requirement that the district must provide written notice to the council or its designated staff of acceptance or rejection of the award. If the award is not accepted within thirty (30) days of receipt of the award letter, the council may consider the award rejected.

[6.27.4.8 NMAC - N, 06/15/04]

**6.27.4.9 DRAW DOWN PROCEDURES [RESERVED]:**

**PART 5-29: [RESERVED]**

## **PART 30: STATEWIDE ADEQUACY STANDARDS**

### **6.27.30.1 ISSUING AGENCY:**

Public School Capital Outlay Council.

[6.27.30.1 NMAC - Rp, 6.27.30.1 NMAC, 1/14/2025]

### **6.27.30.2 SCOPE:**

The purpose of this rule is to provide statewide adequacy standards for public school buildings and grounds. The application of these standards shall be limited to space and attributes needed to support educational programs and curricula, defined and justified as required by public education department standards and benchmarks, and that is sustainable within the operational budget for staffing, maintenance, and full utilizations of the facilities. The New Mexico public school statewide adequacy standards are dynamic and the council plans to review them periodically, and amend them as time and circumstances require. These standards are intended for use in the evaluation of baseline requirements for existing public school facilities and are not intended to limit the flexibility of design solutions for new construction and renovation projects. The New Mexico public school adequacy planning guide is a companion document provided by the state for use in the programming and design of school projects. The New Mexico public school adequacy planning guide is incorporated by reference into these standards, and may be amended by the council with adequate notice and input from the public.

[6.27.30.2 NMAC - Rp, 6.27.30.2 NMAC, 1/14/2025]

### **6.27.30.3 STATUTORY AUTHORITY:**

The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978.

[6.27.30.3 NMAC - Rp, 6.27.30.3 NMAC, 1/14/2025]

### **6.27.30.4 DURATION:**

Permanent.

[6.27.30.4 NMAC - Rp, 6.27.30.4 NMAC, 1/14/2025]

### **6.27.30.5 EFFECTIVE DATE:**

January 14, 2025, unless a later date is cited at the end of a section.

[6.27.30.5 NMAC - Rp, 6.27.30.5 NMAC, 1/14/2025]

#### **6.27.30.6 OBJECTIVES:**

The New Mexico public school statewide adequacy standards establish the acceptable levels for the physical condition and capacity of school buildings, the educational suitability of those facilities and the need for technological infrastructure at those facilities. The standards are not intended to restrict a facility's maximum size.

[6.27.30.6 NMAC - Rp, 6.27.30.6 NMAC, 1/14/2025]

#### **6.27.30.7 DEFINITIONS:**

Unless otherwise specified, the following definitions apply:

**A. "ancillary space"** means any subordinate space necessary to support an activity or function of main programmatic space(s);

**B. "current enrollment"** means the current number of students enrolled at an existing school;

**C. "combination school"** means a school that contains the elementary school, middle school/junior high school and high school, or any combination thereof;

**D. "council"** means the public-school capital outlay council;

**E. "equipment"** means a specified item not affixed to the real property of a school facility;

**F. "exterior envelope"** means the exterior walls, roof, doors, windows, and structural system of a building;

**G. "fixture"** means a specified item that is affixed to the real property of a school facility;

**H. "general use classroom"** means a classroom space that is or can be appropriately configured for instruction in at least the areas of language arts (including bi-lingual), mathematics and social studies;

**I. "kitchenette"** means a small food storage and warming area, which usually has a refrigerator, sink, and a microwave, but may have other appliances;

**J. "net sf"** means the net square footage area of an interior room or space, calculated using the interior measurements from the interior face of wall to interior face of wall;

**K. "network distribution space"** means space dedicated to securely house all devices and cabling necessary to cross-connect any outside line(s) with the school internal distribution frame up to, but not including, end-user devices;

**L. "occupiable space"** means enclosed space within the school facility and serving a classroom, administrative, or support purpose and is occupied by staff, students, or public on a regular or flexibly assigned basis; this shall not include space exclusively used for storage or to house mechanical, electrical, or other equipment;

**M. "planned school program capacity"** means the planned number of students for a new or replacement facility, or in an existing school facility to be modified in capacity, and shall be accommodated in the entire facility when all phases of construction are fully completed; these shall include students in regular education classes, in combination with special education students requiring special education classrooms in compliance with public education department requirements;

**N. "play field"** means an outdoor grass or synthetic turf area to support site recreation and outdoor physical education;

**O. "school facility"** means a building or group of buildings and outdoor area that are administered together to comprise a school;

**P. "school site"** means one or more parcels of land where a school facility is located; more than one school facility may be located on a school site;

**Q. "specialty classroom"** means a non-general use classroom space that is or can be appropriately configured for instruction in a specific subject such as science, physical education, special education, career technical education, or art;

**R. "student"** means "qualified student or MEM" as defined in Section 22-8-2 NMSA 1978;

**S. "teacher housing"** means a residence that houses a teacher or administrator on site; and

**T. "technology infrastructure"** means facilities including network, hardware, software, maintenance and other activities required to support information technology services.

[6.27.30.7 NMAC - Rp, 6.27.30.7 NMAC, 1/14/2025]

## **6.27.30.8 GENERAL REQUIREMENTS:**

These standards are not intended to supersede or omit, compliance with applicable building and fire code or any other code, regulation, law or standard that has been adopted by state agencies.

**A. Building condition.** A school facility must be safe and capable of being maintained.

(1) Structural. A school facility must be structurally sound. A school facility shall be considered structurally sound and safe if the building presents no imminent danger or major visible signs of decay or distress.

(2) Exterior envelope. An exterior envelope is safe and capable of being maintained if:

(a) walls and roof are weather tight under normal conditions with routine upkeep; and

(b) doors and windows are weather tight under normal conditions with routine upkeep; and

(c) the building structural systems support the loads imposed on them.

(3) Interior surfaces. An interior surface is safe and capable of being maintained if it is:

(a) structurally sound;

(b) capable of supporting a finish; and

(c) capable of continuing in its intended use, with normal maintenance and repair.

(4) Interior finishes. An interior finish is safe and capable of being maintained if it is:

(a) free of exposed lead paint;

(b) free of friable asbestos; and

(c) capable of continuing in its intended use, with normal maintenance and repair.

**B. Building systems.** Building systems in a school facility must be in working order and capable of being properly maintained. Building systems include roof, plumbing, telephone, electrical, heating and cooling, fire alarm, 2-way internal communication, external communication, appropriate technological infrastructure, and security systems.

(1) General. A building system shall be considered to be in working order and capable of being maintained if all of the following apply:

- (a) The system is capable of being operated as intended and maintained.
  - (b) Newly manufactured or refurbished replacement parts are available.
  - (c) The system is capable of supporting the adequacy standards established in this rule.
  - (d) Components of the system present no imminent danger of personal injury.
- (2) Plumbing fixtures. A school facility shall be equipped with sanitary facilities in accordance with the New Mexico building code. Fixtures shall include, but are not limited to, water closets, urinals, lavatories and drinking fountains. Restrooms shall be reasonably available so students will not have to exit the building.
- (3) Fire alarm and emergency notification system. A school facility shall have a fire alarm and emergency notification system as required by applicable state fire codes and emergency procedures.
- (4) Two-way communication and exterior site communication systems. A school facility shall have a two-way building interior communication system between a central location and each classroom, isolated office space, library, physical education space, cafeteria, and other regularly-used spaces. An exterior communication system allowing emergency instructions to be clearly broadcast from a central location to all outdoor site areas adjacent to the school building(s) shall be provided. Exterior communications systems shall be capable of remote administrator control.
- (5) Technological infrastructure. A school facility shall have built-in technology infrastructure as appropriate to support all aspects of the educational, operational and administrative processes, with functional access to wired and wireless connectivity throughout all occupiable spaces. Wireless coverage and density shall be appropriate to serve all users' devices at all locations within the facility and at exterior seating areas adjacent to the building(s).

[6.27.30.8 NMAC - Rp, 6.27.30.8 NMAC, 1/14/2025]

#### **6.27.30.9 CLASSIFICATION OF PUBLIC SCHOOLS:**

The classifications for public schools, including charter schools, under these standards are:

- A.** Early childhood: A school with only pre-kindergarten.
- B.** Elementary school: A school with a combination of grades pre-kindergarten through 6th.

**C.** Middle school/junior high school: A school with a combination of grades 6th through 8th.

**D.** High school: A school with grades 9th through 12th.

**E.** Combination school: A school that contains any combination of the elementary school, middle school/junior high school and high school.

[6.27.30.9 NMAC - Rp, 6.27.30.9 NMAC, 1/14/2025]

#### **6.27.30.10 SCHOOL SITE:**

A school site shall be of sufficient size to accommodate safe access, parking, drainage and security. Additionally, the site shall be provided with an adequate source of potable water and appropriate means of effluent disposal.

**A.** Safe access and circulation. A school site shall be configured for safe, controlled access and on-site circulation. It shall have clearly identified and visually-observable pedestrian and vehicular pathways extending from the site perimeter to the main building entrance. Pedestrian and vehicular traffic, including service vehicle traffic shall be safely separated on site. If buses are used to transport students then separate bus loading/unloading areas shall be provided wherever possible. Dedicated student drop-off and pickup areas shall be provided for safe use by student passengers arriving or departing by automobile.

**B.** Staff, student and visitor parking. A school site shall include a maintainable surfaced area that is stable, firm and slip resistant and is large enough to accommodate 1.5 parking spaces /staff FTE and 1 student space /4 high school students. If this standard is not met, alternative parking may be approved after the sufficiency of parking at the site is reviewed by the council using the following criteria:

- (1) availability of street parking around the school;
- (2) availability of any nearby parking lots;
- (3) availability of public transit;
- (4) number of staff who drive to work on a daily basis; and
- (5) average number of visitors on a daily basis.

**C.** Drainage. A school site shall be configured such that runoff does not undermine the structural integrity of the school buildings located on the site or create flooding, ponding or erosion resulting in a threat to health, safety or welfare.

[6.27.30.10 NMAC - Rp, 6.27.30.10 NMAC, 1/14/2025]



#### **6.27.30.11 SITE RECREATION AND OUTDOOR PHYSICAL EDUCATION:**

A school facility shall have area, space and fixtures, in accordance with the standard equipment necessary to meet the educational requirements of the public education department, for physical education activity. Play area(s), play field(s) and equipment for physical education and school recreational purposes shall be age appropriate and be provided based on the planned school program capacity or current enrollment.

**A.** Early childhood. Play areas for pre-kindergarten shall be fenced or walled, with age-appropriate playground equipment and convenient to the pre-kindergarten classroom(s).

**B.** Elementary school. Safe play area(s) and playground(s), including paved multipurpose play surface(s) or unpaved recreation area(s), shall be conveniently accessible to the students. Play areas for kindergarten shall be fenced or walled, with age-appropriate playground equipment and convenient to the kindergarten classroom(s).

**C.** Middle school/junior high school. A paved multipurpose play surface and play field(s) for physical education activities shall be provided.

**D.** High school. A paved multipurpose play surface and a play field for physical education activities shall be provided.

**E.** Combination school. A combination school shall provide the elements of the grades served by Subsections A, B, C and D above without duplication, but shall meet the highest standard.

[6.27.30.11 NMAC – Rp, 6.27.30.11 NMAC, 1/14/2025]

#### **6.27.30.12 OCCUPIABLE SPACE:**

All occupiable space within the building(s) shall meet or exceed the general requirements listed below:

**A.** Fixtures and equipment.

(1) Each general and specialty classroom shall contain a work surface and seat for each student in the classroom. The work surface and seat shall be appropriate for the normal activity of the class conducted in the room.

(2) Each general and specialty classroom shall have an erasable surface and a surface suitable for projection purposes, appropriate for group classroom instruction, and a display surface. A single surface may meet one or more of these purposes.

(3) Each general and specialty classroom shall have storage for classroom materials or access to conveniently located storage.

(4) Each general and specialty classroom shall have a work surface and seat for the teacher and for the aide assigned to the classroom, and it shall have secure storage for student records that is located in the classroom or is convenient to access from the classroom.

(5) Occupiable administrative and facility support spaces shall have the fixtures and equipment necessary for functions performed within.

**B. Lighting.**

(1) All occupiable space within the building(s) shall have a light system capable of maintaining at least 50 foot-candles of well-distributed light. Provide appropriate task lighting in specialty classrooms and other occupiable spaces where enhanced visibility is required.

(2) The light level shall be measured at a work surface located in the approximate center of the classroom, between clean light fixtures.

**C. Temperature.**

(1) Each general and specialty classroom shall have a heating, ventilation and air conditioning (HVAC) system capable of maintaining a temperature between sixty-eight and seventy-five degrees fahrenheit with full occupancy.

(2) The temperature shall be measured at a work surface in the approximate center of the classroom.

**D. Acoustics.**

(1) All occupiable space within the building(s) shall be maintainable at a sustained background sound level of less than 55 decibels.

(2) The sound level shall be measured at a work surface in the approximate center of the classroom.

(3) All occupiable space within the building(s) shall be acoustically-separated from adjoining spaces when necessary to meet privacy or confidentiality requirements.

**E. Air quality.**

(1) All occupiable space within the building(s) shall have an HVAC system that continually moves air and is capable of maintaining a CO<sub>2</sub> level of not more than 1,000 parts per million.

(2) The air quality shall be measured at a work surface in the approximate center of the classroom.

**F. Technology.** All occupiable spaces within the building(s) shall have technology and connectivity that will appropriately support educational activities conducted in the room. Safe and adequate access to power to recharge and operate technology devices by all students and staff simultaneously shall be provided.

[6.27.30.12 NMAC - Rp, 6.27.30.12 NMAC, 1/14/2025]

### **6.27.30.13 SCHOOL SECURITY:**

School security features shall be integrated at all layers of the school.

#### **A. Site security.**

(1) all functional areas of a school site shall have safe and secure site fencing or other barriers with accommodations for safe passage through openings to protect students from the hazards of traffic, railroad tracks, steep slopes, animal nuisance, and to discourage unauthorized access to the school site. Alternative security may be approved after the sufficiency of security at the site is reviewed by the council using the following criteria:

- (a) amount of vehicular traffic near the school site;
- (b) existence of hazardous or natural barriers on or near the school site;
- (c) amount of animal nuisance or unique conditions near the school site;
- (d) visibility of the play/physical education area; and
- (e) site lighting, as required to meet safe, normal access conditions.

**B. Building security.** All occupiable spaces within the building(s) shall have the ability to control access to the extent required for confidentiality and security. Building attributes supporting controlled access to the building(s) and interior spaces, shall be integrated with all layers of school security.

(1) security systems. Built-in security systems, which support building access control and emergency operations, shall be in working order.

(2) classroom doors. All interior and exterior classroom doors, accessible from indoor and outdoor traffic areas, shall have hardware that is lockable from the inside of the classroom.

[6.27.30.13 NMAC - N, 1/14/2025]

**6.27.30.14 GENERAL USE CLASSROOMS (LANGUAGE ARTS, MATHEMATICS AND SOCIAL STUDIES):**

**A.** Cumulative classroom net sf requirements, excluding in-classroom storage space, shall be at least:

- |     |                                 |                     |
|-----|---------------------------------|---------------------|
| (1) | Pre-Kindergarten - Kindergarten | 1000 net sf minimum |
| (2) | Grades 1 - 5                    | 800 net sf minimum  |
| (3) | Grades 6 - 8                    | 800 net sf minimum  |
| (4) | Grades 9 - 12                   | 800 net sf minimum  |

**B.** In addition, at least 2 net sf/student shall be available for dedicated classroom storage.

**C.** All pre-kindergarten classrooms shall have a sink.

**D.** A sufficient number of classrooms shall be provided to meet statutory student/staff ratio requirements.

[6.27.30.14 NMAC - Rp, 6.27.30.13 NMAC, 1/14/2025]

**6.27.30.15 SPECIAL EDUCATION SECTION:**

**A.** Special education:

- (1) Special education classrooms shall not be smaller than 800 net sf.

(2) Special education classrooms serving students requiring a high degree of personal care and assistance shall include an accessible unisex restroom, a kitchenette, and at least 15 net sf of storage.

**B.** A school shall provide ancillary space for therapy programs, such as occupational, physical, speech and language, no smaller than 650 net sf each. These functions may be combined into one space if scheduling permits shared use and sufficient physical and acoustic separation is provided to ensure privacy.

[6.27.30.15 NMAC - N, 1/14/2025]

**6.27.30.16 SPECIALTY CLASSROOMS:**

**A.** Science education:

- (1) for grades pre-kindergarten through 6, provide storage space for science equipment and materials. No additional classroom space is required.

(2) for grades 7 through 12, 4 net sf/student of the planned school program capacity or current enrollment for science is required. The space shall not be smaller than 800 net sf. The space shall have science fixtures and equipment, in accordance with the standard equipment and technology necessary to meet the educational requirements of the public education department. If an alternate science learning method is used by a school district, the district shall verify the appropriate alternate fixtures and equipment to the council. Provide at least 96 net sf for securable, well-ventilated storage/prep space for each science room having science fixtures and equipment. Storage/prep room(s) may be combined and shared between more than one classroom.

**B. Art education.**

A school facility shall have classroom space to deliver art education programs, including dance, music, theatre/drama, and visual arts programs, or have access to an alternate learning method. Art education classroom space(s) may be used for other instruction.

(1) early education. If applicable, art education programs may be accommodated within a general use classroom.

(2) elementary school. Art education programs may be accommodated within a general use or dedicated art classroom. Classroom space(s) for art education shall not be smaller than 800 nsf. Provide additional dedicated art program storage of at least 60 net sf per facility. Dedicated art classrooms, excluding performing arts, shall have a sink.

(3) middle school/junior high school. Classroom space(s) for art education programs shall have no less than 4 net sf/student and shall not be smaller than 800 nsf. Provide additional ancillary space for group music practice, individual music practice room(s), specialized storage/library rooms, and office(s). Dedicated art classrooms, excluding performing arts, shall have a sink.

(4) high school. Classroom space(s) for art education programs shall have no less than 5 net sf/student and shall not be smaller than 800 nsf. Provide additional ancillary space for group music practice, individual music practice room(s), specialized storage/library rooms, and office(s). Dedicated art classrooms, excluding performing arts, shall have a sink.

(5) combination school. A combination school shall provide the elements of the grades served by paragraphs (1), (2) and (3) above without duplication.

**C. Career technical education.**

(1) early education and elementary school. No requirement.

(2) middle school/junior high school. Career technical education programs shall have no less than 3 net sf/student. Additional space for specialized curriculum, equipment and technology requirements, and safety zones shall be included. Each program lab or classroom space shall not be smaller than 800 net sf.

(3) high school. Career technical education programs space shall have no less than 4 net sf/student. Additional adequate space for specialized curriculum, equipment and technology requirements, and safety zones shall be included. Each program lab or classroom space shall not be smaller than 800 net sf.

(4) combination school. A combination school shall provide the elements of the grades served by paragraphs (1), (2) and (3) above without duplication, but meeting the higher standards.

**D. Technology education.** A school facility shall have space (computer labs) to deliver educational programs in technology or have access to an alternate delivery method (one-to-one devices). This requirement may be distributed throughout other program spaces.

(1) early education. No requirement.

(2) elementary school. Provide space that meets 3 net sf/student of the planned school program capacity or current enrollment, with no less than 700 net sf.

(3) middle school/junior high school. Provide space that meets at least 3 net sf/student of the planned school program capacity or current enrollment, with no less than 800 net sf.

(4) high school. Provide space that meets 3 net sf/student of the planned school program capacity or current enrollment, with no less than 900 net sf.

(5) combination school. A combination school shall provide the elements of the grades served by paragraphs (1), (2) and (3) above without duplication, but meeting the higher standards.

**E. Alternate delivery method.** If an alternate delivery method is used by a school for instruction, the space used for the alternate method may be approved following review by the council.

[6.27.30.16 NMAC - RP, 6.27.30.14 NMAC, 1/14/2025]

## **6.27.30.17 PHYSICAL EDUCATION:**

**A. General requirements.** A school facility shall have an area, space and fixtures for indoor physical education activity. This space may have more than one function and may fulfill more than one standard requirement.

- (1) early education. No requirement.
- (2) elementary school. Provide an indoor physical education teaching facility with at least 2,400 net sf. This space may have multi-purpose use in accommodating other educational program activities such as art program performances.
- (3) middle school/junior high school. For a middle school/junior high school facility, an indoor physical education teaching facility that shall have a minimum of 5,200 net sf, plus bleachers for 1.5 design capacity.
- (4) high school. A physical education complex shall have a minimum of 6,500 net sf, plus bleachers for 1.5 design capacity.
- (5) combination school. Provide the elements of the grades served by paragraphs (1), (2) and (3) above without duplication, but meeting the higher net sf standards with bleacher capacity for at least 2.0-planned school program capacity or current enrollment. A single high school gymnasium shall fulfill the minimum requirements of both high school and middle school/junior high school classes. If the combination school includes an elementary, then it shall include the separate space required for an elementary school. This space may have more than one function and may fulfill more than one standard requirement.
- (6) physical education space and seating shall support access to and use of appropriate technology devices and have access to power and functional wireless connectivity.

**B. Additional physical education requirements:**

- (1) early education. No requirement.
- (2) elementary school. One office shall be provided, with separate physical education equipment storage with a minimum of 200 net sf each.
- (3) middle school/junior high school. Two dressing rooms shall be provided, with lockers, restroom fixtures, and at least one shower per dressing room. Two offices shall be provided with a minimum of 150 net sf each, along with separate physical education equipment storage space, with a minimum of 300 net sf.
- (4) high school. Two dressing rooms shall be provided, with lockers, restroom fixtures, and at least one shower per dressing room. Two offices shall be provided with a minimum of 150 net sf each, along with separate physical education equipment storage space, with a minimum of 300 net sf.
- (5) combination school. A combination school shall provide the elements of the grades served by paragraphs (1), (2) and (3) above without duplication, but meeting the higher standards.

[6.27.30.17 NMAC - RP, 6.27.30.15 NMAC, 1/14/2025]

#### **6.27.30.18 LIBRARIES, MEDIA, AND RESEARCH CENTERS:**

A school facility shall have flexible space for students to access research materials, books, digital devices, and computers, with wired and wireless connectivity. The facility shall have fixtures, equipment, technology, and resources in accordance with the standard equipment necessary to meet the educational requirements of the public education department. The area be at least 2.5 net sf/student of the planned school program capacity or current enrollment, but no less than 1,000 net sf. In addition, office/workroom space and secure storage shall be provided, with a cumulative minimum of 200 net sf.

[6.27.30.18 NMAC - Rp, 6.27.30.16 NMAC, 1/14/2025]

#### **6.27.30.19 FOOD SERVICE STANDARDS:**

**A. Cafeterias.** A school facility shall have adequate space and equipment necessary to provide regular meals to students during the school day.

(1) Dining. A school facility shall have a covered area or space, or combination, to permit students to eat within the school site, outside of general classrooms. This space may be multi-purpose and may fulfill more than one adequacy standards requirement not in conflict with the regular serving and dining function. Dining area shall be sized for the planned school program capacity or current enrollment to allow for a meal period requiring no more than three serving periods. The dining area shall have no less than 15 net sf/seated student.

(2) Serving. Serving area(s) accommodating efficient flow of traffic shall be provided in addition to net sf areas assigned to dining and food preparation area. The space, fixtures and equipment shall be appropriate for the food service program of the school facility and shall be provided in consideration of the size and location of the facility. Food service facilities and equipment shall comply with the food service and food processing regulations of the New Mexico department of environment.

**B. Kitchen.** Kitchen space and equipment shall comply with either the food preparation kitchen or the serving kitchen standards defined as follows:

(1) Food preparation kitchen - 2 net sf/meal served minimum, based upon the single largest serving period:

(a) Early childhood and elementary school: 1,000 net sf minimum.

(b) Middle school/junior high school: 1,600 net sf minimum.

(c) High school: 1,700 net sf minimum.



(d) Combination school: shall provide the elements of the grades served by Subparagraphs (a), (b) and (c) above without duplication, but meeting the higher standards.

(2) Serving kitchen. Where food is not prepared on the school site, but is delivered prepared, there shall be a minimum of 200 net sf.

(3) Additional kitchen space requirements. The kitchen shall include an office with a minimum of 150 net sf, restroom, lockers, and a custodial space with a mop sink.

(4) Fixtures, equipment, and storage. A school facility shall have space, fixtures and equipment accessible to the kitchen and serving area, in accordance with the standard equipment required, for the preparation, receipt, storage or service of food to students.

(a) The space, fixtures and equipment shall be appropriate for the food service program of the school facility and shall be provided in consideration of the size and location of the facility and frequency of food service supply deliveries. Food service facilities and equipment shall comply with the food service and food processing regulations of the New Mexico department of environment.

(b) Fixtures and equipment should include: food prep area items, including hand wash sink, serving area equipment (or buffet equipment), dishwasher, cold storage, dry other appropriate fixtures and equipment items to perform necessary cooking or warming functions.

[6.27.30,19 NMAC - Rp, 6.27.30.17 NMAC, 1/14/2025]

#### **6.27.30.20 OTHER FACILITY AREAS:**

**A.** Administrative space. A school facility shall have administrative space, to include offices for school administrators, councilors, ancillary staff, and records. The space shall consist of a minimum of 150 net sf, plus 1.5 net sf/student of the planned school program capacity or current enrollment.

**B.** Student health. A school facility shall have spaces for the delivery of student health. The student health or nurse's suite shall have space to isolate any sick student(s) from the other students and perform necessary testing. It shall have a sink, refrigerator, and secure storage for records, medications, supplies. This space shall be a designated space consisting of at least 1 net sf/student of the planned school program capacity or current enrollment with a minimum of 200 net sf. The student health or nurse's suite shall have a connected accessible restroom, not included in the minimum.

**C.** Faculty workspace and break room. A school facility shall have workspace available to the faculty. This space is in addition to any workspace available in or near a classroom. The space shall consist of at least 1 net sf/student of the planned school

program capacity or current enrollment with no less than 150 net sf. The space may consist of more than one room and may have more than one function. The break room shall include a kitchenette.

**D. Network distribution space.** A school shall have at least 120 net sf of appropriately distributed, securable, well-ventilated, temperature controlled space to accommodate routers, switches, servers and other devices to support school technology operational needs.

[6.27.30.20 NMAC - Rp, 6.27.30.18 NMAC, 1/14/2025]

**6.27.30.21 GENERAL STORAGE (EXCLUDES LOCKERS, JANITORIAL, KITCHEN, GENERAL CLASSROOM, SPECIAL CLASSROOMS, AND ADMINISTRATIVE STORAGE):**

For storage, at least 1.5 net sf/student of the planned school program capacity or current enrollment may be distributed in or throughout any type of room or space, but may not count toward required room square footages. General storage must be securable and include textbook storage.

[6.27.30.21 NMAC - Rp, 6.27.30.19 NMAC, 1/14/2025]

**6.27.30.22 MAINTENANCE OR JANITORIAL SPACE:**

Each school shall designate 1 net sf/student of the planned school program capacity or current enrollment for maintenance or janitorial space. Janitorial space shall include a janitorial sink.

[6.27.30.22 NMAC - RP, 6.27.30.20 NMAC, 1/14/2025]

**6.27.30.23 TEACHER HOUSING:**

Teacher housing units shall meet standards required by the united states department of housing and urban development.

[6.27.30.23 NMAC - RP, 6.27.30.21 NMAC, 1/14/2025]

**6.27.30.24 STANDARDS VARIANCE:**

**A.** The council may grant a variance from any of the adequacy standards. The council shall grant a variance if it determines that the intent of the standard can be met by the school in an alternate manner, or if a variance is required for appropriate programmatic needs as demonstrated by the district. If the council grants the variance, the school shall be deemed to have met the standard.

**B.** The council may, with adequate justification, also grant a variance from any of the provisions of the New Mexico public school adequacy planning guide provided by the state for use in the programming and design of school projects. Such variance shall be considered through an appeal to the council by the school district following a final administrative interpretation of the planning guide. Procedures for achieving final administrative interpretation and filing an appeal to the council for a variance are as provided for in the planning guide document.

[6.27.30.24 NMAC - Rp, 6.27.30.20 NMAC, 1/14/2025]

## **PART 31: SPECIAL PURPOSE SCHOOLS EDUCATIONAL FACILITY ADEQUACY STANDARDS**

### **6.27.31.1 ISSUING AGENCY:**

Public School Capital Outlay Council.

[6.27.31.1 NMAC - N, 09/14/12]

### **6.27.31.2 SCOPE:**

The purpose of this rule is to provide statewide adequacy standards for special purpose school buildings and grounds. The application of these standards shall be limited to space and attributes needed to support educational and technology programs and curricula, including the expanded core curriculum, student housing and related services, and that is sustainable within the operational budget for staffing, maintenance, and full utilizations of the facilities. The New Mexico special purpose schools facilities adequacy standards are dynamic and the council plans to review them as necessary, and change them as time and circumstances require. These standards are intended for use in the evaluation of existing special purpose school facilities and are not intended to limit the flexibility of design solutions for new construction and renovation projects. A companion document is the New Mexico special purpose schools adequacy planning guide, provided by the state for use in the programming and design of school projects to meet adequacy. The New Mexico special purpose school adequacy planning guide is incorporated by reference into these standards, and may be amended by the council with adequate notice and input from the public.

[6.27.31.2 NMAC - N, 09/14/12]

### **6.27.31.3 STATUTORY AUTHORITY:**

The Public School Capital Outlay Act, Section 22-24-5 NMSA 1978.

[6.27.31.3 NMAC - N, 09/14/12]

### **6.27.31.4 DURATION:**

Permanent.

[6.27.31.4 NMAC - N, 09/14/12]

**6.27.31.5 EFFECTIVE DATE:**

September 14, 2012.

[6.27.31.5 NMAC - N, 09/14/12]

**6.27.31.6 OBJECTIVES:**

The New Mexico special purpose school adequacy standards establish the acceptable levels for the physical condition and capacity of school buildings, the educational suitability of those facilities and the need for technological infrastructure at those facilities. The standards are not intended to restrict a facility's size.

[6.27.31.6 NMAC - N, 09/14/12]

**6.27.31.7 DEFINITIONS:**

Unless otherwise specified, the following definitions apply:

- A. "art education program"** includes visual and performing arts programs;
- B. "combination school"** means a school that contains the elementary, middle school/junior high school and high school or any combination thereof;
- C. "council"** means the public school capital outlay council;
- D. "equipment"** means a specified item not affixed to the real property of a special purpose school facility;
- E. "expanded core curriculum"** means a curriculum that recognizes experiences and concepts students without visual or auditory impairments learn casually and incidentally must be systematically and sequentially taught to students with visual and auditory impairments;
- F. "exterior envelope"** means the exterior walls, floor and roof of a building;
- G. "fixture"** means a specified item that is affixed to the real property of a special purpose school facility;
- H. "general use classroom"** means a classroom space that is or can be appropriately configured for instruction in at least the areas of language arts, mathematics and social studies;

I. **"gross sf"** means a measurement from exterior wall to exterior wall and calculated to obtain the gross square footage of a space;

J. **"infrastructure"** means the on-site physical support systems needed for the operation of the school, including internal roads, and utilities, and drainage systems, and building subsystems such as structure, mechanical, electrical, data, and telecommunications;

K. **"intensive support space"** means a space to accommodate programs serving students with severe or multiple handicaps and primarily in need of habilitation and treatment, while requiring a staff person for small groups of students within the class;

L. **"interior finish"** means an aesthetic or protective final coating or fabric applied to an exposed surface inside the building;

M. **"interior surface"** means any exposed area of the interior enclosure for an interior space, finished or unfinished;

N. **"net sf"** means a measurement from interior face of wall to interior face of wall and calculated to obtain the net square footage of a space;

O. **"planned school program capacity"** means the planned number of students to be accommodated in the entire facility when all phases of construction are fully completed; these shall include students in regular education classes in combination with special education students requiring special education classrooms in compliance with public education department requirements;

P. **"resident"** means a student who lives in residential housing while attending a special purpose school;

Q. **"residential housing"** means the space provided at a special purpose school for students to sleep, perform personal hygiene activities, study, socialize, engage in structured and unstructured recreational activities, prepare meals and dine, and to engage in other activities that a student attending a non-residential school might otherwise engage in outside of the traditional school day;

R. **"space"** means the net square footage located within the interior of a building;

S. **"special purpose school facility"** means a building or group of buildings and outdoor area that are administered together to comprise a special purpose school;

T. **"special purpose school site or special purpose school campus"** means one or more parcels of land where a special purpose school facility is located; more than one school facility may be located on a school site or school campus;

**U. "special purpose schools"** means the New Mexico school for the deaf (NMSD) and the New Mexico school for the blind and visually impaired (NMSBVI);

**V. "specialty classroom"** means a classroom space that is or can be appropriately configured for instruction in a specific subject such as science, physical education, special education or art;

**W. "specialty program capacity"** means the planned number of students to be accommodated in a specialty program area in compliance with public education department requirements;

**X. "students"** means the total enrollment of students on the current roll of a class or special purpose school on a specified day; and

**Y. "teacherage"** means a residence that houses a teacher or administrator on site.

[6.27.31.7 NMAC - N, 09/14/12]

#### **6.27.31.8 GENERAL REQUIREMENTS:**

These standards are not intended to supersede or omit compliance with applicable building and fire code or any other code, regulation, law or standard that has been adopted by state agencies.

**A. Building condition.** A special purpose school facility must be safe and capable of being maintained.

**(1) Structural.** A special purpose school facility must be structurally sound. A special purpose school facility shall be considered structurally sound and safe if the building presents no imminent danger or major visible signs of decay or distress.

**(2) Exterior envelope.** An exterior envelope is safe and capable of being maintained if:

**(a)** walls and roof are weather tight under normal conditions with routine upkeep; and

**(b)** doors and windows are weather tight under normal conditions with routine upkeep, and the building structural systems support the loads imposed on them.

**(3) Interior surfaces.** An interior surface is safe and capable of being maintained if it is:

**(a)** structurally sound;

**(b)** capable of supporting a finish; and

(c) capable of continuing in its intended use, with normal maintenance and repair.

(4) Interior finishes. An interior finish is safe and capable of being maintained if it is:

(a) free of exposed lead paint;

(b) free of friable asbestos; and

(c) capable of continuing in its intended use, with normal maintenance and repair.

**B. Building systems.** Building systems in a special purpose school facility must be in working order and capable of being properly maintained. Building systems include roof, plumbing, telephone, electrical and heating and cooling systems as well as fire alarm, 2-way internal communication, appropriate technological infrastructure and security systems.

(1) General. A building system shall be considered to be in working order and capable of being maintained if all of the following apply:

(a) The system is capable of being operated as intended and maintained.

(b) Newly manufactured or refurbished replacement parts are available.

(c) The system is capable of supporting the adequacy standards established in this rule.

(d) Components of the system present no imminent danger of personal injury.

(2) Plumbing fixtures. A special purpose school facility shall be equipped with sanitary facilities in accordance with the New Mexico building code. Fixtures shall include, but are not limited to, water closets, urinals, lavatories and drinking fountains. In all new construction, restrooms shall be available so students will not have to exit the building. In existing facilities, restrooms shall be available for classrooms for grades 5 and below, and special needs classrooms, without having to exit the building, wherever possible within reasonable cost constraints.

(3) Fire alarm and emergency notification system. A special purpose school facility shall have a fire alarm and emergency notification system as required by applicable state fire codes and appropriate emergency procedures.

(4) 2-way communication system. A special purpose school facility shall have a 2-way internal communication system between a central location and each classroom,

isolated office space, library, physical education space, cafeteria, and other regularly-used spaces.

[6.27.31.8 NMAC - N, 09/14/12]

#### **6.27.31.9 CLASSIFICATION OF SPECIAL PURPOSE SCHOOLS:**

The classifications for special purpose schools school grade levels under these standards are:

**A.** Preschool

**B.** Elementary school: kindergarten - grade 6

**C.** Middle school/junior high school: grades 7 - 8

**D.** High school: grades 9 - 12

**E.** Combination school: includes some or all of the grade levels in A, B, C or D, above.

[6.27.31.9 NMAC - N, 09/14/12]

#### **6.27.31.10 SPECIAL PURPOSE SCHOOL SITE:**

A special purpose school site shall be of sufficient size to accommodate safe access, parking, drainage and security. Additionally, the site shall be provided with an adequate source of water and appropriate means of effluent disposal.

**A.** Safe access. A special purpose school site shall be configured for safe and controlled access that separates pedestrian from vehicular traffic. If buses are used to transport students then separate bus loading/unloading areas shall be provided wherever possible. Dedicated student drop-off and pickup areas shall be provided for safe use by student passengers arriving or departing by automobile.

**B.** Parking. A special purpose school site shall include a maintainable surfaced area that is stable, firm and slip resistant and is large enough to accommodate 1.5 parking spaces /staff full time equivalent employee and sufficient space to accommodate demonstrated need for student parking. If this standard is not met, alternative parking may be approved after the sufficiency of parking at the site is reviewed by the council using the following criteria:

(1) availability of street parking around the school;

(2) availability of any nearby parking lots;



- (3) availability of public transit;
- (4) number of staff who drive to work on a daily basis; and
- (5) average number of visitors on a daily basis.

**C. Drainage.** A special purpose school site shall be configured such that runoff does not undermine the structural integrity of the school buildings located on the site or create flooding, ponding or erosion resulting in a threat to health, safety or welfare.

**D. Security.**

(1) All special purpose schools shall have safe and secure site fencing or other barriers with accommodations for safe passage through openings to protect students from the hazards of traffic, railroad tracks, steep slopes, animal nuisance, and to discourage unauthorized access to the campus. This standard is met if the entire school is fenced or walled. If this standard is not met, alternative security may be approved after the sufficiency of security at the site is reviewed by the council using the following criteria:

- (a) amount of vehicular traffic near the school site;
- (b) existence of hazardous or natural barriers on or near the school site;
- (c) amount of animal nuisance or unique conditions near the school site;
- (d) visibility of the play/physical education area; and
- (e) site lighting, as required to meet safe, normal access conditions.

(2) For special purpose schools which include students below grade 6, a fenced or walled play/physical education area shall be provided.

[6.27.31.10 NMAC - N, 09/14/12]

**6.27.31.11 SITE RECREATION AND OUTDOOR PHYSICAL EDUCATION:**

A special purpose school facility shall have area, space and fixtures, in accordance with the equipment necessary to meet the educational requirements of the public education department, for physical education activity and shall be provided based on the planned school program capacity.

**A. Preschool.** Safe play area(s) shall be conveniently accessible to students.

**B. Elementary school.** Safe play area(s) and playground(s) including hard surfaced court(s) or unpaved recreation area(s) shall be conveniently accessible to the students.

Play area(s) and appropriate equipment for physical education and school recreational purposes shall be provided based on the planned school program capacity.

**C.** Middle school/junior high school. Hard surfaced court(s) and playing field(s) for physical education activities shall be provided. Playing field(s) and equipment shall be based on the planned school program capacity.

**D.** High school. A paved multipurpose play surface and a playing field for physical education activities shall be provided. Playing fields and equipment shall be based on the planned school program capacity.

**E.** Combination school. A combination school shall provide the elements of the grades served by Subsections A, B, C and D above without duplication, but shall meet the highest standard.

[6.27.31.11 NMAC - N, 09/14/12]

#### **6.27.31.12 ACADEMIC CLASSROOMS:**

All classroom space shall meet or exceed the requirements listed below:

**A.** Classroom space. Classroom space shall be sufficient for appropriate educational programs for the class level needs.

**B.** Classroom fixtures and equipment

**(1)** Each general and specialty classroom shall contain a work surface and seat for each student in the classroom. The work surface and seat shall be appropriate for the normal activity of the class conducted in the room.

**(2)** Each general and specialty classroom shall have an erasable surface and a surface suitable for projection purposes, appropriate for group classroom instruction, and a display surface. A single surface may meet one or more of these purposes.

**(3)** Each general and specialty classroom shall have storage for classroom materials or access to conveniently located storage.

**(4)** Each general and specialty classroom shall have a work surface and seat for the teacher and for the aide assigned to the classroom, and it shall have secure storage for student records that is located in the classroom or is convenient to access from the classroom.

**C.** Classroom lighting

(1) Each general and specialty classroom shall have a light system capable of maintaining at least 50 foot-candles of well-distributed light. Provide appropriate task lighting in specialty classrooms where enhanced visibility is required.

(2) The light level shall be measured at a work surface located in the approximate center of the classroom, between clean light fixtures.

#### D. Classroom temperature

(1) Each general and specialty classroom shall have a heating, ventilation and air conditioning (HVAC) system capable of maintaining a temperature between 68 and 75 degrees fahrenheit with full occupancy.

(2) The temperature shall be measured at a work surface in the approximate center of the classroom.

#### E. Classroom acoustics

(1) Each general and specialty classroom shall be maintainable at a sustained background sound level of less than 55 decibels.

(2) The sound level shall be measured at a work surface in the approximate center of the classroom.

#### F. Classroom air quality

(1) Each general, science and arts classroom shall have an HVAC system that continually moves air and is capable of maintaining a CO<sub>2</sub> level of not more than 1,200 parts per million.

(2) The air quality shall be measured at a work surface in the approximate center of the classroom.

[6.27.31.12 NMAC - N, 09/14/12]

### **6.27.31.13 GENERAL USE CLASSROOMS (LANGUAGE ARTS, MATHEMATICS AND SOCIAL STUDIES):**

**A.** Cumulative classroom net square foot (sf) requirements, including in-classroom storage space, shall be at least:

(1)	NMSD preschool	110 net sf/student, but not less than 450 net sf.
(2)	NMSD elementary	80 net sf/student, but not less than 450 net sf.
(3)	NMSD middle/high school	75 net sf/student, but not less than 450 net sf.
(4)	NMSBVI preschool	110 net sf/student, but not less than 450 net sf.
(5)	NMSBVI elementary	90 net sf/student, but not less than 450 net sf.

(6) NMSBVI middle/high school 85 net sf/student, but not less than 450 net sf.

(7) Based on demonstrated need, minimum classroom sizes listed in (1) through (6) shall not preclude individual or small group instruction spaces that are smaller.

**B.** Sufficient number of classrooms shall be provided to meet the special purpose school's student/staff ratio requirements and to accommodate at least eight students per classroom, unless otherwise stated in this standard.

[6.27.31.13 NMAC - N, 09/14/12]

#### **6.27.31.14 SPECIALTY CLASSROOMS:**

**A.** Science:

(1) For elementary schools, no additional space is required beyond the classroom requirement. This space is included in the academic classroom requirement and may be used for other instruction.

(2) For middle school and high school:

(a) NMSD science classroom. At least 12.5 net sf/student, but not less than 900 net sf. The space shall have science fixtures and equipment necessary to meet the educational requirements of the special purpose school.

(b) NMSBVI science classroom. At least 13 net sf/student, but not less than 900 net sf. The space shall have science fixtures and equipment, necessary to meet the educational requirements of the special purpose school.

(3) If an alternate science learning method is used by a special purpose school, the school shall verify the appropriate alternate fixtures and equipment to the council. Provide at least 80 net sf for securable, well-ventilated storage/prep space for each science room having science fixtures and equipment. Storage/prep room(s) may be combined and shared between more than one classroom.

**B.** Intensive support classroom. If an intensive support education space is provided and the space is required to support educational programs, services, and curricula, the space shall be at least 150 net sf/student occupant, but not less than 450 net sf. When the need is demonstrated additional space in the classroom shall be provided with, or students shall have an accessible route to; an accessible unisex restroom with one toilet, sink, washer/dryer and shower stall/tub, and at least 15 net sf of storage. When the need is demonstrated in 7<sup>th</sup> grade classrooms and above, a kitchenette with at least 15 net sf of storage shall be provided.

**C. Art education programs.** A special purpose school facility shall have classroom space to deliver art education programs, including dance, music, theatre/drama, and visual arts in accordance with the school's educational program, or have access to an alternate learning method. Classroom space(s) for art education shall not be smaller 650 net sf. Art education classroom space(s) may be included in the academic classroom requirement and may be used for other instruction.

**(1)** Elementary school. Art education programs may be accommodated within a general use or dedicated art classroom. A special purpose elementary school art program shall not be less than 5 net sf/elementary school student.

**(2)** NMSD middle school/high school art education program shall not be less than 10 net sf/middle or high school student.

**(3)** NMSBVI art education program shall not be less than 12.5 net sf/middle or high school student.

**D. Expanded core curriculum.** Space shall be provided that may include classrooms, industrial, or other types of spaces to support the expanded core curriculum, or access to alternative learning methods shall be provided.

**(1)** The NMSD expanded core program space shall not be less than 3,000 net sf plus 18 net sf/student in grades 7 through 12.

**(2)** The NMSBVI expanded core program space shall not be at less than 3,500 net sf plus 22 net sf/student in grades 1 through 12.

**(3)** Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1) and (2) above without duplication, but meeting the higher standards.

**E. Technology-aided instruction.** A special purpose school facility shall have space to deliver educational technology-aided instructional programs or have access to an alternate learning method. This requirement may be distributed throughout other program spaces within the facility.

**(1)** NMSD. Provide space that meets 8 net sf/student of the planned school program capacity, with not less than 650 net sf.

**(2)** NMSBVI. Provide space that meets 7.5 net sf/student of the planned school program capacity, with not less than 650 net sf.

**(3)** Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1) and (2) above without duplication, but meeting the higher standards.

**F.** Alternate delivery method. If an alternate delivery method is used by a special purpose school for instruction, the space used for the alternate method may be approved following review by the council.

[6.27.31.14 NMAC - N, 09/14/12]

#### **6.27.31.15 PHYSICAL EDUCATION:**

**A.** General requirements. A special purpose school facility shall have an area, space and fixtures for physical education activity. This space may have more than one function and may fulfill more than one standard requirement.

**(1)** Elementary school. Provide an indoor physical education teaching facility with at least 2,400 net sf. This space may have multi-purpose use in accommodating other educational program activities such as art program performances.

**(2)** Middle school/junior high school. For a middle school/junior high school facility, an indoor physical education teaching facility that shall not be less than 5,200 net sf plus bleachers for 1.5 design capacity.

**(3)** High school. A physical education complex shall not be less than 6,500 net sf plus bleachers for 1.5 design capacity.

**(4)** Combination school. Provide the elements of the grades served by Paragraphs (1), (2) and (3) above without duplication, but meeting the higher net sf standards with bleacher capacity for at least 2.0-planned school program capacity. A single high school gymnasium shall fulfill the minimum requirements of both high school and middle school/junior high school classes. If the special purpose school includes an elementary, then it shall provide in addition the separate space required for an elementary school. This space may have more than one function and may fulfill more than one standard requirement.

**B.** Additional physical education requirements. In addition to space requirements in Subsection A:

**(1)** Elementary school. One office shall be provided, with physical education equipment storage with not less than 200 net sf. This space may have more than one function and may fulfill more than one standard requirement.

**(2)** Middle school/junior high school. Physical education equipment storage space shall be provided. Two dressing rooms shall be provided, with lockers, showers and restroom fixtures. Two offices shall be provided, each with not less than 150 net sf. Each shall be provided with a telephone.

**(3)** High school. Physical education equipment storage space shall be provided. Two dressing rooms shall be provided, with lockers, showers and restroom

fixtures. Two offices shall be provided, each with not less than 150 net sf. Each shall be provided with a telephone.

(4) Combination school. A combination school shall provide the elements of the grades served by Paragraphs (1), (2) and (3) above without duplication, but meeting the higher standards.

[6.27.31.15 NMAC - N, 09/14/12]

#### **6.27.31.16 LIBRARIES AND MEDIA CENTERS/RESEARCH AREA - GENERAL REQUIREMENTS.**

A. A special purpose school facility shall have space for students to access research materials, literature, non-text reading materials, books and technology. This shall include space for reading, listening and viewing materials.

(1) Elementary school. The area for stacks and seating space shall be at least 3 net sf/student of the planned school program capacity, but shall not be less than 1,000 net sf. In addition, office/workroom space and secure storage shall be provided.

(2) Middle school/junior high school or high school. The area for stacks and seating shall not be less than 3 net sf/student of the planned school program capacity. In addition, office/workroom space and secure storage shall be provided.

(3) Combination school. Provide the elements of the grades set out in Paragraphs (1) and (2) above without duplication, but meeting the higher standards.

(4) Special purpose schools that have residential housing shall provide an additional 1,000 net sf of stacks and seating.

B. A special purpose school facility shall have library fixtures, equipment and resources in accordance with the standard equipment necessary to meet the educational requirements of the public education department.

[6.27.31.16 NMAC - N, 09/14/12]

#### **6.27.31.17 FOOD SERVICE:**

##### **A. Cafeterias - general requirements**

(1) Serving and dining. A special purpose school facility shall have a covered area or space, or combination, to permit students to eat within the school site, outside of general classrooms. This space may have more than one function and may fulfill more than one adequacy standards requirement. Dining area shall be sized for the planned school program capacity to allow for a meal period requiring no more than 3 servings. The dining area shall have no less than 15 net sf/seated student.

**(2)** Serving area shall be provided in addition to dining area.

**(3)** Fixtures and equipment. A special purpose school facility shall have space, fixtures and equipment accessible to the serving area, in accordance with the standard equipment required, for the preparation, receipt, storage or service of food to students.

**(a)** The space, fixtures and equipment shall be appropriate for the food service program of the school facility and shall be provided in consideration of the location of the facility and frequency of food service supply deliveries. Food service facilities and equipment shall comply with the food service and food processing regulations of the New Mexico department of environment.

**(b)** Fixtures and equipment should include: food prep area items, including sink, oven, range, serving area equipment (or buffet equipment), dishwasher, and cold storage, dry storage and other appropriate fixture and equipment items.

**B.** Kitchen. Kitchen and equipment shall comply with either the food preparation kitchen or the serving kitchen standards defined as follows:

**(1)** Food preparation kitchen - 2 net sf/meal served minimum based upon the single largest serving period:

**(a)** Elementary school: 1,000 net sf minimum

**(b)** Middle school/junior high school: 1,600 net sf minimum

**(c)** High school: 1,700 net sf minimum

**(d)** Combination school: shall provide the elements of the grades served by Subparagraphs (a), (b) and (c) above without duplication, but meeting the higher standards.

**(e)** Special purpose schools that have residential housing shall provide an additional 400 net sf of storage for residential housing-based nutrition and snack requirements.

**(2)** Serving kitchen. Where food is not prepared, there shall be a minimum of 200 net sf with a hand wash sink and a phone.

[6.27.31.17 NMAC - N, 09/14/12]

#### **6.27.31.18 STUDENT LIFE:**

**A.** Dormitory suites. Special purpose schools that provide residential housing shall have space for students to sleep, perform personal hygiene activities, study, socialize,



engage in structured and unstructured recreational activities, and to participate in other activities in which a student attending a non-residential school might otherwise engage outside of the traditional school day.

**(1)** A dormitory suite shall have at least 180 net sf/occupant.

**(2)** A handicapped-accessible dormitory suite shall have at least 220 net sf/occupant. Handicapped-accessible dormitory rooms shall be provided based on demonstrated need.

**B.** Student recreation center. A student recreation center shall consist of at least 800 net sf plus 25 net sf/resident. In addition to the student recreation center, students shall have access to indoor physical education space for the purpose of structured and unstructured physical activities.

**C.** Outdoor recreation. Residents shall have access to safe, secure, outdoor recreation spaces where they can engage in structured and unstructured recreational activities. In addition to outdoor recreational space, residents shall have access to outdoor physical education space for the purpose of structured and unstructured recreational activities.

[6.27.31.18 NMAC - N, 09/14/12]

#### **6.27.31.19 OTHER FACILITY AREAS:**

**A.** Parent workspace. A school facility shall include a workspace for use by parents. If this space is provided, it shall consist of at least .5 net sf/student of the planned school program capacity but no less than 150 net sf. The space may consist of more than one room and may have more than one function.

**B.** Administrative space. A special purpose school facility shall have space to be used for the administration of the school. The space shall consist of a minimum of 150 net sf, plus 5 net sf/student of the planned school program capacity.

**C.** Student health. A special purpose school facility shall have space to separate a sick student from the other students and may include space for the delivery of other related programs. This space shall be a designated space that is accessible to a restroom, and shall not be less than 805 net sf plus 1 net sf/student of the planned school program capacity. The space may consist of more than one room and may have more than one function. This space shall include a telephone.

**D.** Counseling. A special purpose school shall have space for counseling of students and related activities. This space shall consist of 250 net sf plus 2 net sf/student of the planned school program capacity.

**E. Therapy.** A special purpose school shall have space for occupational, physical and other types of therapy for students. This space shall consist of 225 net sf plus 8 net sf/student of the planned school program capacity.

**F. Faculty workspace or teacher lounge.** A special purpose school facility shall have workspace available to the faculty. This space is in addition to any workspace available to a teacher, in or near a classroom. The space shall consist of 5 net sf/student of the planned school program capacity with no less than 150 net sf. The space may consist of more than one room and may have more than one function. This space shall include a break area with a sink.

[6.27.31.19 NMAC - N, 09/14/12]

**6.27.31.20 GENERAL STORAGE (EXCLUDES LOCKERS, JANITORIAL, KITCHEN, GENERAL CLASSROOM, SPECIALTY CLASSROOMS, AND ADMINISTRATIVE STORAGE):**

For storage, at least 4 net sf/student of the planned school program capacity may be distributed in or throughout any type of room or space, but may not count toward required room square footages. General storage must be securable and include textbook storage.

[6.27.31.20 NMAC - N, 09/14/12]

**6.27.31.21 MAINTENANCE OR JANITORIAL SPACE:**

Each special purpose school shall designate 2 net sf/student of the planned school program capacity for maintenance or janitorial space. Janitorial space shall include a janitorial sink.

[6.27.31.21 NMAC - N, 09/14/12]

**6.27.31.22 STANDARDS VARIANCE:**

**A.** The council may grant a variance from any of the adequacy standards. The council shall grant a variance if it determines that the intent of the standard can be met by the special purpose school in an alternate manner, or if a variance is required for appropriate programmatic needs as demonstrated by the school. If the council grants the variance, the special purpose school shall be deemed to have met the standard.

**B.** The council may, with adequate justification, also grant a variance from any of the provisions of the special purpose school adequacy planning guide provided by the state for use in the programming and design of school projects to meet adequacy. Such variance shall be considered through an appeal to the council by the school following a final administrative interpretation of the planning guide. Procedures for achieving final

administrative interpretation and filing an appeal to the council for a variance are as provided for in the planning guide document.

[6.27.31.22 NMAC - N, 09/14/12]

## **PART 32-39: [RESERVED]**

## **PART 40: DEFICIENCIES CORRECTION UNIT: GENERAL PROVISIONS [EXPIRED]**

[This part expired June 30, 2006]

## **PART 41: DEFICIENCIES CORRECTION: PRIORITIZATION CRITERIA [EXPIRED]**

[This part expired June 30, 2006]

## **PART 42: DEFICIENCIES CORRECTION: MANAGEMENT AND OVERSIGHT [EXPIRED]**

[This part expired June 30, 2006]

## **PART 43: DEFICIENCIES CORRECTION: COUNCIL APPROVAL PROCEDURES [EXPIRED]**

[This part expired June 30, 2006]

## **CHAPTER 28: [RESERVED]**

## **CHAPTER 29: STANDARDS FOR EXCELLENCE**

### **PART 1: GENERAL PROVISIONS**

#### **6.29.1.1 ISSUING AGENCY:**

Public Education Department hereinafter referred to as the department.

[6.29.1.1 NMAC - Rp, 6.30.2.1 NMAC, 6-30-2009]

#### **6.29.1.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.1.2 NMAC - Rp, 6.30.2.2 NMAC, 6-30-2009]

**6.29.1.3 STATUTORY AUTHORITY:**

This rule is being promulgated pursuant to Sections 9-24-8, 22-2-1, 22-2-2, 22-2-2.1, 22-2C-3, 22-2C-4, 22-5-13, 22-2-8.13, 22-13-1, 22-13-1.1, and 22-13-14 NMSA 1978.

[6.29.1.3 NMAC - Rp, 6.30.2.3 NMAC, 6/30/2009; A, 12/15/2020; A, 7/31/2023; A, 1/28/2025]

**6.29.1.4 DURATION:**

Permanent.

[6.29.1.4 NMAC - Rp, 6.30.2.4 NMAC, 6-30-2009]

**6.29.1.5 EFFECTIVE DATE:**

June 30, 2009, unless a later date is cited at the end of a section.

[6.29.1.5 NMAC - Rp, 6.30.2.5 NMAC, 6-30-2009]

**6.29.1.6 OBJECTIVE:**

This rule provides for the implementation of educational standards and expectations for all students who attend public schools in the state.

[6.29.1.6 NMAC - Rp, 6.30.2.6 NMAC, 6/30/2009; A, 12/15/2020; A, 7/31/2023]

**6.29.1.7 DEFINITIONS:**

**A. "Accreditation"** means the official recognition that a school or school district meets required standards. Schools are accredited by voluntary regional accrediting associations or by state government. Accreditation also refers to the process of certifying that institutions of higher education meet certain standards in relation to such matters as the qualifications of their faculty, the condition of their facilities, and the appropriateness of their curriculum.

**B. "Advanced placement (AP)"** means a course taught by high school teachers trained in advanced placement course delivery provided through the college board. These courses are more difficult and involve more work than a standard class. AP courses are considered college-level courses and may allow a student to earn college credit, depending on college or university policies.

**C. "Bilingual multicultural education"** means a program of instruction using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process.

**D. "Career and technical education"** means organized programs offering a sequence of courses, including technical education and applied technology education, which are directly related to the preparation of individuals for paid or unpaid employment in current or emerging occupations requiring an industry-recognized credential, certificate, or degree.

**E. "Career cluster"** means a grouping of occupations in industry sectors based on recognized commonalities. Career clusters provide an organizing tool for developing instruction within the educational system.

**F. "Career pathways"** means a sub-grouping used as an organizing tool for curriculum design and instruction of occupations or career specialties that share a set of common knowledge and skills for career success.

**G. "Caseload"** means the total number of students receiving special education and speech-only services as special education, for whom a special education teacher or speech language pathologist has responsibility for developing and monitoring the students' IEPs. "Caseload" may also mean the number of students for which individual support services staff members are responsible.

**H. "Certified district reviewer"** means an LEA employee who is certified to review and approve an LEA's NM School DASH plans.

**I. "Chartering authority"** means a local school board or the commission that approves and oversees a charter school.

**J. "Class load"** means the number of students for whom a teacher structures activities at a given time.

**K. "Commission"** means the public education commission.

**L. "Content standard"** means a statement about performance that describes what students should know and be able to do in content areas at each grade level.

**M. "Correspondence course"** means a form of distance learning conducted via traditional mail. A correspondence course is used to teach non-resident students by mailing them lessons and exercises, which upon completion, are returned to the correspondence school for grading.

**N. "Distance learning"** means the technology and the educational process used to provide instruction for credit or for a grade when the course provider and the distance learning student are not physically present at the same time or place. Distance learning does not include educational software that utilizes only on site teaching.

**O. "Dual credit program"** means a program that allows high school students to enroll in college-level courses offered by a post-secondary educational institution that

may be academic or career-technical but not be remedial or developmental, and simultaneously to earn credit toward high school graduation and a post-secondary degree or certificate.

**P. "Education plan"** is the strategic plan written by all school districts, locally chartered and state-chartered charter schools to improve student performance.

**Q. "English language learner"** means a student whose first or heritage language is not English and who is unable to read, write, speak, or understand English at a level comparable to grade-level English proficient peers and native English speakers.

**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.

**S. "Family Educational Rights and Privacy Act (FERPA)"** means rights, pursuant to 20 U.S. Code 1232(g) and 34 CFR Part 99, afforded to parents and students over 18 years of age with respect to the student's education records, that include: the right to inspect and review the student's education records within 45 days, the right to request amendment to the student's education records for various reasons, the right to consent or refuse to consent to disclosures of personally identifiable information in the student's records (except for those records that FERPA authorizes for disclosure without consent) and the right to file a complaint with the U.S. department of education concerning non-compliance with FERPA.

**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.

**U. "Free appropriate public education (FAPE)"** means special education and related services that are provided at public expense, under public supervision and direction without charge, which meet the standards of the department in providing appropriate preschool, elementary, or secondary education in New Mexico; and which are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR Sections 300.320 through 300.324.

**V. "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.

**W. "Heritage language"** means a language other than English that is inherited from a family, tribe, community, or country of origin.

**X. "Home language"** means a language other than English that is the primary or heritage language spoken at home or in the community.

**Y. "Individualized education program (IEP)"** means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR Secs. 300.320 through 300.324.

**Z. "Individuals with Disabilities Education Improvement Act of 2004 (IDEA)"** means the federal Individuals with Disabilities Education Improvement Act of 2004, 20 U.S. Code Secs. 1401 et seq., including future amendments.

**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.

**AB. "Laboratory component"** means an experience in the laboratory, classroom or the field that provides students with opportunities to interact directly with natural phenomena or with data collected by others using tools, materials, data collection techniques and models. Throughout the process, students should have opportunities to design investigations, engage in scientific reasoning, manipulate equipment, record data, analyze results, and discuss their findings.

**AC. "Local educational agency (LEA)"** means a local educational agency as defined in 34 CFR Sec. 300.28. The LEA may be a public school district, a state-chartered charter school, or a state educational institution.

**AD. "MLSS Self-assessment"** means analysis of MLSS implementation that each school shall submit in a form and by a due date determined by the department. The MLSS Self-assessment shall contribute to a school's NM School DASH, but it shall not be a component in the evaluation of a school by the department.

**AE. "Multi-layered system of supports (MLSS)"** means a coordinated and comprehensive framework that uses increasingly intensive evidence-based academic and behavioral supports that address student needs as evidenced by student data. It is a model for holistic school improvement that provides progress measures for additional supports such as school-based team structures, professional development, health and wellness, and family and community engagement. MLSS satisfies the definition of "multi-tiered system of supports" contained within the ESSA.

**AF. "Next-Step Plan"** means an annual personal written plan of studies developed by a student in a public school or other state-supported school or institution in consultation with the student's parent and school counselor or other school official charged with coursework planning for the student, which includes one or more of the following:

(a) advanced placement, international baccalaureate, or honors courses;

(b) dual-credit courses offered in cooperation with an institution of higher education;

(c) distance learning courses;

(d) career technical education or work-based learning courses; and

(e) pre-apprenticeship programs.

**AG. "NM School DASH"** means the strategic plan written by schools to improve student outcomes. It contains the annual plan, both 90-day plans, and functions as a school site improvement plan.

**AH. "Performance standard"** means the statement of a standard that describes the specific level of mastery expected in achieving the New Mexico content standards with benchmarks.

**AI. "Prior written notice (PWN)"** means the written notice that goes to parents from the school district, informing them the district proposes or refuses to initiate or change the identification, evaluation or educational placement of their child, or the provision of FAPE to the child, and which meets the requirements of 34 CFR Sections 300.503 and 300.504.

**AJ. "Short-cycle assessment"** is a formative assessment that is regularly used to assess student performance over a short time period.

**AK. "Small group setting"** means a planned intervention group containing no more than 15 students.

**AL. "Socioeconomic status"** means the stratification of groups of people by status ascribed through social constructs such as race, gender, ethnicity, educational attainment, economic resources, language, and national origin.

**AM. "Standards-based assessments"** means assessments that are aligned to the New Mexico content standards.

**AN. "State educational institution"** means a school that is under the direction of a state agency other than the department or a separate board of regents.

**AO. "Student assistance team (SAT)"** means a school-based group of people whose purpose is to provide additional educational support to students experiencing difficulties preventing them from benefitting from general education.

**AP. "System of assessments"** means the collection of formative, interim, and summative instruments that assess student academic performance annually and the students' progress toward meeting the New Mexico content standards.



**AQ. "Transition plan"** means a coordinated set of activities for a student with a disability, which specifies special education and related services designed to meet a student's unique needs and to prepare the student for future education, employment, and independent living. The use of individualized educational program (IEP) transition planning, graduation planning and post-secondary transitions is described in Subparagraph (a) of Paragraph (13) of Subsection J of 6.29.1.9 NMAC.

[6.29.1.7 NMAC - Rp, 6.30.2.7 NMAC, 6/30/2009; A, 10/31/2011; A, 12/15/2020; A, 1/28/2025]

#### **6.29.1.8 IMPLEMENTATION:**

This regulation shall assist in the implementation of standards for excellence through the use of the Education Plan for all school districts and charter schools. At the school site level this regulation shall assist in the implementation of standards for excellence through the use of the NM School DASH, content standards with benchmarks and performance standards, and additional program and procedural requirements specified in this regulation.

**A.** District and charter school responsibilities for the Education Plan and NM School DASH. The Education Plan and NM School DASH are strategic improvement plans that are written or revised based on trend data and the academic achievement of the school and district. Each district and each charter school is required to develop, implement, monitor and evaluate the Education Plan on an annual basis. Additionally, the district shall ensure that a site-level NM School DASH is developed and implemented by each school within the district and by each charter school for which the district is the chartering agency. LEAs shall have each NM School DASH evaluated and approved by a certified district reviewer. State-chartered charter schools shall develop a site-level NM School DASH. Districts with fewer than 200 students may write only one NM School DASH for the entire district; however, a district with a school in or receiving a school improvement status classification is not eligible for this option.

**B.** The Education Plan and NM School DASH shall be guided by questions determined by the department.

[6.29.1.8 NMAC - Rp, 6.30.2.9 NMAC, 6/30/2009; A, 10/31/2011; A, 12/15/2020; A, 7/31/2023]

#### **6.29.1.9 PROCEDURAL REQUIREMENTS:**

**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) 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.

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

(c) 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.

(d) 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.

(e) 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);

(4) delegate administrative and supervisory functions to the local superintendent;

(5) refrain from involvement in delegated administrative functions;

(6) review district policies on an annual basis and revise as needed;

(7) award high school graduation diplomas to students who have successfully completed graduation requirements;

(8) ensure the alignment of district curricula with New Mexico content standards with benchmarks and performance standards;

(9) ensure that district funds are appropriately managed and disbursed in accordance with laws, regulations and terms of grants;

(10) approve the annual district budget;

(11) be responsible for oversight of revenue and expenditures within the district; and

(12) coordinate with the district's superintendent to establish the procedures for discharging and terminating school employees pursuant to the School Personnel Act (Chapter 22, Article 10-A NMSA 1978);

(13) broadcast, through the school district's website, live audio and video webcasts of local school board meetings and make available a user interface that allows members of the public to submit written or verbal comments. A webcast shall:

(a) Begin as soon as practicable after the chair has called the meeting to order;

(b) Terminate as soon as practicable after the local school board has adjourned;

(c) Be recorded and posted, along with an electronic copy of any minutes approved at the meeting, on the school district's website within one week of the meeting's conclusion; and

(d) Be publicly available for at least three years following the date of the meeting unless the state records retention schedule, as established in 1.21.2 NMAC, provides otherwise.

**B.** Duties and powers of the governing body of a charter school. In addition to the powers and duties set out in Section 22-5-4 NMSA 1978 and Section 22-1-1 et seq. NMSA 1978 of the Public School Code, the governing body of a charter school shall:

(1) review, approve and support the district's department-approved improvement plan and each school site-level *MLSS Self-assessment* and department approved improvement plan, or the charter school's department approved improvement plan;

(2) employ and evaluate the charter school administrator;

(3) develop a planned program of training annually, in which each member of the governing body participates, to assist in the performance of specified duties; this planned program shall align with all requirements of statute and any other department regulations; training shall include the following requirements and procedures.

(a) Governing body members in their first term shall complete at least ten hours of mandatory training during their first year serving on the governing body. Training for new members shall include:

(i) at least two hours covering laws and department policies and procedures affecting governing bodies or charter schools, including ethics and school personnel;

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

(iii) at least two hours covering legal concepts pertaining to governing bodies and charter schools, 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 a charter school leader; and

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

(b) Mandatory training for all other governing body members shall include at least five hours per year and shall cover:

(i) laws and department policies and procedures affecting governing bodies or charter schools, including ethics and school personnel;

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

(iii) a governing body's role in evaluating and improving student academic achievement and using data to set individual school goals for student academic achievement in charter schools;

(iv) a governing body's role in providing a safe learning environment conducive to improving student outcomes;

(v) legal concepts pertaining to governing bodies and charter schools, including the Open Meetings Act and the Inspection of Public Records Act;

(vi) effective governance practices and effective methods of supporting and supervising charter school leaders; and

(vii) other matters deemed relevant by the department.

(4) delegate administrative and supervisory functions to the local superintendent or charter school administrator;

(5) refrain from involvement in delegated administrative functions;

(6) review charter school policies on an annual basis and revise as needed;

(7) award high school graduation diplomas to students who have successfully completed graduation requirements;

(8) ensure the alignment of charter school curricula with New Mexico content standards with benchmarks and performance standards;

(9) ensure that charter school funds are appropriately managed and disbursed in accordance with laws, regulations and terms of grants;

(10) approve the annual charter school budget;

(11) be responsible for oversight of revenue and expenditures within the charter school budget; and

(12) coordinate with the charter school's administrator to establish the procedures for discharging and terminating school employees pursuant to the School Personnel Act (Chapter 22, Article 10-A NMSA 1978).

(13) broadcast, through the charter school's website, live audio and video webcasts of governing body meetings and make available a user interface that allows members of the public to submit written or verbal comments. A webcast shall:

(a) begin as soon as practicable after the chair has called the meeting to order;

(b) terminate as soon as practicable after the governing body has adjourned;

(c) be recorded and posted, along with an electronic copy of any minutes approved at the meeting, on the charter school's website within one week of the meeting's conclusion; and

(d) be publicly available for at least three years following the date of the meeting unless the state records retention schedule, as established in 1.21.2 NMAC, provides otherwise.

**C.** Duties and powers of the district superintendent or the administrator of a charter school. In addition to the powers and duties set out in Section 22-5-14 NMSA 1978 of the Public School Code, the local superintendent (or charter school administrator, where relevant) shall:

(1) administer local board's (or governing body of a charter school's) policies, state and federal requirements and applicable laws, including the Public School Code;

(2) be accountable for student achievement; budget management; expenditure of funds; dissemination of information; district or charter school communications; development, implementation and evaluation of the Education Plan and all other district or charter school business;

(3) review, approve and support the district Education Plan and each school site-level *MLSS Self-assessment* and NM School DASH or the charter school's *MLSS Self-assessment* and NM School DASH;

(4) attend all local board or governing body of a charter school's meetings or, when necessary, designate a licensed administrator to attend;

(5) ensure that school patrons and the public are informed and involved in the acquisition, planning and development of school facilities and that students are provided with adequate facilities which conform to state and federal mandates;

(6) be accountable for student safety (see 6.12.6 NMAC - *School District Wellness Policy*):

(a) ensure that all students are supervised while on school property and while attending or traveling to school events or activities on school-provided transportation;

(b) ensure that all buildings, grounds and facilities provide a safe and orderly environment for public use (see Subsection P of 6.29.1.9 NMAC - *School Facilities and Grounds*; Paragraph (8) of Subsection D of 6.12.6.8 NMAC - *School District Wellness Policy* and 6.19.3 NMAC - *Unsafe School Choice Option*);

(7) administer and implement the district's or charter school's approved staff accountability plan and procedures;

(8) ensure that a process is in place to identify, train, assign and support the use of unlicensed content-area experts as resources in classrooms, team teaching, online instruction, curriculum development and other purposes as determined by the superintendent, which shall include, but not be limited to, the following:

(a) establish the specific expertise of the person;

(b) obtain a background check and fingerprint records;

(c) provide the person with a three-hour training, prior to entering a classroom, about how the school operates, appropriate teaching methods and expectations of principal and assigned teacher;

(d) establish a start date and ending date for the person;

(e) ensure that the person is under the direct supervision of the teacher assigned when students are present; and

(f) provide for an evaluation of services upon completion of the assignment;

(9) shall issue the following notifications in accordance with Section 22-10A-16 NMSA 1978, in addition to any other parental notification requirements contained in the federal Elementary and Secondary Education Act of 1965, as amended; a school district or charter school shall issue these notifications in English and, to the extent possible, in the language of the parent or guardian (if it is known that the parent or guardian's home or heritage language is not English); the district or charter school shall retain a copy of all notifications and shall ensure that information required under this paragraph is available to the public upon request.

(a) Within 60 calendar days from the beginning of each school year, a school district or charter school shall issue a notice to parents informing them that they may obtain written information regarding:

(i) the professional qualifications of their child's teachers, instructional support providers and school principals or charter school administrators;

(ii) other descriptive information, such as whether their teacher has met all qualifications for licensure for the grade level and subjects being taught;

(iii) whether their child's teacher is teaching under a teaching or assignment waiver;

(iv) the teacher's degree major and any other license or graduate degree held by the teacher;

(v) the qualifications of any instructional support providers that serve their child.

(b) When, by the end of a consecutive four-week period, a child is still being taught by a substitute teacher or a teacher not holding the requisite licensure or licensure endorsement, the school district or charter school shall provide written notice to the parent or guardian that the child is being taught by a substitute teacher or a teacher not holding the requisite licensure or licensure endorsement.

(c) No class may be taught by a substitute teacher, in lieu of a licensed teacher under contract, for more than 45 school days during a school year.

(d) The secretary shall consider deviations from the requirements of Subparagraph (c) of Paragraph (9) of Subsection C of 6.29.1.9 NMAC when a written request by a local superintendent or charter school administrator is submitted. The request shall include:

(i) the size of the school district;

(ii) the geographic location of the district;



(iii) demonstrated efforts to employ an appropriately licensed person in the area(s) of need;

(iv) the historical use of substitutes in the district; and

(v) an estimation of the number of days that a substitute will be utilized that exceed the 45 day limit.

**D. Licensed staff and administrators.**

(1) The licensed staff shall exercise duties specified in law and those assigned by the local district or charter school.

(2) As required by state and federal law, all licensed staff and administrators shall be evaluated on an annual basis.

(3) The detection and reporting of child abuse or neglect is required by both the Children's Code (Section 32A-4-3 NMSA 1978) and the Public School Code (Section 22-5-4.2 NMSA 1978). Abuse of a child under the Children's Code refers to the physical, sexual, emotional or psychological abuse of a child by a parent, guardian or custodian. According to the Children's Code, failure to report abuse or neglect of a child is a misdemeanor. The terms "abuse" and "neglect" are defined in detail in Section 32A-4-2 NMSA 1978 of the Children's Code. There is also the crime of child abuse, which consists of anyone who knowingly, intentionally, negligently or without cause, causes or permits a child to be placed in a situation of endangerment to the child's life or health, torturing or cruelly confining a child, or exposing a child to the inclemency of weather. To address the detection and reporting of child abuse or neglect in public schools:

(a) school districts and charter schools shall adopt written policies that establish a process for the coordination and internal tracking of child abuse or neglect reports made by district personnel;

(b) school districts and charter schools shall include in their policies a requirement that all personnel shall immediately report suspected child abuse or neglect to either a law enforcement agency, the New Mexico children, youth and families department, or a tribal law enforcement or social services agency for any Indian child residing on tribal land;

(c) school districts and charter schools shall not require their personnel to first report to or notify designated school personnel or go through their chain of command before making the mandatory report described in Subparagraph (a) of Paragraph (3) of Subsection D of 6.29.1.9 NMAC;

(d) no school district or charter school shall adopt a policy that relieves any personnel of their duty to report suspected child abuse or neglect;

(e) school personnel detecting suspected child abuse or neglect, including the suspected crime of child abuse, shall immediately - i.e., the same day - report their observations to one of the offices designated in Subparagraph (b) of Paragraph (3) of Subsection D of 6.29.1.9 NMAC;

(f) all licensed school personnel, including substitute teachers, educational assistants, school nurses, school counselors, school psychologists and other instructional service providers shall complete training provided by the department in the detection and reporting of child abuse or neglect, within their first year of employment by, or providing services to, a school district or charter school;

(g) all persons who have never received training required under Subparagraph (f) of Paragraph (3) of Subsection D of 6.29.1.9 NMAC shall make arrangements to receive training before the end of their current school year;

(h) the department shall develop a training program to detect child abuse or neglect, in coordination with the New Mexico human services department and the New Mexico department of health. This program shall be made available to all colleges, school districts and charter schools in the state offering teacher preparation courses;

(i) nothing in Paragraph (3) of Subsection D of 6.29.1.9 NMAC shall be interpreted as preventing a school district or charter school from developing and providing its own training for all staff to detect and report suspected child abuse or neglect, in addition to the training offered by the department.

**E. Student intervention system.** The school and school district shall follow the multi-layered system of supports (MLSS), which is a three-layer model of student intervention as a proactive system for early intervention for students who demonstrate a need for educational support for learning or behavior or for students who demonstrate a need for advanced instruction. All students shall have access to layer-1, -2, and -3 interventions without a need to convene a SAT team or a referral to special education or related services. At any layer, a parent may request initial evaluation to determine whether a student is a child with a disability requiring special education and related service, in accordance with 6.31.2.10 NMAC. There are no additional documentation requirements under the MLSS outside of what is already required for education professionals.

(1) In layer 1, the school and school district shall ensure that adequate universal screening in the areas of general health and well-being, language proficiency status, and academic levels of proficiency has been completed for each student enrolled. If data from universal screening and progress monitoring suggests that a particular student is in need of additional behavioral and academic supports, then teacher teams shall make a determination on whether or not the student would benefit from layer-2 interventions. Teacher teams, when making a determination for moving a student up or down a layer may consult with non-teacher staff such as counselors, paraprofessionals, administrators, and ancillary personnel to inform the teacher team on

how to plan and implement relevant learner interventions in the general education environment.

(2) In layer 2, a properly constituted teacher team shall conduct the student study process and consider, implement, and document the effectiveness of appropriate evidence-based interventions utilizing curriculum-based measures. As part of this process, the teacher team shall address culture and acculturation, socioeconomic status, possible lack of appropriate instruction in reading or math, teaching and learning styles and instructional delivery mechanisms in order to rule out other possible causes of the student's educational difficulties.

(3) In layer 3, students are provided with intensive academic and behavioral supports that are progress-monitored on a bi-weekly basis. At the end of each progress monitoring cycle, the teacher team shall evaluate the efficacy of the supports provided using all available data. At that time, the teacher team may decide whether to continue with the current support, change the intensity, or nature of support. If progress monitoring data suggests that the learner has benefited from provided layer-3 supports and does not show concern for regression, then the teacher team may decide to move the student out of receiving layer-3 supports.

(4) All students shall have access to the MLSS layers of screening and support. Nothing in this section prevents a school district from evaluating a student during the provision of any layer of MLSS to determine whether the student is a child with a disability requiring special education and related services. A parent may request an initial special education evaluation at any time during the public agency's implementation of MLSS, and a school or school district may determine a referral to special education is necessary at any time during the implementation of MLSS if the student is suspected of having a disability. If a school district rejects a request for initial special education evaluation, the parent may use the IDEA procedural safeguards in 34 CFR Secs. 300.506 through 5007 to dispute the rejection of the request to evaluate.

(5) The department's manual, *Multi-layered System of Supports*, shall be the guiding document for schools and districts to use in implementing the student intervention system.

(6) Schools shall complete the *MLSS Self-assessment* annually.

(7) Schools shall include a report on intervention systems in NM School DASH.

(8) Schools shall provide time embedded within the regular school schedule for all students to access targeted and intensive learner interventions or advanced instruction described as follows:

(a) in small group settings;

(b) aligned with New Mexico standard; and

(c) not to exceed twenty-five percent of instructional hours.

(9) Student placement in embedded intervention or advanced instruction shall be reviewed each quarter and students shall be moved in or out of embedded intervention or advanced instruction based on quantitative and qualitative MLSS data.

(10) Embedded intervention or advanced instruction time shall be provided to students without forgoing instruction in art, music, theater, dance, computer science, physical education, library, or other enrichment or experiential learning activities or courses.

(11) Equitable access. Students in any layer shall have access to grade-appropriate, standards-aligned instruction seventy-five percent or more of their instructional hours unless instructional time is allocated differently in an IEP of a student receiving special education or gifted education services.

**F. Records and reports.**

(1) Each district and charter school shall maintain and treat all personally identifiable educational records in accordance with the Family Educational Rights and Privacy Act (FERPA), the implementing regulations set forth at 34 Code of Federal Regulations, Part 99 and Inspection of Public Records Act, Sections 14-2-1 through 14-2-12 NMSA 1978.

(2) All records shall be safe from fire and theft and stored in a retrievable manner. All student records, including disciplinary and grading records, shall be retained and disposed of pursuant to 1.20.2 NMAC.

(3) Transcripts and copies of pertinent records of students transferring from one school to another, including disciplinary records with respect to suspension and expulsion, shall be forwarded promptly upon written request by the receiving school.

(4) Local school boards and governing bodies of charter schools shall establish policies providing for inspection of education records by students and parents.

**G. Organization of grade levels and establishing/closing schools.** Any change in a school district or charter school's organizational pattern, including the establishment or closing of a school, shall have the secretary's approval prior to implementation. Requests for change shall be submitted using the department's *organization of grade levels and establishing/closing school waiver request form*. This form shall include: name of superintendent; district/school; mailing address; phone; fax; email address; name of a secondary contact person including the same information; date of submission; local board policy requirement and approval, if required; date of board

approval; statement of applicable district or charter school policy and rationale for request. The waiver request shall outline the expected educational benefits.

**H. Class loads.** Class loads shall be in compliance with the most current class load requirements in Section 22-10A-20 NMSA 1978 and Section 22-5-15 NMSA 1978.

(1) The individual class load for elementary school teachers shall not exceed 20 students for kindergarten, provided that any teacher in kindergarten with a class load of 15 to 20 students shall be entitled to the assistance of an educational assistant.

(2) The average class load for elementary school teachers at an individual school shall not exceed 22 students when averaged among grades one, two and three, provided that any teacher in grade one with a class load of 21 or more shall be entitled to the full-time assistance of an educational assistant.

(3) The average class load for an elementary school teacher at an individual school shall not exceed 24 students when averaged among grades four, five and six.

(4) The daily teaching load per teacher for grades seven through 12 shall not exceed 160 students, except the daily teaching load for teachers of required English courses in grades seven and eight shall not exceed 135, with a maximum of 27 students per class; and the daily teaching load for teachers of required English courses in grades nine through 12 shall not exceed 150 students, with a maximum of 30 students per class. The teaching load for teachers assigned to laboratories and shops shall adhere to the current workplace safety codes of the industry.

(5) Students receiving special education services integrated into a regular classroom for any part of the day shall be counted in the calculation of class load averages. Students receiving special education services not integrated into the regular classroom shall not be counted in the calculation of class load averages. Only classroom teachers charged with responsibility for the regular classroom instructional program shall be counted in determining average class loads. In elementary schools offering only one grade level, average class loads may be calculated by averaging appropriate grade levels between schools in the school district.

(6) The secretary may waive the individual school class load requirements established in this section. Waivers shall be applied for annually, and a waiver shall not be granted for more than two consecutive years. Requests for class load waivers shall be submitted using the department's *class size waiver request form*. This form shall include: name of superintendent; district/school; mailing address; phone; fax; email address; name of a secondary contact person including the same information; date of submission; local board policy requirement and approval, if required; date of board approval; statement of applicable district or charter school policy and rationale for request. Waivers may only be granted if a school district or charter school demonstrates:

- (a) no portable classrooms are available;
  - (b) no other available sources of funding exist to meet the need for additional classrooms;
  - (c) the district or charter school is planning alternatives to increase building capacity for implementation within one year; and
  - (d) the parents of all children affected by the waiver have been notified in writing of the statutory class load requirements; that the school district or charter school has made a decision to deviate from these class load requirements; and of the school district's or charter school's plan to achieve compliance with the class load requirements.
- (7) If a waiver is granted pursuant to Paragraph (6) of Subsection H of 6.29.1.9 NMAC to an individual school, the average class load for elementary school teachers at that school shall not exceed 20 students in kindergarten and grade one, and shall not exceed 25 students when averaged among grades two, three, four, five and six.
- (8) Each school district or charter school shall report to the department the size and composition of classes subsequent to the 40th day report and the December 1 count. Failure to meet class load requirements within two years shall be justification for the disapproval of the school district's or charter school's budget by the secretary.
- (9) The department shall report to the legislative education study committee by November 30 of each year regarding each school district's or charter school's ability to meet class load requirements imposed by law.
- (10) Notwithstanding the provisions of Paragraph (6) of Subsection H of 6.29.1.9 NMAC, the secretary may waive the individual class load and teaching load requirements established in this section upon demonstration of a viable alternative curricular plan and a finding by the department that the plan is in the best interest of the school district or charter school; and that, on an annual basis, the plan has been presented to and is supported by the affected teaching staff. The department shall evaluate the impact of each alternative curricular plan annually. Annual reports shall be made to the legislative education study committee. Requests for alternative curricular plans shall be submitted using the department's *collaborative school improvement programs waiver request form*. This form shall include: name of superintendent; district/school; mailing address; phone; fax; email address; name of a secondary contact person including the same information; date of submission; local board policy requirement and approval, if required; date of board approval; statement of applicable district or charter school policy and rationale for request.

I. Student/staff caseloads in gifted and special education.

(1) The student/staff caseload shall not exceed 35:1 for a special education teacher and 60:1 for a speech-language pathologist for special education services or speech-only services, in which properly licensed special education teachers or speech-language pathologists travel from class to class or school to school, providing services to students with disabilities whose individualized education programs (IEPs) require a minimal amount of special education. (A minimal amount of special education services shall not exceed ten percent of the school day/week.)

(2) The student/staff caseload shall not exceed 24:1 for a special education teacher and 35:1 for a speech-language pathologist for special education services or speech-only services which properly licensed special education teachers or speech-language pathologists provide to students with disabilities whose IEPs require a moderate amount of special education. (A moderate amount of special education services shall be less than fifty percent of the school day.)

(3) The student/staff caseload shall not exceed 15:1 for special education services in which properly licensed special education teachers provide services to students with disabilities whose IEPs require an extensive amount of special education for a portion of the school day as appropriate to implement the plan. (An extensive amount of special education services shall be provided fifty percent or more of the school day.)

(4) The student/staff caseload shall not exceed 8:1 for special education services in which a properly licensed professional provides services to students with disabilities whose IEPs require a maximum amount of special education. (A maximum amount of special education services shall be provided in an amount approaching a full school day.)

(5) The student/adult caseload shall not exceed 4:1 for center-based special education services in which one of the adults in the program is a properly licensed professional providing three- and four-year old children with the amount of special education needed to implement each child's IEP.

(6) The student/adult caseload shall not exceed 2:1 for center-based special education services in which three- and four-year old children have profound educational needs.

(7) Adequate student/staff caseloads shall be provided to appropriately address needs identified in the IEPs. Paraprofessionals and assistants who are appropriately trained and supervised in accordance with applicable department licensure rules or written department policy may be used to assist in the provision of special education and related services to students with disabilities under Part B of IDEA.

(8) If the student/staff caseload ratio exceeds the standards provided above, a request for waiver shall be submitted to the department for review and approval by the secretary.

## **J. Graduation requirements.**

(1) The district or charter school shall comply with requirements as specified in Section 22-13-1.1 NMSA 1978 and Subsection L of Section 66-7-506 NMSA 1978 (offering driver education, service learning and financial literacy as electives). The department specifies that students shall meet all graduation requirements to be eligible to receive a diploma.

(2) The next step plan. Each student shall complete a next step plan for each high school year. The plan shall be aligned to the graduate profile of the student's school district or charter school and shall be completed on a department-approved template. For students with individualized education programs (IEPs), the transition plan substitutes for the next step plan. The next step plan requires that:

(a) each grade-level next step plan shall be completed within the last 60 school days of the preceding school year (for example, the 9th grade interim next step plan shall be made before the end of the 8th grade year);

(b) only one grade-level next step plan shall be completed for a student each year;

(c) the development of the next step plan shall include the student, the student's parent or guardian and the advisor, but may include additional relevant parties;

(d) the advisor shall collaborate with the student and the student's parent or guardian on academic choices that target the student's interests and meet graduation requirements;

(e) the next step plan shall address career clusters in career and technical education, academic support and study skills, extracurricular experiences and out-of-school activities, exposure to post-secondary education and career options, family and social supports, assessments, credentials and any other relevant information; as part of the next step plan, the advisor shall disseminate and share information concerning advanced placement, honors, dual-credit and distance learning programs;

(f) the next step plan determines whether or not the student is on track with graduation requirements; the plan ensures that gaps in courses and test-taking are filled;

(g) the next step plan may be made in large-group, small-group or individual student settings;

(h) the advisor has the responsibility to see that the student is reasonably informed about curricular and course options, opportunities available that lead to



broader post-high school options, and alternative opportunities available if the student does not finish a planned curriculum;

(i) the next step plan shall be signed by the student, the student's parent or guardian and the advisor;

(j) the completed next step plan shall be filed with the school principal or charter school administrator and only the final next step plan shall be filed in the student's cumulative file upon graduation;

(3) Transfer of credits. For students enrolling or re-enrolling in public schools, local school boards or governing bodies of charter schools will establish policies as follows.

(a) Credits shall be transferable with no loss of value between schools that are accredited by a state board of education in the United States, United States territories, Puerto Rico, the freely associated states and outlying areas of the United States, department of defense schools or other authorized body.

(b) Policies of the local school board or the governing body of a charter school, for students transferring from home schools, private schools, or foreign schools to the public schools, will be in accordance with Subsection D of Section 22-1-4 NMSA 1978.

(c) Acceptance of credits earned through correspondence extension study, foreign study, home study courses or non-department accredited, non-public schools is determined by the policy of the local school board or the governing body of a charter school.

(4) Correspondence courses. For students currently enrolled in public schools, local school boards or governing bodies of charter schools will establish policies addressing the use of correspondence courses to meet graduation requirements.

(a) Policies should be based on the following circumstances:

(i) when road conditions or distance from access to school transportation prohibit regular daily attendance;

(ii) when a student cannot attend school due to prolonged illness or recovery from injury, as part of the individual plan to address the student's educational needs developed in accordance with applicable state and federal regulations governing the education of students with disabilities;

(iii) when the occupation of the parent or student requires prolonged periods of time away from the school district;

- (iv) when a student is housed in a long-term residential facility; or
- (v) to enhance or supplement graduation requirements based on a student's individual need(s).

(b) Schools counting credit for correspondence courses for enrolled students shall ensure that such courses are part of the student's individual plan for graduation. If applicable, such courses are part of the IEP developed in accordance with applicable state and federal regulations governing the education of students with disabilities, and schools shall ensure that assistance is available to students as needed to complete the correspondence courses.

(c) Correspondence courses used to provide graduation credit to currently enrolled students shall be provided by:

- (i) a school accredited by the state board of education of the state in which the school is located; or
- (ii) a college or university with regional accreditation to perform such function.

(5) Dual credit program. "Dual credit program" means a program that allows high school students to enroll in college-level courses offered by public post-secondary educational institutions that may be academic or career-technical in nature, but may not be remedial or developmental, and through which students can simultaneously earn credit toward high school graduation and a post-secondary degree or certificate. (Refer to 6.30.7.6 NMAC.)

(6) Distance learning courses. Any program involving distance learning shall be governed by the department's distance learning rule, found at 6.30.8 NMAC.

(7) Standardized grading system. A standardized grading system is required to be implemented by each district and charter school. The system shall include the following components:

(a) for grades 3-12, a standardized alphabetic grading system, based on the 4.0 scale (i.e., a minimum of 4.0 or higher=A, 3.0=B, 2.0=C, 1.0=D); certain courses may be assigned a weighted score according to local policy;

(b) alignment of all district and school curriculum to the New Mexico content standards with benchmarks and performance standards; and

(c) all school report cards may augment the standardized grading system with a narrative or other method that measures a student's academic, social, behavioral or other skills.

(8) Final examination. A final examination shall be administered to all students in all courses offered for credit.

(9) Credit. Credit cannot be earned twice for the same course.

(10) Other elective credit. Elective credit courses shall meet all New Mexico content standards with benchmarks and performance standards, and shall:

(a) include a written, sequential curriculum;

(b) be taught by an instructor who is appropriately licensed and endorsed to teach the course;

(c) include a final examination; and

(d) be reviewed and approved by the local board of education or governing body of a charter school.

(11) Alternative credit. Local districts, charter schools or state educational institutions may design elective courses, known as alternative credit courses, to satisfy any of the specified credits required for graduation.

(a) The process includes:

(i) review of the licensure and endorsements of affected staff;

(ii) review of required course content standards with benchmarks and performance standards with the proposed elective course, and summary of alignment between the two courses;

(iii) determination of the amount of credit that will be generated;

(iv) publication of information regarding what course is available for alternative credit and identification of course number;

(v) inclusion of the availability of alternative credit in all next-step plans;

(vi) note on the student transcript that the graduation requirement course was completed using the named alternative credit course;

(vii) review and preliminary approval by the local board of education or governing body of a charter school.

(b) Once the process has been completed, the district superintendent or administrator of a charter school or state educational institution shall submit a written request, with appropriate documentation, to the secretary for approval.

(12) Excuses from physical education. The physical education graduation requirement may be waived by the secretary, based upon a request by the local superintendent or charter school administrator with documentation from a licensed medical doctor, osteopath, certified nurse practitioner with prescriptive authority or chiropractor, that the student has a permanent or chronic condition that does not permit physical activity. Such requests shall be submitted using the department's *physical education waiver request form*. This form shall include: name of superintendent; district/school; mailing address; phone; fax; email address; name of a secondary contact person including the same information; date of submission; local board policy requirement and approval, if required; date of board approval; statement of applicable district or charter school policy and, for each student for whom the waiver is requested: name, school and year of student graduation, district affirmation that it possesses required medical documentation, name and email address of school principal and rationale for the request. A student receiving special education supports and services pursuant to the IDEA or Section 504 of the federal Rehabilitation Act may also be eligible to request this waiver, when appropriate medical documentation is provided in the IEP.

(13) Graduation requirements for issuance of a conditional certificate of transition or a diploma for students with an IEP. The development of a program of study and the granting of a diploma, or use of a conditional certificate of transition in the form of a continuing or transition individualized educational program (IEP) for students receiving special education services, includes the following governing principles:

(a) The IEP team is responsible for determining whether the student has completed a planned program of study based on the student's strengths, interests, preferences, identified educational and functional needs and long-term educational or occupational goals, making the student eligible to receive either a diploma or a conditional certificate of transition. A conditional certificate of transition allows the student to participate in graduation activities. If a student receives a conditional certificate of transition, the student shall then return to the program specified in the IEP to complete the student's secondary program and meet the requirements for a diploma. Receipt of a conditional certificate of transition shall not end a student's right to FAPE. In addition, all IEPs shall provide a description of how the student's progress toward meeting annual goals and graduation requirements will be measured, and at what intervals progress will be reported to parents or guardians. A student shall be awarded a diploma upon completion of a planned program of study that meets the requirements of Paragraph (b).

(b) A student may be awarded a diploma (Section 22-13-1.1 NMSA 1978) in accordance with the requirements of the following programs of study described in Items (i) through (iv). All IEP team discussion points and decisions identified herein, including the identification of the student's program of study and any student or parent proposals accepted or rejected by the IEP team (if the student has not reached the age of majority), shall be documented on the student's IEP and in the prior written notice (PWN) of proposed action.

(i) A standard program of study is based upon meeting or exceeding all requirements for graduation based on the New Mexico standards for excellence (Subsection J of 6.29.1.9 NMAC) with or without reasonable accommodations of delivery and assessment methods, as well as all other standard graduation requirements of the district or charter school. A diploma obtained through the standard program of study is considered a "regular high school diploma" as defined in 34 C.F.R. § 300.102(a)(3)(iv). Pursuant to 34 C.F.R. § 300.102(a)(3)(i), students with disabilities who graduate from high school with a regular diploma through the standard program of study are no longer entitled to FAPE or continued receipt of special education and related services.

(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 department. The student shall earn at least the minimum number of credits required by the district or charter school for graduation through standard or alternative courses that address the employability and career development standards with benchmarks and performance standards, as determined by the IEP team. Course work shall include a minimum of four units of career development opportunities and learning experiences that may include any of the following: career readiness and vocational course work, work experience, community-based instruction, student service learning, job shadowing, mentoring or entrepreneurships related to the student's occupational choices. Credits for work experience shall be related to the program of study that the school offers and specific to the district's ability to offer work experience or community-based instruction credits. The student shall achieve competency in all areas of the employability and career development standards with benchmarks and performance standards, as determined by the IEP team and the student's interest as it relates to the career clusters. The program of study shall address the New Mexico content standards with benchmarks and performance standards in other subject areas as appropriate. A diploma obtained through the modified program of study is not considered a "regular high school diploma" as defined in 34 C.F.R. § 300.102(a)(3)(iv). Pursuant to 34 C.F.R. § 300.102(a)(3)(ii), a student's right to FAPE does not end upon obtaining an alternative diploma through the modified program of study and a student may continue to receive special education and related services until student either meets the requirements to obtain a diploma through the standard program of study or until the end of the academic year in which the student becomes 22 years of age.

(iii) An 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. The IEP goals and functional curriculum course work shall be based on the New Mexico alternate standards with benchmarks and performance standards. Students in this program of study shall earn the minimum number of credits aligned with

state requirements for a diploma obtained through the standard program of study with course work individualized to meet the unique needs of the student through support of the IEP. In addition, a student on the ability program of study shall take the state-approved alternate assessment. A diploma obtained through the ability program of study is not considered a "regular high school diploma" as defined in 34 C.F.R. § 300.102(a)(3)(iv), 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)(ii)(I)(bb). Pursuant to 34 C.F.R. § 300.102(a)(3)(ii), a student's right to FAPE does not end upon obtaining a diploma through the ability program of study and a student may continue to receive special education and related services until student either meets the requirements to obtain a diploma through the standard program of study or until the end of the academic year in which the student becomes 22 years of age.

(iv) 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.

(c) Students receiving a diploma through any of the programs of study are permitted to participate in all graduation activities.

(d) Any special education student who obtains a diploma through the modified or ability programs of study may choose to exit high school after receiving the diploma but continues to have an entitlement to FAPE. A student may elect to resume their high school education at the school district or charter school that they are attending when they receive the diploma or at their school district of residence until student either meets the requirements to obtain a diploma through the standard program of study or until the end of the academic year in which the student becomes 22 years of age.

(e) Not later than the first IEP to be in effect when a student turns 14, or younger, if determined appropriate by the IEP team, 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.

(f) A district or charter school shall provide each student, who has an IEP and who graduates or reaches the maximum age for special education services, a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting post-secondary goals.

(g) Changes in programs of study.

(i) Departures from the standard program of study for students receiving special education services and supports shall be considered in the order of the options listed in Subparagraph (b) of Paragraph (13) of Subsection J of 6.29.1.9 NMAC. Districts and charter schools are obligated to meet the requirements of IDEA to provide students with IEPs on any one of the three programs of study, and access to the general curriculum in the least restrictive environment. When an alternative program of study is developed, a building administrator or designee who has knowledge about the student shall be a member of the IEP team.

(ii) Districts and charter schools shall document changes from the standard program of study on the PWN. IEP teams shall identify the reasons for changing the student's program of study, shall provide parents with clear concise explanations of the modified or ability programs of study, shall notify parents and students of the potential consequences that may delay or otherwise affect the student from completing the requirements for a regular high school diploma and limit the student's post-secondary options. The IEP team shall make required changes to the IEP and course of study, to ensure that the student meets the requirements of that program of study.

(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. IEP teams may change a student's program of study from the ability program of study to the modified program of study, or from the modified program of study to the standard program of study, if the student meets the graduation requirements of that program of study and if the change is made and documented appropriately in a revised IEP and PWN by a properly constituted IEP team in a properly convened meeting.

(h) A student who receives special education services may be granted a conditional certificate of transition in the form of a continuing or transition IEP when:

(i) the IEP team provides sufficient documentation and justification that the issuance of a conditional certificate of transition for an individual student is warranted;

(ii) prior to the student's projected graduation date, the IEP team provides a PWN stating that the student will receive a conditional certificate of transition;

(iii) the district or charter school ensures that a conditional certificate of transition is not a program of study leading to a diploma and does not end the student's right to a FAPE;

(iv) the district or charter school ensures that a conditional certificate of transition entitles a student who has attended four years or more of high school to participate in graduation activities, and requires that the student continue receiving special education supports and services needed to obtain the high school diploma;

(v) the district or charter school ensures that, prior to receiving a conditional certificate of transition, the student's IEP has been reviewed and revised to include measures, resources, and specific responsibilities for both the student and the district or charter school to ensure that the student receives a diploma through an appropriate program of study for the student.

(i) A student who receives a certificate of transition but does not return to complete the program of study as outlined in the IEP will not be considered a dropout.

(j) A student who receives a conditional certificate of transition is eligible to continue receiving special education services until receipt of a diploma or until the end of the academic year in which the student becomes 22 years of age.

(k) Graduation plans shall be a part of all IEPs:

(i) by the end of eighth grade, or by the time the student turns 14 years of age, and concurrent with the development of the student's transition plan in accordance with federal regulations at 34 CFR 300.320;

(ii) when a student returns to a school after an extended absence, and if an IEP program of study may have been developed but needs to be reviewed; or

(iii) when evaluations warrant the need for a different program of study at any time after development of an initial graduation plan.

(l) Graduation plans shall be a part of all of all IEPs and annual reviews and shall follow the student in all educational settings. Receiving institutions that fall under the department's jurisdiction will recognize these graduation plans, subject to revision by new IEP teams, if appropriate to meet a student's changing needs.

(m) At the exit IEP meeting, the team shall review the student's transition plan, and shall confirm and document that all state and district requirements for graduation under the final IEP have been satisfied. A building administrator who has knowledge about the student shall be a member of this team, and shall sign specifically to verify and accept completed graduation plans, goals and objectives pursuant to (i) – (iv) of Subparagraph (b) of Paragraph (13) of Subsection J of 6.29.1.9 NMAC, or plans for a conditional certificate of transition, pursuant to Subparagraph (i) of Paragraph (13) of



Subsection J of 6.29.1.9 NMAC. The IEP team shall ensure that the student has current and relevant evaluations, reports, or other documentation necessary to support a smooth and effective transition to post-secondary services for a student who will graduate on one of the three programs of study. The school shall arrange for any necessary information to be provided at no cost to the students or parents. The school shall submit a list of students who will receive the diploma through a modified or ability program of study to the local superintendent or charter school administrator, using the students' identification numbers. This list shall be totaled and submitted to the local school board or governing body of a charter school. This information shall be treated as confidential to the extent required by FERPA.

(n) Students eligible for special education services are entitled to a FAPE through age 21. If a student turns 22 during the school year, the student shall be allowed to complete the school year. If a student becomes 22 prior to the first day of the school year, the student is no longer eligible to receive special education services.

(o) All diplomas awarded by a school district or charter school shall be identical in appearance and content, except that symbols or notations may be added to individual students' diplomas to reflect official school honors or awards earned by students.

**K. Statewide accountability program.**

(1) Educational accountability. The local board of education or charter school governing body and the district superintendent or charter school administrator are responsible for providing educational services that support student learning. Educational accountability has two mechanisms and three indicators which impact the approval of the district's budget and accreditation status. The accountability mechanisms are accreditation and the program/budget review process. These two mechanisms shall align directly with the district or charter school's Education Plan. The indicators are community representation, local accountability indicators and statewide accountability indicators.

(2) Accountability mechanisms.

(a) Accreditation. Accreditation will be conducted in accordance with Subsection F of Section 22-2-2 NMSA 1978 and 6.19.4 NMAC. Verification of the district or charter school's Education Plan and student progress will occur on a regular basis. State and federal regulations which fall within the scope of accreditation will also be monitored.

(b) Program/budget review and approval. The program/budget review and approval process, including assessment and evaluation, occurs annually. Its purpose is to link the district or charter school's program needs directly with budgetary resources. In order for a district or charter school to obtain an approved budget, the district shall:

- (i) document the local board or charter school governing body's determination of needs as defined in its Education Plan (Section 22-8-18 NMSA 1978);
- (ii) document minimum budget requirements (Section 22-8-9 NMSA 1978);
- (iii) document parent involvement in budget preparation (Section 22-8-11 NMSA 1978);
- (iv) complete the annual program/budget questionnaire; and
- (v) comply with requirements specified in Section 22-8-5 NMSA 1978.

(3) Accountability indicators.

(a) Community representation. Community representatives shall be involved in the budget preparation process, the Education Plan process, the NM School DASH process, Education Plan evaluation (including the establishment of local student performance indicators) and the accreditation process. Community representatives include parents, students and other community members who reflect the composition of the student population. Evidence shall be provided to verify different forms of representation.

(b) Local student performance indicators. Local student performance indicators shall:

- (i) be identified by the local school district or charter school in conjunction with students, parents, community members and businesses;
- (ii) be part of the local Education Plan evaluation;
- (iii) measure and demonstrate student progress toward the New Mexico content standards with benchmarks and performance standards;
- (iv) demonstrate student progress toward identified NM School DASH process goals and desired outcomes;
- (v) be included as an integral part of the accreditation and program/budget review processes; and
- (vi) use any other indicators the district or charter school shall choose for its students.

(c) Statewide student performance indicators. Statewide student performance indicators shall:

- (i) be included as an integral part of the accreditation and program/budget review processes;
- (ii) be part of the local Education Plan evaluation and NM School DASH monitoring;
- (iii) measure and demonstrate student progress toward the New Mexico content standards with benchmarks and performance standards;
- (iv) communicate clearly to parents and the general public the students' progress toward meeting the goals established by the district and school, or charter school; and
- (v) describe performance levels across the grade levels and across the curriculum.

**L. Statewide student assessment system.** As stated in Section 22-2-8.13 NMSA 1978, students' knowledge and skills are assessed and evaluated through the New Mexico content standards with benchmarks and performance standards, the system of assessments, and local measures.

(1) The statewide student assessment system. All public-school students, with the exceptions indicated below, shall participate in the system of assessments, which includes standards-based assessments in kindergarten through grade 8 and high school.

(2) Exceptions.

(a) English language learners. Students who have limited English language skills (i.e., students who are "English language learners") as determined by the department-approved English language proficiency screening assessment shall participate in the statewide assessment program. The following considerations specify how assessment shall be conducted.

(i) Length of enrollment in U.S. schools. The options for participation of English language learners in the New Mexico standards-based assessment program depend on the length of time that the student has been enrolled in U.S. public schools. For students who are new to U.S. schools, the following applies: Students who are enrolled for the first year in a U.S. school may receive an exemption from the system of assessments for English language arts, including all subtests therein but shall participate in the state's English language proficiency assessment (ELPA), administered only to English learners. In all other content areas of the system of assessments, the student shall participate in the Spanish-language version of the assessment (if available and appropriate) or in the English-language version with accommodations provided, if they are determined to be appropriate by the local school's team, as described in (iii) of Subparagraph (a) of Paragraph (2) of Subsection L of 6.29.1.9 NMAC. For the subtests

other than reading, the test completion status shall be student tested all sessions, and the types of accommodations that are provided, if any, shall be indicated in the student information system. Students who have been in U.S. schools for at least 12 months and less than three consecutive years shall participate in the statewide assessment program in one of three ways: the student may participate in the standard administration of the English-language version of the assessment without accommodations; the student may participate in the English-language version of the assessment with appropriate accommodations; or the student may participate in the standard administration of the Spanish-language version of the assessment, where available and appropriate.

(ii) Waivers for home language assessment. Students who have been in U.S. schools for three or more consecutive years shall participate in the English-language version of the assessment with or without allowable accommodations unless a request based on the determination of the local education agency to continue the testing of the student in the home language of Spanish and the request is approved by the department. If, after three consecutive years in U.S. schools, the district or charter school determines (on a case-by-case basis) that academic assessments in the student's home language of Spanish would yield more accurate and reliable information about the student's knowledge of a subject, the district or charter school may request a waiver from the department to continue to assess the student in the home language of Spanish. Approved waivers are effective for the current year only; annual waiver requests may be approved for a maximum of two years. The waiver request shall be submitted to the department for approval at least three months before the assessment, by the district's superintendent or the charter school administrator. The request shall include: student name, student state identification number, school in which the student is currently enrolled, student's grade level, student's most recent department-approved English language proficiency, assessment date and overall composite score, length of enrollment in U.S. schools, an indication of whether this is the first or second waiver request for the student, the reason or justification for the waiver request, and names of the school team members involved in the decision to request the waiver.

(iii) Accommodations. Districts and charter schools shall provide accommodations to English language learners after consideration of their appropriateness for the individual student. To determine the appropriateness of allowing accommodations, the district or charter school shall consider the student's level of proficiency in all domains of language (listening, speaking, reading, writing and comprehension) and the nature of the school's instructional program. The district or charter school shall ensure that students do not receive accommodations without current justification supported by data. District and school staff may obtain the technical assistance on procedures for accommodations from the department's district test coordinator's manual or from the department. Each school shall utilize a team to review individual student progress in order to determine accommodations. For students being served on an individualized education program (IEP) or Section 504 Plan, those teams (IEP or Section 504) will respectively determine appropriate test accommodations. For all other students, the school may use its student assistance team (SAT) or form another school-based team for this purpose, but the team shall be comprised of at least

three school staff, including staff who are familiar with the student's abilities and language needs, standardized test procedures and valid ELL test accommodations. Team members may include: the student's bilingual multicultural education- or TESOL-endorsed teacher, the bilingual multicultural education program coordinator, the student's other teacher(s), administrators or school test coordinators, or the school counselor. The student's parent or guardian, the student and other staff members may be also included, as appropriate. The team shall base its decisions about appropriate accommodations on the following: annual review of the student's progress in attaining English proficiency, student's current English language proficiency, including the student's experience and time in U. S. schools, student's expected date for exiting English language learner accommodations, student's familiarity with the accommodation under consideration, the primary language of instruction used in the content area to be assessed and the length of time that the student has received instruction in that language, and the student's grade level. Written documentation of accommodation decisions made by the team shall be stored in the student's cumulative file and shall be reported to the department's bureau of assessment and evaluation.

(b) Students with IEPs. Students with IEPs who receive special education and related services shall participate in all statewide and district-wide assessments of student achievement or in state-approved alternate assessments if the students have been identified as having a most significant cognitive disability as documented in the IEP. Pursuant to Subsection E of 6.31.2.11 NMAC, 34 CFR 300.320 (a)(2)(ii) and 34 CFR 300.320(a)(6), the IEPs for such students shall specify which assessments each student will participate in and what, if any, accommodations or modifications in administration are needed to enable the student to participate. The IEPs for students who will not participate in a particular statewide or district-wide assessment shall meet state-approved criteria, methods and instruments.

#### **M. Indigent identification and guidelines.**

(1) A student who has been deemed eligible for free or reduced-price school meals, or a student who has been identified by the children, youth and families department as being in the custody of the state, shall be deemed indigent for the purposes of remediation programs and damage of instructional materials, as discussed in Sections 22-2C-6 and 22-15-10 NMSA 1978.

(2) A parent or guardian of a student who has not applied for free or reduced-price school meals shall be notified in writing by the local school board or governing body of a charter school of the availability of remediation at no charge upon an eligibility determination for free or reduced-price school meals.

#### **N. Emergency drills and practiced evacuations.**

(1) Emergency drills shall be conducted in each public school and private school in the state, as follows:

(a) at least once per week during the first four weeks of the school year;

(i) one of these drills shall be a shelter-in-place drill, which includes preparation to respond to an active shooter;

(ii) one of these drills shall be an evacuation drill;

(iii) two of these drills shall be fire drills;

(b) during the rest of the school year, each school shall conduct at least four more emergency drills, at least two of which shall be fire drills;

(c) in locations where a fire department is maintained, a member of the fire department shall be requested to be in attendance during the emergency drills for the purpose of giving instruction and constructive criticism;

(d) it shall be the responsibility of the person in charge of a school to carry out the provisions related to emergency drills.

(2) Requirements to comply and penalties for non-compliance:

(a) It shall be the responsibility of the superintendent of a school district, a charter school administrator or private school counterpart(s) to ensure that each school under the person's authority follows the requirements set forth in Subsection N of 6.29.1.9 NMAC.

(b) In the event that the person responsible for complying with Subsection N of 6.29.1.9 NMAC fails or refuses to comply with this subsection, the department may, in the case of a public school, take any action designed to ensure prompt corrective action or future compliance, including reporting the non-compliance to either the state fire marshal or to a local fire department. In the case of a private school, the department will report the non-compliance to either the state fire marshal or to a local fire department and may consider adverse licensure action.

(c) Failure or refusal to comply with the requirements in Subsection N of 6.29.1.9 NMAC for holding emergency drills shall constitute grounds to suspend or revoke the license of the person responsible for compliance. The due process procedures under the Uniform Licensing Act (Sections 61-1-1 through 61-1-31 NMSA 1978) shall apply.

**O.** School facilities and grounds. Pursuant to Subsection C of 6.29.1.9 NMAC (*Duties of the Superintendent*); Subsection D of 6.12.6.8 NMAC (*School District Wellness Policy*), each school district or charter school shall ensure that all buildings, facilities and grounds provide a safe and orderly environment for public use; i.e., that they shall be:

- (1) safe, healthy, orderly, clean and in good repair;
- (2) in compliance with the Americans with Disabilities Act-Part III and state fire marshal regulations, Sections 59A-52-1 through 59A-52-25 NMSA 1978;
- (3) safe for conducting experiments and school projects in all school laboratories and shops, as established in written school safety procedures which are reviewed annually; these procedures include, but are not limited to:
  - (a) personal protective equipment;
  - (b) adequate ventilation and electrical circuitry;
  - (c) material safety data sheets;
  - (d) body and eye washes; and
  - (e) training appropriate for each teaching situation;
- (4) the maximum number of occupants in a laboratory or shop teaching space shall be based on the following:
  - (a) the number of work stations;
  - (b) the building and fire safety codes;
  - (c) the design of the laboratory or shop teaching facility;
  - (d) appropriate supervision and the special needs of students; and
  - (e) all applicable OSHA regulations;
- (5) appropriate procedures for the storing, handling and removal of toxic or dangerous substances shall be established and implemented; all school programs (including those areas noted above and custodial areas, art room, library and cafeteria) shall comply with standard safety practices and all applicable state and federal regulations;
- (6) use of pesticides by districts and charter schools will be governed by the following standards:
  - (a) Definitions as used in this section:
    - (i) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest.

(ii) "Pest" means any living organism injurious to other living organisms, except humans, viruses, bacteria or other microorganisms in or on other living organisms other than plants, which is declared to be a pest pursuant to the Pesticide Control Act, Sections 76-4-1 through 76-4-39 NMSA 1978.

(b) Districts and charter schools will develop procedures for the implementation of pest management with consideration for reducing the possible impact of pesticide use on human health and the environment, including people with special sensitivities to pesticides. Procedures will include, but are not limited to, the following:

(i) No pesticide may be applied to public school property and no pest control device, as defined in the New Mexico Pesticide Control Act, may be used on public school property except those pesticides and devices currently registered for legal use in the state by the New Mexico department of agriculture.

(ii) No pesticide may be applied to public school property except by those persons certified in the applicable category and currently licensed by the New Mexico department of agriculture or by employees under their direct supervision.

(iii) Pesticides will only be applied in or on the outside of school buildings when a pest is present and will not be applied on a regular or calendar basis unless it is to treat an infestation and is a part of a pest management system being implemented to address a particular target pest. A pest is considered to be present when it is observed directly or can reasonably be expected to be present based on finding evidence, such as droppings, body parts, or damage that is typically done by the pest. This section of the regulation does not apply to pre-construction termite treatments or the use of outdoor herbicides.

(iv) Pesticides that are applied in a liquid, aerosolized or gaseous form through spraying, aerosol cans, bombs, fumigation or injections into the ground, foundation or plants will not be applied on public school property when students, staff or visitors are present, or may reasonably be expected to be present within 6 hours of the application. In emergency cases, where a pest infestation threatens the health or safety of the occupants of public school property, and which requires the immediate application of a pesticide to remediate, students, staff and other school occupants will be removed from the treatment area prior to the application. Small amounts of gel or liquid pesticides applied to cracks and crevices or baits used to treat pest infestation are exempt from this section.

(v) At the beginning of each year, and when new students register, schools will develop a list of parents and guardians who wish to be notified prior to pesticide application during the school year. These parents/guardians will be notified in writing prior to pesticide application. General notification of anticipated pesticide applications will occur by posting or dissemination of notices, by oral communication or other means of communication. In emergency cases where a pest infestation threatens the health or safety of the occupants of public school property, no pre-notification is



required. Immediately following the application of a pesticide in emergency cases, signs will be posted indicating an application was made.

(vi) Written records of pesticide applications will be kept for three years at each school site and be available upon request to parents, guardians, students, teachers and staff.

(vii) If any part of Paragraph (6) of Subsection O of 6.29.1.9 NMAC is found to be in conflict with the provisions of the Pesticide Control Act, the remainder of the regulation will remain in full force and effect.

**P.** School district budgeting. Section 22-8-4 NMSA 1978 requires the department to prescribe forms for, supervise and control the preparation of all budgets of all public schools and school districts, and to compile accurate information concerning public school finance and administration. Sections 22-8-5 through 22-8-12.1 NMSA 1978 set out specific budget preparation and submission requirements for the department, public schools and public school districts. Regulations governing budgeting and accounting for New Mexico public schools and school districts are set out in 6.20.2 NMAC.

**Q.** Final course and other student grade changes. Any changes to students' course or other grades shall be governed by the state rule, "*Final Course and Other Student Grade Changes*" (6.30.10 NMAC).

[6.29.1.9 NMAC - Rp, 6.30.2.10 NMAC, 6/30/2009; A, 02/12/2010; A, 10/31/2011; A, 2/28/2017; A, 07/25/2017; A, 12/15/2020; A, 5/24/2022; A, 1/28/2025]

#### **6.29.1.10 WAIVERS:**

**A.** To obtain a waiver from the department for procedural or program requirements, a district superintendent or the administrator of a state-chartered charter school shall submit a request to the secretary, in the manner required by the department, with justification for the change. The request and the response shall be kept on file by the district or charter school and the department, and these records shall be available for review by the public.

**B.** The secretary may waive a graduation requirement for a student based upon the written request of the superintendent or the administrator of a state-chartered charter school, using the department's *graduation waiver request* form. This form shall include: name of superintendent; district/school; mailing address; phone; fax; email address; name of a secondary contact person including the same information; date of submission; local board policy requirement and approval, if required; date of board approval; statement of applicable district or charter school policy and rationale for request.

**C.** No other waivers of provisions of the Public School Code shall be permitted unless authorized by law.

**6.29.1.11 PROGRAM REQUIREMENTS:**

**A. Curriculum.**

(1) Local curricula shall be aligned with the applicable New Mexico content standards with benchmarks and performance standards. In accordance with Section 22-13-1.6 NMSA 1978, each school district shall align its curricula to meet the state standards for each grade level and subject area so that students who transfer between public schools within the school district receive the same educational opportunity within the same grade or subject area.

(2) Adopted instructional materials shall support the aligned local curricula. The state standards revision cycle, the local curriculum cycle and the instructional materials cycle shall be aligned and sequenced to provide standards-based curricula that are supported by aligned instructional materials. At the completion of each standards revision cycle, the standards-based state assessment program shall be reviewed to determine the need for realignment.

(3) All courses offered for credit shall have written, delivered, assessed and sequential curriculum.

(4) Written and delivered curricula shall be congruent, state what students should know and be able to do, and include an assessment process.

(5) The curricula shall support the Education Plan and NM School DASH.

**B. Subject areas.** The district or charter school shall comply with subject area requirements as specified in Section 22-13-1 NMSA 1978.

(1) The department shall require instruction in specific subject areas as provided in Paragraphs (2) through (7) of Subsection B of 6.29.1.11 NMAC. Any public school or school district failing to meet these minimum requirements shall not be accredited by the department.

(2) All kindergarten through third grade classes shall provide daily instruction in reading and language arts skills, including phonemic awareness, phonics, and comprehension; and in mathematics. Students in kindergarten and first grades shall be screened and monitored for progress in reading and language arts skills, and students in second grade shall take diagnostic tests on reading and language arts skills.

(3) All first, second and third grade classes shall provide instruction in art, music and a language other than English, and instruction that meets content standards, benchmarks and performance standards shall be provided in science, social studies, physical education and health education.

(4) In fourth through eighth grades, instruction that meets academic content and performance standards shall be provided in the following subject areas:

(a) reading and language arts skills, with an emphasis on writing and editing for at least one year and an emphasis on grammar and writing for at least one year;

(b) mathematics;

(c) a language other than English;

(d) communication skills;

(e) science;

(f) art;

(g) music;

(h) social studies;

(i) New Mexico history;

(j) United States history;

(k) geography;

(l) physical education; and

(m) health education.

(5) In eighth grade, algebra I shall be offered in regular classroom settings, through online courses or agreements with high schools.

(6) Units earned in health, algebra I, and geometry prior to enrolling in high school shall satisfy unit requirements required to earn a New Mexico diploma of excellence.

(7) In fourth through eighth grades, school districts and charter schools shall offer electives that contribute to academic growth and skill development and provide career and technical education.

(8) In ninth through 12th grades, instruction that meets academic content and performance standards shall be provided in health education, including:

(a) age-appropriate sexual abuse and assault awareness and prevention training that meets department standards developed in consultation with the federal

centers for disease control and prevention that are based on evidence-based methods that have proved to be effective;

(b) lifesaving skills training that follows nationally recognized guidelines for hands-on, compression only, psychomotor skills (skills that use hands-on practice to support cognitive learning) cardiopulmonary resuscitation training including:

(i) use of a course curriculum, which allows for demonstration of competency in performing cardiopulmonary resuscitation and associated skills;

(ii) training that conforms to the most recent, national, evidence-based guidelines established by the American heart association, the American red cross, or another nationally recognized, NM public education department-approved non-profit organization;

(iii) training to recognize the signs of a heart attack;

(iv) training on use of an automated external defibrillator; and

(v) training on how to perform the Heimlich maneuver for choking victims;

(c) lifesaving skills training that may use the following instructors if qualified to teach hands-on psychomotor skills cardiopulmonary resuscitation training:

(i) school nurses;

(ii) health teachers;

(iii) athletic department personnel as instructors; and

(iv) any qualified volunteers, as defined by 6.50.18.8 NMAC, providing training at no cost to the school district that the school district determines to be eligible to offer instruction as prescribed in Subparagraph (b) of Paragraph (7) of Subsection B of 6.29.1.11 NMAC including, but not limited to, emergency medical technicians, paramedics, police officers, firefighters, representatives of the American heart association or the American red cross, or other similarly qualified individuals;

(d) training and instructional materials related to Subparagraph (b) of Paragraph (7) of Subsection B of 6.29.1.11 NMAC in both English and Spanish to include:

(i) materials, equipment, and services that are needed as part of the instruction obtained on loan from state-recognized organizations, such as the New Mexico heart institute; and

(ii) materials, equipment, and services received by schools as in-kind donations; and

(e) combined instruction, whereby school districts and charter schools may work with other school districts and charter schools to provide the training or with a regional education cooperative to provide or facilitate the training.

(9) The requirements as prescribed in Subparagraph (b) of Paragraph (7) of Subsection B of 6.29.1.11 NMAC for health education shall not be required for students in grades nine through 12 who are enrolled in a virtual charter school.

(10) A school district or charter school may submit a waiver request to the department for the requirement as prescribed in Subparagraph (b) of Paragraph (7) of Subsection B of 6.29.1.11 NMAC for health education for a student receiving special education supports and services pursuant to the IDEA or Section 504 of the federal Rehabilitation Act in grades nine through 12 with a disability as documented through an individualized education program (IEP) if the requirement as prescribed in Subparagraph (b) of Paragraph (7) of Subsection B of 6.29.1.11 NMAC cannot be reasonably met with accommodations for a given student.

(11) In every grade, inquiry-based laboratory components are at the core of the science program and shall be woven into every lesson and concept strand. For required science units in grades nine through twelve, "laboratory component" means an experience in the laboratory, classroom or the field that provides students with opportunities to interact directly with natural phenomena or with data collected by others using tools, materials, data collection techniques and models. Throughout the process, students shall have opportunities to design investigations, engage in scientific reasoning, manipulate equipment, record data, analyze results and discuss their findings. The laboratory component comprises at least 40 per cent of the unit's instructional time. All science classes that include dissection activities as part of the curriculum shall provide virtual dissection techniques as alternative activities for any student who is opposed to real dissections for ethical, moral, cultural or religious reasons. Alternative techniques shall approximate the experience of real dissection activities as closely and appropriately as possible. A virtual dissection technique means carrying out dissection activities using computer two-dimensional or three-dimensional simulations, videotape or videodisk simulations, take-apart anatomical models, photographs or anatomical atlases.

**C. Bilingual multicultural education.** Bilingual multicultural education programs shall be provided to meet the identified educational and linguistic needs of linguistically and culturally different students, including Native American children, and other students who may wish to participate, in grades K-12, with priority to be given to programs in grades K-3. These programs shall:

(1) provide services in accordance with the Bilingual Multicultural Education Act (Sections 22-23-1 through 6 NMSA 1978) and the Bilingual Multicultural Education Program Regulation (Sections 6.32.2.7 through 6.32.2.11 NMAC);

(2) be implemented in accordance with the identified needs of qualifying culturally and linguistically different students and ensure equal educational opportunities;

(3) be assessed as part of the Education Plan process; and

(4) support the local curriculum and Education Plan and NM School DASH.

**D. Career and technical education (CTE).** Career and technical education programs for both elementary and secondary levels shall:

(1) be in accordance with Section 22-14-1 through 22-14-30 NMSA 1978 and the Carl Perkins Act;

(2) provide exploratory and skill development program offerings;

(3) ensure students' mastery of the New Mexico career and technical education content standards with benchmarks and performance standards;

(4) include competency-based applied learning; and

(5) support the local curriculum and the NM School DASH.

**E. School health.** School health programs provide opportunities for all students to develop healthy behaviors. Districts and charter schools shall provide or make provisions for school health programs that address the health needs of students and staff. Districts and charter schools shall provide the following programs: health education, physical education, health services and school counseling. Additional programs may include: nutrition, staff wellness, family-school-community partnerships, healthy environment and psychological services. These programs shall:

(1) be in accordance with Section 22-10A-34 and Section 24-5-1 through 24-5-6 NMSA 1978;

(2) provide education and skill development program offerings;

(3) provide community partnerships which help to achieve the goal of healthy students and staff; and

(4) support the local curriculum Education Plan, and NM School DASH.

**F. Special education.** Special education is specially designed instruction that is provided at no cost to parents to meet the unique needs of a student with a disability, as defined in the IDEA regulations (34 CFR Part 300 and state special education regulations (6.31.2 NMAC). Special education programs shall:

- (1) provide specially designed instruction in career and technical education and travel training for students whose IEPs require such services;
- (2) provide instruction to students placed on homebound services as per their IEP; and
- (3) provide instruction in state-supported educational programs, hospitals, institutions and other settings. As set forth in the state special education regulations at Paragraph (15) of Subsection C of 6.31.2.7 NMAC, special education may include speech-language pathology services consisting of specially-designed instruction that is provided to enable a student with a disability, as recognized under IDEA, to have access to the general curriculum and to meet the educational standards of the public agency that apply to all children;
- (4) be assessed as part of the Education Plan process; and
- (5) support the local curriculum, Education Plan, and NM School DASH.

**G. Supplemental programs.** Programs which supplement, but do not replace, state operational programs may include, but are not limited to: Title I - Improving the Academic Achievement of the Disadvantaged; Title II - Preparing, Training and Recruiting High Quality Teachers and Principals; Title III - Language Instruction for Limited English Proficient and Immigrant Students; Title IV, Part A - Safe and Drug Free Schools and Communities; Title V - Promoting Informed Parental Choice and Innovative Programs; Title VI - Flexibility and Accountability; Title VII - Indian, Native Hawaiian and Alaska Native Education; Title VIII - Impact Aid Program; the Johnson-O'Malley Act; and Individuals with Disabilities Education Improvement Act (IDEA). Supplemental programs shall:

- (1) provide services as required by federal laws and assurances, including Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act (EEOA) of 1974;
- (2) be assessed as part of the Education Plan process; and
- (3) support the local curriculum, Education Plan, and NM School DASH.

**H. Support services.** Districts and charter schools shall provide support service programs which strengthen the instructional program. Required support service programs are library media, school counseling and health services. Support services shall:

- (1) have a written, delivered and assessed program, K-12;
- (2) provide licensed staff to develop and supervise the program; and
- (3) support the local curriculum, Education Plan, and NM School DASH.

**I. Technology in education.** The Technology for Education Act establishes a fund and a system for equal distribution of funds based upon final funded student membership within each school district and charter school. The Technology for Education Act requires annual review and approval of each school district and charter school's educational technology plan, through which every school district and charter school reports to the department the fiscal distributions received, expenditures made and educational technology obtained by the district or charter school, and other related information. As districts and charter schools develop, refine and implement strategic long-range plans for utilizing educational technology, each plan shall:

- (1) be in accordance with Section 22-15A-10 NMSA 1978; and
- (2) support the local curriculum, Education Plan, and NM School DASH.

**J. Gifted education.** Gifted education is specially designed instruction to meet the individual needs of gifted students pursuant to 6.31.3 NMAC. Gifted education programs shall:

- (1) provide gifted students appropriate instruction in required subject areas, in accordance with Article 13 of Chapter 22 NMSA 1978;
- (2) be assessed as part of the Education Plan process; and
- (3) support the local curriculum, Education Plan, and NM School DASH.

[6.29.1.11 NMAC - Rp, 6.30.2.11 NMAC, 6/30/2009; A, 2/28/2017; A, 12/15/2020; A, 1/28/2025]

#### **6.29.1.12 SEVERABILITY:**

If any part or application of this rule is held invalid by a court of competent jurisdiction, the remainder or its application to other situations shall not be affected.

[6.29.1.12 NMAC - N, 6-30-2009]

#### **6.29.1.13 FUTURE CHANGES IN LAW THAT AFFECT THIS RULE:**

This rule will be periodically amended to reflect changes in law or laws that were enacted with delayed effect provisions.



[6.29.1.13 NMAC - N, 6-30-2009; A, 10-31-2011]

## **PART 2: NEW MEXICO CORE ARTS STANDARDS**

### **6.29.2.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.2.1 NMAC - Rp, 6.29.2.1 NMAC, 07/01/2018]

### **6.29.2.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.2.2 NMAC - Rp, 6.29.2.2 NMAC, 07/01/2018]

### **6.29.2.3 STATUTORY AUTHORITY:**

**A.** Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

**B.** Section 22-2-2 NMSA 1978 directs the department to set graduation expectations.

**C.** Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.2.3 NMAC - Rp, 6.29.2.3 NMAC, 07/01/2018]

### **6.29.2.4 DURATION:**

Permanent.

[6.29.2.4 NMAC - Rp, 6.29.2.4 NMAC, 07/01/2018]

### **6.29.2.5 EFFECTIVE DATE:**

July 1, 2018, unless a later date is cited at the end of a section.

[6.29.2.5 NMAC - Rp, 6.29.2.5 NMAC, 07/01/2018]

### **6.29.2.6 OBJECTIVE:**

The department-approved New Mexico core art standards represent the required knowledge and skills in this field. They are mandated for grades K-8. In addition, these standards are required in the arts electives for participating students in grades 9-12.

[6.29.2.6 NMAC - Rp, 6.29.2.6 NMAC, 07/01/2018]

#### **6.29.2.7 DEFINITIONS:**

**[RESERVED]**

[6.29.2.7 NMAC - Rp, 6.29.2.7 NMAC, 07/01/2018]

#### **6.29.2.8 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS:**

**A.** All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute are bound by the New Mexico core arts standards. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us). The national core arts standards published by the national coalition for core arts standards and any amendments made thereto are incorporated in this rule by reference.

**B.** All instances within the national core arts standards where content standards, benchmarks, and performance standards reference history or culture shall be interpreted to include New Mexico history and culture. References to artwork shall be interpreted to include local and New Mexico produced artwork. The department and local education agencies shall provide guidance and technical assistance to support the integration of New Mexico history and culture in consultation with tribal leaders.

[6.29.2.8 NMAC - Rp, 6.29.2.8 NMAC, 07/01/2018]

### **PART 3: CAREER AND TECHNICAL EDUCATION**

#### **6.29.3.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.3.1 NMAC - N, 6-30-2009]

#### **6.29.3.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.3.2 NMAC - N, 6-30-2009]

### **6.29.3.3 STATUTORY AUTHORITY:**

**A.** Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

**B.** Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and career technical performance standards and to measure the performance of public schools in New Mexico.

[6.29.3.3 NMAC - N, 6-30-2009; A, 4-30-2015]

### **6.29.3.4 DURATION:**

Permanent.

[6.29.3.4 NMAC - N, 6-30-2009]

### **6.29.3.5 EFFECTIVE DATE:**

June 30, 2009, unless a later date is cited at the end of a section.

[6.29.3.5 NMAC - N, 6-30-2009]

### **6.29.3.6 OBJECTIVE:**

To establish challenging academic and technical standards with benchmarks and performance standards for students in grades 7-12 and to assist students in meeting such standards, including preparation for high-skill, high-wage or high-demand occupations in current or emerging professions, as defined in the scope of this regulation.

[6.29.3.6 NMAC - N, 6-30-2009]

### **6.29.3.7 DEFINITIONS:**

**A. "Career and technical education"** means organized programs offering a sequence of courses (including technical education and applied technology education) which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring an industry-recognized credential, certificate or degree. This phrase is also referred to as "vocational education" in 22-14-1 NMSA 1978.

**B. "Career and technical education course"** means a course with content that provides technical knowledge and skills and competency-based applied learning, and that aligns with the regulations for educational standards and student expectations for all New Mexico students who attend schools as defined in the scope of 6.29.1.2 NMAC.

**C. "Career cluster"** means a grouping of occupations in industry sectors based on recognized commonalities. Career clusters provide an organizing tool for developing instruction within the educational system.

**D. "Career pathways"** means a sub-grouping, used as an organizing tool for curriculum design and instruction, of occupations/career specialties that share a set of common knowledge and skills for career success.

**E. "Cooperative education"** means a method of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required rigorous and challenging academic courses and related career and technical education instruction, by alternation of study in school with a job in any occupational field, which alternation:

(1) shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual;

(2) may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks or other periods of time in fulfilling the cooperative program.

**F. "Educational plan for student success (EPSS)"** is the annual strategic long-range plan written by all districts and schools to improve student performance.

**G. "Eligible postsecondary institution"** means a postsecondary institution that grants a certificate or associate degree in a career and technical occupational area.

**H. "Postsecondary education tech prep student"** means a student who:

(1) has completed the secondary education component of a tech prep program;

(2) has enrolled in the postsecondary education component of a tech prep program at an institution of higher education.

**I. "Program of study"** is a progressive continuum of courses that may be offered across grades 9-14. A program of study is a means to provide technical training, training to prepare for employment and training to prepare for entry into postsecondary education.

**J. "Secondary education tech prep student"** means a secondary education student who has enrolled in two courses in the secondary education component of a tech prep program.

**K. "Tech prep program"** means a program of study that combines a minimum of two years of secondary education with a minimum of two years of postsecondary education in a non-duplicative, sequential course of study.

[6.29.3.7 NMAC - N, 6-30-2009]

### **6.29.3.8 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR CAREER AND TECHNICAL EDUCATION, GRADES 7-12:**

#### **A. Strand 1: Academic foundations.**

**(1)** Content standard 1: Students will achieve the academic knowledge and skills required to pursue the full range of career and postsecondary education opportunities common to all career clusters. Students will:

**(a)** grades 7-12 benchmark 1: complete required training, education and certification to prepare for employment in a particular career field; grades 7-12 performance standards:

**(i)** identify training, education and certification requirements for one's occupational choice;

**(ii)** participate in career and technical-related training or degree programs;

**(iii)** prepare for certification tests to qualify for licensure or certification in a chosen occupational area;

**(b)** grades 7-12 benchmark 2: demonstrate knowledge and skills in language arts required to pursue the full range of postsecondary education and career opportunities; grades 7-12 performance standards:

**(i)** model behaviors that demonstrate active listening;

**(ii)** adapt language for audience, purpose and situation (i.e., choice of diction, structure, style);

**(iii)** organize oral and written information;

**(iv)** compose well-organized copy for a variety of written documents such as: agendas, speeches and audio-visual presentations, bibliographies, drafts,

forms/documents, notes, oral presentations, reports and explanations of technical terminology;

**(v)** edit copy to create well-organized written documents such as: agendas, speeches and audio-visual presentations, bibliographies, drafts, forms/documents, notes, oral presentations, reports and explanations of technical terminology;

**(vi)** demonstrate key elements of oral and written information such as: cause/effect, comparisons/contrasts, conclusions, context, purpose, charts/tables/graphs, evaluation/critiques, mood, persuasive text, sequence, summaries and technical subject matter;

**(vii)** evaluate oral and written information for: accuracy, adequacy/sufficiency, appropriateness, clarity, conclusions/solutions, fact/opinion, propaganda, relevance, validity and relationship of ideas;

**(viii)** identify assumptions, purposes, outcomes/solutions and propaganda techniques in oral and written information;

**(ix)** predict potential outcomes or solutions based on oral and written information regarding trends;

**(x)** present formal and informal speeches including: discussion, information requests, interpretation and persuasive arguments;

**(c)** grades 7-12 benchmark 3: demonstrate knowledge and skills of mathematics required to pursue the full range of postsecondary education and career opportunities; grades 7-12 performance standards:

**(i)** identify whole numbers, decimals and fractions;

**(ii)** demonstrate knowledge of arithmetic operations such as: addition, subtraction, multiplication and division;

**(iii)** demonstrate use of relational expressions such as: equal to, not equal, greater than, less than, etc.;

**(iv)** apply data and measurements to solve problems;

**(v)** analyze mathematical problem statements for missing or irrelevant data;

**(vi)** construct charts/tables/graphs from functions and data;

**(vii)** analyze data when interpreting operational documents;

**(d)** grades 7-12 benchmark 4: demonstrate knowledge and skills of science required to pursue the full range of postsecondary and career education opportunities; grades 7-12 performance standards:

**(i)** evaluate scientific constructs including: conclusions, conflicting data, controls, data, inferences, limitations, questions, sources of error and variables;

**(ii)** apply scientific methods in qualitative and quantitative analysis, data gathering, direct and indirect observation, predictions and problem identification.

**(2)** Content standard 2: Students will develop specific language arts, math and science skills required to pursue pathway opportunities within a career cluster. Students will:

**(a)** grades 7-12 benchmark 1: demonstrate knowledge and skills of language arts specific to a career pathway opportunity; grades 7-12 performance standards:

**(i)** identify types of oral and written opportunities within a selected career cluster;

**(ii)** comprehend key elements of oral and written information relevant to a selected career pathway;

**(iii)** create oral and written representations of communications appropriate to a selected pathway;

**(b)** grades 7-12 benchmark 2: demonstrate knowledge and skills of mathematics specific to a career pathway opportunity; grades 7-12 performance standards:

**(i)** demonstrate knowledge of arithmetic operations needed to succeed within a selected career pathway;

**(ii)** analyze and summarize data appropriate to a selected pathway;

**(iii)** construct charts/tables/graphs from functions and data needed to advance a selected career pathway;

**(c)** grades 7-12 benchmark 3: demonstrate knowledge and skills of science specific to a career; grades 7-12 performance standards:

**(i)** apply appropriate scientific methods in qualitative and quantitative analysis, data gathering, direct and indirect observation, predictions and problem identification;

(ii) understand how scientific discoveries and technological advancements are continually evaluated, validated, revised or rejected in relation to a selected career pathway.

**B. Strand 2: Communications.**

(1) Content standard 1: Students will use oral and written communication skills in creating, expressing and interpreting information and ideas, including technical terminology and information. Students will:

(a) grades 7-12 benchmark 1: select and employ appropriate reading and communication strategies to learn and use technical concepts and vocabulary; grades 7-12 performance standards:

(i) determine the most appropriate reading strategy for identifying the overarching purpose of a text (e.g., skimming, reading for detail, reading for meaning or critical analysis);

(ii) demonstrate use of content, technical concepts and vocabulary when analyzing information and following directions;

(iii) select the reading strategy or strategies needed to fully comprehend the content within a written document (e.g., skimming, reading for detail, reading for meaning or critical analysis);

(iv) interpret information, data and observations to apply information learned from reading to actual practice;

(v) transcribe information, data and observations to apply information learned from reading to actual practice;

(vi) communicate information, data and observations to apply information learned from reading to actual practice;

(vii) evaluate the information, explanations or ideas of others by identifying and applying clear, reasonable criteria for evaluation;

(b) grades 7-12 benchmark 2: demonstrate use of the concepts, strategies and systems for obtaining and conveying ideas and information to enhance communication in the workplace; grades 7-12 performance standards:

(i) employ verbal skills when obtaining and conveying information;

(ii) record information needed to present a report on a given topic or problem;



(iii) write internal and external business correspondence that conveys or obtains information effectively;

(iv) communicate with others to clarify workplace objectives;

(v) communicate effectively with others to foster positive relationships;

(c) grades 7-12 benchmark 3: locate, organize and reference written information from various sources to communicate with co-workers and clients/participants; grades 7-12 performance standards:

(i) locate written information used to communicate with co-workers and customers;

(ii) organize information to use in written and oral communications;

(iii) reference the sources of information;

(d) grades 7-12 benchmark 4: evaluate and use information resources to accomplish specific occupational tasks; grades 7-12 performance standards:

(i) use informational texts, internet web sites and technical materials to review and apply information sources for occupational tasks;

(ii) evaluate the reliability of information from informational texts, internet web sites and technical materials and resources.

(e) grades 7-12 benchmark 5: use correct grammar, punctuation and terminology to write and edit documents; grades 7-12 performance standards:

(i) compose multi-paragraph documents clearly, succinctly and accurately;

(ii) use descriptions of audience and purpose when preparing and editing written documents;

(iii) use correct grammar, spelling, punctuation and capitalization when preparing written documents;

(f) grades 7-12 benchmark 6: develop and deliver formal and informal presentations using appropriate media to engage and inform audiences; grades 7-12 performance standards:

(i) prepare oral presentations to provide information for specific purposes and audiences;

- (ii) identify support materials that will enhance an oral presentation;
- (iii) prepare support materials that will enhance an oral presentation;
- (iv) deliver an oral presentation that sustains listeners' attention and interest;
- (v) align presentation strategies to the intended audience;
- (vi) implement multi-media strategies for presentations;

**(g)** grades 7-12 benchmark 7: interpret verbal and nonverbal cues/behaviors to enhance communication with co-workers and clients/participants; grades 7-12 performance standards:

- (i) interpret verbal behaviors when communicating with clients and co-workers;
- (ii) interpret nonverbal behaviors when communicating with clients and co-workers;
- (iii) interpret a given verbal message/information;
- (iv) respond with restatement and clarification techniques to clarify information;

**(h)** grades 7-12 benchmark 8: develop and interpret tables, charts and figures to support written and oral communications; grades 7-12 performance standards:

- (i) create tables, charts and figures to support written and oral communications;
- (ii) interpret tables, charts and figures used to support written and oral communication;

**(i)** grades 7-12 benchmark 9: listen to and speak with diverse individuals to enhance communication skills; grades 7-12 performance standards:

- (i) apply factors and strategies for communicating with a diverse work force;
- (ii) demonstrate ability to communicate and resolve conflicts within a diverse work force;

**(j)** grades 7-12 benchmark 10: exhibit public relations skills to increase internal and external customer/client satisfaction; grades 7-12 performance standards:

(i) communicate effectively when developing positive customer/client relationships;

(ii) identify information related to customer needs.

**(2)** Content standard 2: Students will locate, organize and reference written information from various sources to compose and prepare oral and written communications to convey technical concepts and company information. Students will:

**(a)** grades 7-12 benchmark 1: use writing and organizational skills to construct reports, graphs and tables; grades 7-12 performance standards:

(i) compile and arrange information to communicate main facts;

(ii) document sources and references of data;

(iii) organize and arrange information for effective coherence;

(iv) use appropriate software to develop text, charts, graphs or figures to convey technical concepts;

**(b)** grades 7-12 benchmark 2: identify the main ideas of an informational text and determine the essential elements of the text; grades 7-12 performance standards:

(i) examine informational sources for ideas and concepts;

(ii) accurately interpret information from and detect inconsistencies in informational sources;

(iii) read informational and technical texts critically and independently;

(iv) analyze the validity of source information;

**(c)** grades 7-12 benchmark 3: identify and prepare support materials for an oral presentation; grades 7-12 performance standards:

(i) identify media and visual aids appropriate to understanding of topic;

(ii) operate efficiently the equipment associated with presentations;

(iii) prepare visual aids and support materials for easy viewing, without error.

**C.** Strand 3: Problem solving and critical thinking.

**(1)** Content standard 1: Students will solve problems using critical thinking skills (analyze, synthesize and evaluate) independently and in teams, using creativity and innovation. Students will:

**(a)** grades 7-12 benchmark 1: employ critical thinking skills independently and in teams to solve problems and make decisions (e.g., analyze, synthesize and evaluate); grades 7-12 performance standards:

**(i)** identify common tasks that require employees/team members to use problem-solving skills;

**(ii)** analyze elements of a problem to develop creative solutions;

**(iii)** describe the value of using problem-solving and critical thinking skills to improve a situation or process;

**(iv)** create ideas, proposals and solutions to problems;

**(v)** evaluate ideas, proposals and solutions to problems;

**(vi)** use structured problem-solving methods when developing proposals and solutions;

**(vii)** generate new and creative ideas to solve problems by brainstorming possible solutions;

**(viii)** critically analyze information to determine value to the problem-solving task;

**(ix)** guide individuals through the process of recognizing concerns and making informed decisions;

**(x)** identify alternatives using a variety of problem-solving and critical thinking skills;

**(xi)** evaluate alternatives using a variety of problem-solving and critical thinking skills;

**(b)** grades 7-12 benchmark 2: employ critical thinking and interpersonal skills to resolve conflicts with staff or customers; grades 7-12 performance standards:

**(i)** analyze situations and behaviors that affect conflict management;

**(ii)** determine best options/outcomes for conflict resolution using critical thinking skills;

- (iii) identify with others' feelings, needs and concern;
- (iv) implement stress management techniques;
- (v) resolve conflicts with/for customers using conflict resolution skills;
- (vi) implement conflict resolution skills to address staff issues/problems;

**(c)** grades 7-12 benchmark 3: identify, write and monitor workplace performance goals to guide progress in assigned areas of responsibility and accountability; grades 7-12 performance standards:

- (i) write realistic performance goals, objectives and action plans;
- (ii) monitor performance goals and adjust as necessary;
- (iii) recognize goal achievement using appropriate rewards in the workplace;
- (iv) communicate goal achievement with managers and co-workers;

**(d)** grades 7-12 benchmark 4: conduct technical research to gather information necessary for decision-making; grades 7-12 performance standards:

- (i) align the information gathered to the needs of the audience;
- (ii) gather technical information and data using a variety of resources;
- (iii) analyze information and data for value to the research objectives;
- (iv) evaluate information and data to determine value to research objectives.

**(2)** Content standard 2: Students will demonstrate the ability to evaluate and verify the appropriateness of a solution to a problem. Students will:

**(a)** grades 7-12 benchmark 1: understand problem-solving techniques; grades 7-12 performance standards:

- (i) identify potential problems with a given solution to a problem;
- (ii) demonstrate knowledge of decision-making skills and techniques;

**(b)** grades 7-12 benchmark 2: study potential, real and perceived emergency situations to recognize and implement appropriate safety and security measures; grades 7-12 performance standards:

- (i) observe people and surroundings to identify dangerous situations;
- (ii) develop and role-play emergency situations, demonstrating caution and good judgment.

**D. Strand 4: Information technology applications.**

**(1)** Content standard 1: Students will use information technology tools specific to the career cluster to access, manage, integrate and create information. Students will:

**(a)** grades 7-12 benchmark 1: use personal information management (PIM) applications to increase workplace efficiency; grades 7-12 performance standards:

- (i) manage personal schedule and contact information;
- (ii) create memos and notes;

**(b)** grades 7-12 benchmark 2: employ technological tools to expedite workflow; grades 7-12 performance standards:

- (i) use information technology tools to manage and perform work responsibilities;
- (ii) use email to share files and documents;
- (iii) identify the functions and purpose of email systems;
- (iv) use email to communicate within and across organizations;

**(c)** grades 7-12 benchmark 3: operate internet applications to perform workplace tasks; grades 7-12 performance standards:

- (i) access and navigate internet (e.g., use a web browser);
- (ii) search for information and resources;
- (iii) evaluate internet resources for reliability and validity;

**(d)** grades 7-12 benchmark 4: operate writing and publishing applications to prepare business communications; grades 7-12 performance standards:

- (i) prepare simple documents and other business communications;
- (ii) prepare reports and other business communications by integrating graphics and other non-text elements;

**(iii)** prepare complex multi-media publications;

**(e)** grades 7-12 benchmark 5: operate presentation applications to prepare and deliver presentations; grades 7-12 performance standards:

**(i)** prepare presentations for training, sales and information sharing;

**(ii)** deliver presentations with supporting materials;

**(f)** grades 7-12 benchmark 6: employ spreadsheet applications to organize and manipulate data; grades 7-12 performance standards:

**(i)** create a spreadsheet;

**(ii)** perform calculations and analyses on data using a spreadsheet;

**(g)** grades 7-12 benchmark 7: employ database applications to manage data; grades 7-12 performance standards:

**(i)** manipulate data elements;

**(ii)** manage interrelated data elements;

**(iii)** analyze interrelated data elements;

**(iv)** generate reports showing interrelated data elements;

**(h)** grades 7-12 benchmark 8: employ computer operations applications to manage work tasks; grades 7-12 performance standards:

**(i)** manage computer operations;

**(ii)** manage file storage;

**(iii)** compress or alter files.

**(2)** Content standard 2: Students will recognize and use information technology tools to access, manage, integrate, create and share information within a designated career pathway. Students will:

**(a)** grades 7-12 benchmark 1: use computer-based equipment (containing embedded computers or processors) to control devices; grades 7-12 performance standards:

**(i)** operate computer-driven equipment and machines;

**(ii)** use installation and operation manuals;

**(iii)** troubleshoot computer-driven equipment and machines;

**(iv)** access support as needed to maintain operation of computer-driven equipment and machines;

**(b)** grades 7-12 benchmark 2: employ collaborative/groupware applications to facilitate group work; grades 7-12 performance standards:

**(i)** facilitate group work through management of shared schedule and contact information;

**(ii)** facilitate group work through management of shared files and online information;

**(iii)** facilitate group work through instant messaging or virtual meetings;

**(c)** grades 7-12 benchmark 3: use installation and operating manuals; grades 7-12 performance standards:

**(i)** install a relevant program using appropriate documentation;

**(ii)** access available documentation to solve technology tool problems.

#### **E. Strand 5: Systems.**

**(1)** Content standard 1: Students will demonstrate understanding of roles within teams, work units, departments, organizations, inter-organizational systems and the larger environment. Students will:

**(a)** grades 7-12 benchmark 1: describe the nature and types of business organizations to build an understanding of the scope of organizations; grades 7-12 performance standards:

**(i)** list the types and functions of businesses;

**(ii)** describe the types and functions of businesses;

**(iii)** explain the functions and interactions of common departments within a business;

**(b)** grades 7-12 benchmark 2: implement quality control systems and practices to ensure quality products and services; grades 7-12 performance standards:



(i) describe quality control standards and practices common to the workplace;

(ii) describe the benefits of using a cross-functional team in policy and procedure development.

**(2)** Content standard 2: Students will identify how key organizational systems and government affect organizational performance and the quality of products and services. Students will:

**(a)** grades 7-12 benchmark 1: identify occupation-specific governmental regulations and national, state and local building codes to establish workplace/jobsite regulations and codes; grades 7-12 performance standards:

(i) read and discuss information on OSHA, EPA and other safety regulations;

(ii) apply information given in workplace/building regulations and codes correctly;

(iii) obtain, understand and follow material safety data sheets information;

**(b)** grades 7-12 benchmark 2: identify workplace/jobsite environmental hazards in order to promote workplace/jobsite safety; grades 7-12 performance standards:

(i) use hazardous materials safely;

(ii) follow safe practices relating to environmental hazards;

**(c)** grades 7-12 benchmark 3: understand global context of industries and careers; grades 7-12 performance standards:

(i) identify mission, organizational goals and objectives of a business;

(ii) understand the components of a business plan;

(iii) explain the role of risk-management in reducing risks and improving performance in business;

(iv) explain the approaches for managing organizational risks.

**F. Strand 6: Safety, health and environmental management.**

**(1)** Content standard 1: Students will demonstrate understanding of the importance of health, safety and environmental management systems in organizations and their importance to organizational performance and regulatory compliance. Students will:

**(a)** grades 7-12 benchmark 1: implement personal and jobsite safety rules and regulations to maintain safe and healthful working conditions and environments; grades 7-12 performance standards:

- (i)** assess workplace conditions with regard to safety and health;
- (ii)** align safety issues with appropriate safety standards to ensure a safe workplace/jobsite;
- (iii)** identify safety hazards common to workplaces;
- (iv)** identify safety precautions to maintain a safe worksite;
- (v)** select appropriate personal protective equipment as needed for a safe workplace/jobsite;
- (vi)** inspect personal protective equipment commonly used for a selected career pathway;
- (vii)** use personal protective equipment according to manufacturer's rules and regulations;
- (viii)** employ a safety hierarchy and communication system within the workplace/jobsite;
- (ix)** implement safety precautions to maintain a safe worksite;

**(b)** grades 7-12 benchmark 2: complete work tasks in accordance with employee rights and responsibilities and employer's obligations to maintain workplace safety and health; grades 7-12 performance standards:

- (i)** identify rules and laws designed to promote safety and health in the workplace;
- (ii)** state the rationale of rules and laws designed to promote safety and health;

**(c)** grades 7-12 benchmark 3: employ emergency procedures as necessary to provide aid in workplace accidents; grades 7-12 performance standards:

- (i)** use knowledge of first aid procedures as necessary;

- (ii) use knowledge of CPR procedures as necessary;
- (iii) use safety equipment as necessary;

**(d)** grades 7-12 benchmark 4: employ knowledge of response techniques to create a disaster or emergency response plan; grades 7-12 performance standards:

- (i) complete an assessment of an emergency or disaster situation;
- (ii) create an emergency or disaster plan.

**(2)** Content standard 2: Students will follow organizational policies and procedures and contribute to continuous improvement in performance and compliance. Students will:

**(a)** grades 7-12 benchmark 1: understand health and safety standards and concepts in the workplace; grades 7-12 performance standards:

- (i) demonstrate knowledge of the relationship between health, safety and productivity;
- (ii) identify health and safety standards established by government agencies;
- (iii) ensure maintenance of a clean work area;
- (iv) demonstrate knowledge of ergonomics and repetitive strain injury;

**(b)** grades 7-12 benchmark 2: implement procedures to protect the health and safety of all individuals; grades 7-12 performance standards:

- (i) use safety techniques in managing an emergency and ensuring a safe environment;
- (ii) document and report emergency/crisis situations and outcomes to appropriate authorities.

**G. Strand 7: Leadership and team work.**

**(1)** Content standard 1: Students will use leadership and teamwork skills in collaborating with others to accomplish organizational goals and objectives. Students will:

**(a)** grades 7-12 benchmark 1: employ leadership skills to accomplish organizational goals and objectives; grades 7-12 performance standards:

**(i)** analyze the various roles of leaders within organizations (e.g. contribute ideas; share in building an organization; act as role models to employees by adhering to company policies, procedures and standards; promote the organization's vision; and mentor others);

**(ii)** exhibit traits such as empowerment, risk, communication, focusing on results, decision-making, problem-solving and investment in individuals when leading a group in solving a problem;

**(iii)** exhibit traits such as compassion, service, listening, coaching, developing others, team development and understanding and appreciating others when acting as a manager of others in the workplace;

**(iv)** exhibit traits such as enthusiasm, creativity, conviction, mission, courage, concept, focus, principle-centered living and flexibility when interacting with others in general;

**(v)** consider issues related to self, team, community, diversity, environment and global awareness when leading others;

**(vi)** exhibit traits such as innovation, intuition, adaptation, life-long learning and coachability to develop leadership potential over time;

**(vii)** analyze leadership in relation to trust, positive attitude, integrity and willingness to accept key responsibilities in a work situation;

**(viii)** describe observations of outstanding leaders using effective management styles;

**(ix)** participate in civic and community leadership and teamwork opportunities to enhance skills;

**(b)** grades 7-12 benchmark 2: employ organizational and staff development skills to foster positive working relationships and accomplish organizational goals; grades 7-12 performance standards:

**(i)** implement organizational skills when facilitating others' work efforts;

**(ii)** explain how to manage a staff that satisfies work demands while adhering to budget constraints;

**(iii)** describe how staff growth and development increase productivity and employee satisfaction;

**(iv)** organize team involvement within a group environment;

- (v) work with others to develop and gain commitment to team goals;
- (vi) distribute responsibility and work load fairly;
- (vii) model leadership and teamwork qualities to aid in employee morale;
- (viii) identify best practices for successful team functioning;
- (ix) explain best practices for successful team functioning;

**(c)** grades 7-12 benchmark 3: employ teamwork skills to achieve collective goals and use team members' talents effectively; grades 7-12 performance standards:

- (i) work with others to achieve objectives in a timely manner;
- (ii) promote the full involvement and use of team member's individual talents and skills;
- (iii) employ conflict-management skills to facilitate solutions;
- (iv) demonstrate teamwork skills though working cooperatively with co-workers, supervisory staff and others, both in and out of the organization, to achieve particular tasks;
- (v) demonstrate teamwork processes that provide team building, consensus, continuous improvement, respect for the opinions of others, cooperation, adaptability and conflict resolution;
- (vi) develop plans to improve team performance;
- (vii) demonstrate commitment to and a positive attitude toward team goals;
- (viii) take responsibility for shared group and individual work tasks;
- (ix) assist team members in completing their work;
- (x) adapt effectively to changes in projects and work activities;
- (xi) negotiate effectively to arrive at decisions;

**(d)** grades 7-12 benchmark 4: establish and maintain effective working relationships with all levels of personnel and other departments in order to accomplish objectives and tasks; grades 7-12 performance standards:

- (i) build effective working relationships using interpersonal skills;
- (ii) use positive interpersonal skills to work cooperatively with co-workers representing different cultures, genders and backgrounds;
- (iii) manage personal skills to accomplish assignments;
- (iv) treat people with respect;
- (v) provide constructive praise and criticism;
- (vi) demonstrate sensitivity to and value for diversity;
- (vii) manage stress and control emotions;

**(e)** grades 7-12 benchmark 5: conduct and participate in meetings to accomplish work tasks; grades 7-12 performance standards:

- (i) develop meeting goals, objectives and agenda;
- (ii) assign responsibilities for preparing materials and leading discussions;
- (iii) prepare materials for leading discussion;
- (iv) assemble and distribute meeting materials;
- (v) conduct meeting to achieve objectives within scheduled time;
- (vi) demonstrate effective communication skills in meetings;
- (vii) produce meeting minutes, including decisions and next steps;
- (viii) use parliamentary procedure as needed to conduct meetings;

**(f)** grades 7-12 benchmark 6: employ mentoring skills to inspire and teach others; grades 7-12 performance standards:

- (i) use motivational techniques to enhance performance in others;
- (ii) provide guidance to enhance performance in others.

**(2)** Content standard 2: Students will employ conflict identification and resolution to achieve organizational goals and objectives. Students will:

**(a)** grades 7-12 benchmark 1: use conflict resolution skills to maintain a smooth workflow; grades 7-12 performance standards:

- (i)** work collaboratively and cooperatively;
- (ii)** give and receive criticism in a diplomatic and constructive manner;
- (iii)** use diplomatic and constructive statements and responses;

**(b)** grades 7-12 benchmark 2: use human relations skills to work cooperatively with co-workers and foster good relations between different cultures, genders and backgrounds; grades 7-12 performance standards:

- (i)** work effectively with a variety of co-workers;
- (ii)** identify team member strengths and weaknesses;
- (iii)** practice motivational techniques.

#### **H. Strand 8: Ethics and legal responsibilities.**

**(1)** Content standard 1: Students will know and understand the importance of professional ethics and legal responsibilities. Students will:

**(a)** grades 7-12 benchmark 1: apply ethical reasoning to a variety of workplace situations in order to make ethical decisions; grades 7-12 performance standards:

**(i)** evaluate alternative responses to workplace situations based on personal or professional ethical responsibilities;

**(ii)** identify personal and long-term workplace consequences of unethical or illegal behaviors;

**(iii)** explain personal and long-term workplace consequences of unethical or illegal behaviors;

**(iv)** determine the most appropriate response to workplace situations based on legal and ethical considerations;

**(v)** explain the most appropriate response to workplace situations based on legal and ethical considerations.;

**(b)** grades 7-12 benchmark 2: interpret and explain written organizational policies and procedures to help employees perform their jobs according to employer rules and expectations; grades 7-12 performance standards:

(i) locate information on organizational policies in handbooks and manuals;

(ii) discuss how specific organizational policies and procedures influence a specific work situation.

**(2)** Content standard 2: Students will apply business laws and regulations to business situations. Students will:

**(a)** grades 7-12 benchmark 1: apply laws and regulations to personnel situations; grades 7-12 performance standards:

(i) explain major points and purpose of laws and regulations concerning sexual harassment, gender equity and disabilities;

(ii) identify resources that provide specific information regarding personnel laws and regulations;

(iii) apply major laws affected in given scenarios/situations;

**(b)** grades 7-12 benchmark 2: apply knowledge of copyright laws to business situations; grades 7-12 performance standards:

(i) analyze and interpret copyright laws and regulations;

(ii) demonstrate ability to apply copyright laws to specific situations;

(iii) identify procedures to avoid violation of copyright laws.

#### **I. Strand 9: Employability and career development.**

**(1)** Content standard 1: Students will know and understand the importance of employability skills. Students will:

**(a)** grades 7-12 benchmark 1: identify and demonstrate the use of positive work behaviors and personal qualities needed to be employable; grades 7-12 performance standards:

(i) demonstrate self-discipline, self-worth, positive attitude and integrity in a work situation;

(ii) demonstrate flexibility and willingness to learn new knowledge and skills;

(iii) exhibit commitment to the organization;



**(iv)** identify how work varies with regard to site, from indoor confined spaces to outdoor areas, including aerial space and a variety of climatic and physical conditions;

**(v)** apply communication strategies when adapting to a culturally diverse environment;

**(vi)** manage resources in relation to the position (e.g., budget, supplies, computer, etc.);

**(vii)** identify positive work qualities typically desired in each of the career clusters pathways;

**(viii)** manage work roles and responsibilities to balance them with other life roles and responsibilities;

**(b)** grades 7-12 benchmark 2: develop a personal career plan to meet career goals and objectives; grades 7-12 performance standards:

**(i)** develop career goals and objectives as part of a plan for future career direction;

**(ii)** develop strategies to reach career objectives;

**(c)** grades 7-12 benchmark 3: demonstrate skills related to seeking and applying for employment to find and obtain a desired job; grades 7-12 performance standards:

**(i)** use multiple resources to locate job opportunities;

**(ii)** prepare a resumé;

**(iii)** prepare a letter of application;

**(iv)** complete an employment application;

**(v)** interview for employment;

**(vi)** list the standards and qualifications that must be met in order to enter a given industry;

**(vii)** employ critical thinking and decision-making skills to exhibit qualifications to a potential employer.

**(2)** Content standard 2: Students will explore, plan and effectively manage careers. Students will:

**(a)** grades 7-12 benchmark 1: maintain a career portfolio to document knowledge, skills and experience in a career field; grades 7-12 performance standards:

- (i)** select educational and work history highlights to include in a career portfolio;
- (ii)** produce a record of work experiences, licenses, certifications and products;
- (iii)** organize electronic or physical portfolio for use in demonstrating knowledge, skills and experiences;

**(b)** grades 7-12 benchmark 2: demonstrate skills in evaluating and comparing employment opportunities in order to accept employment positions that match career goals; grades 7-12 performance standards:

- (i)** compare employment opportunities to individual needs and career plan objectives;
- (ii)** evaluate employment opportunities based upon individual needs and career plan objectives;
- (iii)** demonstrate appropriate methods for accepting or rejecting employment offers;

**(c)** grades 7-12 benchmark 3: identify and exhibit traits for retaining employment to maintain employment once secured; grades 7-12 performance standards:

- (i)** model behaviors that demonstrate reliability and dependability;
- (ii)** maintain appropriate dress and behavior for the job to contribute to a safe and effective workplace/jobsite;
- (iii)** complete required employment forms and documentation such as I-9 form, work visa, W-4 and licensures to meet employment requirements;
- (iv)** summarize key activities necessary to retain a job in the industry;
- (v)** identify positive work behaviors and personal qualities necessary to retain employment;

**(d)** grades 7-12 benchmark 4: identify and explore career opportunities in one or more career pathways to build an understanding of the opportunities available in the cluster; grades 7-12 performance standards:

(i) locate and identify career opportunities that appeal to personal career goals;

(ii) match personal interest and aptitudes to selected careers;

**(e)** grades 7-12 benchmark 5: recognize and act upon requirements for career advancement to plan for continuing education and training; grades 7-12 performance standards:

(i) identify opportunities for career advancement;

(ii) pursue education and training opportunities to acquire skills necessary for career advancement;

(iii) examine the organization and structure of various segments of the industry to prepare for career advancement;

(iv) research local and regional labor (work force) market and job growth information to project potential for advancement;

(v) manage employment relations to make career advancements;

**(f)** grades 7-12 benchmark 6: continue professional development to keep current on relevant trends and information within the industry; grades 7-12 performance standards:

(i) use self-assessment, organizational priorities, journals, internet sites, professional associations, peers and other resources to develop goals that address training, education and self-improvement issues;

(ii) read trade magazines and journals, manufacturers' catalogues, industry publications and internet sites to keep current on industry trends;

(iii) participate in relevant conferences, workshops, mentoring activities and in-service training to stay current with recent changes in the field;

**(g)** grades 7-12 benchmark 7: examine licensing, certification and credentialing requirements at the national, state and local levels to maintain compliance with industry requirements; grades 7-12 performance standards:

(i) examine continuing education requirements related to licensing, certification and credentialing requirements at the local, state and national levels for one's chosen occupation;

(ii) examine the procedures and paperwork involved in maintaining and updating licensure, certification and credentials for one's chosen occupation;

**(iii)** align ongoing licensing, certification and credentialing requirements to career plans and goals;

**(h)** grades 7-12 benchmark 8: examine employment opportunities in entrepreneurship to consider entrepreneurship as an option for career planning; grades 7-12 performance standards:

**(i)** describe the opportunities for entrepreneurship in a given industry;

**(ii)** identify and explore career opportunities in one or more career pathways;

**(i)** grades 7-12 benchmark 9: understand the essential principles of an entrepreneurial organization; grades 7-12 performance standards:

**(i)** practice personal integrity and honesty;

**(ii)** interact appropriately and respectfully with diverse ethnic, age, cultural, religious and economic groups in various entrepreneurial and social situations;

**(iii)** exhibit respectful and empathetic behavior when interacting with customers in one-on-one and group situations.

#### **J. Strand 10: Technical skills.**

**(1)** Content standard 1: Students will demonstrate the use of technical knowledge and skills required to pursue careers in all career clusters, including knowledge of design, operation and maintenance of technological systems critical to the career cluster. Students will:

**(a)** grades 7-12 benchmark 1: employ information management techniques and strategies in the workplace to assist in decision-making; grades 7-12 performance standards:

**(i)** use information literacy skills when accessing, evaluating and disseminating information;

**(ii)** describe the nature and scope of information management;

**(iii)** maintain records to facilitate ongoing business operations;

**(b)** grades 7-12 benchmark 2: employ planning and time management skills and tools to enhance results and complete work tasks; grades 7-12 performance standards:

**(i)** develop goals and objectives;

- (ii) prioritize tasks to be completed;
- (iii) develop timelines using time management knowledge and skills;
- (iv) use project management skills to improve workflow and minimize costs.

(2) Content standard 2: Students will apply and demonstrate technical skills required for career specialties within a selected career pathway. Students will:

(a) grades 7-12 benchmark 1: understand technical skill requirements within the career field's techniques; grades 7-12 performance standards:

- (i) obtain industry-recognized certifications where available and appropriate;
- (ii) evaluate industry needs to explain the role and functions of critical industry-related technological systems;
- (iii) measure and manage the reliability and performance of technological systems to establish use and maintenance guidelines;

(b) grades 7-12 benchmark 2: establish criteria to identify technical skills needed to run an industry efficiently; grades 7-12 performance standards:

- (i) identify types of skills needed to succeed in a desired industry;
- (ii) explore methods available to develop technical skills;
- (iii) correctly operate the tools associated with a specific skill.

[6.29.3.8 NMAC - Rp, 6.30.2.21 NMAC, 6-30-2009; A, 4-30-2015]

#### **6.29.3.9 AGRICULTURE, FOOD AND NATURAL RESOURCES CAREER CLUSTER (AG) COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

A. All pathways in the AG career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the AG career cluster are the ability to:

- (1) analyze how issues, trends, technologies and public policies impact systems;
- (2) evaluate the nature and scope of the cluster and the role agriculture, food and natural resources (AFNR) play in society and the economy;

**(3)** examine and summarize importance of health, safety and environmental management systems in AFNR organizations;

**(4)** demonstrate stewardship of natural resources in AFNR activities;

**(5)** describe career opportunities and means to achieve those opportunities in each of the pathways; and

**(6)** analyze the interaction among ANFR systems in the production, processing and management of food, fiber and fuel and sustainable use of natural resources.

**B. Agribusiness systems career pathway (AG-BIZ). Students will:**

**(1)** apply management planning principles in AFNR business enterprises;

**(2)** use record keeping to accomplish AFNR business objectives, manage budgets and comply with laws and regulations;

**(3)** manage cash budgets, credit budgets and credit for an AFNR business using generally accepted accounting principles;

**(4)** develop a business plan for an AFNR enterprise or business unit; and

**(5)** use sales and marketing principles common to agribusiness systems to accomplish AFNR business objectives.

**C. Animal systems career pathway (AG-ANI). Students will:**

**(1)** analyze historic and current trends impacting the animal systems industry;

**(2)** use best practice protocols for husbandry and welfare based upon animal behaviors;

**(3)** design and provide proper animal nutrition given desired outcomes for performance, development, reproduction and economic production;

**(4)** apply principles of animal reproduction given desired outcomes for performance, development or economic production;

**(5)** evaluate environmental factors affecting animal performance and implement procedures for enhancing performance and animal health;

**(6)** classify, evaluate and select animals based on anatomical and physiological characteristics; and

- (7) apply principles of effective animal health care.

**D. Environmental service systems career pathway (AG-ENV). Students will:**

- (1) use analytic procedures and instruments to manage environmental systems activities;
- (2) evaluate the impact of public policies and regulations on environmental services facility operations;
- (3) develop proposed solutions to environmental issues, problems and applications using scientific principles of meteorology, soil science, hydrology, microbiology, chemistry and ecology;
- (4) demonstrate the operation of environmental service systems (e.g., pollution control, water treatment, wastewater treatment, solid waste management and energy conservation); and
- (5) use tools, equipment, machinery and technology common to tasks in environmental system services.

**E. Food products and processing systems career pathway (AG-FD). Students will:**

- (1) develop and implement procedures to ensure safety, sanitation and quality in food product and processing facilities;
- (2) apply principles of nutrition, biology, microbiology, chemistry and human behavior to development of food products;
- (3) select and process food products for storage, distribution and consumption; and
- (4) explain the scope of the food industry and the historical and current developments of food products and processing.

**F. Natural resources systems career pathway (AG-NR). Students will:**

- (1) plan and conduct natural resource management activities that apply logical, reasoned and scientifically based solutions to natural resource issues and goals;
- (2) analyze interrelationships between natural resources and humans needed to manage natural resource systems;
- (3) develop plans to ensure responsible and sustainable production and processing of natural resources; and

(4) demonstrate responsible management procedures and techniques to protect or maintain natural resources.

**G.** Plant systems career pathway (AG-PL). Students will:

(1) develop and implement a crop management plan for a given production goal that accounts for environmental factors;

(2) apply the principles of classification, plant anatomy and plant physiology to plant production and management;

(3) propagate, culture and harvest plants and plant products based on current industry standards; and

(4) apply principles of design in plant systems to enhance an environment (e.g., floral, forest, landscape and farm).

**H.** Power, structural and technical systems career pathway (AG-PST). Students will:

(1) apply physical science principles and engineering applications related to mechanical equipment, structures and biological systems to solve problems and improve performance in AFNR power, structural and technical systems;

(2) operate and maintain mechanical equipment related to AFNR power, structural and technical systems;

(3) service and repair mechanical equipment and power systems used in AFNR power, structural and technical systems;

(4) plan, build and maintain AFNR structures; and

(5) use control, monitoring, geospatial and other technologies in AFNR power, structural and technical systems.

[6.29.3.9 NMAC - N, 4-30-2015]

#### **6.29.3.10 ARCHITECTURE AND CONSTRUCTION CAREER CLUSTER (AC) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the AC career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the AC career cluster are the ability to:

(1) use vocabulary, symbols and formulas commonly used in design and construction;



- (2)** use architecture and construction skills to create and manage a project;
- (3)** comply with regulations and applicable codes to establish and manage a legal and safe workplace and jobsite;
- (4)** evaluate the nature and scope of the AC cluster and the role architecture and construction play in society and the economy;
- (5)** describe the roles and responsibilities among trades and professions, including labor/management relationships;
- (6)** read, interpret and use technical drawings, documents and specifications to plan a project; and
- (7)** describe career opportunities and means to achieve those opportunities in each of the AC pathways.

**B. Construction career pathway (AC-CST). Students will:**

- (1)** describe contractual relationships with all parties involved in the building process to ensure successful build of a project;
- (2)** describe the approval procedures to ensure effective flow of information in the construction process;
- (3)** implement testing and inspection procedures to ensure successful completion of a construction project;
- (4)** apply scheduling practices to ensure the successful completion of a construction project;
- (5)** apply practices and procedures required to maintain jobsite safety;
- (6)** manage relationships with internal and external parties to successfully complete construction projects;
- (7)** compare and contrast the building systems and components for a given project;
- (8)** demonstrate the construction crafts required for each phase of a given project; and
- (9)** safely use and maintain appropriate tools, machinery, equipment and resources to accomplish construction project goals.

**C. Design and pre-construction career pathway (AC-DES). Students will:**

- (1)** justify design solutions through the use of research documentation and analysis of data;
- (2)** use effective communication skills and strategies (listening, speaking, reading, writing and graphic communications) to work with clients and colleagues;
- (3)** describe the requirements of the integral systems that impact the design of buildings and structures;
- (4)** apply building codes, laws and rules in the design and construction of projects;
- (5)** identify the diversity of needs, values and social patterns in project design, including accessibility standards, to appropriately meet client needs;
- (6)** apply the techniques and skills of modern drafting, design, engineering and construction to projects;
- (7)** employ appropriate representational media to communicate concepts and design; and
- (8)** apply standards, applications and restrictions pertaining to the selection and use of construction materials, components and assemblies for project design.

**D. Maintenance and operations career pathway (AC-MO). Students will:**

- (1)** recognize and employ universal construction signs and symbols to function safely in the workplace;
- (2)** use troubleshooting procedures when solving a maintenance problem to maintain buildings and structures;
- (3)** apply construction skills when repairing, restoring, or renovating existing structures;
- (4)** determine work required to repair or renovate an existing building or structure;
- (5)** plan and practice preventative maintenance activities to service existing structures; and
- (6)** maintain and inspect building systems to achieve safe and efficient operation of facilities.

**6.29.3.11 ARTS, AUDIO-VISUAL TECH AND COMMUNICATIONS CAREER CLUSTER (AR) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the AR career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the AR career cluster are the ability to:

- (1)** analyze the interdependence of the technical and artistic elements of various careers within the AR cluster;
- (2)** analyze the importance of health, safety and environmental management systems, policies and procedures common in arts, audio-video technology and communications activities and facilities;
- (3)** analyze the lifestyle implications and physical demands required in the arts, audio-visual technology and communications workplace;
- (4)** analyze the legal and ethical responsibilities required in the arts, audio/visual technology and communications workplace;
- (5)** describe the career opportunities and means to achieve those opportunities in each of the AR pathways; and
- (6)** evaluate technological advancements and tools that are essential to occupations within the AR cluster.

**B.** A-V technology and film career pathway (AR-AV). Students will:

- (1)** describe the history, terminology, occupations and value of audio, video and film technology;
- (2)** demonstrate the use of basic tools and equipment used in audio, video and film production;
- (3)** demonstrate technical support skills for audio, video and film productions; and
- (4)** design an audio, video or film production.

**C.** Journalism and broadcasting career pathway (AR-JB). Students will:

- (1)** describe the diversity and variety of functions within the journalism and broadcasting career pathway;

- (2) demonstrate writing processes used in journalism and broadcasting media;
- (3) plan and deliver a media production (e.g., broadcast, video, web, mobile); and
- (4) demonstrate technical support related to media production (e.g., broadcast, video, web, mobile).

**D. Performing arts career pathway (AR-PRF). Students will:**

- (1) describe the scope of the AR-PRF pathway and the roles of various individuals and business principles;
- (2) demonstrate the fundamental elements, techniques, principles and processes for various dance styles and traditions in the pathway;
- (3) perform a varied repertoire of focal or instrumental music representing diverse styles, cultures and historical period;
- (4) demonstrate knowledge of music theory;
- (5) explain key issues affecting the creation of characters, acting skills and individual roles;
- (6) create stage, film, television, or electronic media scripts in a variety of traditional and current formats;
- (7) describe how technology and technical support enhances productions; and
- (8) analyze all facets of stage and production management.

**E. Printing technology career pathway (AR-PRT). Students will:**

- (1) manage the printing process including customer service and sales, scheduling, production and quality control;
- (2) demonstrate the production of various print, multimedia, or digital media products; and
- (3) perform finishing and distribution operations related to the printing process.

**F. Telecommunications career pathway (AR-TEL). Students will:**

- (1) demonstrate the use of industry-specific terminology, tools and test equipment;
- (2) demonstrate telecommunication installation techniques using appropriate tools, materials, schematics diagrams, blueprints and industry specific codes and regulations;
- (3) demonstrate decision-making, problem-solving techniques and communication skills when providing services for customers; and
- (4) demonstrate the installation, repair and delivery of network systems.

**G.** Visual arts career pathway (AR-VIS). Students will:

- (1) describe the history and evolution of the visual arts and its role in and impact on society;
- (2) analyze how the application of visual arts elements and principles of design communicate and express ideas; and
- (3) analyze and create two and three-dimensional art forms using various media.

[6.29.3.11 NMAC - N, 4-30-2015]

**6.29.3.12 BUSINESS MANAGEMENT AND ADMINISTRATION CAREER CLUSTER (BM) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the BM career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the BM career cluster are the ability to:

- (1) use mathematical concepts, skills and problem solving to obtain necessary information for decision-making in business;
- (2) describe laws, rules and regulations as they apply to effective business operations;
- (3) explore, develop and apply strategies for ensuring a successful business career;
- (4) identify, demonstrate and implement solutions in managing effective business customer relationships;

**(5)** implement systems, strategies and techniques used to manage information in a business; and

**(6)** implement, monitor and evaluate business processes to ensure efficiency and quality results.

**B. Administrative support career pathway (BM-ADM). Students will:**

**(1)** plan, staff, lead and organize human resources to enhance employee productivity and satisfaction;

**(2)** access, evaluate and disseminate information for business decision making; and

**(3)** plan, monitor and manage day-to-day business activities.

**C. Business information management career pathway (BM-BIM). Students will:**

**(1)** describe and follow laws and regulations affecting business operations and transactions;

**(2)** plan, monitor, manage and maintain the use of financial resources to ensure a business's financial wellbeing;

**(3)** access, evaluate and disseminate information for business decision making;

**(4)** plan, monitor and manage day-to-day business activities to sustain continued business functioning; and

**(5)** plan, organize and manage an organization/department to achieve business goals.

**D. General management career pathway (BM-MGT). Students will:**

**(1)** describe and follow laws and regulations affecting business operations and transactions;

**(2)** access, evaluate and disseminate information for business decision making;

**(3)** apply economic concepts fundamental to global business operations;

**(4)** employ and manage techniques, strategies and systems to enhance business relationships;

(5) plan, monitor, manage and maintain the use of financial resources to ensure a business's financial wellbeing;

(6) plan, monitor and manage day-to-day business activities to sustain continued business functioning;

(7) plan, organize and manage an organization/department to achieve business goals; and

(8) create strategic plans used to manage business growth, profit and goals.

**E. Human resources management career pathway (BM-HR). Students will:**

(1) describe and follow laws and regulations affecting human resource operations;

(2) access, evaluate and disseminate information for human resources management decision making;

(3) motivate and supervise personnel to achieve completion of projects and business goals;

(4) plan, monitor and manage the use of financial and human resources to ensure a business's financial wellbeing;

(5) plan, staff, lead and organize human resources to enhance productivity and satisfaction;

(6) plan, monitor and manage day-to-day business activities to foster a healthy and safe work environment; and

(7) plan, organize and implement compensation, benefits, health and safety programs.

**F. Operations management career pathway (BM-OP). Students will:**

(1) describe and follow laws and regulations affecting business operations and transactions;

(2) develop and maintain positive customer relationships;

(3) apply inventory tracking systems to facilitate operational controls; and

(4) plan, monitor and manage day-to-day business activities to maintain and improve operational functions.

[6.29.3.12 NMAC - N, 4-30-2015]

**6.29.3.13 EDUCATION AND CAREER TRAINING CAREER CLUSTER (ED) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the ED career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the ED career cluster are the ability to:

- (1)** apply communication skills with students, parents and other groups to enhance learning and a commitment to learning;
- (2)** demonstrate effective oral, written and multimedia communication in multiple formats and contexts;
- (3)** use critical thinking to process educational communications, perspectives, policies or procedures;
- (4)** evaluate and manage risks to safety, health and the environment in education and training settings;
- (5)** demonstrate group collaboration skills to enhance professional education and training practice;
- (6)** analyze ethical and legal policies of professional education and training practice;
- (7)** explain legal rights that apply to individuals and practitioners within education and training settings;
- (8)** demonstrate ethical and legal behavior within and outside of education and training settings;
- (9)** describe state-specific professional development requirements to maintain employment and to advance in an education and training career;
- (10)** apply organizational skills and logic to enhance professional education and training practice; and
- (11)** demonstrate group management skills that enhance professional education and training practice.

**B.** Administration and administrative support career pathway (ED-ADM). Students will:



(1) use research-based practices to develop, communicate and enlist support for a vision of success for all learners;

(2) identify behaviors necessary for developing and sustaining a positive learning culture;

(3) create instructional programs to meet the learning organization's objectives;

(4) identify instructional practices that meet the learning organization's objectives;

(5) model leadership skills for personnel in order to improve the performance of the learning organization;

(6) identify operations to meet the learning organization's objectives;

(7) plan strategically to meet the learning organization's objectives;

(8) apply internal and external resources to meet the learning organization's objectives and learner needs; and

(9) describe advocacy strategies to promote the learning organization's needs.

**C. Professional support services career pathway (ED-PS). Students will:**

(1) identify strategies, techniques and tools used to determine the needs of diverse learners;

(2) implement methods to enhance learner success;

(3) identify resources and support services to meet learners' needs; and

(4) identify resources and support services available in the learning organization to enhance the learning environment.

**D. Training career pathway (ED-TT). Students will:**

(1) use foundational knowledge of subject matter to plan and prepare effective instruction and design courses or programs;

(2) employ knowledge of learning and developmental theory to describe individual learners;

- (3) use content knowledge and skills of instruction to develop standards-based goals and assessments;
- (4) identify materials and resources needed to support instructional plans;
- (5) establish a positive climate to promote learning;
- (6) identify motivational, social and psychological practices that guide personal conduct;
- (7) demonstrate organizational and relationship building skills used to manage instructional activities and related procedures;
- (8) demonstrate flexibility and adaptability in instructional planning;
- (9) use assessment and evaluation tools and data to advance learner achievement and adjust instructional plans;
- (10) evaluate teaching and training performance indicators to determine and improve effectiveness of instructional practices and professional development; and
- (11) implement strategies to maintain relationships with others to increase support for the organization.

[6.29.3.13 NMAC - N, 4-30-2015]

**6.29.3.14 FINANCE CAREER CLUSTER (FN) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the FN career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the FN career cluster are the ability to:

- (1) use mathematical concepts, skills and problem solving to obtain necessary information for decision making in the finance industry;
- (2) use tools, strategies and systems to plan, monitor, manage and maintain the use of financial resources;
- (3) plan, staff, lead and organize human resources in finance to enhance employee productivity and job satisfaction;
- (4) determine effective tools, techniques and systems to communicate and deliver value to finance customers;

- (5)** create and maintain positive, ongoing relationships with finance customers;
- (6)** plan, monitor and manage day-to-day activities to ensure effective and efficient finance operations;
- (7)** implement safety, health and environmental controls to ensure a safe and productive finance work workplace;
- (8)** describe and follow laws, regulations and ethical standards that affect finance operations and transactions;
- (9)** plan, manage and maintain the use of financial resources to protect solvency;
- (10)** plan, organize and manage a finance organization or department;
- (11)** plan, monitor and manage day-to-day activities required to sustain continued business functioning;
- (12)** access, evaluate and disseminate financial information to enhance financial decision-making processes;
- (13)** manage a financial product or service mix in order to respond to market opportunities; and
- (14)** employ financial risk-management strategies and techniques used to minimize business loss.

**B. Accounting career pathway (FN-ACT). Students will:**

- (1)** describe and follow laws and regulations to manage accounting operations and transactions;
- (2)** use accounting tools, strategies and systems to plan, monitor, manage and maintain the use of financial resources;
- (3)** process, evaluate and disseminate financial information to assist business decision making; and
- (4)** use career-planning concepts, tools and strategies to explore, obtain or develop an accounting career.

**C. Banking services career pathway (FN-BNK). Students will:**

- (1) describe and follow laws and regulations to manage business operations and transactions in the banking services industry;
- (2) create and maintain positive, ongoing relationships with banking customers;
- (3) manage the use of financial resources to enhance banking performance;
- (4) demonstrate the use of banking technology and equipment;
- (5) plan, monitor and manage the day-to-day activities within a banking organization to ensure secure operations;
- (6) use career-planning concepts, tools and strategies to explore, obtain or develop a career in banking services; and
- (7) determine client needs and wants and respond through planned, personalized communication to guide purchase decisions and enhance future business opportunities in banking services.

**D. Business finance career pathway (FN-BFN). Students will:**

- (1) describe and follow laws and regulations to manage business operations and transactions in corporate finance;
- (2) manage the use of financial resources to ensure business stability;
- (3) use career-planning concepts, tools and strategies to explore, obtain or develop in a corporate finance career; and
- (4) employ risk-management strategies and techniques in corporate finance to minimize business loss.

**E. Insurance career pathway (FN-INS). Students will:**

- (1) describe and follow laws and regulations to manage business operations and transactions in the insurance industry;
- (2) plan, monitor and manage day-to-day insurance organization activities;
- (3) use career-planning concepts, tools and strategies to explore, obtain or develop a career in insurance;
- (4) demonstrate underwriting techniques and strategies to evaluate the risk posed by potential insurance clients; and

(5) determine client needs and wants and respond through planned, personalized communication to guide purchase decisions and enhance future insurance business opportunities.

**F. Securities and investments career pathway (FN-SEC). Students will:**

(1) describe and follow laws and regulations to manage business operations and transactions in the securities and investments industry;

(2) manage the use of financial resources to perform key duties in the securities and investments industry;

(3) plan, monitor and manage day-to-day securities and investments operations;

(4) use career-planning concepts, tools and strategies to explore, obtain or develop in a securities and investments career; and

(5) determine client needs and wants and respond through planned, personalized communication to guide purchase decisions and enhance future securities and investments opportunities.

[6.29.3.14 NMAC - N, 4-30-2015]

**6.29.3.15 GOVERNMENT AND PUBLIC ADMINISTRATION CAREER CLUSTER (GV) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the GV career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the GV career cluster are the ability to:

(1) explain the purpose and functions of government and public administration and the application of democratic principles in the process of governmental and administrative policymaking;

(2) analyze the systemic relationships of government and public administration agencies;

(3) describe health, safety and environmental management systems, as well as policies and procedures in government and public administration agencies;

(4) describe the implementation of plans and policies to respond to public health, safety and environmental needs in government and public administration agencies;

**(5)** describe career opportunities and the means to achieve those opportunities in each of the GV career pathways; and explain the administration of human, financial, material and information resources in government and public administration agencies.

**B. Foreign service career pathway (GV-FOR). Students will:**

**(1)** apply the knowledge acquired from history, law, geography, science, language studies, social sciences (including economic and political science), business, foreign policy and culture to perform diplomatic functions;

**(2)** describe the laws, customs and current administrative practices of the United States and host countries used to manage administrative, social and policy matters;

**(3)** describe the application of United States and host country laws, regulations, policies and procedures used to manage consular administrative matters; and

**(4)** describe the application of host country laws, customs and effective administrative practices used to manage the conduct of diplomatic operations.

**C. Governance career pathway (GV-GOV). Students will:**

**(1)** employ research skills to gather and document factual information, analyze data and interpret statistics applicable to matters of public policy;

**(2)** develop and articulate reasoned, persuasive arguments to support public policy options or positions;

**(3)** select and apply appropriate political processes to gain consensus for the resolution of differing opinions and positions; and

**(4)** advocate to gain support for new laws, regulations, ordinances, programs or procedures; alternatively, advocate to gain support to reform or revoke existing laws, regulations, ordinances, programs or procedures.

**D. National security career pathway (GV-SEC). Students will:**

**(1)** instruct persons who will perform tasks relating to national homeland security;

**(2)** describe the appropriate duties, responsibilities and authority of a national security agency's personnel at all levels;

**(3)** describe the leadership characteristics necessary to ensure compliance with rules of engagement and applicable ethical standards;

**(4)** collect and analyze information from within and outside the United States to assess threats and opportunities regarding national security; and

**(5)** develop strategies to defend against and respond to the effects of chemical, biological, radiological, nuclear (CBRN) or other emergent events.

**E. Planning career pathway (GV-PLN). Students will:**

**(1)** explain the planning process used to support the development and implementation of new and updated plans, programs and regulations for government and public administration agencies;

**(2)** develop a comprehensive and focused strategic planning process for government and public administration agencies to manage change; and

**(3)** formulate plans and policies that meet the social, economic and physical needs of the public.

**F. Public management and administration career pathway (GV-MGT). Students will:**

**(1)** describe the organization of government or public administration department or agency;

**(2)** design strategies to maximize the potential of a government or public administration department or agency to meet its vision, mission and goals;

**(3)** use fiscal management skills to manage budget and allocation processes to ensure that resources are applied in a manner consistent with the department or agency's vision, mission and goals;

**(4)** facilitate the flow of ideas and information to keep the department or agency and its constituency informed of policies and operations;

**(5)** create plans that use department or agency expertise to help elected officials and others identify, implement and achieve common goals and objectives;

**(6)** use analysis, planning and fiscal services to fund department or agency priorities;

**(7)** describe ethical and fiscally responsible procurement systems and procedures used to meet department or agency needs;

(8) prepare procurement requirements, procedures and solicitations for bids or proposals;

(9) evaluate bids and proposals consistent with the requirements of the procurement process;

(10) describe the oversight of awarded contracts to ensure the ethical and optimal use of public funds;

(11) describe laws and policies that are used to protect or disclose information; and

(12) develop strategies that encourage a creative and innovative environment in a government or public administration department or agency.

**G.** Regulation career pathway (GV-REG). Students will describe enforcement of compliance with legal requirements and regulatory standards.

**H.** Revenue and taxation career pathway (GV-REV). Students will:

(1) examine evidence and ensure revenue compliance by interpreting applicable laws, applying appropriate investigative principles and following relevant procedures;

(2) acquire, analyze and disseminate information to facilitate clear and accurate communication with revenue and taxation stakeholders; and

(3) design, develop, operate and review data analysis systems and procedures to minimize and eliminate revenue-related financial problems.

[6.29.3.15 NMAC - N, 4-30-2015]

#### **6.29.3.16 HEALTH SCIENCES CAREER CLUSTER (HL) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the HL career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the HL career cluster are the ability to:

(1) determine academic subject matter, in addition to high school graduation requirements, necessary for pursuing a health science career;

(2) explain the healthcare worker's role within their department, their organization and the overall healthcare system;



**(3)** identify existing and potential hazards to clients, coworkers, visitors and self in the healthcare workplace;

**(4)** evaluate the roles and responsibilities of individual members as part of the healthcare team and explain their role in promoting the delivery of quality health care;

**(5)** analyze the legal and ethical responsibilities, limitations and implications of actions within the healthcare workplace; and

**(6)** evaluate accepted ethical practices with respect to cultural, social and ethnic differences within the healthcare workplace.

**B. Biotechnology research and development career pathway (HL-BRD).** Students will:

**(1)** summarize the goals of biotechnology research and development within legal and ethical protocols;

**(2)** apply the fundamentals of biochemistry, cell biology, genetics, mathematical concepts, microbiology, molecular biology, organic chemistry and statistics to conduct effective biotechnology research and development of products;

**(3)** demonstrate basic knowledge of recombinant deoxyribonucleic acid (DNA), genetic engineering, bioprocessing, monoclonal antibody production, nanotechnology, bioinformatics, genomics, proteomics and transcript omics to conduct biotechnology research and development;

**(4)** demonstrate the principles of solution preparation, sterile techniques, contamination control and measurement and calibration of instruments used in biotechnology research;

**(5)** determine processes for product design and production and how that work contributes to an understanding of the biotechnology product development process; and

**(6)** summarize and explain the larger ethical, moral and legal issues related to biotechnology research, product development and use in society.

**C. Diagnostics career pathway (HL-DIA).** Students will:

**(1)** communicate information within a healthcare environment and convey key diagnostic information to healthcare workers and patients in an accurate and timely manner;

**(2)** assess and report patient's/client's health status in order to monitor and document patient progress;

**(3)** demonstrate the principles of body mechanics for positioning, transferring and transporting of patients/clients and perform them without injury to the patient/client or self;

**(4)** explain procedures and goals to the patient/client accurately and effectively, using strategies to respond to questions and concerns; and

**(5)** select and interpret diagnostic procedures.

**D. Health informatics career pathway (HL-HI). Students will:**

**(1)** communicate health information accurately and within legal and regulatory guidelines, upholding the strictest standards of confidentiality;

**(2)** describe the content and diverse uses of health information; and

**(3)** demonstrate the use of systems used to capture, retrieve and maintain confidential health information from internal and external sources.

**E. Support services career pathway (HL-SUP). Students will:**

**(1)** describe, differentiate and safely perform the responsibilities of healthcare support services roles;

**(2)** demonstrate work practices that maintain a clean and healthy healthcare facility to reduce or eliminate pathogenic organisms;

**(3)** follow established internal and external guidelines in order to provide high-quality, effective support services in the healthcare facility;

**(4)** maximize available resources for proper care and use of healthcare equipment and materials; and

**(5)** implement healthcare facility standards in order to maintain high-quality healthcare facilities.

**F. Therapeutic services career pathway (HL-THR). Students will:**

**(1)** use communication strategies to answer patient/client questions and concerns on planned procedures and goals;

**(2)** communicate patient/client information among healthcare team members to facilitate a team approach to patient care;

**(3)** use processes for assessing, monitoring and reporting patient/client health status to the treatment team within protocol and scope of practice; and

(4) evaluate patient/client needs, strengths and problems in order to determine if treatment goals are being met.

[6.29.3.16 NMAC - N, 4-30-2015]

**6.29.3.17 HOSPITALITY AND TOURISM CAREER CLUSTER (HT) FOR COMMON CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the HT career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the HT career cluster are the ability to:

(1) describe the key components of marketing and promoting hospitality and tourism products and services;

(2) evaluate the nature and scope of the HT cluster and the role of hospitality and tourism in society and the economy;

(3) demonstrate hospitality and tourism customer service skills that meet customers' needs;

(4) describe employee rights and responsibilities and employers' obligations concerning occupational health and safety in the hospitality and tourism workplace;

(5) identify potential, real and perceived hazards and emergency situations and determine the appropriate safety and security measures in the hospitality and tourism workplace; and

(6) describe career opportunities and means to attain those opportunities in each of the HT pathways.

**B.** Lodging career pathway (HT-LOD). Students will:

(1) use various communication technologies to accomplish work tasks in lodging facilities;

(2) explain the role and importance of housekeeping operations to lodging facility;

(3) allocate staff positions to meet the needs of various lodging departments;

(4) describe the role and responsibilities of lodging managers;

(5) compare the advantages and disadvantages of independently owned and chain-affiliated lodging facilities;

- (6)** analyze the departmental interrelationships of a lodging facility;
- (7)** explain various check-in and check-out procedures used in the lodging industry;
- (8)** understand reservation procedures used in the lodging industry;
- (9)** explain how room access policies and procedures ensure guest safety and minimize risks to the lodging facility;
- (10)** explain how cash control procedures are used in the lodging industry;
- (11)** explain how guests and property are protected to minimize losses or liabilities in the lodging facility; and
- (12)** explain the basic legal issues in lodging management.

**C.** Recreation, amusements and attractions career pathway (HT-REC). Students will:

- (1)** describe career opportunities in the HT-REC pathway;
- (2)** explain admission and traffic control procedures used to manage and control individuals, groups and vehicles in recreation, amusement and attraction venues;
- (3)** determine the maintenance and technology needs for various recreation, amusement and attraction venues;
- (4)** describe safety and security issues unique to the HT-REC pathway;
- (5)** compile a resource base to manage emergency situations in recreation, amusement and attraction venues;
- (6)** identify safety and security issues for recreation, amusement and attraction venues that might require customer education;
- (7)** compare different ticket sales options to maximize revenue for recreation, amusement and attraction venues;
- (8)** describe the types of information and directions a guest would need at a recreation, amusement and attraction entry point;
- (9)** develop marketing strategies for recreation, amusement and attractions venues;

**(10)** analyze the merchandising, program and product potential for different recreation, amusement and attraction venues; and

**(11)** compare and contrast various types of recreation, amusement and attraction venues.

**D.** Restaurants and food-beverage services career pathway (HT-RFB). Students will:

**(1)** describe ethical and legal responsibilities in food and beverage service facilities;

**(2)** demonstrate safety and sanitation procedures in food and beverage service facilities;

**(3)** use information from cultural and geographical studies to guide customer service decisions in food and beverage service facilities;

**(4)** demonstrate leadership qualities and collaboration with others;

**(5)** research costs, pricing, market demands and marketing strategies to manage profitability in food and beverage service facilities;

**(6)** explain the benefits of the use of computerized systems to manage food service operations and guest service;

**(7)** use technical resources for food services and beverage operations to update or enhance present practice;

**(8)** implement standard operating procedures related to food and beverage production and guest service;

**(9)** describe career opportunities and qualifications in the restaurant and food service industry; and

**(10)** apply listening, reading, writing and speaking skills to enhance operations and customer service in food and beverage service facilities.

**E.** Travel and tourism career pathway (HT-TT). Students will:

**(1)** apply information about time zones, seasons and domestic and international maps to create or enhance travel;

**(2)** apply unit and time conversion skills to develop travel schedules and compute cost, distance and time (including travel time) factors;

- (3) analyze cultural diversity factors to enhance travel planning;
- (4) assess the potential (real and perceived) hazards related to multiple environments and recommend appropriate safety, health and security measures for travelers;
- (5) develop a safety and security plan containing proactive and reactive solutions to manage emergency situations for travelers and staff;
- (6) use common travel and tourism terminology used to communicate within the industry;
- (7) customize travel with diverse transportation, lodging, cruise and food options;
- (8) compare and contrast services and products from related industries to understand and evaluate how they impact the delivery of travel and tourism products and services to customers;
- (9) identify the community elements necessary to maintain cooperative tourism development efforts;
- (10) develop a travel product that matches customer needs, wants and expectations;
- (11) design promotional packages to effectively market travel and tourism; and
- (12) select the most effective communication technique and media venue to convey travel marketing information to a target audience.

[6.29.3.17 NMAC - N, 4-30-2015]

**6.29.3.18 HUMAN SERVICES CAREER CLUSTER (HU) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the HU career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the HU career cluster are the ability to:

- (1) evaluate principles of planning, development, implementation and evaluation to accomplish long-range goals in the human services;
- (2) evaluate the role of the family, community and human services in society and the economy;

- (3) use effective communication with human services clients and their families;
- (4) demonstrate ethical and legal conduct in human services settings;
- (5) evaluate career opportunities in each of the HU pathways; and
- (6) explain how human development principles enhance the wellbeing of individuals and families.

**B. Consumer services career pathway (HU-CSM). Students will:**

- (1) summarize necessary credentials, licensures or state-specific requirements to prepare for a career in consumer services;
- (2) communicate product or equipment features that meet the needs of clients and consumers;
- (3) make consumer services recommendations meeting the needs of clients or customers;
- (4) analyze financial/economic situations when making recommendations about consumer services;
- (5) use standard business processes or procedures to create consumer service information and facilitate client interactions;
- (6) use a variety of methods to educate audiences about consumer services;
- (7) demonstrate knowledge of ethical and legal responsibilities associated with providing consumer services; and
- (8) apply business procedures and use equipment and facilities to produce satisfying client outcomes.

**C. Counseling and mental health services career pathway (HU-CMH). Students will:**

- (1) use clear written, spoken and nonverbal messages when communicating with clients about mental health services and the counseling process;
- (2) use functional and specialized assessments to evaluate needs and solutions for counseling and mental health;
- (3) evaluate client motivation, strengths and weaknesses to develop a client treatment program;

(4) demonstrate knowledge of an operational mental health or counseling program that meets organizational goals;

(5) demonstrate the ethical and legal responsibilities of counseling and mental health services; and

(6) choose appropriate counseling and therapy techniques to serve identified needs.

**D.** Early childhood development and services career pathway (HU-EC). Students will:

(1) demonstrate communication techniques with children to facilitate ongoing development and enhance learning;

(2) communicate effectively with fellow staff members to facilitate child development activities;

(3) maintain working knowledge of child development licensing and certification organizations to keep abreast of current procedures and changes;

(4) create and maintain relationships between staff and parents/family members to encourage involvement and facilitate child development and learning;

(5) evaluate safety and sanitation procedures associated with the early childhood education environment to assure compliance and prevent potential hazards;

(6) adhere to ethical and legal responsibilities, laws and regulations to protect children and families;

(7) apply principles of child growth and development, including social, emotional, physical and cognitive milestones, to provide comprehensive program offerings; and

(8) evaluate curriculum for inclusiveness of children with special needs.

**E.** Family and community services career pathway (HU-FAM). Students will:

(1) use formal and informal assessment practices to create and evaluate a prevention or treatment plan;

(2) identify community resources to provide family and community services;

(3) communicate effectively to gain support from the client's family and other support groups;



(4) comply with laws and procedures that govern abuse, neglect, confidentiality and other health and safety situations; and

(5) evaluate crisis prevention, intervention and resolution techniques to formulate emergency plans.

**F. Personal care services career pathway (HU-PC). Students will:**

(1) analyze basic principles of biology, chemistry and human anatomy for safe and effective utilization and selection of personal care products and services;

(2) evaluate an individualized personal care plan that reflects client preferences, needs and interests for a course of treatment/action;

(3) use data and information to maintain electronic records of client services and make recommendations for personal care services;

(4) demonstrate policies and procedures to achieve a safe and healthy environment for personal care services;

(5) develop organizational policies, procedures and regulations that establish personal care organization priorities, accomplish the mission and provide high-quality service to a diverse set of clients and families;

(6) identify personal care business opportunities enhanced by community involvement, self-improvement and current trends; and

(7) apply methods of obtaining feedback to understand expectations and promote high-quality personal care services standards.

[6.29.3.18 NMAC - N, 4-30-2015]

**6.29.3.19 INFORMATION TECHNOLOGY CAREER CLUSTER (IT) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the IT career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the IT (information technology) career cluster are the ability to:

(1) demonstrate effective professional communication skills and practices that enable positive customer relationships;

(2) use product or service design processes and guidelines to produce a IT product or service;

- (3) demonstrate the use of cross-functional teams in achieving IT project goals;
- (4) demonstrate positive cyber citizenry by applying industry accepted ethical practices and behaviors;
- (5) explain the implications of IT on business development;
- (6) describe trends in emerging and evolving computer technologies and their influence on IT practices;
- (7) perform standard computer backup and restore procedures to protect IT information;
- (8) recognize and analyze potential IT security threats to develop and maintain security requirements;
- (9) describe quality assurance practices and methods employed in producing and providing quality IT products and services;
- (10) describe the use of computer forensics to prevent and solve IT crimes and security breaches;
- (11) demonstrate knowledge of the hardware components associated with information systems; and
- (12) compare key functions and applications of software and determine maintenance strategies for computer systems.

**B. Information support and services career pathway (IT-SUP). Students will:**

- (1) provide technology support to maintain service;
- (2) manage operating systems and software applications, including maintenance of upgrades, patches and service packs;
- (3) apply appropriate troubleshooting techniques in resolving computer hardware, software and configuration problems;
- (4) perform installation, configuration and maintenance of operating systems;
- (5) demonstrate the use of networking concepts to develop a network;
- (6) evaluate the effectiveness of an information system;

**(7)** employ system installation and maintenance skills to setup and maintain an information system;

**(8)** employ system administration and control skills to monitor the performance of an information system;

**(9)** employ technical writing and documentation skills in support of an information system; and

**(10)** apply quality assurance processes to maximize information system operation.

**C. Network systems career pathway (IT-NET). Students will:**

**(1)** analyze customer or organizational network system needs and requirements;

**(2)** analyze wired and wireless network systems to determine if they meet specifications (e.g., institute of electrical and electronics engineers (IEEE), power, security);

**(3)** design a network system using technologies, tools and standards;

**(4)** perform network system installation and configuration; and

**(5)** perform network administration, monitoring and support to maintain a network system.

**D. Programming and software development career pathway (IT-PRG). Students will:**

**(1)** analyze customer software needs and requirements;

**(2)** demonstrate the use of industry standard strategies and project planning to meet customer specifications;

**(3)** analyze system and software requirements to ensure maximum operating efficiency;

**(4)** demonstrate the effective use of software development tools to develop software applications;

**(5)** apply an appropriate software development process to design a software application;

**(6)** program a computer application using the appropriate programming language;

- (7) demonstrate software testing procedures to ensure quality products;
- (8) perform quality assurance tasks as part of the software development cycle;
- (9) perform software maintenance and customer support functions; and
- (10) design, create and maintain a database.

**E. Web and digital communications career pathway (IT-WD). Students will:**

- (1) analyze customer requirements to design and develop a web or digital communication product;
- (2) apply the design and development process to produce user-focused web and digital communications solutions;
- (3) write product specifications that define the scope of work aligned to customer requirements;
- (4) demonstrate the effective use of tools for digital communication production, development and project management;
- (5) develop, administer and maintain web applications;
- (6) design, create and publish a digital communication product based on customer needs;
- (7) evaluate the functionality of a digital communication product using industry accepted techniques and metrics;
- (8) implement quality assurance processes to deliver quality digital communication products and services;
- (9) perform maintenance and customer support functions for digital communication products; and
- (10) comply with intellectual property laws, copyright laws and ethical practices when creating web/digital communications.

[6.29.3.19 NMAC - N, 4-30-2015]

**6.29.3.20 LAW, PUBLIC SAFETY, CORRECTIONS AND SECURITY CAREER CLUSTER (LW) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the LW career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the LW career cluster are the ability to:

- (1)** analyze the nature and scope of the LW and the role law, public safety, corrections and security play in society and the economy;
- (2)** formulate ideas, proposals and solutions to ensure effective and efficient delivery of law, public safety, corrections or security services;
- (3)** assess and implement measures to maintain safe and healthy working conditions in a law, public safety, corrections or security environment;
- (4)** conduct law, public safety, corrections and security work tasks in accordance with employee and employer rights, obligations and responsibilities, including occupational safety and health requirements;
- (5)** analyze the various laws, ordinances, regulations and organizational rules that apply to careers in law, public safety, corrections and security; and
- (6)** describe various career opportunities and means to those opportunities in each of the LW pathway.

**B.** Correction services career pathway (LW-COR). Students will:

- (1)** evaluate the correctional environment for signs of potential problems or danger;
- (2)** demonstrate leadership roles, responsibilities and collaboration in correctional environments;
- (3)** analyze the impact of federal, state and local laws on correctional facilities;
- (4)** describe the various roles and impacts of forensics and computer forensics in the resolution of crime in the correctional environment;
- (5)** describe the legal, regulatory and organizational guidelines governing the correction services;
- (6)** compare and contrast different career fields in the correction services;
- (7)** demonstrate effective communication skills (e.g., writing, speaking, active listening and nonverbal communication) in the correctional environment;

**(8)** analyze the techniques used to manage crisis situations and resolve conflicts in correctional environments;

**(9)** demonstrate the protocols regarding the reduction or elimination of sexual harassment or abuse in the correctional environment;

**(10)** analyze situations that require the use of force, including deadly force, to determine when varying degrees of force should be used in correctional facilities;

**(11)** analyze the impact of the fourth, fifth, sixth and fourteenth amendments in the correction services environment;

**(12)** apply the ethical and legal responsibilities of correctional staff to various situations in the correction services environment; and

**(13)** describe the knowledge and technical skills needed to carry out the day-to-day operations at a correctional facility.

**C.** Emergency and fire management services career pathway (LW-EFM). Students will:

**(1)** demonstrate effective communication skills (e.g., writing, speaking, listening and nonverbal communication) while utilizing communications equipment and platforms common to emergency and fire management services;

**(2)** manage an incident scene as the first responder using emergency response skills;

**(3)** use up-to-date technology equipment and applications to facilitate the management of emergency and fire management situations;

**(4)** demonstrate an understanding of the objectives and a commitment to the mission of emergency and fire management services;

**(5)** execute safety procedures and protocols associated with local, state and federal regulations;

**(6)** develop an organizational professional growth plan including the development of team building and leadership skills within the emergency and fire management environment;

**(7)** describe the legal, regulatory and organizational guidelines governing emergency and fire management services;

**(8)** compare and contrast the different career fields in fire and emergency management services;

**(9)** execute protocols for handling emergency situations that range from minor medical and fire emergencies to area-wide incidents;

**(10)** demonstrate the use and various applications of the equipment commonly used in emergency and fire management services;

**(11)** implement an appropriate incident command system to effectively manage an incident scene;

**(12)** use common codes and icons to properly handle and transport potentially hazardous substances in fire and medical emergency scenes;

**(13)** implement public relations plans to enhance public awareness and safety in fire and emergency situations;

**(14)** describe the elements and issues involved in using the preparedness and response systems available to manage large-scale disasters; and

**(15)** analyze the key functions and techniques of critical infrastructure protection in cases of terrorism or natural disasters.

**D. Law enforcement services career pathway (LW-ENF). Students will:**

**(1)** demonstrate effective communication skills (e.g., writing, speaking, listening and nonverbal communication) required in law enforcement;

**(2)** demonstrate proficiency in the operation of communication equipment used in an emergency telecommunications center;

**(3)** use anger and conflict management strategies to resolve problems in law enforcement settings;

**(4)** model behaviors that exhibit integrity and commitment to a code of conduct and ethics for law enforcement professionals;

**(5)** analyze the impact of federal, state and local laws on law enforcement procedures;

**(6)** execute established procedures to avoid the violation of the rights guaranteed by the fourth, fifth, sixth and fourteenth amendments;

**(7)** manage crime and loss prevention programs in collaboration with the community;

**(8)** explain the appropriate techniques for managing crisis situations in order to maintain public safety;

- (9)** evaluate for the signs of domestic violence, child abuse and neglect;
- (10)** demonstrate the routine day-to-day tasks conducted by various law enforcement agencies;
- (11)** describe law enforcement protocols and procedures designed to handle incidents related to homeland security, terrorism and other disaster situations;
- (12)** demonstrate the procedures to properly protect, document and process the crime scene and all related evidence;
- (13)** demonstrate procedures to assist individuals requiring special assistance from law enforcement personnel; and
- (14)** describe the behavioral symptoms of drug use and the inherent dangers associated with handling dangerous drugs.

**E. Legal services career pathway (LW-LEG). Students will:**

- (1)** demonstrate effective communication skills (writing, speaking, listening and nonverbal communication) in the legal services environment;
- (2)** interpret nonverbal communication cues in order to discern facts from fabrication;
- (3)** produce written legal materials using writing strategies applicable to the legal services environment;
- (4)** apply information technology tools to perform daily tasks assigned to legal services professionals;
- (5)** analyze the role forensics plays in preventing and solving crimes;
- (6)** use legal terminology to communicate within the legal services community;
- (7)** compare and contrast different career fields in the legal services;
- (8)** analyze the influence of the three branches of the United States government (judicial, legislative and executive) on the legal services; and
- (9)** analyze the impact of the fourth, fifth, sixth and fourteenth amendments on the provision of legal services.

**F. Security and protective services career pathway (LW-SEC). Students will:**



- (1)** demonstrate effective communications skills (e.g., writing, speaking, listening and nonverbal communication) when communicating security-related directives, technical concepts and other information;
- (2)** use conflict resolution skills to resolve conflicts among individuals;
- (3)** compare and contrast the roles, responsibilities, tools and techniques of the criminal justice and security fields;
- (4)** describe the legal, regulatory and organizational guidelines governing the security and protective services;
- (5)** analyze the impact of federal, state and local laws on the security and protective services field;
- (6)** apply ethical and legal responsibilities of security and protective services personnel to various situations in the security and protective services field;
- (7)** analyze the impact of the fourth, fifth, sixth and fourteenth amendments on the security and protective services;
- (8)** compare and contrast the different career fields in the security and protective services;
- (9)** evaluate the application and relevance of crime prevention concepts and security assessments to security and protective services functions;
- (10)** explain the application of risk management principles to the protection of assets in various settings;
- (11)** describe the importance of utilizing good public relations techniques and building relationships in security and crisis situations;
- (12)** describe the role of security systems in an overall security strategy;
- (13)** explain the duties of security and protective services personnel in terrorism, homeland security and disaster preparedness;
- (14)** apply basic management principles for the effective supervision and management of a security force or an organization's security program;
- (15)** perform the roles and responsibilities of a security officer, including basic incident response;
- (16)** compare types and techniques of security approaches within the public and private sectors;

(17) demonstrate the concepts and techniques used to ensure the security of information-based and intangible assets; and

(18) summarize the importance and roles of intelligence analysis in crime prevention and homeland security.

[6.29.3.20 NMAC - N, 4-30-2015]

**6.29.3.21 MANUFACTURING CAREER CLUSTER (MN) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the MN career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the MN career cluster are the ability to:

(1) evaluate the nature and scope of the MN cluster and the role of manufacturing in society and in the economy;

(2) analyze and summarize how manufacturing businesses improve performance;

(3) comply with federal, state and local regulations to ensure worker safety and health and environmental work practices;

(4) describe career opportunities and means to achieve those opportunities in each of the MN pathways;

(5) describe government policies and industry standards that apply to manufacturing; and

(6) demonstrate workplace knowledge and skills common to manufacturing.

**B.** Health, safety and environmental assurance career pathway (MN-HSE).  
Students will:

(1) demonstrate the safe use of manufacturing equipment;

(2) develop safety plans for production processes that meet health, safety and environmental standards;

(3) demonstrate a safety inspection process to assure a healthy and safe manufacturing environment;

(4) evaluate a system of health, safety or environmental programs, projects, policies or procedures to determine compliance;

**(5)** evaluate continuous improvement protocols and techniques in health, safety or environmental practices;

**(6)** conduct job safety and health analysis for manufacturing jobs, equipment and processes; and

**(7)** develop the components of a training program based on environmental health and safety regulations.

**C. Logistics and inventory control career pathway (MN-LOG). Students will:**

**(1)** demonstrate positive customer service skills in regard to logistics and inventory control issues;

**(2)** demonstrate proper handling of products and materials in a manufacturing facility;

**(3)** develop a safety inspection process to assure a healthy and safe manufacturing facility; and

**(4)** manage inventory using logistics and control processes and procedures.

**D. Maintenance, installation and repair career pathway (MN-MIR). Students will:**

**(1)** demonstrate maintenance skills and proficient operation of equipment to maximize manufacturing performance;

**(2)** demonstrate the safe use of manufacturing equipment to ensure a safe and healthy environment;

**(3)** diagnose equipment problems and effectively repair manufacturing equipment;

**(4)** investigate and employ techniques to maximize manufacturing equipment performance;

**(5)** implement a preventative maintenance schedule to maintain manufacturing equipment, tools and workstations; and

**(6)** implement an effective, predictive and preventive manufacturing equipment maintenance program.

**E. Manufacturing production process development career pathway (MN-PPD). Students will:**

**(1)** produce quality products that meet manufacturing standards and exceed customer satisfaction;

**(2)** research, design and implement alternative manufacturing processes to manage production of new or improved products;

**(3)** monitor, promote and maintain a safe and productive workplace using techniques and solutions that ensure safe production of products;

**(4)** implement continuous improvement processes in order to maintain quality within manufacturing production; and

**(5)** develop procedures to create products that meet customer needs.

**F. Production career pathway (MN-PRO). Students will:**

**(1)** diagnose production process problems and take corrective action to meet production quality standards;

**(2)** manage safe and healthy production working conditions and environmental risks;

**(3)** make continuous improvement recommendations based on results of production process audits and inspections;

**(4)** coordinate work teams when producing products to enhance production process and performance; and

**(5)** demonstrate the safe use of manufacturing equipment.

**G. Quality assurance career pathway (MN-QA). Students will:**

**(1)** evaluate production operations for product and process quality;

**(2)** recommend and implement continuous improvement in manufacturing processes;

**(3)** coordinate work teams to create a product that meets quality assurance standards;

**(4)** employ project management processes using data and tools to deliver quality, value-added products;

**(5)** perform safety inspections and training to ensure a safe and healthy workplace;

(6) implement continuous improvement processes to maintain quality products; and

(7) identify inspection processes that ensure products meet quality specifications.

[6.29.3.21 NMAC - N, 4-30-2015]

**6.29.3.22 MARKETING CAREER CLUSTER (MK) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the MK career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the MK career cluster are the ability to:

(1) describe the impact of economics, economics systems and entrepreneurship on marketing;

(2) implement marketing research to obtain and evaluate information for the creation of a marketing plan;

(3) plan, monitor, manage and maintain the use of financial resources for marketing activities;

(4) plan, monitor and manage the day-to-day activities required for continued marketing business operations;

(5) describe career opportunities and the means to achieve those opportunities in each of the MK pathways;

(6) select, monitor and manage sales and distribution channels;

(7) determine and adjust prices to maximize return while maintaining customer perception of value;

(8) obtain, develop, maintain and improve a product or service mix in response to market opportunities;

(9) communicate information about products, services, images or ideas to achieve a desired outcome; and

(10) use marketing strategies and processes to determine and meet client needs and wants.

**B.** Marketing communications career pathway (MK-COM). Students will:

(1) apply techniques and strategies to convey ideas and information through marketing communications;

(2) plan, manage and monitor day-to-day activities of marketing communications operations;

(3) access, evaluate and disseminate information to enhance marketing decision-making processes;

(4) obtain, develop, maintain and improve a marketing communications product or service mix to respond to market opportunities; and

(5) communicate information about products, services, images or ideas to achieve a desired outcome.

**C. Marketing management career pathway (MK-MGT). Students will:**

(1) plan, organize and lead marketing staff to achieve business goals;

(2) plan, manage and monitor day-to-day marketing management operations;

(3) plan, manage and organize to meet the requirements of the marketing plan;

(4) access, evaluate and disseminate information to aid in making marketing management decisions;

(5) determine and adjust prices to maximize return and meet customers' perceptions of value;

(6) obtain, develop, maintain and improve a product or service mix in response to market opportunities; and

(7) communicate information about products, services, images or ideas.

**D. Marketing research career pathway (MK-RES). Students will:**

(1) plan, organize and manage day-to-day marketing research activities;

(2) design and conduct research activities to facilitate marketing business decisions; and

(3) use information systems and tools to make marketing research decisions.

**E. Merchandising career pathway (MK-MER). Students will:**

- (1) plan, organize and lead merchandising staff to enhance selling and merchandising skills;
- (2) plan, manage and monitor day-to-day merchandising activities;
- (3) move, store, locate or transfer ownership of retail goods and services;
- (4) access, evaluate and disseminate marketing information to facilitate merchandising decisions and activities;
- (5) determine and adjust prices to maximize return and meet customers perceptions of value;
- (6) obtain, develop, maintain and improve a product or service mix to respond to market opportunities;
- (7) communicate information about retail products, services, images or ideas; and
- (8) create and manage merchandising activities that provide for client needs and wants.

**F.** Professional sales career pathway (MK-SAL). Students will:

- (1) access, evaluate and disseminate sales information;
- (2) apply sales techniques to meet client needs and wants; and
- (3) plan, organize and lead sales staff to enhance sales goals.

[6.29.3.22 NMAC - N, 4-30-2015]

**6.29.3.23 SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS CAREER CLUSTER (ST) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**

**A.** All pathways in the ST career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the ST career cluster are the ability to:

- (1) apply engineering skills in a project that requires project management, process control and quality assurance;
- (2) use technology to acquire, manipulate, analyze and report data;

(3) describe and follow safety, health and environmental standards related to science, technology, engineering and mathematics (STEM) workplaces;

(4) understand the nature and scope of the ST career cluster and the role of STEM in society and the economy;

(5) demonstrate an understanding of the breadth of career opportunities and means to those opportunities in each of the ST career pathways; and

(6) demonstrate technical skills needed in a chosen STEM field.

**B. Engineering and technology career pathway (ST-ET). Students will:**

(1) use STEM concepts and processes to solve problems involving design or production;

(2) display and communicate STEM information;

(3) apply processes and concepts for the use of technological tools in STEM;

(4) apply the elements of the design process;

(5) apply the knowledge learned in STEM to solve problems; and

(6) apply the knowledge learned in the study of STEM to provide solutions to human and societal problems in an ethical and legal manner.

**C. Science and mathematics career pathway (ST-SM). Students will:**

(1) apply science and mathematics to provide results, answers and algorithms for engineering and technological activities;

(2) apply science and mathematics concepts to the development of plans, processes and projects that address real world problems;

(3) analyze the impact that science and mathematics has on society; and

(4) apply critical thinking skills to review information, explain statistical analysis and to translate, interpret and summarize research and statistical data.

[6.29.3.23 NMAC- N, 4-30-2015]

**6.29.3.24 TRANSPORTATION, DISTRIBUTION AND LOGISTICS CAREER CLUSTER (TD) FOR COMMON CAREER TECHNICAL CORE FOR CAREER AND TECHNICAL EDUCATION:**



**A.** All pathways in the TD career cluster should align to business and industry certifications where available and appropriate. Student abilities common to pathways in the TD career cluster are the ability to:

- (1)** describe the nature and scope of the TD cluster and the role of transportation, distribution and logistics in society and the economy;
- (2)** describe the application and use of new and emerging advanced techniques to provide solutions for transportation, distribution and logistics problems;
- (3)** describe the key operational activities required of successful transportation, distribution and logistics facilities;
- (4)** identify governmental policies and procedures for TD facilities;
- (5)** describe transportation, distribution and logistics employee rights and responsibilities and employers' obligations concerning occupational safety and health; and
- (6)** describe career opportunities and means to achieve those opportunities in each of the TD career pathways.

**B.** Facility and mobile equipment maintenance career pathway (TD-MTN). Students will:

- (1)** develop preventative maintenance plans and systems to keep facility and mobile equipment inventory in operation; and
- (2)** design ways to improve facility and equipment system performance.

**C.** Health, safety and environmental management career pathway (TD-HSE). Students will:

- (1)** describe the health, safety and environmental rules and regulations in transportation, distribution and logistics workplaces; and
- (2)** develop solutions to improve performance of health, safety and environmental management services.

**D.** Logistics planning and management services career pathway (TD-LOG). Students will:

- (1)** develop solutions to provide and manage logistics services for the company and customers; and

**(2)** analyze and improve performance of logistics systems to provide logistics planning and management services.

**E.** Sales and service career pathway (TD-SAL). Students will:

**(1)** analyze the ongoing performance of transportation, logistics and distribution-related sales and service operations; and

**(2)** demonstrate the use of sales and ongoing service of products and services that are transportation-related to promote development of existing and future clients and customers.

**F.** Transportation operations career pathway (TD-OPS). Students will:

**(1)** develop and evaluate transportation plans to move people or goods to meet customer requirements;

**(2)** analyze performance of transportation operations in order to improve quality and service levels and increase efficiency; and

**(3)** comply with policies, laws and regulations in order to maintain safety, security and health and mitigate the economic and environmental risk of transportation operations.

**G.** Transportation systems and infrastructure planning, management and regulation career pathway (TD-SYS). Students will:

**(1)** develop plans to maintain or improve the transportation infrastructure;

**(2)** assess, plan and manage the implementation of transportation services; and

**(3)** describe ways to improve the system utilization, flow, safety and environmental performance of transportation systems.

**H.** Warehousing and distribution center operations career pathway (TD-WAR). Students will:

**(1)** demonstrate efficient and effective warehouse and distribution center operations;

**(2)** describe ways to improve the performance of warehouse and distribution operations; and

**(3)** analyze compliance with company policies and government laws and regulations in warehouse and distribution operations.

**6.29.3.25 CAREER-READY PRACTICES:**

The following indicate that a person is career-ready:

**A.** Acting as a responsible and contributing citizen and employee.

**B.** A career-ready individual:

**(1)** understands the obligations and responsibilities of being a member of a community, and demonstrates this understanding every day through interactions with others; career-ready individuals are conscious of the impact of their decisions on others and the environment around them; they think about the near-term and long-term consequences of their actions and seek to act in ways that contribute to the betterment of their teams, families, community and workplace; they are reliable and consistent in going beyond the minimum expectation and in participating in activities that serve the greater good;

**(2)** applies appropriate academic and technical skills; career-ready individuals readily access and use the knowledge and skills acquired through experience and education to be more productive; career-ready persons make connections between abstract concepts with real-world applications and they make correct insights about when it is appropriate to apply the use of an academic skill in a workplace situation;

**(3)** attends to personal health and financial well-being; career-ready individuals understand the relationship between personal health, workplace performance and personal well-being; career-ready persons act on that understanding to regularly practice healthy diet, exercise and mental health activities; career-ready persons also take regular action to contribute to their personal financial well-being, understanding that personal financial security provides the peace of mind required to contribute more fully to their own career success;

**(4)** communicates clearly, effectively and reasonably; career-ready individuals communicate thoughts, ideas and action plans with clarity, whether using written, verbal or visual methods; career-ready persons communicate in the workplace with clarity and purpose to make maximum use of their own and others' time; they are excellent writers; they master conventions, word choice and organization and use effective tone and presentation skills to articulate ideas; they are skilled at interacting with others; they are active listeners and speak clearly and with purpose; career-ready persons think about the audience for their communication and prepare accordingly to ensure the desired outcome;

**(5)** considers the environmental, social and economic impact of their decisions; career-ready individuals understand the interrelated nature of their actions and regularly make decisions that have a positive impact on or mitigate negative impact

on other people, organizations and the environment; they are aware of and use new technologies, understandings, procedures, materials and regulations affecting the nature of their work as it relates to the impact on the social condition, the environment and profitability of the organization;

**(6)** demonstrates creativity and innovation; career-ready individuals regularly think of ideas that solve problems in new and different ways, and contributing those ideas in a useful and productive manner to improve their organization; career-ready persons can consider unconventional ideas and suggestions as solutions to issues, tasks or problems, and they discern which ideas and suggestions will add greatest value; they seek new methods, practices and ideas from a variety of sources and seek to apply those ideas to their own workplace; they take action on their ideas and understand how to bring innovation to an organization;

**(7)** employs valid and reliable research strategies; career-ready individuals are discerning in accepting and using new information to make decisions, change practices or inform strategies; career-ready persons use a reliable research process to search for new information; they evaluate the validity of sources when considering the use and adoption of external information or practices; they use an informed process to test new ideas, information and practices in their workplace situation;

**(8)** uses critical thinking to make sense of problems and persevering in solving them; career-ready individuals readily recognize problems in the workplace, understand the nature of the problem and devise effective plans to solve the problem; they thoughtfully investigate the root cause of the problem prior to introducing solutions; they carefully consider the options to solve the problem; once a solution is agreed upon, they follow through to ensure the problem is solved whether through their own actions or the actions of others;

**(9)** models integrity, ethical leadership and effective management; career-ready individuals act consistently in ways that align to personal and community-held ideals and principles while employing strategies to positively influence others in the workplace; career-ready persons have a clear understanding of integrity and act on this understanding in every decision; they use a variety of means to positively impact the direction and actions of a team or organization, and they apply insights into human behavior to change others' actions, attitudes or beliefs; they recognize the near-term and long-term effects that management's actions and attitudes can have on productivity, morale and organizational culture;

**(10)** plans education and career path alignment to personal goals; career-ready individuals take personal ownership of their own educational and career goals, and regularly acting on a plan to attain these goals; career-ready persons understand their own career interests, preferences, goals and requirements; they have perspective regarding the pathways available to them and the time, effort, experience and other requirements to pursue each, including a path of entrepreneurship; they recognize the value of each step in the educational and experiential process, and they recognize that

nearly all career paths require ongoing education and experience; they seek counselors, mentors and other experts to assist in the planning and execution of career and personal goals;

**(11)** uses technology to enhance productivity; career-ready individuals find and maximize the productive value of existing and new technology to accomplish workplace tasks and solve workplace problems; career-ready persons are flexible and adaptive in acquiring and using new technology; they are proficient with ubiquitous technology applications; they understand the inherent risks - personal and organizational - of technology applications, and they take actions to prevent or mitigate these risks;

**(12)** works productively in teams while using cultural or global competence; career-ready individuals contribute positively to every team, formally or informally; career-ready persons apply an awareness of cultural differences to avoid barriers to productive and positive interaction; they find ways to increase the engagement and contribution of all team members; they plan and facilitate effective team meetings.

[6.29.3.25 NMAC - N, 4-30-2015]

## **PART 4: ENGLISH LANGUAGE ARTS [EXPIRED]**

[This part expired June 30, 2012.]

## **PART 5: ENGLISH LANGUAGE DEVELOPMENT**

### **6.29.5.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.5.1 NMAC - N, 08-31-2009]

### **6.29.5.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.5.2 NMAC - N, 08-31-2009]

### **6.29.5.3 STATUTORY AUTHORITY:**

This rule is being promulgated pursuant to Sections 9-24-8, 22-2-1, 22-2-2, and 22-2C-3 NMSA 1978.

[6.29.5.3 NMAC - N, 8/31/2009; A, 7/18/2023]

### **6.29.5.4 DURATION:**

Permanent.

[6.29.5.4 NMAC - N, 08-31-2009]

#### **6.29.5.5 EFFECTIVE DATE:**

August 31, 2009, unless a later date is cited at the end of a section.

[6.29.5.5 NMAC - N, 08-31-2009]

#### **6.29.5.6 OBJECTIVE:**

The department-approved English language development standards provide a companion piece to the New Mexico content standards for English language arts. The approved standards shall guide second-language instruction for PreK-12 English language learner students. The English language learner population falls into three basic categories: students whose primary or home language (L1) is other than English including recent immigrants; students from heritage language groups needing enrichment and further development of academic English, some of whom maintain degrees of fluency in their heritage language; and any other students needing enrichment and further development of academic English. Because instruction must address the appropriate proficiency level of the individual student, which may vary greatly for any age, some consideration shall be made for the student's maturity level.

[6.29.5.6 NMAC - N, 8/31/2009; A, 8/29/2014; A, 7/18/2023]

#### **6.29.5.7 DEFINITIONS:**

**A. "Academic content standards"** means statements that define the knowledge and skills students need to know and be able to demonstrate as proof of competency in the core content areas associated with schooling.

**B. "Academic language"** means the language used in academic content in formal schooling contexts, including specialized or technical language and discourse related to each content area.

**C. "Discourse"** means extended, connected language that may include explanations, descriptions and propositions.

**D. "English language learners"** (ELL) means a student whose first or heritage language is not English and who is unable to read, write, speak, or understand English at a level comparable to grade-level English proficient peers and native English speakers.

**E. "Heritage language"** means a language other than English that is inherited from a family, tribe, community or country of origin.

**F. "Language domains"** means the four main subdivisions of language: listening, speaking, reading and writing.

**G. "Levels of English language proficiency"** means the arbitrary division of the second language acquisition continuum into stages of language development.

**H. "Listening"** means the ability to process, understand, interpret and evaluate spoken language in a variety of situations.

**I. "Reading"** means the ability to process, understand, interpret and evaluate written language, symbols and text with understanding and fluency.

**J. "Speaking"** means oral communication used in a variety of situations for a variety of purposes and audiences.

**K. "Writing"** means written communication used in a variety of forms for a variety of purposes and audiences.

[6.29.5.7 NMAC - N, 08-31-2009]

#### **6.29.5.8 ENGLISH LANGUAGE DEVELOPMENT STANDARDS GRADE SPANS:**

The English language development standards established by the department are organized in grade levels as follows: PreK-K, 1, 2, 3, 4, 5, 6, 7, 8, 9 - 10 and 11 - 12.

[6.29.5.8 NMAC - N, 08-31-2009; A, 08-29-2014]

#### **6.29.5.9 ENGLISH LANGUAGE DEVELOPMENT STANDARDS PROFICIENCY LEVELS AND LANGUAGE DOMAINS:**

**A.** The English language development standards have five general levels of English language proficiency: "entering" (level 1), "emerging" (level 2), "developing" (level 3), "expanding" (level 4), "bridging" (level 5)."

**B.** Reading, writing, listening and speaking skills are addressed at each proficiency level.

[6.29.5.9 NMAC - N, 08-31-2009; A, 08-29-2014]

#### **6.29.5.10 CONTENT STANDARDS FOR ENGLISH LANGUAGE DEVELOPMENT, Grades PreK-12:**

The New Mexico English language development content standards distinguish five general standards: "Social and instructional language," "The language of language arts," "the language of mathematics," "the language of science," and "the language of

social studies." Reading, writing, listening and speaking skills are addressed in each standard.

**A.** English language proficiency standard 1: PreK- 12. Social and instructional language: English language learners communicate for social and instructional purposes within the school setting.

**(1)** Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

**(2)** Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

**(3)** Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

**(4)** Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

**B.** English language proficiency standard 2: PreK-12. The language of language arts: English language learners communicate information, ideas and concepts necessary for academic success in the content area of language arts.

**(1)** Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

**(2)** Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

**(3)** Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

**(4)** Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

**C.** English language proficiency standard 3: PreK-12. The language of mathematics: English language learners communicate information, ideas and concepts necessary for academic success in the content area of mathematics.

**(1)** Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

**(2)** Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.



(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

**D.** English language proficiency standard 4: PreK-12. The language of science: English language learners communicate information, ideas and concepts necessary for academic success in the content area of science.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

**E.** English language proficiency standard 5: PreK-12. The language of social studies: English language learners communicate information, ideas and concepts necessary for academic success in the content area of social studies.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

[6.29.5.10 NMAC - N, 08-31-2009; A, 08-29-2014]

#### **6.29.5.11 IDENTIFICATION OF ENGLISH LANGUAGE LEARNERS:**

The department-approved New Mexico language usage survey shall be completed for all new students initially enrolling in a public school.

**A.** Students for whom the department-approved New Mexico language usage survey indicates a language other than English shall be screened with the department-approved English language proficiency screening assessment.

**B.** Students receiving scores below the composite score established by the department to be used to determine English language proficiency will be classified as English language learners and are eligible to receive English language development services.

**C.** The department-approved New Mexico language usage survey and the English language proficiency screening assessment results shall be kept in each student's cumulative file.

**D.** Initial identification of a student as an English language learner and parent notification shall occur not later than 30 days after the beginning of the school year, or within two weeks of initial enrollment if not enrolled at the beginning of the school year.

**E.** Students classified as English language learners shall be assessed annually with the department-approved English language proficiency assessment and the results shall be kept in each student's cumulative file.

[6.29.5.11 NMAC - N, 8/29/2014; A, 10/31/2016; A, 7/18/2023]

#### **6.29.5.12 EXIT CRITERIA FOR ENGLISH LANGUAGE LEARNER STATUS:**

**A.** English language learners attaining a composite score as determined by the department on the department-approved English language proficiency assessment will exit English language learner status and shall be reclassified as fluent English proficient.

**B.** Students attaining the composite score identified in Subsection A shall be monitored for academic progress for two subsequent school years by the school district.

[6.29.5.12 NMAC - N, 8/20/2014; A, 10/31/2016; A, 7/18/2023]

#### **6.29.5.13 REQUIRED INSTRUCTION FOR ENGLISH LANGUAGE LEARNERS:**

**A.** Designated English language development – instruction to develop the English language proficiency of ELLs based on the student's English language proficiency level and grade level; instruction shall be distinct from content area instruction.

**B.** Integrated English language development – Integrated instruction to attain English language proficiency and to meet content standards and benchmarks; shall occur in all content area instruction.

[6.29.5.13 NMAC - N, 7/18/2023]

## **PART 6: HEALTH EDUCATION**

### **6.29.6.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.6.1 NMAC - N, 6-30-2009]

### **6.29.6.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.6.2 NMAC - N, 6-30-2009]

### **6.29.6.3 STATUTORY AUTHORITY:**

A. Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

B. Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.6.3 NMAC - N, 6-30-2009]

### **6.29.6.4 DURATION:**

Permanent.

[6.29.6.4 NMAC - N, 6-30-2009]

### **6.29.6.5 EFFECTIVE DATE:**

June 30, 2009, unless a later date is cited at the end of a section.

[6.29.6.5 NMAC - N, 6-30-2009]

### **6.29.6.6 OBJECTIVE:**

The New Mexico content standards with benchmarks and performance standards for health education are mandated for students in grades K-12. (The New Mexico content

standards with benchmarks for health education were adopted in March 1997 as part of 6 NMAC 3.2; the benchmarks and performance standards were revised in June 2007.)

[6.29.6.6 NMAC - N, 6-30-2009]

#### **6.29.6.7 DEFINITIONS:**

**[RESERVED]**

#### **6.29.6.8 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR HEALTH EDUCATION, Grades K-4:**

A. Content standard 1: Students will comprehend concepts related to health promotion and disease prevention. Students will:

(1) grades K-4 benchmark 1: identify/describe/understand the relationships between personal health behaviors and individual well-being;

(a) grade K performance standards:

(i) describe how personal choices relate to health and how the consequences of those choices affect self and others (i.e., smoking, lack of physical activity, nutrition, personal hygiene, personal safety, etc.);

(ii) describe characteristics of healthy and unhealthy relationships (i.e., describe the unique differences of self and others, etc.);

(iii) describe what is meant by good personal hygiene (i.e., describe the importance of hand washing in disease prevention, etc.);

(b) grades 1-2 performance standards:

(i) identify how personal choices relate to health and how the consequences of those choices affect self and others (i.e., smoking, lack of physical activity, nutrition, personal hygiene, personal safety, etc.);

(ii) identify characteristics of healthy and unhealthy relationships (i.e., describe the unique differences of self and others, etc.);

(iii) recognize what is meant by good personal hygiene (i.e., describe the importance of hand washing in disease prevention, etc.);

(c) grades 3-4 performance standards:

(i) identify and understand how personal choices relate to health and how the consequences of those choices affect self and others (i.e., smoking, lack of physical activity, nutrition, personal hygiene, abstinence, personal safety, etc.);

(ii) identify and describe characteristics of healthy and unhealthy relationships (i.e., describe the unique differences of self and others, etc.);

(iii) discuss what is meant by good personal hygiene (i.e., describe the importance of hand washing in disease prevention, etc.);

(iv) list the steps associated with refusal skills and their relationship to the decision-making process;

(2) grades K-4 benchmark 2: identify examples of mental, emotional, social and physical health during childhood;

(a) grade K performance standards:

(i) recognize different emotions;

(ii) identify compassionate behavior and its relationship to diversity (i.e., bullying, disabilities, other special needs, etc.);

(iii) identify the differences between safe and unsafe situations (i.e., bullying, good touch/bad touch, alcohol, tobacco, other drugs, food contamination, etc.);

(iv) list positive health choices and activities that promote health and help prevent diseases;

(b) grades 1-2 performance standards:

(i) describe different emotions;

(ii) describe compassionate behavior and its relationship to diversity (i.e., bullying, disabilities, other special needs, etc.);

(iii) identify the differences between safe and unsafe situations (i.e., bullying, good touch/bad touch, alcohol, tobacco, other drugs, food contamination, etc.);

(iv) recall positive health choices and activities that promote health and help prevent diseases;

(c) grades 3-4 performance standards:

(i) understand different emotions;

(ii) recognize compassionate behavior and its relationship to diversity (i.e., bullying, disabilities, other special needs, etc.);

(iii) identify and understand the differences between safe and unsafe situations (i.e., bullying, good touch/bad touch, alcohol, tobacco, other drugs, food contamination, etc.);

(iv) understand positive health choices and activities that promote health and help prevent diseases;

(v) describe different types of family units and their relationship to health (i.e., single, grandparent, same sex parents, etc.);

(3) grades K-4 benchmark 3: describe the basic structure and functions of the human body systems;

(a) grade K performance standards:

(i) identify the effects of lifestyle choices on body systems (i.e., alcohol, tobacco, other drugs, second-hand smoke, food, physical activity, etc.);

(ii) describe how stress and emotions affect the body systems;

(iii) utilize correct terminology for the human body;

(b) grades 1-2 performance standards:

(i) know the effects of lifestyle choices on body systems (i.e., alcohol, tobacco, other drugs, second-hand smoke, food, physical activity, etc.);

(ii) identify and list how stress and emotions affect the body systems;

(iii) understand correct terminology for the human body;

(c) grades 3-4 performance standards:

(i) understand the effects of lifestyle choices on body systems (i.e., alcohol, tobacco, other drugs, second-hand smoke, food, physical activity, abstinence, etc.);

(ii) recognize how stress and emotions affect the body systems;

(iii) utilize correct terminology for the human body;

(iv) identify the different changes in body that occur during puberty;

(4) grades K-4 benchmark 4: describe how physical, social and emotional environments influence personal health;

(a) grade K performance standards:

(i) recognize the behaviors that could affect other people (i.e., smoking, drinking, physical activity, nutrition, etc.);

(ii) identify the differences between safe and unsafe situations (i.e., bullying, good touch/bad touch, alcohol, tobacco, other drugs, food contamination, poisonous substances, etc.);

(iii) know how to access help (i.e., dial 911 in an emergency, trusted adult, etc.);

(iv) recognize the influences of media and peer pressure on health;

(b) grades 1-2 performance standards:

(i) describe the behaviors that could affect other people (i.e., smoking, drinking, physical activity, nutrition, etc.);

(ii) identify the differences between safe and unsafe situations (i.e., bullying, good touch/bad touch, alcohol, tobacco and other drugs, food contamination, poisonous substances, etc.);

(iii) know how to access help (i.e., dial 911 in an emergency, trusted adult, etc.);

(iv) describe the influences of media and peer pressure on health;

(c) grades 3-4 performance standards:

(i) understand the behaviors that could affect other people (i.e., smoking, drinking, physical activity, nutrition, etc.);

(ii) identify the differences between safe and unsafe situations (i.e., bullying, good touch/bad touch, alcohol, tobacco, other drugs, food contamination, poisonous substances, etc.);

(iii) know how to access help (i.e., dial 911 in an emergency, trusted adult, etc.);

(iv) understand the influences of media and peer pressure on health;

(5) grades K-4 benchmark 5: identify common health issues of children;

(a) grade K performance standards:

- (i) name common physical health issues of children in same age group (i.e., intentional and unintentional injury, personal hygiene, etc.);
- (ii) name common social health issues of children in same age group (i.e., peer pressure, relationships, etc.);
- (iii) name common emotional health issues of children in same age group (i.e., effects of bullying, when family member is sick, sadness, domestic violence, etc.);
- (iv) name common environmental health issues that affect children in same age group (i.e., second-hand smoke, litter, noise, etc.);

(b) grades 1-2 performance standards:

- (i) describe common physical health issues of children in same age group (i.e., intentional and unintentional injury, personal hygiene, etc.);
- (ii) describe common social health issues of children in same age group (i.e., peer pressure, relationships, etc.);
- (iii) describe common emotional health issues of children in same age group (i.e., effects of bullying, when family member is sick, sadness, domestic violence, etc.);
- (iv) describe common environmental health issues that affect children in same age group (i.e., second-hand smoke, litter, noise, etc.);

(c) grades 3-4 performance standards:

- (i) recognize common physical health issues of children in same age group (i.e., intentional and unintentional injury, personal hygiene, etc.);
- (ii) recognize common social health issues of children in same age group (i.e., peer pressure, relationships, etc.);
- (iii) recognize common emotional health issues of children in same age group (i.e., effects of bullying, when family member is sick, sadness, domestic violence, etc.);
- (iv) recognize common environmental health issues that affect children in same age group (i.e., second-hand smoke, litter, noise, etc.);



(6) grades K-4 benchmark 6: identify health problems that should be detected and treated early and explain how childhood injuries and illnesses can be prevented or treated;

(a) grade K performance standards:

(i) identify symptoms of illness (i.e., runny nose, coughing, fever, stomachache, sadness, etc.);

(ii) list individuals that can help with detecting and treating childhood injuries and illnesses (i.e., parent, grandparent, teacher, counselor, nurse, doctor, etc.);

(iii) identify the benefits of following the directions of health care providers;

(iv) list safety rules for different situations (i.e., playground safety, bus safety, classroom rules, etc.);

(v) describe the importance of taking personal responsibility for actions;

(b) grades 1-2 performance standards:

(i) describe symptoms of illness (i.e., runny nose, coughing, fever, stomach ache, sadness, etc.);

(ii) list individuals that can help with detecting and treating childhood injuries and illnesses (i.e., parent, grandparent, teacher, counselor, nurse, doctor, etc.);

(iii) describe the benefits of following the directions of health care providers;

(iv) describe safety rules for different situations (i.e., playground safety, bus safety, classroom rules, etc.);

(v) describe the importance of taking personal responsibility for actions;

(c) grades 3-4 performance standards:

(i) recognize symptoms of illness (i.e., runny nose, coughing, fever, stomach ache, sadness, etc.);

(ii) list individuals that can help with detecting and treating childhood injuries and illnesses and explain what role the individuals play (i.e., parent, grandparent, teacher, counselor, nurse, doctor, etc.);

(iii) understand the benefits of following the directions of health care providers;

(iv) list and understand safety rules for different situations (i.e., playground safety, bus safety, classroom rules, etc.);

(v) understand the importance of taking personal responsibility for actions.

B. Content standard 2: Students will demonstrate the ability to access valid health information and health-promoting products and services. Students will:

(1) grades K-4 benchmark 1: identify characteristics of valid health information and health-promoting products and services;

(a) grade K performance standards:

(i) recognize safe and unsafe products in the home and community (i.e., bleach vs. milk, used needles, etc.);

(ii) identify appropriate adults to talk to regarding health and safety issues;

(iii) recognize health-promoting products and services (i.e., food choices, community services, physical activity, etc.);

(b) grades 1-2 performance standards:

(i) identify safe and unsafe products in the home and community (i.e., bleach vs. milk, used needles, etc.);

(ii) identify health-promoting products and services (i.e., food choices, community services, physical activity, etc.);

(iii) identify where to seek valid health information (i.e., doctor, dentist, nurse, counselor, appropriate adult, etc.);

(c) grades 3-4 performance standards:

(i) identify safe and unsafe products in the home and community (i.e., bleach vs. milk, used needles, etc.);

(ii) demonstrate universal precautions in handling unsafe/contaminated products and materials (i.e., blood-borne pathogens, etc.);

(iii) identify health-promoting products and services (i.e., food choices, community services, physical activity, etc.);

(iv) identify where to seek valid health information (i.e., doctor, dentist, nurse, counselor, appropriate adult, etc.);

(v) analyze health information that may be confusing or contradictory (i.e., from media, peers, siblings, etc.);

(2) grades K-4 benchmark 2: demonstrate the ability to locate resources from home, school and community that provide valid health information;

(a) grade K performance standards:

(i) recall own address and phone number; identify safe adults (i.e., parent, teacher, doctor, dentist, nurse, counselor, appropriate adult, etc.);

(ii) recognize unsafe environments/situations;

(b) grades 1-2 performance standards:

(i) understand how to use emergency phone numbers (i.e., 911, poison control, etc.);

(ii) identify safe adults (i.e., parent, teacher, doctor, dentist, nurse, counselor, appropriate adult, etc.);

(iii) recognize unsafe environments/situations;

(iv) identify where to seek valid health information;

(c) grades 3-4 performance standards:

(i) demonstrate ability to use emergency phone numbers (i.e., 911, poison control, etc.);

(ii) identify safe adults (i.e., parent, teacher, doctor, dentist, nurse, counselor, appropriate adult, etc.);

(iii) recognize unsafe environments/situations;

(iv) identify where to seek valid health information;

(v) identify location of first aid kit/station;

(3) grades K-4 benchmark 3: explain how the media influences the selection of health information, products and services;

(a) grade K performance standard: recognize that media messages may be misleading;

(b) grades 1-2 performance standards:

(i) recognize that media messages may be misleading;

(ii) recognize the goals of media (i.e., sell, entertain, etc.);

(iii) recognize media messages that may contain both healthy and unhealthy messages in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) grades 3-4 performance standards:

(i) identify media messages that may be misleading;

(ii) identify the goals of media (i.e., sell, entertain, etc.);

(iii) identify media messages that may contain both healthy and unhealthy messages in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(4) grades K-4 benchmark 4: demonstrate the ability to locate school and community health helpers;

(a) grade K performance standards:

(i) recognize safety officials (i.e., police, fire, security, crossing guard, etc.);

(ii) identify safe adults (i.e., parent, teacher, doctor, dentist, nurse, counselor, appropriate adult, etc.);

(b) grades 1-2 performance standards:

(i) recognize safety officials (i.e., police, fire, security, crossing guard, etc.);

(ii) identify safe adults (i.e., parent, teacher, doctor, dentist, nurse, counselor, appropriate adult, etc.);

(c) grades 3-4 performance standards:

- (i) explain the role of safety officials (i.e., police, fire, security, crossing guard, etc.);
- (ii) explain the role(s) of safe adults (i.e., parent, teacher, doctor, dentist, nurse, counselor, appropriate adult, etc.).

C. Content standard 3: Students will demonstrate the ability to practice health-enhancing behaviors and reduce health risks. Students will:

(1) grades K-4 benchmark 1: identify responsible health behaviors;

(a) grade K performance standard: list responsible health behaviors (i.e., washing hands, brushing teeth, exercise, etc.);

(b) grades 1-2 performance standards:

(i) recognize responsible health behaviors in self and others (i.e., personal hygiene, not drinking and driving, daily physical activity, eating fruits and vegetables, etc.);

(ii) demonstrate conflict resolution skills;

(c) grades 3-4 performance standards:

(i) demonstrate responsible health behaviors (i.e., proper personal hygiene, participating in daily physical activity, eating fruits and vegetables, wearing seat belts, abstinence, etc.);

(ii) role play conflict resolution skills;

(iii) identify behaviors that promote healthy relationships (i.e., sharing, supporting, caring, listening, etc.);

(2) grades K-4 benchmark 2: identify personal health needs;

(a) grade K performance standards:

(i) identify where to go when you don't feel good (i.e., parent, teacher, school nurse, etc.);

(ii) recognize the importance of hygiene (i.e., washing hands to avoid colds, etc.);

(iii) identify personal safety rules (i.e., don't push others, playground safety, don't go with strangers, etc.);

(b) grades 1-2 performance standards:

(i) describe where to go when you don't feel good (i.e., parent, teacher, school nurse, etc.);

(ii) demonstrate the importance of hygiene (i.e., washing hands to avoid colds, etc.);

(iii) recognize personal safety rules (i.e., don't push others, playground safety, don't go with strangers, etc.);

(c) grades 3-4 performance standards:

(i) identify the relationship between physical activity and nutrition as related to healthy development;

(ii) identify ways in which diseases are transmitted or are not transmitted (i.e., HIV, common cold, measles, etc.);

(3) grades K-4 benchmark 3: compare behaviors that are safe to those that are risky or harmful;

(a) grade K performance standards:

(i) list safety rules;

(ii) list safe and unsafe situations;

(b) grades 1-2 performance standards:

(i) identify when to report dangerous situations to an adult;

(ii) identify behaviors that are safe and unsafe in the areas related to sexuality; nutrition; alcohol; tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) grades 3-4 performance standards:

(i) predict consequences of safe and risky behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) understand the consequences of risky behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(4) grades K-4 benchmark 4: demonstrate strategies to improve or maintain personal health;

(a) grade K performance standard: identify ways to improve or maintain personal health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., eat fruits and vegetables, exercise, don't smoke, etc.);

(b) grades 1-2 performance standards:

(i) describe ways to improve or maintain personal health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., eat fruits and vegetables, exercise, don't smoke, etc.);

(ii) describe refusal skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) identify healthy choices in the areas related to sexuality; nutrition, alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., walk away from a fight, participate in physical activity, identify healthier foods from a list of foods, etc.);

(c) grades 3-4 performance standards:

(i) demonstrate ways to improve or maintain personal health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., eat fruits and vegetables, exercise, don't smoke, abstinence, etc.);

(ii) demonstrate refusal skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) demonstrate healthy choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., avoiding a fight, participating in physical activity, choosing healthier foods from a list of foods, abstinence, etc.);

(5) grades K-4 benchmark 5: develop injury prevention and management strategies for personal health;

(a) grade K performance standards:

- (i) identify substances that are unsafe to touch (i.e., blood, bleach, needles, etc.);
- (ii) practice safety rules at home, in school and in the community;

(b) grades 1-2 performance standards:

- (i) demonstrate refusal skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;
- (ii) demonstrate safety rules at home, in school and in the community;

(c) grades 3-4 performance standards:

- (i) identify when food is safe to eat (i.e., recognize expiration dates, etc.);
- (ii) demonstrate refusal skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;
- (iii) recognize and demonstrate safety rules at home, in school and in the community;

(6) grades K-4 benchmark 6: demonstrate ways to avoid and reduce threatening situations;

(a) grade K performance standards:

- (i) list situations that may be dangerous;
- (ii) list trusted adults to go to when faced with a dangerous situation;

(b) grades 1-2 performance standards: identify trusted adults to go to when faced with a threatening situation;

(c) grades 3-4 performance standards:

- (i) recognize when to ask for help in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;



situations;

- (ii) recognize how peer pressure can lead to dangerous or risky

- (iii) demonstrate conflict resolution skills;

(7) grades K-4 benchmark 7: apply skills to manage stress;

(a) grade K performance standard: practice stress management skills (i.e., daily physical activity, singing, being read to, etc.);

(b) grades 1-2 performance standards:

- (i) identify situations that cause stress and recognize that stress is not always negative (i.e., bullies, going to a birthday party, reading out loud, etc.);

- (ii) list activities that help reduce stress (i.e., physical activity, reading, etc.);

(c) grades 3-4 performance standards:

- (i) identify the body's reaction to stressful situations (i.e., fight or flight, increased heart rate, etc.);

- (ii) demonstrate stress management skills.

D. Content standard 4: Students will analyze the influence of culture, media, technology and other factors on health. Students will:

(1) grades K-4 benchmark 1: describe how cultures within the local community influence personal health behaviors;

(a) grade K performance standards:

- (i) list similarities and differences in cultures within the community;

- (ii) list how the media and culture portray gender roles (i.e., pink=girls, blue=boys, short hair vs. long hair, different toys, etc.);

(b) grades 1-2 performance standards:

- (i) recognize similarities and differences in cultures within the community;

- (ii) recognize how the media and culture portray gender roles (i.e., pink=girls, blue=boys, short hair vs. long hair, different toys, etc.);

(iii) identify how school and community values relate to health, safety and personal choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) grades 3-4 performance standards:

(i) describe qualities of different cultures in the school and community, and how they contribute to health, safety and personal choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) describe how the media and culture portray gender roles (i.e., pink=girls, blue=boys, short hair vs. long hair, different toys, etc.);

(2) grades K-4 benchmark 2: Explain how media influences thoughts, feelings and health behaviors.

(a) grade K performance standards:

(i) list different forms of media (i.e., television, newspaper, magazines, radio, etc.);

(ii) list the purposes for media (i.e., entertain, sell products, promote services, etc.);

(iii) understand that not all media messages are true;

(iv) understand how media influences feelings and thoughts;

(b) grades 1-2 performance standards:

(i) identify different forms of media (i.e., television, newspaper, magazines, radio, etc.);

(ii) identify the purposes for media (i.e., entertain, sell products, promote services, etc.);

(iii) understand that not all media messages are true;

(iv) recognize how media influences feelings and thoughts;

(c) grades 3-4 performance standards:

(i) describe the purposes for media (i.e., entertain, sell products, promote services, etc.);

(ii) identify how to determine if media messages are true;

(iii) recognize how media influences feelings, thoughts and health choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., abstain from sexual behavior, use drugs, be aggressive, eat healthy foods, participate in physical activity, etc.);

(3) grades K-4 benchmark 3: describe ways technology can influence personal health;

(a) grade K performance standards:

(i) list different forms of technology (i.e., computers, video games, microwaves, cell phones, etc.);

(ii) list the purposes for technology (i.e., convenience, entertainment, selling products, promoting services, etc.);

(iii) understand that technology affects how we live;

(b) grades 1-2 performance standards:

(i) identify different forms of technology (i.e., computers, video games, microwaves, cell phones, etc.);

(ii) identify the purposes for technology (i.e., convenience, entertainment, selling products, promoting services, etc.);

(iii) understand that technology affects how we live;

(c) grades 3-4 performance standards:

(i) describe different forms of technology (i.e., computers, video games, microwaves, cell phones, etc.);

(ii) recognize the purposes for technology in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., medical, conveniences, communication, etc.);

(iii) describe how technology affects how we live;

(4) grades K-4 benchmark 4: explain how information from school and family influences health;

(a) grade K performance standard: list health messages that families give in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., what types of snacks you eat at home, stranger danger, family activities, etc.);

(b) grades 1-2 performance standards:

(i) recognize health messages that families give in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., what types of snacks you eat at home, stranger danger, family activities, etc.);

(ii) list different types of families (i.e., two parents, single parents, extended families, etc.);

(c) grades 3-4 performance standards:

(i) describe health messages that families give in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., what types of snacks you eat at home, stranger danger, family activities, etc.);

(ii) describe different types of families and how the structure influences health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being. (i.e., vegetarian vs. non-vegetarian, working parents and time for family activities and proper nutrition, smoking parents and second-hand smoke, etc.);

(iii) recognize that there are multiple messages about health, based on values and beliefs.

E. Content standard 5: Students will demonstrate the ability to use interpersonal communication skills to enhance health. Students will:

(1) grades K-4 benchmark 1: distinguish between verbal and non-verbal communication;

(a) grade K performance standards:

(i) describe the differences between verbal and non-verbal communication;

(ii) understand that people communicate in different ways;

(iii) recognize different feelings and the verbal and non-verbal forms of communication associated with them;

(b) grades 1-2 performance standards:

- (i) identify the differences between verbal and non-verbal communication;
- (ii) describe how people communicate in different ways;
- (iii) recognize different feelings and the verbal and non-verbal forms of communication associated with them;

(c) grades 3-4 performance standards:

- (i) demonstrate the differences between verbal and non-verbal communication;
- (ii) demonstrate how people communicate in different ways;
- (iii) recognize and describe different feelings and the verbal and non-verbal forms of communication associated with them;

(2) grades K-4 benchmark 2: describe characteristics needed to be a responsible friend and family member;

(a) grade K performance standards:

- (i) list characteristics of behaviors that are healthy;
- (ii) identify actions to help friends make healthy decisions;

(b) grades 1-2 performance standard: list ways that a person can show responsibility for his/her own health behaviors;

(c) grades 3-4 performance standard: explain the importance of assuming personal responsibility for health behaviors;

(3) grades K-4 benchmark 3: demonstrate positive ways to express needs, wants and feelings;

(a) grade K performance standards:

- (i) identify feelings associated with different situations (i.e., conflict - frustration/satisfaction; birthday - happy/excited, etc.);
- (ii) identify how to express feelings in a positive way;

(b) grades 1-2 performance standards:

(i) explain feelings associated with different situations (i.e., conflict - frustration/satisfaction; birthday - happy/excited, etc.);

(ii) explain how to express feelings in a positive way;

(c) grades 3-4 performance standards:

(i) demonstrate feelings associated with different situations (i.e., conflict - frustration/satisfaction; birthday - happy/excited, etc.);

(ii) demonstrate how to express feelings in a positive way;

(iii) demonstrate how to respond appropriately to other people's needs, wants and feelings;

(4) grades K-4 benchmark 4: demonstrate ways to communicate care, consideration and respect of self and others;

(a) grade K performance standard: demonstrate the ability to use "I" statements;

(b) grades 1-2 performance standard: demonstrate the ability to appropriately use "I" statements in communication;

(c) grades 3-4 performance standards:

(i) identify respectful and caring acts of self and others;

(ii) demonstrate the ability to appropriately use "I" statements in communication;

(5) grades K-4 benchmark 5: demonstrate attentive listening skills to build and maintain health-enhancing relationships;

(a) grade K performance standards:

(i) understand the importance of letting people speak without interruption;

(ii) understand when it is appropriate to interrupt for health needs;

(iii) recognize when someone is telling you to do something that is wrong;

(b) grades 1-2 performance standards:

- (i) demonstrate listening skills as a tool to enhance relationships;
- (ii) describe when it is appropriate to interrupt for health needs;
- (iii) recognize when someone is telling you to do something that is wrong;

(c) grades 3-4 performance standards:

- (i) describe and demonstrate listening skills as a tool to enhance relationships;
- (ii) demonstrate when it is appropriate to interrupt for health needs;
- (iii) recognize when someone is telling you to do something that is wrong;

(6) grades K-4 benchmark 6: demonstrate refusal skills and explain why they are important to enhance health;

(a) grade K performance standard: identify refusal skills in the areas related to sexuality (i.e., good touch/bad touch, etc.); nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 1-2 performance standard: explain refusal skills in the areas related to sexuality (i.e., good touch/bad touch, etc.); nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) grades 3-4 performance standard: demonstrate refusal skills in the areas related to sexuality (i.e., good touch/bad touch, etc.); nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(7) grades K-4 benchmark 7: differentiate between negative and positive behaviors used in conflict situations;

(a) grade K performance standards:

- (i) list the differences between negative and positive behaviors;
- (ii) list situations that cause conflict;

(b) grades 1-2 performance standards:

(i) identify common conflict situations that occur among friends, family members and others;

(ii) describe possible causes of conflict;

(iii) explain the differences between negative and positive behaviors used in conflict situations;

(c) grades 3-4 performance standards: demonstrate conflict mediation and conflict resolution skills;

(8) grades K-4 benchmark 8: demonstrate non-violent strategies to resolve conflicts;

(a) grade K performance standards:

(i) list non-violent strategies to resolve conflict;

(ii) list situations that cause conflict;

(b) grades 1-2 performance standards:

(i) identify common conflict situations that occur among friends, family members and others;

(ii) explain non-violent strategies to resolve conflict;

(c) grades 3-4 performance standard: demonstrate conflict mediation and conflict resolution skills.

F. Content standard 6: Students will demonstrate the ability to use goal-setting and decision-making skills to enhance health. Students will:

(1) grades K-4 benchmark 1: demonstrate the ability to apply a decision-making process to health issues and problems;

(a) grade K performance standard: list steps in the decision-making process;

(b) grades 1-2 performance standard: identify actions to make healthy decisions in the areas related to sexuality (i.e., good touch/bad touch, etc.); nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) grades 3-4 performance standard: demonstrate actions to make healthy decisions in the areas related to sexuality (i.e., good touch/bad touch, etc.); nutrition;



alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades K-4 benchmark 2: explain when to ask for assistance in making health-related decisions and setting health goals;

(a) grade K performance standard: list examples of when it is appropriate to ask for help in making health-related decisions (i.e., when you are lost, when being bullied, etc.);

(b) grades 1-2 performance standard: identify when it is appropriate to ask for help in making health-related decisions (i.e., when you are lost, when being bullied, etc.);

(c) grades 3-4 performance standards:

(i) explain when it is appropriate to ask for help in making health-related decisions (i.e., when you are lost, when being bullied, etc.);

(ii) set health-related goals (i.e., wear seat belts, be active every day, wash hands, etc.);

(3) grades K-4 benchmark 3: predict outcomes of positive health decisions;

(a) grade K performance standard: list consequences of actions (i.e., wearing a seat belt will help avoid injuries if in a car accident, etc.);

(b) grades 1-2 performance standard: describe how decisions affect health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., eating right and exercising leads to healthy development, etc.);

(c) grades 3-4 performance standard: describe how decisions affect health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., saying no to sex prevents pregnancy and sexually transmitted infections, saying no to drugs positively affects your thinking, etc.);

(4) grades K-4 benchmark 4: set a personal health goal and track progress toward achievement;

(a) grade K performance standard: list what personal health goals are appropriate for your age (i.e., wash hands, wear seat belts, etc.);

(b) grades 1-2 performance standard: identify a personal health goal in one of the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) grades 3-4 performance standard: identify and track progress of a personal health goal in one of the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being.

G. Content standard 7: Students will demonstrate the ability to advocate for personal, family, peer and community health. Students will:

(1) grade K-4 benchmark 1: describe a variety of methods to convey accurate health information and ideas;

(a) grade K performance standard: list ways to convey accurate health information and ideas (i.e., storytelling, talking to a health professional, etc.);

(b) grades 1-2 performance standard: recognize methods to convey accurate health information and ideas;

(c) grades 3-4 performance standard: describe how to communicate with others about making healthy choices;

(2) grades K-4 benchmark 2: express information and opinions about health issues;

(a) grade K performance standard: be able to express feelings to others (i.e., when they are sick, feel unsafe, etc.);

(b) grades 1-2 performance standard: discuss when it is appropriate to express opinions about health issues;

(c) grades 3-4 performance standard: describe information and opinions about health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(3) grades K-4 benchmark 3: identify community agencies/resources that advocate for healthy individuals, families, peers and communities;

(a) grade K performance standard: identify appropriate adults to go to for health issues (i.e., who is a safe adult to go to when you are being bullied, etc.);

(b) grades 1-2 performance standard: list places and people in the school and community you can go to for health information (i.e., school nurse, doctor's office, etc.);

(c) grades 3-4 performance standard: list places, resources and people in the school and community you can go to for health information (i.e., school nurse, doctor's office, books, etc.);

(4) grades K-4 benchmark 4: demonstrate the ability to influence and support others in making health-enhancing choices;

(a) grade K performance standard: list positive health choices;

(b) grades 1-2 performance standard: list ways to help others make healthy choices;

(c) grades 3-4 performance standard: describe how to help others make healthy choices.

[6.29.6.8 NMAC - Rp, 6.30.2.19 NMAC, 6-30-2009]

#### **6.29.6.9 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR HEALTH EDUCATION, Grades 5-8:**

A. Content standard 1: Students will comprehend concepts related to health promotion and disease prevention. Students will:

(1) grades 5-8 benchmark 1: explain the relationship between positive health behaviors and the prevention of injury, illness, disease and premature death;

(a) grades 5-6 performance standards:

(i) describe risk factors and their association with health consequences in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) identify healthy alternatives to unhealthy behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., abstinence, selection of healthy food choices, "natural highs," etc.);

(iii) explain how personal daily choices can affect future health status;

(b) grades 7-8 performance standards:

(i) understand risk factors and their association with health consequences in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) understand how healthy alternatives can replace unhealthy behaviors (i.e., abstinence, condom use, other pregnancy prevention methods, selection of healthy food choices, "natural highs," etc.);

(iii) analyze how personal daily choices can affect future health status;

(2) grades 5-8 benchmark 2: describe the interrelationship of mental, emotional, social and physical health during adolescence;

(a) grades 5-6 performance standards:

(i) describe the characteristics of peer pressure and its impact on mental, emotional, social and physical health during adolescence in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) describe the impact of family history, cultural values, social systems and environmental influences on mental, emotional, social and physical health during adolescence in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) describe how changes during adolescence affect mental, emotional, social and physical health;

(iv) identify positive stress reduction techniques and the impact on mental, emotional, social and physical health during adolescence;

(v) describe patterns of addiction and its influence on mental, emotional, social and physical health during adolescence;

(b) grades 7-8 performance standards:

(i) analyze the characteristics of peer pressure and its impact on mental, emotional, social and physical health during adolescence in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) analyze the impact of family history, cultural values, social systems and environmental influences on mental, emotional, social and physical health during adolescence in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) understand how changes during adolescence affect mental, emotional, social and physical health;

(iv) identify positive stress reduction techniques and the impact on mental, emotional, social and physical health during adolescence;

(v) analyze patterns of addiction and its influence on mental, emotional, social and physical health during adolescence;

(3) grades 5-8 benchmark 3: explain how health is influenced by the interaction of body systems;

(a) grades 5-6 performance standard: describe the reproductive, circulatory, digestive, nervous and endocrine systems and their relationships to adolescent health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standard: understand the reproductive, circulatory, digestive, nervous and endocrine systems and their relationships to adolescent health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(4) grades 5-8 benchmark 4: describe how family and peers influence the health of adolescents;

(a) grades 5-6 performance standard: describe how family, peers, media, culture and others influence adolescent decision-making in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standard: analyze how family, peers, media, culture and others influence adolescent decision-making in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 5-8 benchmark 5: analyze how environments and personal health are interrelated;

(a) grades 5-6 performance standards:

(i) explain how school, religion, culture, community, society and media, along with other outside influences (such as federal, state or local laws, policies, etc.), impact personal health decisions;

(ii) understand the importance of maintaining the environment and promoting its use for stress reduction, wellness and recreational activities;

(b) grades 7-8 performance standards:

(i) analyze how school, religion, culture, community, society and media, along with other outside influences (such as federal, state or local laws, policies, etc.), impact personal health decisions;

(ii) analyze the importance of maintaining the environment and promoting its use for stress reduction, wellness and recreational activities;

(6) grades 5-8 benchmark 6: describe ways to reduce risks related to adolescent health issues;

(a) grades 5-6 performance standards:

(i) identify health risks in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) identify consequences of health risks in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) identify ways to reduce health risks in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., abstinence, selection of healthy food choices, etc.);

(b) grades 7-8 performance standards:

(i) analyze health risks in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) analyze consequences of health risks in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) analyze ways to reduce health risks in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., abstinence, condom use, other pregnancy prevention methods, selection of healthy food choices, etc.);

(7) grades 5-8 benchmark 7: explain how health care can prevent premature death and disability;

(a) grades 5-6 performance standards:

(i) identify health care providers in the community and available services in areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) identify ways to access health care providers within the community and state; identify how family history, genetics and preventive health care can affect personal health;

(b) grades 7-8 performance standards:

(i) identify health care providers in the community and available services in areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) identify ways to access health care providers within the community and state;

(iii) understand how family history, genetics and preventive health care can affect personal health;

(8) grades 5-8 benchmark 8: describe how lifestyle, pathogens, family history and other risk factors are related to the prevention or cause of disease and other health problems;

(a) grades 5-6 performance standards:

(i) identify how family history, genetics and preventive health care can affect personal health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) identify how lifestyle choices can affect personal health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) identify how family history, genetics and preventive health care can affect personal health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) identify how lifestyle choices can affect personal health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being.

B. Content standard 2: Students will demonstrate the ability to access valid health information and health-promoting products and services. Students will:

(1) grades 5-8 benchmark 1: analyze the availability and validity of health information, products and services;

(a) grades 5-6 performance standards:

(i) identify school and community health resources related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) analyze health-promoting products and services (i.e., food choices, community services, physical activity, etc.);

(iii) analyze health information that may be confusing or contradictory (i.e., from media, peers, siblings, etc.);

(b) grades 7-8 performance standards:

(i) explain the functions and effectiveness of school and community health information, products and services (i.e., school nurse, school-based health center, public health office, private health care provider, etc.);

(ii) identify and evaluate products that claim to have a positive impact on health or wellness;

(iii) research information to obtain accurate health information in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 5-8 benchmark 2: demonstrate the ability to evaluate and utilize resources from home, school and community that provide valid health information;

(a) grades 5-6 performance standards:

(i) explain how community resources can be accessed and utilized in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) compare and contrast valid resources in the community in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:



(i) analyze how community resources can be accessed and utilized in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., school-based health centers, primary care clinics, school nurse, etc.);

(ii) analyze valid resources in the community in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) identify and provide solutions to barriers for health care (i.e., costs, transportation, culture, accessibility, etc.);

(iv) explain how community resources can be accessed and utilized in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(v) compare and contrast valid resources in the community in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(3) grades 5-8 benchmark 3: analyze how the media influences the selection of health information and products;

(a) grades 5-6 performance standards:

(i) analyze why media messages may be misleading;

(ii) explain the goals of media (i.e., sell, entertain, etc.);

(iii) give examples of media messages that may contain both healthy and unhealthy messages in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) analyze why media messages may be misleading;

(ii) interpret the goals of media (i.e., sell, entertain, etc.);

(iii) analyze media messages that may contain both healthy and unhealthy messages in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(4) grades 5-8 benchmark 4: demonstrate the ability to locate health products and services;

(a) grades 5-6 performance standards:

(i) identify valid health products and resources in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) identify where to obtain products and services in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) analyze valid health products and resources in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) demonstrate the ability to obtain products and services in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., how to access STI/HIV testing, pregnancy testing, help for depression, etc.);

(5) grades 5-8 benchmark 5: compare the costs and validity of health products;

(a) grades 5-6 performance standards:

(i) identify the availability and costs of health products utilized in the areas related to sexuality; nutrition; alcohol tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the availability and cost of the patch for smoking cessation vs. the cost of smoking; diet and exercise vs. diabetes treatment; abstinence vs. having a baby; etc.);

(ii) identify cost of health resources in the community and compare benefits of those that are more affordable (i.e., walking vs. joining a club for exercise, etc.);

(iii) analyze different health care products and their effectiveness in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) analyze the availability and costs of health products utilized in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the availability and cost of: the patch for smoking cessation vs. the cost of smoking; diet and exercise vs. diabetes treatment; pregnancy prevention vs. having a baby; etc.);

(ii) analyze cost of health resources in the community and compare benefits of those that are more affordable (i.e., walking vs. joining a club for exercise, etc.);

(iii) research different health care products and their effectiveness in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(6) grades 5-8 benchmark 6: describe situations requiring professional health services;

(a) grades 5-6 performance standards:

(i) identify and recognize risk behaviors in situations that may lead to negative physical, social or emotional health consequences (i.e., abuse, bullying, sexual assault, mental health, depression, suicide, domestic violence, STI/HIV, etc.);

(ii) identify situations related to a health crisis and formulate solutions to intervene or prevent the crisis (i.e., a friend tells you he is thinking about suicide; a friend tells you he is smoking, etc.);

(iii) recognize and identify professional health services in the community;

(b) grades 7-8 performance standards:

(i) analyze risk behaviors in situations that may lead to negative physical, social or emotional health consequences (i.e., abuse, bullying, sexual assault, mental health, depression, suicide, domestic violence, STI/HIV and other risky behavior, etc.);

(ii) role play and discuss situations related to a health crisis and formulate solutions to intervene or prevent the crisis (i.e., a friend tells you he is thinking about suicide; a friend tells you she may be pregnant, etc.);

(iii) recognize and identify professional health services in the community.

C. Content standard 3: Students will demonstrate the ability to practice health-enhancing behaviors and reduce health risks. Students will:

(1) grades 5-8, benchmark 1: explain the importance of assuming responsibility for personal health behaviors;

(a) grades 5-6 performance standards:

(i) identify the significance of personal responsibility for health behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity, personal safety; mental, social and emotional well-being;

(ii) describe the consequences of personal health choices and their effects;

(iii) describe the relationship between health behaviors and mental, social and emotional well-being in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety;

(b) grades 7-8 performance standards:

(i) analyze the significance of personal responsibility for healthy behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) use decision-making skills to determine personal health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 5-8 benchmark 2: analyze a personal health assessment to determine health strengths and risks;

(a) grades 5-6 performance standards:

(i) determine relationship between health behaviors and health outcomes in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the relationship between physical activity, nutrition and chronic disease; the relationship between sexual activity and teen pregnancy, etc.);

(ii) identify health assessment data that can help determine health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., physical fitness data, nutrition log, youth-reported data for risk and resiliency factors, etc.);

(b) grades 7-8 performance standards:

(i) compare and contrast the relationships between health behaviors and health outcomes in the areas related to sexuality; nutrition; alcohol, tobacco and

other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the relationship between physical activity, nutrition and chronic disease; the relationship between sexual activity and teen pregnancy, etc.);

(ii) chart individual health assessment data that can help determine health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., physical fitness data, nutrition logs, youth-reported data for risk and resiliency factors, etc.);

(3) grades 5-8 benchmark 3: distinguish between safe and risky or harmful behavior in relationships;

(a) grades 5-6 performance standards:

(i) identify risky or harmful behaviors in relationships and ways to avoid them (i.e., abstinence to avoid teen pregnancy, mediation skills to avoid conflict, practice refusal skills to avoid smoking or drugs, etc.);

(ii) identify negative or harmful behaviors in relationships and identify strategies to resolve the situation;

(b) grades 7-8 performance standards:

(i) role play risky or harmful behaviors in relationships and ways to avoid them (i.e., abstinence or birth control methods to avoid teen pregnancy, mediation skills to avoid conflict, practice refusal skills to avoid smoking or drugs, etc.);

(ii) recognize negative or harmful behaviors in relationships and identify strategies to resolve the situation;

(4) grades 5-8 benchmark 4: demonstrate strategies to improve or maintain personal and family health;

(a) grades 5-6 performance standards:

(i) describe how families, peers and culture influence personal health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) identify personal, family and cultural healthy choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) analyze family strengths and weaknesses in relationship to healthy behaviors (i.e., eating patterns and physical activity as related to healthy behaviors; tobacco, alcohol or other drug use; how families deal with conflict; etc.);

(ii) develop personal, family and cultural health goals and strategies for achieving the goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 5-8 benchmark 5: develop injury prevention and management strategies for personal and family health;

(a) grades 5-6 performance standards:

(i) identify factors that contribute to intentional and unintentional injuries (i.e., use of alcohol/other drugs, steroid use, food safety, etc.);

(ii) identify strategies to prevent intentional and unintentional injuries;

(iii) describe skills related to personal safety in the areas of physical, emotional or sexual abuse;

(b) grades 7-8 performance standards:

(i) analyze factors that contribute to intentional and unintentional injuries (i.e., use of alcohol/other drugs, steroid use, food safety, etc.);

(ii) describe strategies to prevent intentional and unintentional injuries;

(iii) role play skills related to personal safety in the areas of physical, emotional or sexual abuse;

(6) grades 5-8 benchmark 6: demonstrate ways to avoid and reduce threatening situations;

(a) grades 5-6 performance standards:

(i) identify threatening situations and reduction strategies in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) demonstrate refusal skills in the context of dangerous situations (i.e., tobacco, alcohol, other drugs, inappropriate touch, etc.);

(b) grades 7-8 performance standards:

(i) analyze threatening situations and reduction strategies to reduce them in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) demonstrate refusal skills in the context of dangerous situations (i.e., tobacco, alcohol, other drugs, inappropriate touch, etc.);

(iii) analyze the possible outcomes of being in dangerous situations and suggest safer options (i.e., riding a bike without a helmet, riding in a car with someone who is intoxicated, etc.);

(7) grades 5-8 benchmark 7: demonstrate strategies to manage stress;

(a) grades 5-6 performance standards:

(i) identify stressors and strategies to reduce their harmful effects;

(ii) identify the immediate and long term effects of stress on the body;

(iii) identify ways to manage stress;

(b) Grades 7-8 performance standards:

(i) analyze stressors and strategies to reduce their harmful effects;

(ii) analyze the immediate and long term effects of stress on the body;

(iii) demonstrate ways to manage stress;

D. Content standard 4: Students will analyze the influence of culture, media, technology and other factors on health. Students will:

(1) grades 5-8 benchmark 1: describe the influence of cultural beliefs on health behaviors and the use of health services;

(a) grades 5-6 performance standards:

(i) identify and discuss qualities of cultures (both positive and negative) in the school and community and how they contribute to health, safety and personal choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) describe how the media and culture portray gender roles (i.e., aggressive behavior for boys vs. submissive behavior for girls, media portrayal of sexual behavior for each gender, etc.);

(iii) identify community and cultural factors that influence health (i.e., religion, values, habits, money, gender, ethnicity, etc.);

(iv) compare cultural values and beliefs with personal values and beliefs and identify how they relate to health behaviors and choices;

(b) grades 7-8 performance standards:

(i) explain how qualities within cultures (both positive and negative) in the school and community contribute to health, safety and personal choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) examine how the media and culture portray gender roles (i.e., aggressive behavior for boys vs. submissive behavior for girls, media portrayal of sexual behavior for each gender, etc.);

(iii) describe how community and cultural factors influence health (i.e., religion, values, habits, money, gender, ethnicity, etc.);

(iv) compare cultural values and beliefs with personal values and beliefs, and identify how they relate to health behaviors and choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 5-8 benchmark 2: analyze how messages from media and other sources influence health behaviors;

(a) grades 5-6 performance standards:

(i) list examples of health-related advertisements (i.e., messages around sexual behavior, STI/HIV, exercise, nutrition, violence, alcohol, etc.);

(ii) identify positive and negative health messages from media and other sources in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., abstinence vs. teenage sex, smoking vs. non-smoking, using a seat belt or not, healthy vs. unhealthy eating habits, etc.);

(iii) identify sources that can help to determine whether media messages are true or false;

(iv) apply refusal skills in choices related to media messages;

(b) grades 7-8 performance standards:



(i) examine health-related advertisements and their influences on health behaviors (i.e., messages around sexual behavior, STI/HIV, exercise, nutrition, violence, alcohol, etc.);

(ii) explain positive and negative health messages from media and other sources in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., abstinence vs. teenage sex, smoking vs. non-smoking, using a seat belt or not, healthy vs. unhealthy eating habits, etc.);

(iii) describe sources that can help to determine whether media messages are true or false;

(iv) apply refusal skills in choices related to media messages;

(3) grades 5-8 benchmark 3: analyze the influence of technology on personal and family health;

(a) grades 5-6 performance standards:

(i) recognize the purposes for technology and its impact on personal and family health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., internet, medical, conveniences, communication, etc.);

(ii) describe advances in technology and how they positively and negatively impact personal and family health (i.e., use of computers and television vs. physical activity time, effects on communication skills, access to medical care, etc.);

(b) grades 7-8 performance standards:

(i) examine the purposes for technology and its impact on personal and family health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., internet, medical, conveniences, communication, etc.);

(ii) interpret how advances in technology positively and negatively impact personal and family health (i.e., use of computers and television vs. physical activity time, effects on communication skills, access to medical care, etc.);

(4) grades 5-8 benchmark 4: analyze how information from peers influences health;

(a) grades 5-6 performance standards:

(i) recognize that there are multiple messages (positive and negative) about health from peers;

(ii) describe health messages peers give in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., abstinence messages, drug, alcohol, tobacco use messages, suicide ideation, etc.);

(b) grades 7-8 performance standards:

(i) determine if health messages from peers are valid and discuss appropriate responses;

(ii) identify how peers influence personal health choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) describe health messages peers give in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., sexual activity messages, drug, alcohol, tobacco use messages, suicide ideation, etc.).

E. Content standard 5: Students will demonstrate the ability to use interpersonal communication skills to enhance health. Students will:

(1) grades 5-8 benchmark 1: demonstrate effective verbal and non-verbal communication skills to maintain health-enhancing relationships;

(a) grades 5-6 performance standards:

(i) recognize and describe different feelings and verbal and non-verbal forms of communication associated with them;

(ii) role play effective verbal and non-verbal communication skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) recognize differences in people (i.e., cultural, gender, religion, etc.) and their influences on verbal and non-verbal communication;

(ii) role play and analyze effective verbal and non-verbal communication skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 5-8 benchmark 2: describe how the behavior of family and peers affects interpersonal communication;

(a) grades 5-6 performance standards:

(i) recognize cultural diversity and its influence on verbal and non-verbal communication;

(ii) identify factors in the community (i.e., faith, values, habits, budgets, etc.) that influence behaviors of families and peers that affect interpersonal communication;

(iii) describe how values are formed;

(b) grades 7-8 performance standards:

(i) describe how cultural diversity influences verbal and non-verbal communication;

(ii) describe factors in the community (i.e., faith, values, habits, budgets, etc.) that influence behaviors of families and peers and affect interpersonal communication;

(iii) analyze how values are formed;

(3) grades 5-8 benchmark 3: demonstrate positive ways to express needs, wants and feelings;

(a) grades 5-6 performance standards:

(i) recognize feelings associated with different situations (i.e., conflict - frustration/satisfaction; birthday - happy/excited, etc.);

(ii) describe and demonstrate how to express feelings in a positive way;

(iii) describe and demonstrate how to respond appropriately to other people's needs, wants and feelings;

(b) grades 7-8 performance standards:

(i) recognize feelings associated with different situations (i.e., conflict - frustration/satisfaction; birthday - happy/excited, etc.);

(ii) analyze and demonstrate how to express feelings in a positive way;

(iii) analyze and demonstrate how to respond appropriately to other people's needs, wants and feelings;

(4) grades 5-8 benchmark 4: demonstrate ways to communicate care, consideration and respect of self and others;

(a) grades 5-6 performance standard: identify and demonstrate, in both verbal and non-verbal ways, how to show care, consideration and respect for self and others in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standard: analyze and demonstrate, in both verbal and non-verbal ways, how to show care, consideration and respect for self and others in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 5-8 benchmark 5: demonstrate communication skills to build and maintain relationships;

(a) grades 5-6 performance standards:

(i) describe and demonstrate communication skills as a tool to enhance relationships;

(ii) describe how someone may ask to participate in a healthy behavior in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) demonstrate ways to refuse to participate in an unhealthy behavior in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being, while maintaining positive relationships;

(b) grades 7-8 performance standards:

(i) analyze and demonstrate communication skills as a tool to enhance relationships;

(ii) analyze why someone may ask to participate in a healthy behavior in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) demonstrate ways to refuse to participate in an unhealthy behavior in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being, while maintaining positive relationships;

(6) grades 5-8 benchmark 6: demonstrate refusal and negotiation skills to enhance health;

(a) grades 5-6 performance standards:

(i) demonstrate refusal and negotiation skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) discuss aggressive, passive and assertive ways to respond to conflict;

(iii) demonstrate means to use a variety of conflict resolution skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) analyze risky situations in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being, and identify appropriate responses;

(ii) give examples of and demonstrate refusal and negotiation skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(iii) analyze aggressive, passive and assertive ways to respond to conflict;

(iv) explain and demonstrate means to use a variety of conflict resolution skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(7) grades 5-8 benchmark 7: analyze the possible causes of conflict among youth in schools and communities;

(a) grades 5-6 performance standard: discuss possible causes of conflict among youth in schools and communities in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) discuss and analyze possible causes of conflict among youth in schools and communities in the areas related to sexuality; nutrition; alcohol, tobacco

and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) describe possible solutions for resolving conflict among youth in schools and communities in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(8) grades 5-8 benchmark 8: demonstrate strategies to manage conflict in positive ways;

(a) grades 5-6 performance standard: demonstrate conflict resolution skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standard: demonstrate conflict resolution skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being.

F. Content standard 6: Students will demonstrate the ability to use goal-setting and decision-making skills to enhance health. Students will:

(1) grades 5-8 benchmark 1: demonstrate the ability to apply a decision-making process to health issues and problems individually and collaboratively;

(a) grades 5-6 performance standard: demonstrate actions both individually and collaboratively to make healthy decisions in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) describe and demonstrate actions both individually and collaboratively to make healthy decisions in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) analyze the difference between making an individual decision or one in consultation with others;

(2) grades 5-8 benchmark 2: analyze how health-related decisions are influenced by individuals, family, peers and community values;

(a) grades 5-6 performance standards:

(i) describe the relationship between personal, family, peer and community values in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) describe the influences of culture, family, peers and communities on decisions in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) describe and analyze the relationship between personal, family, peer and community values in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) describe and analyze the influences of culture, family, peers and communities on decisions in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(3) grades 5-8 benchmark 3: predict how decisions regarding health behaviors have consequences for self and others;

(a) grades 5-6 performance standards:

(i) draw conclusions as to why specific decisions result in various consequences in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the decision to remain abstinent from sexual activity will lead to not having an unwanted pregnancy or sexually transmitted infection, the decision not to smoke a cigarette will help prevent lung cancer, etc.);

(ii) summarize how personal decisions in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being contribute to the well-being of self, family, peers and communities (i.e., the decision to do physical activity as a family will lead to better physical and social health, etc.);

(b) grades 7-8 performance standards:

(i) analyze why specific decisions result in various consequences in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the decision to use a condom if sexually active will help prevent an unwanted pregnancy or sexually transmitted infection, the decision not to drink at the party will help prevent making other risk-taking decisions while intoxicated, etc.);

(ii) analyze how impulsive actions related to consequences in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., having sex without protection can lead to unwanted pregnancy or sexually transmitted infections, taking drugs can lead to addictive behavior, etc.);

(iii) analyze how personal decisions in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being contribute to the well-being of self, family, peers and communities;

(4) grades 5-8 benchmark 4: apply strategies and skills needed to attain personal health goals;

(a) grades 5-6 performance standards:

(i) explain the relationship between health behaviors and personal outcomes in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) set and apply strategies to attain a realistic personal health goal in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standards:

(i) analyze the relationship between health behaviors and personal outcomes in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(ii) set and apply strategies to attain a realistic personal health goal in at least one of the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 5-8 benchmark 5: describe how personal health goals are influenced by changing information, abilities, priorities and responsibilities;

(a) grades 5-6 performance standards:

(i) evaluate how health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being change as individuals grow older (i.e., as a child, teenager, adult, etc.);

(ii) evaluate how health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental,



social and emotional well-being may change as information, abilities, priorities and responsibilities change;

(b) grades 7-8 performance standards:

(i) analyze how health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being change as individuals grow older (i.e., as a child, teenager, adult, etc.);

(ii) analyze how health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being may change as information, abilities, priorities and responsibilities change;

(6) grades 5-8 benchmark 6: develop a plan that addresses personal strengths, needs and health risks;

(a) grades 5-6 performance standards:

(i) identify personal strengths, needs and health risks;

(ii) develop a personal wellness plan that addresses a personal health need and goal;

(b) grades 7-8 performance standards:

(i) identify personal strengths, needs and health risks;

(ii) develop a personal wellness plan that addresses a personal health need and goal.

G. Content standard 7: Students will demonstrate the ability to advocate for personal, family, peer and community health. Students will:

(1) grades 5-8 benchmark 1: analyze various communication methods to accurately express health information and ideas;

(a) grades 5-6 performance standard: examine different ways to communicate health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standard: analyze different ways to communicate health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 5-8 benchmark 2: express information and opinions about health issues;

(a) grades 5-6 performance standard: recognize information and opinions about health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standard: define and analyze information and opinions about health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(3) grades 5-8 benchmark 3: identify barriers to effective communication of information, ideas, feelings and opinions about health issues;

(a) grades 5-6 performance standard: describe barriers to effective communication about health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being and demonstrate ways to overcome those barriers;

(b) grades 7-8 performance standard: analyze barriers to effective communication about health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being and describe ways to overcome those barriers;

(4) grades 5-8 benchmark 4: demonstrate the ability to influence and support others in making health-enhancing choices;

(a) grades 5-6 performance standard: role play how to help others make healthy choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standard: role play and analyze how to help others make healthy choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 5-8 benchmark 5: demonstrate the ability to work cooperatively when advocating for healthy individuals, families and schools;

(a) grades 5-6 performance standard: role play how to work cooperatively when advocating for healthy individuals, families and schools in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) grades 7-8 performance standard: role play and analyze how to work cooperatively when advocating for healthy individuals, families and schools in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being.

[6.29.6.9 NMAC - Rp, 6.30.2.19 NMAC, 6-30-2009]

#### **6.29.6.10 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR HEALTH EDUCATION, Grades 9-12:**

A. Content standard 1: Students will comprehend concepts related to health promotion and disease prevention. Students will:

(1) grades 9-12 benchmark 1: analyze how behavior can impact health maintenance and disease prevention; grades 9-12 performance standards:

(a) differentiate between risks and benefits regarding choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) identify alternatives to health risk behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., abstinence, condom use, other pregnancy prevention methods, selection of healthy food choices, "natural highs," etc.);

(c) identify ways to avoid health risk behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being; discuss and analyze the difference(s) between healthy and unhealthy relationships;

(d) explain how attitude(s) and behavior(s) affect health of self and others;

(2) grades 9-12 benchmark 2: describe the interrelationships of mental, emotional, social and physical health throughout life; grades 9-12 performance standards:

(a) identify and analyze how social systems, peer pressure and family history relate to mental, emotional, social and physical health throughout life;

(b) describe the relationship between actions and consequences in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being and the impact on mental, emotional, social and physical health throughout life (i.e., unintended pregnancy, STI/HIV, chronic diseases, addiction, intentional and unintentional injuries, depression, suicide, etc.);

(c) explain relationship between risk behaviors and health behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., drinking and sexual behavior, lack of physical activity/nutrition choices and chronic diseases, etc.);

(d) describe how emotions affect health behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., attraction, love, lust, infatuation, jealousy, anger, etc.);

(e) describe ways to manage stress (i.e., physical activity, relaxation, etc.);

(3) grades 9-12 benchmark 3: explain the impact of personal health behaviors on the functioning of body systems; grades 9-12 performance standards:

(a) identify and analyze health behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being on the functioning of body systems (i.e., physical activity and the respiratory system, contracting a sexually-transmitted disease and the reproductive system, etc.);

(b) identify emotional and physical changes that occur during puberty; identify the impact of health screenings on personal health and wellness; identify ways in which diseases are transmitted (i.e., HIV, bacterial diseases, viral diseases, etc.);

(c) describe how untreated health conditions can affect the functioning of body systems (i.e., an untreated sexually-transmitted infection on the reproductive system, untreated asthma on the respiratory system, etc.); explain the benefits of healthy food choices and physical activity on body systems (i.e., weight gain/loss, heart disease, diabetes, etc.);

(4) grades 9-12 benchmark 4: analyze how the family, peers and community influence the health of individuals; grades 9-12 performance standards:

(a) identify and analyze how family, peers and community can be helpful or a hindrance to healthy behaviors (i.e., family choices for meals, community norms for sexual behavior, etc.);

(b) describe how family, peers and community influence the ability to apply refusal skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) analyze how inappropriate behavior such as bullying, harassment and intentional injury influence the health of individuals;

(d) identify how family, peer and community factors influence personal health choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., religion, culture, family values, budget, etc.);

(5) grades 9-12 benchmark 5: analyze how the environment influences the health of the community;

grades 9-12 performance standards:

(a) identify and analyze how environmental influences can be helpful or a hindrance to healthy behaviors (i.e., cultural, family history, socio-economic status and social norms on choices for meals, relationships, physical activity, etc.);

(b) analyze how environmental influences affect behavior in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., riding a bike vs. driving a car, personal relationships, etc.);

(6) grades 9-12 benchmark 6: describe how to delay onset and reduce risks of potential health problems during adulthood; grades 9-12 performance standards:

(a) describe and analyze how behaviors practiced early in life can potentially affect health problems during adulthood in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., smoking as a teenager and lung disease, poor nutritional choice and lack of physical activity and chronic diseases, sexual activity/unprotected sex and teen pregnancy/STI/HIV, etc.);

(b) demonstrate knowledge of pregnancy prevention and prevention of sexually transmitted infections; understand human reproduction and how pregnancy can be prevented through the use of various methods of contraception, including barrier and hormonal methods;

(c) understand the concept of sexually transmitted infections and recognize prevention strategies including abstinence, the proper use of condoms and immunizations;

(7) grades 9-12 benchmark 7: analyze how public health policies and government regulations influence health promotion and disease prevention; grades 9-12 performance standards:

(a) research local, state and national regulations and policies that influence health promotion and disease prevention in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) identify how policies are developed that influence health promotion and disease prevention in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(8) grades 9-12 benchmark 8: analyze how the prevention and control of health problems are influenced by research and medical advances; grades 9-12 performance standards:

(a) identify scientific journals, agencies and organizations that contribute to research and medical advances in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) analyze how research and medical advances can influence health promotion and disease prevention in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., new treatment in diabetes control, etc.).

B. Content standard 2: Students will demonstrate the ability to access valid health information and health-promoting products and services. Students will:

(1) grades 9-12 benchmark 1: evaluate the availability and validity of health information, products and services; grades 9-12 performance standards:

(a) explain and evaluate the functions and effectiveness of school and community health information, products and services (i.e., school nurse, school-based health center, public health office, private health care provider, etc.);

(b) evaluate health information products and services advertised by media; demonstrate the ability to evaluate health information in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 9-12 benchmark 2: demonstrate the ability to evaluate and utilize resources from home, school and community that provide valid health information; grades 9-12 performance standards:

(a) evaluate how community resources can be accessed and utilized in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., school-based health centers, primary care clinics, school nurse, etc.);

(b) compare and contrast valid resources in the community in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) identify and devise solutions to barriers for health care (i.e., costs, transportation, culture, accessibility, etc.);

(d) explain how community resources can be accessed and utilized in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(e) compare and contrast valid resources in the community in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(3) grades 9-12 benchmark 3: evaluate factors that influence personal selection of health products and services; grades 9-12 performance standards:

(a) evaluate the characteristics that media uses to influence the selection of health products and services;

(b) describe influences of cultural beliefs and how they influence personal selection of health products and services;

(c) explain factors in the community that influence health choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., religion, values, habits, budget, etc.);

(d) demonstrate and discuss ways to avoid risky behavior in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(4) grades 9-12 benchmark 4: demonstrate the ability to access school and community health services for self and others; grades 9-12 performance standards:

(a) demonstrate the ability to access local health resources in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., school-based health centers, primary care clinics, local health facilities, walking trails, etc.);

(b) demonstrate how to determine the appropriate school and community health services in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., where to go for immunizations, wellness check-up, pregnancy/STI/HIV testing, help for depression, treatment for diabetes, etc.);

(5) grades 9-12 benchmark 5: analyze the cost and accessibility of health care services; grades 9-12 performance standards:

(a) demonstrate the ability to compare cost and accessibility of health care services in the community and benefits of those that are more affordable (i.e., walking vs. joining a club for exercise, public health clinic vs. private doctor, sexual activity/unprotected sex vs. teen pregnancy/STI/HIV, etc.);

(b) analyze the availability and costs of health care services utilized in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the availability and cost of smoking cessation class, nutrition education programs, prenatal care; etc.);

(6) grades 9-12 benchmark 6: analyze situations requiring professional health services; grades 9-12 performance standards:

(a) prepare a plan of action for risk behaviors in situations that may lead to negative physical, social or emotional health consequences (i.e., abuse, bullying, sexual assault, mental health, depression, suicide, domestic violence, teen pregnancy, STI/HIV, etc.);

(b) analyze situations related to health crises and formulate solutions to intervene or prevent the crisis (i.e., a friend tells you he is thinking about suicide; a friend tells you he is smoking, a friend tells you she is pregnant, etc.);

(c) demonstrate how to access professional health services in your community.

C. Content standard 3: Students will demonstrate the ability to practice health-enhancing behaviors and reduce health risks. Students will:

(1) grades 9-12 benchmark 1: analyze the role of individual responsibility for enhancing health; grades 9-12 performance standards:

(a) analyze the significance of personal responsibility and consequences for healthy behaviors in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) demonstrate decision-making skills to determine personal health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 9-12 benchmark 2: evaluate a personal health assessment to determine strategies for health enhancement and risk reduction; grades 9-12 performance standards:

(a) differentiate among health behaviors and health outcomes in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the relationship between



physical activity, nutrition and chronic disease; the relationship between sexual activity and teen pregnancy, etc.);

(b) chart and analyze individual health assessment data that can help determine health goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., physical fitness data, nutrition logs, youth reported data for risk and resiliency factors, etc.);

(3) grades 9-12 benchmark 3: analyze the short-term and long-term consequences of safe, risky and harmful behaviors; grades 9-12 performance standards:

(a) demonstrate skills to avoid risky or harmful behaviors in relationships (i.e., abstinence or birth control methods to avoid teen pregnancy, mediation skills to avoid conflict, practice refusal skills to avoid smoking or drugs, etc.);

(b) recognize and analyze negative or harmful behaviors in relationships and identify strategies to resolve the situation;

(c) identify consequences of risky and harmful behaviors on self and others in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(4) grades 9-12 benchmark 4: develop management strategies to improve or maintain personal, family, peer and community health; grades 9-12 performance standards:

(a) describe personal, family, peer, community and cultural strengths in maintaining or improving healthy behaviors (i.e., eating patterns and physical activity related to healthy behaviors; tobacco, alcohol or other drug use; how families deal with conflict; etc.);

(b) develop personal, family, community and cultural health goals and management strategies for achieving the goals in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 9-12 benchmark 5: develop injury prevention strategies for personal, family, peer and community health; grades 9-12 performance standards:

(a) analyze personal, family, peer and community factors that contribute to intentional and unintentional injuries (i.e., use of alcohol or other drugs, steroid use, food safety, etc.);

(b) describe prevention strategies to avoid intentional and unintentional injuries;

(c) demonstrate refusal skills related to personal safety in the areas of physical, emotional or sexual abuse;

(d) demonstrate effective negotiation and risk avoidance strategies for avoiding unwanted sexual activity;

(6) grades 9-12 benchmark 6: demonstrate ways to avoid and reduce threatening situations; grades 9-12 performance standards:

(a) recognize threatening situations and formulate strategies to reduce them in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) demonstrate refusal skills in the context of dangerous situations (i.e., tobacco, alcohol, other drugs, date rape, etc.);

(c) reflect on the possible outcomes of being in dangerous situations and explain different options that could have been chosen (i.e., riding a motorcycle without a helmet, driving a car while intoxicated, having unprotected sex, etc.);

(d) demonstrate effective negotiation and risk avoidance strategies for avoiding unwanted sexual activity;

(7) grades 9-12 benchmark 7: evaluate strategies to manage stress; grades 9-12 performance standards:

(a) evaluate stressors and strategies to reduce their harmful effects;

(b) explain the immediate and long-term effects of stress on the body;

(c) demonstrate ways to manage stress.

D. Content standard 4: Students will analyze the influence of culture, media, technology and other factors on health. Students will:

(1) grades 9-12 benchmark 1: analyze how cultural practices can enrich or challenge health behaviors; grades 9-12 performance standards:

(a) explain how cultural practices (both positive and negative) in the school and community contribute to health, safety and personal choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) analyze how the media and culture portray gender roles (i.e., aggressive behavior for boys vs. submissive behavior for girls, media portrayal of sexual behavior for each gender, etc.);

(c) analyze cultural values and beliefs compared with personal values and beliefs in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 9-12 benchmark 2: evaluate the effect of media and other factors on personal, family, peer and community health; grades 9-12 performance standards:

(a) analyze health-related advertisements and their influences on health behaviors (i.e., messages around sexual behavior, STI/HIV, condom use, exercise, nutrition, violence, alcohol, etc.);

(b) explain positive and negative health messages from media and other sources in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., condom use vs. unprotected sex, smoking vs. non-smoking, using a seat belt or not, healthy vs. unhealthy eating habits, etc.);

(c) analyze sources that can help to determine if media messages are true or false; demonstrate refusal skills in choices related to media messages;

(3) grades 9-12 benchmark 3: evaluate the impact of technology on personal, family, peer and community health; grades 9-12 performance standards:

(a) analyze the purposes for technology and its impact on personal, family, peer and community health in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., internet, medical, conveniences, communication, etc.);

(b) compare and contrast how advances in technology positively or negatively impact personal, family, peer and community health (i.e., use of computers and television vs. physical activity time, effects on communication skills, access to medical care, etc.).

E. Content standard 5: Students will demonstrate the ability to use interpersonal communication skills to enhance health. Students will:

(1) grades 9-12 benchmark 1: demonstrate skills for communicating effectively with family, peers and others; grades 9-12 performance standards:

(a) role play and analyze effective verbal and non-verbal communication skills with family, peers and others in the areas related to sexuality; nutrition; alcohol, tobacco

and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) compare and contrast effective and ineffective verbal and non-verbal communication skills with family, peers and others in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 9-12 benchmark 2: analyze how interpersonal communication affects relationships; grades 9-12 performance standards:

(a) analyze how cultural diversity influences verbal and non-verbal communication;

(b) role play and analyze interpersonal communications skills that affect relationships in the areas related to sexuality; nutrition; alcohol tobacco, and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(3) grades 9-12 benchmark 3: demonstrate positive ways to express needs, wants and feelings; grades 9-12 performance standards:

(a) analyze feelings associated with different situations (i.e., conflict - frustration/satisfaction; birthday - happy/excited, etc.);

(b) role play and analyze how to express feelings in a positive way;

(c) role play and analyze how to respond appropriately to other people's needs, wants and feelings;

(4) grades 9-12 benchmark 4: demonstrate ways to communicate care, consideration and respect of self and others; grades 9-12 performance standard: role play and analyze both verbal and non-verbal ways to show care, consideration and respect for self and others in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 9-12 benchmark 5: demonstrate strategies for solving interpersonal conflicts without harming self or others; grades 9-12 performance standards:

(a) demonstrate skills used in conflict resolution in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) describe and analyze aggressive, passive and assertive ways to respond to conflict;

(c) explain and demonstrate means to use a variety of conflict resolution skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(6) grades 9-12 benchmark 6: demonstrate refusal, negotiation and collaboration skills to avoid potentially harmful situations; grades 9-12 performance standards:

(a) describe and analyze risky situations in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being and identify appropriate responses;

(b) role play and analyze refusal and negotiation skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(c) demonstrate effective negations and risk avoidance strategies ( i.e., avoiding unwanted pregnancy, alcohol tobacco and other drug use, bullying behavior, poor nutritional choices, physical inactivity, etc.);

(7) grades 9-12 benchmark 7: analyze the possible causes of conflict in schools, families and communities; grades 9-12 performance standards:

(a) discuss and analyze possible causes of conflict among youth in schools and communities in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) design possible solutions to resolving conflict among youth in schools and communities in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(8) grades 9-12 benchmark 8: demonstrate strategies to prevent conflict; grades 9-12 performance standard: demonstrate and analyze conflict resolution skills in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being.

F. Content standard 6: Students will demonstrate the ability to use goal-setting and decision-making skills to enhance health. Students will:

(1) grades 9-12 benchmark 1: demonstrate the ability to utilize various strategies when making decisions related to health needs and risks of young adults; grades 9-12 performance standard: analyze and demonstrate strategies used to make healthy decisions in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 9-12 benchmark 2: analyze health concerns that require collaborative decision-making; grades 9-12 performance standards:

(a) describe health issues that require decision-making in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) role play and analyze the difference between making an individual decision or collaborating with others in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(3) grades 9-12 benchmark 3: predict the immediate and long-term impact of health decisions on the individual, family, peers and community; grades 9-12 performance standards:

(a) predict how specific decisions result in various consequences in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., the decision to use a condom if sexually active will help prevent an unwanted pregnancy or sexually transmitted infection, the decision not to drink at the party will help prevent making other risk-taking decisions while intoxicated, etc.);

(b) predict and analyze how impulsive actions relate to consequences in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being (i.e., having sex without protection can lead to unwanted pregnancy or sexually transmitted infections; taking drugs can lead to addictive behavior, etc.);

(c) predict and analyze how personal decisions in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being contribute to the well-being of self, family, peers and communities;

(4) grades 9-12 benchmark 4: implement a plan for attaining a personal health goal; grades 9-12 performance standards:

(a) analyze the relationship between health behaviors and personal outcomes in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(b) create strategies and implement a plan to attain a realistic personal health goal in at least one of the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 9-12 benchmark 5: evaluate progress toward achieving personal health goals; grades 9-12 performance standard: create strategies and implement an evaluation plan in attaining a realistic personal health goal in at least one of the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(6) grades 9-12 benchmark 6: formulate an effective plan for lifelong health; grades 9-12 performance standard: develop and implement a personal wellness plan that includes both short and long term goals and describe how that plan can be effective for lifelong health and wellness.

G. Content standard 7: Students will demonstrate the ability to advocate for personal, family, peer and community health. Students will:

(1) grades 9-12 benchmark 1: evaluate the effectiveness of communication methods for accurately expressing health information and ideas; grades 9-12 performance standard: role play and evaluate different ways to communicate health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(2) grades 9-12 benchmark 2: express information and opinions about health issues; grades 9-12 performance standard: define and analyze information and opinions about health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(3) grades 9-12 benchmark 3: utilize strategies to overcome barriers when communicating information, ideas, feelings and opinions about health issues; grades 9-12 performance standard: analyze barriers to effective communication about health issues in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being and illustrate ways to overcome those barriers;

(4) grades 9-12 benchmark 4: demonstrate the ability to influence and support others in making health-enhancing choices; grades 9-12 performance standard: role play and analyze how to help others make healthy choices in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(5) grades 9-12 benchmark 5: demonstrate the ability to work cooperatively when advocating for healthy communities; grades 9-12 performance standard: role play and analyze how to work cooperatively when advocating for healthy individuals, families and schools in the areas related to sexuality; nutrition; alcohol, tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being;

(6) grades 9-12 benchmark 6: demonstrate the ability to adapt health messages and communication techniques to the characteristics of a particular audience; grades 9-12 performance standards:

(a) identify how healthy messages and communication techniques can target different audiences;

(b) create positive health messages in the areas related to sexuality; nutrition; alcohol; tobacco and other drug use; physical activity; personal safety; mental, social and emotional well-being.

[6.29.6.10 NMAC - Rp, 6.30.2.19 NMAC, 6-30-2009]

#### **6.29.6.11 SEXUALITY PERFORMANCE STANDARDS EXEMPTION:**

Each school district or charter school shall implement a policy that will insure that parents have the ability to request that their child be exempted from the parts of the health education curriculum that address sexuality performance standards.

A. The policy shall include, but is not limited to:

(1) the process for parents to request an exemption from the parts of the health education curriculum that address the sexuality performance standards;

(2) how alternative lessons are established for the exempted parts of the curriculum.

B. Each local board of education or governing body of a charter school shall ensure the

involvement of parents, staff and students in the development of the policy.

[6.29.6.11 NMAC - Rp, 6.30.2.19 NMAC, 6-30-2009]

### **PART 7: MATHEMATICS [EXPIRED]**

### **PART 8: WORLD READINESS STANDARDS FOR LEARNING LANGUAGES**

#### **6.29.8.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.8.1 NMAC - Rp, 6.75.2.1 NMAC, 7/1/2018]

#### **6.29.8.2 SCOPE:**



All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.8.2 NMAC - Rp, 6.29.8.2 NMAC, 7/1/2018]

**6.29.8.3 STATUTORY AUTHORITY:**

**A.** Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

**B.** Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.8.3 NMAC - Rp, 6.29.8.3 NMAC, 7/1/2018]

**6.29.8.4 DURATION:**

Permanent.

[6.29.8.4 NMAC - Rp, 6.29.8.4 NMAC, 7/1/2018]

**6.29.8.5 EFFECTIVE DATE:**

July 1, 2018, unless a later date is cited at the end of a section.

[6.29.8.5 NMAC - Rp, 6.29.8.5 NMAC, 7/01/2018]

**6.29.8.6 OBJECTIVE:**

The purpose of the American council on the teaching of foreign languages (ACTFL)'s world readiness standards for learning languages, as reflected herein, is to ensure all K-12 students are prepared with 21<sup>st</sup> century skills that will enable success in college, careers, and within local and global multilingual communities.

[6.29.8.6 NMAC - Rp, 6.29.8.6 NMAC, 7/1/2018]

**6.29.8.7 DEFINITIONS:**

[RESERVED]

**6.29.8.8 GRADES K-12, WORLD READINESS STANDARDS FOR LEARNING LANGUAGES, COMMUNICATION:**

**A.** Interpersonal communication: learners interact and negotiate meaning in spoken, signed, or written conversations to share information, reactions, feelings, and opinions.

**B.** Interpretative communication: learners understand, interpret, and analyze what is heard, read, or viewed on a variety of topics.

**C.** Presentational communication: learners present information, concepts, and ideas to inform, explain, persuade, and narrate on a variety of topics using appropriate media and adapting to various audiences of listeners, readers, or viewers.

[6.29.8.8 NMAC - Rp, 6.29.8.8 NMAC, 7/1/2018]

**6.29.8.9 GRADES K-12, WORLD READINESS STANDARDS FOR LEARNING LANGUAGES, CULTURES:**

**A.** Relating cultural practices to perspectives: learners use the language to investigate, explain, and reflect on the relationship between practices and perspectives of the cultures studied.

**B.** Relating cultural products to perspectives: learners use the language to investigate, explain, and reflect on the relationship between the products and perspectives of the culture studied.

[6.29.8.9 NMAC - Rp, 6.29.8.9 NMAC, 7/1/2018]

**6.29.8.10 GRADES K-12, WORLD READINESS STANDARDS FOR LEARNING LANGUAGES, CONNECTIONS:**

**A.** Making connections: learners build, reinforce, and expand their knowledge of other disciplines while using the language to develop critical thinking to solve problems creatively.

**B.** Acquiring information and diverse perspectives: learners access and evaluate information and diverse perspectives that are available through the language and its cultures.

[6.29.8.10 NMAC - Rp, 6.29.8.10 NMAC, 7/1/2018]

**6.29.8.11 GRADES K-12, WORLD READINESS STANDARDS FOR LEARNING LANGUAGES, COMPARISONS:**

**A.** Language comparisons: learners use the language to investigate, explain, and reflect on the nature of language through comparisons of the language studied and their own.

**B.** Cultural comparisons: learners use the language to investigate, explain, and reflect on the concept of culture through comparisons of the cultures studied and their own.

[6.29.8.11 NMAC - N, 7/1/2018]

**6.29.8.12 GRADES K-12, WORLD READINESS STANDARDS FOR LEARNING LANGUAGES, COMMUNITIES:**

**A.** School and global communities: learners use the language both within and beyond the classroom to interact and collaborate in their community and the globalized world.

**B.** Lifelong learning: learners set goals and reflect on their progress in using languages for enjoyment, enrichment, and advancement.

[6.29.8.12 NMAC - N, 7/1/2018]

**PART 9: PHYSICAL EDUCATION**

**6.29.9.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.9.1 NMAC - N, 6-30-2009]

**6.29.9.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.9.2 NMAC - N, 6-30-2009]

**6.29.9.3 STATUTORY AUTHORITY:**

**A.** Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

**B.** Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.9.3 NMAC - N, 6-30-2009]

**6.29.9.4 DURATION:**

Permanent.

[6.29.9.4 NMAC - N, 6-30-2009]

**6.29.9.5 EFFECTIVE DATE:**

June 30, 2009, unless a later date is cited at the end of a section.

[6.29.9.5 NMAC - N, 6-30-2009]

**6.29.9.6 OBJECTIVE:**

New Mexico content standards with benchmarks and performance standards for physical education are mandated for students in grades K-12. The New Mexico content standards with benchmarks for physical education were adopted in March 1997 as part of 6 NMAC 3.2; the benchmarks and performance standards were revised in June 2007.

[6.29.9.6 NMAC - N, 6-30-2009]

**6.29.9.7 DEFINITIONS:**

**[RESERVED]**

**6.29.9.8 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR PHYSICAL EDUCATION, Grades K-4:**

A. Content standard 1: Demonstrates competency in many movement forms and proficiency in a few movement forms. Students will:

(1) grades K-4 benchmark 1: demonstrate competency in selected motor skills;

(a) grades K-2 performance standards:

(i) travel in a variety of locomotor patterns (i.e., hop, skip, jump, gallop, slide, etc.) using mature form;

(ii) demonstrate skills of chasing, fleeing and dodging to avoid others;

(iii) demonstrate smooth transitions between sequential motor skills (i.e., running into a jump);

(b) grades 3- performance standards:

- (i) demonstrate mature form in all locomotor patterns;
  - (ii) while traveling, avoid or catch an object or individual;
  - (iii) develop patterns and combinations of movements into repeatable sequences;
- (2) grades K-4 benchmark 2: demonstrate competency in selected non-motor patterns;

(a) grades K-2 performance standards:

- (i) roll sideways and forwards without hesitating or stopping using control;
- (ii) balance demonstrating momentary stillness in symmetrical and asymmetrical shapes on a variety of body parts;
- (iii) form round, narrow, wide and twisted body shapes alone and with a partner;

(b) grades 3-4 performance standards:

- (i) transfer weight from feet to hands using controlled movement;
- (ii) balance with control on a variety of objects;
- (iii) develop and refine a gymnastics sequence demonstrating smooth transitions;

- (3) grades K-4 benchmark 3: demonstrate competency in selected skills utilizing age- appropriate equipment;

(a) grades K-2 performance standards:

- (i) repeatedly jump a self-turned rope and a rope turned by others;
- (ii) continuously dribble a ball, using hands or feet, without losing control;
- (iii) receive and send an object in a continuous motion (i.e., throwing/catching, kicking/trapping, striking, volleying, etc.);

(b) grades 3-4 performance standards:

- (i) travel into and out of a rope turned by others;

(ii) hand-dribble and foot-dribble a ball and maintain control while traveling within a group;

(iii) throw, catch and kick using mature motor patterns;

(iv) strike a softly-thrown lightweight ball using a bat, paddle or a variety of body parts.

B. Content standard 2: Applies movement concepts and principles to the learning and development of motor skills. Students will:

(1) grades K-4 benchmark 1: demonstrate concepts of body, effort, space and relationships in movement;

(a) grades K-2 performance standards:

(i) travel, changing speed, direction and pathway, quickly and safely without falling; travel while demonstrating a variety of relationships with objects (i.e., over, under, behind, alongside, through, etc.);

(ii) place a variety of body parts into high, medium and low levels;

(b) grades 3-4 performance standards:

(i) design and perform movement sequences that combine traveling, balancing and weight transfer into smooth sequences with intentional changes in direction (i.e., gymnastics, dance, etc.);

(ii) consistently receive and send an object in an intended direction and height;

(2) grades K-4 benchmark 2: demonstrate motor skills, motor behaviors and motor learning concepts in increasingly complex movement situations;

(a) grades K-2 performance standards:

(i) use concepts of space awareness and relationships to others to run, hop and skip in different pathways and directions in a large group without bumping into others or falling;

(ii) recognize similar movement concepts in a variety of skills;

(b) grades 3-4 performance standards:

(i) adapt motor skills to the demands of a dynamic and unpredictable environment;

(ii) identify ways movement concepts can be used to refine movement skills;

(iii) explain how appropriate practice improves performance;

(3) grades K-4 benchmark 3: demonstrate critical elements of fundamental and specialized movement skills; grades K-4 performance standards:

(a) repeat cue words for selected motor skills and demonstrate/explain what is meant by each;

(b) refine movement errors in response to positive information and corrective information feedback;

(c) demonstrate the application of critical cues in selected motor skills;

(d) accurately recognize critical elements of selected skills made by a fellow student and provide positive information and corrective information feedback to that student.

C. Content standard 3: Exhibits knowledge and ability to participate in a physically active lifestyle. Students will:

(1) grades K-4 benchmark 1: select and participate regularly in health-related physical activities for enjoyment;

(a) grades K-2 performance standards:

(i) engage in moderate to vigorous physical activity most days of the week;

(ii) participate regularly in a variety of non-structured and minimally-organized physical activities outside of physical education class (i.e., ball play, tag, hide and seek, skipping, etc.);

(b) Grades 3-4 performance standards:

(i) participate in moderate to vigorous physical activity outside of physical education most days of the week;

(ii) use information from a variety of sources, internal and external, to regulate their activity participation;

(2) grades K-4 benchmark 2: identify the benefits gained from regular physical activity;

(a) grades K-2 performance standard: experience and recognize different types of physical activities and their healthful benefits;

(b) grades 3-4 performance standard: describe how participation in physical activity affects health.

D. Content standard 4: Achieves and maintains a health-enhancing level of physical fitness. Students will:

(1) grades K-4 benchmark 1: match different types of physical activities with health-related physical fitness components;

(a) grades K-2 performance standards:

(i) recognize that health-related physical fitness consists of several components;

(ii) identify activities designed to improve health-related fitness components;

(b) grades 3-4 performance standard: select activities designed to improve and maintain levels of fitness in each component of health-related fitness;

(2) grades K-4 benchmark 2: participate in moderate to vigorous physical activities in a variety of settings;

(a) grades K-2 performance standards:

(i) participate in a variety of games and activities that increase respiration and heart rate;

(ii) demonstrate sufficient muscular strength to be able to bear body weight for climbing, hanging and momentary body support on the hands;

(iii) sustain activity for increasingly longer periods of time;

(b) grades 3-4 performance standard: participate in a variety of physical activities in order to improve each component of health-related fitness;

(3) grades K-4 benchmark 3: begin to interpret the results and demonstrate understanding of the significance of information provided by measures of physical fitness;

(a) grades K-2 performance standards:



- (i) recognize physiological signs and benefits associated with participation in moderate to vigorous physical activity;

- (ii) recognize personal strengths and weaknesses based on participation in various physical activities;

- (b) grades 3-4 performance standards:

- (i) explain the relationship of body weight, body composition and participation in regular physical activity;

- (ii) develop strategies to show progress towards at least one personal fitness goal as determined by health-related fitness assessments.

E. Content standard 5: Demonstrates responsible personal and social behavior in physical activity settings. Students will:

- (1) grades K-4 benchmark 1: utilize safety principles in physical activity settings;

- (a) grades K-2 performance standards:

- (i) use space and equipment safely and properly;

- (ii) recognize that personal space and emotional safety will be protected;

- (b) grades 3-4 performance standards:

- (i) recognize importance of equipment placement and usage during physical education class;

- (ii) initiate the appropriate use of space in game and activity settings;

- (2) grades K-4 benchmark 2: work cooperatively and productively with a partner or small group;

- (a) grades K-2 performance standards:

- (i) invite a peer to take his turn at a piece of apparatus before repeating turn;

- (ii) assist partner by sharing observations about skill performance during practice;

- (b) grades 3-4 performance standards:

(i) work productively with a partner to improve selected motor skills by using the critical elements of the process;

(ii) demonstrate the ability to teach an activity or skill to a group of classmates;

(3) grades K-4 benchmark 3: recognize the influence of peer pressure and identify ways of resolving conflict;

(a) grades K-2 performance standards:

(i) demonstrate the elements of socially acceptable conflict resolution;

(ii) demonstrate effective communication skills;

(b) grades 3-4 performance standard: identify and avoid the negative influence of peers;

(4) grades K-4 benchmark 4: work independently and on-task for short periods of time;

(a) grades K-2 performance standard: demonstrate independent work habits during short-term activity;

(b) grades 3-4 performance standard: honestly report the results of independent work;

(5) grades K-4 benchmark 5: recognize classroom and activity rules; grades K-4 performance standards:

(a) consistently comply with the physical education classroom rules to ensure the physical and emotional safety for all;

(b) distinguish between compliance and non-compliance with game rules and fair play;

(c) accept consequences of personal choices.

F. Content standard 6: Demonstrates understanding and respect for differences among people in physical activity settings. Students will:

(1) grades K-4 benchmark 1: explore cultural/ethnic self-awareness through participation in physical activity; grades K-4 performance standard: articulate cultural/ethnic self awareness through written, oral or physical expression;

(2) grades K-4 benchmark 2: recognize the talents that individuals with differences can bring to group activities;

(a) grades K-2 performance standard: work productively with a variety of partners;

(b) grades 3-4 performance standard: recognize and value the role of each individual in a small group;

(3) grades K-4 benchmark 3: experience differences and similarities among people of different backgrounds by participating in activities of national, cultural and ethnic origins;

(a) grades K-2 performance standard: accept all playmates without regard to personal differences (i.e., age, race, ethnicity, gender, ability level, etc.);

(b) grades 3-4 performance standard: demonstrate the ability to successfully work in a variety of cultural or ethnic activities;

(4) grades K-4 benchmark 4: recognize how the media, particularly advertising, influences the perception of ideal body types;

(a) grades K-2 performance standard: identify the three human somatotypes (endomorph, ectomorph and mesomorph) and recognize own healthy body type;

(b) grades 3-4 performance standards:

(i) differentiate between body type presented in the media and own healthy body type;

(ii) identify lifestyle factors that can be controlled and their impact on health and wellness.

G. Content standard 7: Understands that physical activity provides opportunities for enjoyment, challenge, self-expression and social interaction. Students will:

(1) grades K-4 benchmark 1: identify physical activities that are enjoyable;

(a) grades K-2 performance standard: identify several individual and dual physical activities that they find personally enjoyable;

(b) grades 3-4 performance standard: explain the enjoyable characteristics of small group physical activities;

(2) grades K-4 benchmark 2: practice physical activities to increase skills;

(a) grades K-2 performance standards:

- (i) willingly try new activities;
- (ii) continue to participate when not successful on the first attempt;

(b) grades 3-4 performance standards:

- (i) willingly try new activities;
- (ii) voluntarily initiate skill practice to improve performance;

(3) grades K-4 benchmark 3: demonstrate interaction with others while participating in physical activities;

(a) grades K-2 performance standards:

- (i) celebrate personal successes and achievements and those of others;
- (ii) cooperate and share with partners in physical activities;

(b) grades 3-4 performance standards:

- (i) celebrate personal successes and achievements and those of others;
- (ii) interact with others by helping them successfully complete their small- group physical activity challenges;

(4) grades K-4 benchmark 4: use physical activity as a measure of self-expression;

(a) grades K-2 performance standard: create movement sequences that are personally interesting and satisfying;

(b) grades 3-4 performance standard: design a movement sequence/game that includes all members of the group in the success of the activity.

[6.29.9.8 NMAC - Rp, 6.30.2.20 NMAC, 6-30-2009]

#### **6.29.9.9                      CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR PHYSICAL EDUCATION, Grades 5-8:**

A. Content standard 1: Demonstrates competency in many movement forms and proficiency in a few movement forms. Students will:

(1) grades 5-8 benchmark 1: demonstrate proficiency in combining basic skills for participating in a variety of physical fitness activities: aquatics, dance, outdoor pursuits, individual activities/sports and team activities/sports;

(a) grades 5-6 performance standards:

(i) using basic team sport skills, students will reproduce sequences of combined skills in practice situations and modified games (i.e., basketball: pivot and shoot; receive a pass and dribble; soccer: receive and control; dribble and shoot; baseball/softball: run and slide; catch and throw, etc.);

(ii) using basic individual activity skills, students will reproduce sequences of combined skills in practice situations and modified activities (i.e., table tennis: stance, grip, serve, return-forehand/backhand; aerobic: in rhythm high step, squat step, boxes, grapevine, low march; roller blades: stand up, "V" push, turn, stop, etc.);

(b) grades 7-8 performance standards:

(i) using basic team sport skills, students will display a combination of skills in response to a variety of game situations (i.e., basketball: receive, pivot, dribble, shoot; soccer: receive, control, dribble, pass/shoot; baseball/softball: batting, base running, sliding, etc.);

(ii) using basic individual activity skills, students will display a combination of skills in response to a variety of activity situations (i.e., tennis: serve, center court, forehand; golf: drive, chip, pitch, putt determined by lay of the ball; wall climbing: "on belay," 3-point contact, climb with legs, stabilize with arms, etc.);

(2) grades 5-8 benchmark 2: demonstrate proficiency using basic offensive and defensive strategies while playing a modified version of a learned team and individual sport;

(a) grades 5-6 performance standards:

(i) for team sports, in a practice situation, defensive players will show and maintain proper position and techniques while offensive players use practiced plays and deception to attempt to move to open space;

(ii) for dual sports, during practice and game situations, students will reproduce sequences of basic techniques and skills consisting of: foot work, court position, offensive and defensive strokes, placement of projectile and court position in relation to partner;

(b) grades 7-8 performance standards:

(i) for team sports, in a game situation, defensive players will show and maintain proper position and techniques while offensive players use practiced plays and deception to move to open space;

(ii) for dual sports, during game situations, students will reproduce sequences of basic techniques and skills consisting of: foot work, court position, offensive and defensive strokes, placement of projectile and court position in relation to partner.

B. Content standard 2: Applies movement concepts and principles to the learning and development of motor skills. Students will:

(1) grades 5-8 benchmark 1: demonstrate competency in the use of the concepts of body, effort, space and relationships in movement;

(a) grades 5-6 performance standard: describe how changing effort affects the outcome of a sport skill (i.e., tennis: smash versus lob; basketball: lay up versus three-point shot; track: long distance run versus sprint, etc.);

(b) grades 7-8 performance standard: describe how spatial relationships with other players affect outcomes during playing situations (i.e., badminton: up and back or side by side position; basketball: one on one or zone; soccer: outcomes of passing and receiving, etc.);

(2) grades 5-8 benchmark 2: demonstrate competency in the use of motor skills, motor behaviors and motor learning concepts in increasingly complex movement situations;

(a) grades 5-6 performance standard: use increasingly complex skills and movements to achieve the desired level of motor skill and performances (i.e., progress from dribbling without opposition to dribbling with opposition to dribbling in a game situation, etc.);

(b) grades 7-8 performance standards:

(i) detect and correct errors in personal performance, based on knowledge of results, while participating in selected activities;

(ii) analyze a task to identify movement skills, how they are sequenced and how they are applied to produce a desired outcome;

(3) grades 5-8 benchmark 3: demonstrate competency in the use of critical elements of fundamental and specialized movement skills; grades 5-8 performance standards:

(a) apply knowledge of results to correct and improve future performance;

(b) demonstrate ability to analyze a movement pattern by using knowledge of its critical elements (i.e., self-analysis and peer observation, etc.).

C. Content standard 3: Exhibits knowledge and ability to participate in a physically active lifestyle. Students will:

(1) grades 5-8 benchmark 1: be able to set personal physical activity goals and participate in individualized programs of physical activity and exercise;

(a) grades 5-6 performance standards:

(i) list and describe the benefits of setting personal fitness goals;

(ii) maintain heart rate within the target heart rate zone (i.e., demonstrate proper technique of taking heart rate, explain target heart rate zone, etc.);

(iii) choose physical activities with the intent to improve and or maintain each of the following health-related fitness components: muscular strength (i.e., push-ups, thera-bands, weights, pull-ups, tumbling, etc.); endurance (i.e., running, aerobic activities, etc.); flexibility (i.e., stretching/warm-up, cool-down activities, tumbling, etc.); cardiovascular (i.e., running and aerobic activities, etc.); body composition (i.e., toning activities, aerobic/anaerobic activities, weight training, etc.);

(b) grades 7-8 performance standards:

(i) analyze and interpret personal fitness data in order to establish personal fitness/activity goals;

(ii) maintain heart rate within the target heart rate zone (i.e., apply personal target heart rate data into an individualized personal physical activity, etc.);

(iii) choose and record levels of participation in physical activities with the intent to improve and or maintain each of the following components of health-related fitness: muscular strength (i.e., push-ups, thera-bands, weights, pull-ups, tumbling, etc.); endurance (i.e., running, aerobic activities, etc.); flexibility (i.e., stretching/warm-up, cool-down activities, tumbling, etc.); cardiovascular (i.e., running and aerobic activities, etc.); body composition (i.e., toning activities, aerobic/anaerobic activities, weight training, etc.).

(2) grades 5-8 benchmark 2: determine long-term benefits that may result from regular participation in physical activity;

(a) grades 5-6 performance standards:

(i) comprehend the benefits of physical activity (i.e., list and describe the health risks associated with an inactive lifestyle, list and describe the benefits of active lifestyles, etc.);

(ii) recognize the difference between anaerobic and aerobic fitness activities;

(b) grades 7-8 performance standards:

(i) analyze and illustrate the benefits of physical activity (i.e., differentiate inactive versus active lifestyles;

(ii) outline the health risk factors associated with an inactive lifestyle versus an active lifestyle, etc.);

(iii) compare and contrast the difference between aerobic and anaerobic fitness activities.

D. Content standard 4: Achieves and maintains a health-enhancing level of physical fitness. Students will:

(1) grades 5-8 benchmark 1: participate in physical activities that address each health-related physical fitness component;

(a) grades 5-6 performance standards:

(i) engage in appropriate physical activity that results in the development of cardiovascular endurance;

(ii) select appropriate fitness activities that require muscular strength and muscular endurance;

(iii) comprehend the benefits of flexibility;

(iv) explain the benefits of a healthy body composition;

(b) grades 7-8 performance standards:

(i) analyze appropriate physical activities that result in the development of cardiovascular endurance;

(ii) demonstrate and identify fitness activities that require muscular strength and muscular endurance;

(iii) select appropriate flexibility activities;



(iv) identify the benefits of a healthy body composition versus the risks of an unhealthy body composition;

(2) grades 5-8 benchmark 2: assess personal fitness status within each health-related physical fitness component;

(a) grades 5-6 performance standard: comprehend personal fitness data and recognize individual strengths and weaknesses;

(b) grades 7-8 performance standard: analyze personal fitness data and evaluate individual strengths and weaknesses;

(3) grades 5-8 benchmark 3: interpret the results of physical fitness assessments and use this information to develop individualized physical fitness goals with guidance from the teacher;

(a) grades 5-6 performance standards:

(i) comprehend personal fitness data and recognize individual strengths and weaknesses;

(ii) choose appropriate physical activities to maintain and or improve strengths and weaknesses;

(b) grades 7-8 performance standards:

(i) analyze personal fitness data and evaluate individual strengths and weaknesses;

(ii) generate an appropriate physical fitness plan to maintain and or improve strengths and weaknesses;

(4) grades 5-8 benchmark 4: evaluate the effectiveness of exercise and other factors to obtain personal fitness goals;

(a) grades 5-6 performance standard: identify the components of a fitness program and apply them to personal fitness plans (i.e., include more aerobic activities, adjust sets and reps in strength programs, etc.);

(b) grades 7-8 performance standard: analyze the effectiveness of current fitness programs and revise physical fitness activities to meet fitness goals (i.e., include more aerobic activities, adjust sets and reps in strength programs, etc.).

E. Content standard 5: Demonstrates responsible personal and social behavior in physical activity settings. Students will:

(1) grades 5-8 benchmark 1: select and utilize safety principles in physical activity settings; grades 5-8 performance standards:

(a) use equipment appropriately (i.e., use specific equipment for intended purposes, proper care and management of equipment, etc.);

(b) follow general classroom and specific activity rules (i.e., treat each other with respect, honor specific boundaries, use appropriate personal contact, positive response to teachers' instruction/comments, distinguish between compliance and non-compliance with rules and regulations and apply agreed-upon consequences when officiating, etc.);

(c) follow established emergency procedures (i.e., first aid, fire drills, etc.); wear appropriate activity attire properly (i.e., shoes and socks, clothing specific to activity, clothing specific to school and district rules, no potentially harmful accessories, etc.);

(2) grades 5-8 benchmark 2: exhibit appropriate personal and group conduct while engaging in physical activity; grades 5-8 performance standards:

(a) identify a bullying situation and respond appropriately (i.e., refer to specific district "bully proofing" programs/parameters, go to a safe adult when in an unsafe situation, etc.);

(b) identify a sexual harassment situation and respond appropriately (i.e., refer to specific district regulations/policies, go to a safe adult when in an unsafe situation, demonstrate use of appropriate language and personal contact during physical activities, etc.);

(c) accept responsibility for own actions and modify behaviors accordingly (i.e., take self out of negative situation, go to a safe adult in an unsafe situation, etc.);

(3) grades 5-8 benchmark 3: recognize the influence of peer pressure and make appropriate decisions using problem-solving techniques to resolve conflict; grades 5-8 performance standards:

(a) identify/make positive choices in a variety of physical education settings (i.e., no teasing, name calling - use positive language, follow physical safety rules, follow all game/activity rules, etc.);

(b) recognize and ignore poor behavior choices of peers (i.e., identify bullying behaviors, identify sexual harassment behaviors, etc.);

(c) list coping skills for dealing with negative behaviors (i.e., bully proofing, sexual harassment awareness, peer mediation, conflict resolution, etc.);

(d) when in conflict, use appropriate problem-solving techniques (i.e., conflict mediation, cooperative discipline techniques, small group discussion/processing, etc.);

(e) identify and list components of sportsmanship (i.e., differentiate between positive and negative sportsmanship, fair play, respect referee's decision, understand importance of following rules, adhere to good sportsmanship concepts/ideas, etc.);

(f) demonstrate ability to apply concepts of good sportsmanship (i.e., as participant, as spectator, as referee, as coach, etc.);

(4) grades 5-8 benchmark 4: work cooperatively with a group to achieve group goals; grades 5-8 performance standards:

(a) explain aspects of cooperative activities;

(b) participate positively in team building/cooperative activities;

(c) apply listening skills;

(d) explain different styles of leadership skills;

(e) demonstrate importance of positive attitudes (i.e., communication, body language and listening skills, etc.);

(f) explain what it means to be a good team player;

(g) analyze cause and effect during physical activities.

F. Content standard 6: Demonstrates understanding and respect for differences among people in physical activity settings. Students will:

(1) grades 5-8 benchmark 1: identify the contribution that physical activity plays in multicultural/ethnic awareness and in the acceptance of all peers;

(a) grades 5-6 performance standards:

(i) identify/explain the role of games, sports and dance in getting to know and understand various cultures;

(ii) distinguish the differences between varying cultures and their "native" sports/activities;

(b) grades 7-8 performance standards:

(i) describe why certain sports/dances/activities are more prevalent in specific countries/cultures;

(ii) describe why "I" (student) participate in certain sports/dance/activities based on my culture;

(iii) research and present an unfamiliar game or dance from another country;

(2) grades 5-8 benchmark 2: acknowledge all people of different gender, culture, ethnicity and disability and seek to learn more about both similarities and differences; grades 5-8 performance standards:

(a) understand the need for game modifications to allow persons with special needs to participate;

(b) recognize the diverse attributes of age, race, ethnicity, gender and ability level and acknowledge how these differences can enhance group activities;

(c) participate in games/activities in which handicapping conditions are simulated (i.e., wheelchair basketball, etc.);

(d) describe the social dynamics that occur when peers participate with partners in cooperative activities;

(3) grades 5-8 benchmark 3: analyze how the media, particularly advertising, influences the perception of ideal body types; grades 5-8 performance standards:

(a) initiate discussion of media influences on behavior choices (i.e., print, radio, TV, etc.);

(b) explain/describe how media influences our consumer choices and personal/physical self-concept;

(c) describe differences between healthy bodies and media-generated bodies;

(d) produce a media advertisement that promotes the benefits of an active and healthy lifestyle.

G. Content standard 7: Understands that physical activity provides opportunities for enjoyment, challenge, self-expression and social interaction. Students will:

(1) grades 5-8 benchmark 1: participate in physical activity; grades 5-8 performance standards:

(a) identify a variety of physical activities that will provide satisfaction and lead to continued participation;

(b) choose to participate consistently in games, sports, dance and outdoor activities, both in and out of school, based on individual interests and capabilities (i.e., at school during self-selection times, after-school free time, teams, lessons, family recreation, etc.);

(c) identify benefits of participating in physical activities throughout one's lifetime (i.e., discussion, lists, outline, role playing, etc.);

(d) show a desire to improve one's own physical ability, fitness level and performance (i.e., fitness journals, activity calendars, fitness level assessments, etc);

(2) grades 5-8 benchmark 2: participate in new and challenging physical activities;

(a) grades 5-6 performance standards:

(i) identify opportunities in school and community that encourage/allow for regular participation in physical activity (i.e., community bulletin boards, online searches, class discussions, etc);

(ii) actively choose and join in on new activities in and out of the school environment (i.e., recess, self-selection times, after-school clubs, family recreation time, etc.);

(b) grades 7-8 performance standards:

(i) develop a matrix of available school and community physical activity resources;

(ii) demonstrate a willingness to try an unfamiliar position within the context of a practice or a game situation (i.e., offense versus defense, guard versus forward, catcher versus pitcher, etc.);

(3) grades 5-8 benchmark 3: identify the social benefits of participation in physical activity; grades 5-8 performance standards:

(a) identify basic ideals of fair play, acceptance of rules and group communication (i.e., give appropriate feedback to partners and teammates, etc.);

(b) appreciate the challenging aspects of competition with self and others (i.e., praise opponents, accept teammates' and opponents' contributions, enjoy physical activity for its own sake, etc.);

(c) sharing feelings of satisfaction felt as a result of physical activity (i.e., improved individual self-esteem, good feelings gained from being part of a team, activity journals, class discussions, etc.);

(4) grades 5-8 benchmark 4: practice and demonstrate physical activity as a vehicle for self-expression; grades 5-8 performance standards:

(a) identify and use a variety of physical activities and movements to communicate ideas and feelings (i.e., dance, sports, gymnastics, intensity levels, etc.);

(b) demonstrate aesthetic appreciation of skilled movement of the body (i.e., create body silhouettes, etc.);

(c) identify and describe personal feelings resulting from participation in physical activity (i.e., journals, activity calendars, peer mentoring, class discussions, etc.);

(d) exhibit appropriate protocol during dance, fine arts or other physical activity events.

[6.29.9.9 NMAC - Rp, 6.30.2.20 NMAC, 6-30-2009]

#### **6.29.9.10 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR PHYSICAL EDUCATION, Grades 9-12:**

A. Content standard 1: Demonstrates competency in many movement forms and proficiency in a few movement forms. Students will: grades 9-12 benchmark: demonstrate proficiency in at least one activity from three of the six following categories of activities: aquatics, dance, outdoor pursuits, individual activities/sports and team activities/sports; grades 9-12 performance standards:

(1) identify the critical elements contained in the preparatory, action and follow-through phases of movement;

(2) analyze the critical elements contained in the preparatory, action and follow-through phases of movement;

(3) evaluate skill based on self, peer and teacher feedback while utilizing sound principles of biomechanics;

(4) modify and transition future skill performances based on self, peer and teacher feedback while utilizing sound principles of biomechanics to guide skill improvement.

B. Content standard 2: Applies movement concepts and principles to the learning and development of motor skills. Students will: grades 9-12 benchmark: apply scientific principles to learn and improve skills; grades 9-12 performance standards:

(1) explain and demonstrate motor learning cues to help regulate their physical performance;

(2) explain the principles of exercise science and demonstrate the understanding of physiological changes that occur to the body due to the efficiency of movement, training and the aging process;

(3) apply biomechanical concepts while identifying basic biomechanical principles of movement (i.e., leverage, torque, transfer of energy and angular velocity, mass and momentum, net joint torque, etc.);

(4) identify and utilize biomechanical, motor development, exercise physiology and motor learning concepts to learn and improve skills.

C. Content standard 3: Exhibits knowledge and ability to participate in a physically active lifestyle. Students will:

(1) grades 9-12 benchmark 1: participate in physical activities which contribute to the attainment of personal goals and the maintenance of wellness; grades 9-12 performance standards:

(a) identify realistic personal fitness goals based on a pre-assessment;

(b) maintain a personal fitness program by using exercise strategies (i.e., goal statements, graphs, charts, software, log books, etc.);

(2) grades 9-12 benchmark 2: monitor exercise, eating and other behaviors related to a healthy lifestyle; grades 9-12 performance standard: demonstrate an understanding of chronic sedentary diseases and at-risk behaviors (i.e., smoking, alcohol consumption, drug use, etc.) as they pertain to health-related fitness (i.e., track, identify and draw conclusions about personal nutrition and physical activity and how it relates to one's personal health, etc.);

(3) grades 9-12 benchmark 3: understand how activity participation patterns are likely to change throughout life and identify strategies to deal with those changes; grades 9-12 performance standards:

(a) identify and explain the physiological challenges and metabolic changes that occur to the human body across the lifespan;

(b) create a physical activity and nutrition plan for the different stages of life based on personal health history, areas of interest and desired individual outcomes;

(4) grades 9-12 benchmark 4: use scientific knowledge to analyze personal characteristics that relate to participation in physical activities; grades 9-12 performance standards:

(a) use technology and scientific methods to collect data in order to analyze personal physical activity patterns (i.e., pedometers, heart rate monitors, activity-gram, etc.);

(b) analyze different physical activities to determine a well-balanced health-related fitness program to help enhance overall fitness (i.e., cardiovascular, muscular endurance, muscular strength, flexibility activities, etc.).

D. Content standard 4: Achieves and maintains a health-enhancing level of physical fitness. Students will:

(1) grades 9-12 benchmark 1: recognize the importance of participation in physical activity on a regular basis; grades 9-12 performance standard: maintain a personal fitness program by using exercise strategies (i.e., goal statements, graphs, charts, software, log books, etc.);

(2) grades 9-12 benchmark 2: demonstrate independence in assessing, achieving and maintaining personal health-related fitness goals; grades 9-12 performance standard: demonstrate the ability and knowledge to self-assess health-related fitness levels (i.e., resting heart rate, recovery heart rate, target heart rate, heart rate zone, muscular strength, endurance, flexibility, body composition, etc.) based upon health-related fitness criteria (i.e., develop strategies for achieving and maintaining a personal fitness program);

(3) grades 9-12 benchmark 3: design personal fitness programs that encompass all health-related physical fitness components; grades 9-12 performance standards:

(a) provide rationale for the use of scientific concepts in the development of one's fitness program;

(b) provide rationale for the principles of frequency, intensity, time and type;

(c) demonstrate a knowledge base on training principles (i.e., progression, overload, specificity, etc.);

(d) create a scientifically-based personal fitness program that encompasses cardiovascular, muscular strength, muscular endurance, flexibility and body composition principles in the fitness plan.

E. Content standard 5: Demonstrates responsible personal and social behavior in physical activity settings. Students will:

(1) grades 9-12 benchmark 1: identify and evaluate risks and safety factors that may affect physical activity choices throughout the life cycle; grades 9-12 performance standards:



(a) adhere to the general classroom and specific activity rules as well as assisting with the care of the equipment and facilities;

(b) apply appropriate etiquette in all activities;

(2) grades 9-12 benchmark 2: initiate independent and responsible personal behavior in physical activity settings; grades 9-12 performance standard: follow general classroom and specific activity rules to insure physical and emotional safety;

(3) grades 9-12 benchmark 3: recognize the influence of peer pressure and exhibit appropriate strategies for conflict resolution; grades 9-12 performance standards:

(a) demonstrate the ability to make responsible decisions regardless of peer pressure;

(b) accept consequences of personal choices;

(c) openly discuss conflicts with the teacher and others involved while using conflict resolution skills;

(4) grades 9-12 benchmark 4: accept leadership responsibility and a willingness to follow, as appropriate, in order to accomplish group goals; grades 9-12 performance standard: distinguish between group member roles (e.g. leader, follower, etc.) and act accordingly to accomplish group goals.

F. Content standard 6: Demonstrates understanding and respect for differences among people in physical activity settings. Students will:

(1) grades 9-12 benchmark 1: identify the effects of age, gender, race, ethnicity, socioeconomic standing and culture upon physical activity choices and participation; grades 9-12 performance standards:

(a) discuss why social differences and other aspects keep young adults from participating in an active lifestyle;

(b) acknowledge the attributes that individuals with differences bring to a group;

(2) grades 9-12 benchmark 2: develop strategies for including persons of diverse backgrounds and abilities in physical activity; grades 9-12 performance standards:

(a) recognize the importance of working cooperatively with persons of diverse backgrounds and abilities during any activity;

(b) display a sensitive attitude and a willingness to participate with others in physical activities;

(3) grades 9-12 benchmark 3: evaluate how the media, particularly advertising, influence the perception of the ideal body types; grades 9-12 performance standards:

(a) recognize that media messages are trying to sell products;

(b) know that billboards, magazines and television will show idealistic body types;

(c) critically analyze advertising messages; create print ads endorsing healthy lifestyles.

G. Content standards 7: Understands that physical activity provides opportunities for enjoyment, challenge, self-expression and social interaction. Students will:

(1) grades 9-12 benchmark 1: Maintain and improve physical fitness, motor skills and knowledge about physical activity; grades 9-12 performance standards:

(a) select activities that are enjoyable and promote fitness;

(b) identify activities that best fit their individual needs;

(c) choose activities outside of school that provide challenges and social interaction;

(d) recognize intrinsic value of physical activity;

(2) grades 9-12 benchmark 2: evaluate the importance of physical activity and healthy nutrition as part of one's lifestyle; grades 9-12 performance standards:

(a) identify key reasons to develop and maintain physical activity and healthy eating habits;

(b) recognize the connections with lifestyle choices regarding activity and nutrition and the impact on health;

(3) grades 9-12 benchmark 3: analyze time, cost and accessibility factors related to regular participation in physical activities; grades 9-12 performance standards:

(a) identify barriers and enablers to regular physical activity specific to his or her situation;

(b) create a time management plan to facilitate regular physical activity participation;

(4) grades 9-12 benchmark 4: recognize the feelings that result from physical activity participation; grades 9-12 performance standards:

(a) reflect on reasons for choosing to participate in selected physical activity;

(b) create self rewards for achieving personal fitness goals;

(c) experience the feeling of satisfaction about personal fitness accomplishments;

(d) evaluate the physical, social and psychological benefits of a healthy and active lifestyle.

[6.29.9.10 NMAC - Rp, 6.30.2.20 NMAC, 6-30-2009]

## **PART 10: NEW MEXICO STEM-READY SCIENCE STANDARDS**

### **6.29.10.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.10.1 NMAC - Rp, 6.29.10.1 NMAC, 07/01/2018]

### **6.29.10.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.10.2 NMAC - Rp, 6.29.10.2 NMAC, 07/01/2018]

### **6.29.10.3 STATUTORY AUTHORITY:**

**A.** Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

**B.** Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.10.3 NMAC - Rp, 6.29.10.3 NMAC, 07/01/2018]

#### **6.29.10.4 DURATION:**

Permanent.

[6.29.10.4 NMAC - Rp, 6.29.10.4 NMAC, 07/01/2018]

#### **6.29.10.5 EFFECTIVE DATE:**

July 1, 2018, unless a later date is cited at the end of a section.

[6.29.10.5 NMAC - Rp, 6.29.10.5 NMAC, 07/01/2018]

#### **6.29.10.6 OBJECTIVE:**

The department-approved New Mexico STEM-ready science standards represent the required knowledge and skills in this field. They are mandated for grades K-12.

[6.29.10.6 NMAC - Rp, 6.29.10.6 NMAC, 07/01/2018]

#### **6.29.10.7 DEFINITIONS:**

**[RESERVED]**

#### **6.29.10.8 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR SCIENCE, GRADES K-12:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute are bound by the New Mexico STEM-ready science standards. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us).

**A.** The following standards shall be utilized for elementary, middle, and high school in conjunction with the next generation science standards for states, by states incorporated by reference in 6.29.10 NMAC.

##### **(1) Elementary:**

**(a)** 1-SS-1 NM: Obtain information about how men and women of all ethnic and social backgrounds in New Mexico have worked together to advance science and technology.

**(b)** 5-SS-1 NM: Communicate information gathered from books, reliable media, or outside sources, that describes how a variety of scientists and engineers across New Mexico have improved existing technologies, developed new ones, or improved society through applications of science.

**(2) Middle and high school:**

**(a)** MS-ESS3-3 NM: Describe the advantages and disadvantages associated with technologies related to local industries and energy production.

**(b)** HS-LS2-7 NM: Using a local issue in your solution design, describe and analyze the advantages and disadvantages of human activities that support the local population such as reclamation projects, building dams, and habitat restoration.

**(c)** HS-SS-1 NM: Obtain and communicate information about the role of New Mexico in nuclear science and 21<sup>st</sup> century innovations including how the national laboratories have contributed to theoretical, experimental, and applied science; have illustrated the interdependence of science, engineering, and technology; and have used systems involving hardware, software, production, simulation, and information flow.

**(d)** HS-SS-2 NM: Construct an argument using claims, scientific evidence, and reasoning that helps decision makers with a New Mexico challenge or opportunity as it relates to science.

**B.** The next generation science standards for states, by states by the NGSS lead states and any amendments made thereto are incorporated in this rule by reference.

[6.29.10.8 NMAC - Rp, 6.29.10.8 NMAC, 07/01/2018]

**6.29.10.9-6.29.10.10: [RESERVED]**

**PART 11: SOCIAL STUDIES**

**6.29.11.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.11.1 NMAC – Rp, 6.29.11.1 NMAC, 2/22/2022]

**6.29.11.2 SCOPE:**

All public schools, state educational institutions, and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.11.2 NMAC - Rp, 6.29.11.2, 2/22/2022]

**6.29.11.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-2C-3 NMSA 1978.

[6.29.11.3 NMAC - Rp, 6.29.11.3 NMAC, 2/22/2022]

#### **6.29.11.4 DURATION:**

Permanent.

[6.29.11.4 NMAC - Rp, 6.29.11.4 NMAC, 2/22/2022]

#### **6.29.11.5 EFFECTIVE DATE:**

February 22, 2022, unless a later date is cited at the end of a section.

[6.29.11.5 NMAC – Rp, 6.29.11.5 NMAC, 2/22/2022]

#### **6.29.11.6 OBJECTIVE:**

This rule establishes the academic content and performance standards for social studies for grades kindergarten through 12. The social studies standards include six strands: (1) civics, (2) economics and personal financial literacy, (3) geography, (4) history, (5) ethnic, cultural, and identity studies, and (6) inquiry. The strands are organized by anchor standard, which are the core ideas that establish what students should understand and be able to do, with increasing complexity. Anchor standards consist of performance indicators, which are concise, written descriptions of what students are expected to know and be able to do in a specific grade or course.

[6.29.11.6 NMAC - Rp, 6.29.11.6 NMAC, 2/22/2022]

#### **6.29.11.7 DEFINITIONS:**

**[RESERVED]**

#### **6.29.11.8 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR KINDERGARTEN:**

##### **A. Civics.**

(1) The student shall demonstrate an understanding of processes, rules, and laws by:

(a) communicating the purpose of rules; and

(b) explaining how the rules help us work together.

(2) The student shall demonstrate an understanding of civic dispositions and democratic principles by identifying the local, state, and national symbols (e.g. flag, bird, song).

(3) The student shall demonstrate an understanding of roles and responsibilities of a civic life by:

- (a) identifying the consequences of following and not following rules; and
- (b) identifying authority figures and describing their roles.

## **B. Economics and personal financial literacy.**

- (1) The student shall demonstrate an understanding of incentives and choices by distinguishing between a basic need (e.g. food, clothing, shelter) and a want.
- (2) The student shall demonstrate an understanding of money and markets by:
  - (a) identifying examples of goods and services; and
  - (b) explaining what scarcity is and how scarcity affects the accessibility of goods and services.
- (3) The student shall demonstrate an understanding of personal financial literacy by recognizing personal finance choices people make.

## **C. Geography.**

- (1) The student shall demonstrate an understanding of geographic representations and reasoning by, with prompting and support, creating maps of familiar areas (e.g. classroom, school, community), that include labels.
- (2) The student shall demonstrate an understanding of location, place, and region by:
  - (a) recognizing and identifying signs and symbols around their town and community, including the location of places, people, and objects; and
  - (b) identifying the differences and similarities between a globe and a map, and explaining the purpose of the two.
- (3) The student shall demonstrate an understanding of movement, population, and systems by explaining why and how people move from place to place within a community.

## **D. History.**

- (1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by comparing traditions found in communities over time.

**(2)** The student shall demonstrate an understanding of power dynamics, leadership, and agency by demonstrating an awareness of community leaders (e.g. teacher, principal, mayor, tribal leaders).

**E. Ethnic, cultural, and identity studies.**

**(1)** The student shall demonstrate an understanding of diversity and identity by:

**(a)** sequencing important events in the student's life;

**(b)** identifying how individuals are similar and different;

**(c)** communicating a positive view of themselves and identifying some of their group identities;

**(d)** describing ways they are similar and different from people who share their identities, and people who do not;

**(e)** exploring their personal history, culture, and past; and

**(f)** with support, learning about current contributions of people in their main identity groups.

**F. Inquiry.**

**(1)** The student shall demonstrate an understanding of constructing compelling and supporting questions by, with prompting and support:

**(a)** recognizing a compelling question; and

**(b)** identifying the relationship between compelling and supporting questions.

**(2)** The student shall demonstrate an understanding of communicating and critiquing conclusions by, with prompting and support, constructing responses to compelling questions using examples.

**(3)** The student shall demonstrate an understanding of taking informed action by:

**(a)** taking group or individual action to help address local, regional, or global problems or issues; and

**(b)** participating in deliberative and democratic procedures to make decisions about, and act on, civic problems or issues in their classrooms.



**6.29.11.9 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR FIRST GRADE:**

**A. Civics.** The student shall demonstrate an understanding of the roles and responsibilities of a civic life by explaining and providing examples of how people play important roles in society.

**B. Economics and personal financial literacy.**

**(1)** The student shall demonstrate an understanding of incentives and choices by examining choices that families make in purchasing general goods and identifying costs associated with those choices.

**(2)** The student shall demonstrate an understanding of money and markets by examining decisions people make about spending and saving money.

**(3)** The student shall demonstrate an understanding of personal financial literacy by:

**(a)** identifying examples of producers and consumers; and

**(b)** examining how earning money through work is related to the purchase of goods and services.

**C. Geography.**

**(1)** The student shall demonstrate an understanding of geographic representations and reasoning by:

**(a)** creating geographic representations to identify the location of familiar places and demonstrate how these representations can help us navigate from one place to the next, provide directions, or trace important routes;

**(b)** identifying the common symbols used on maps for human-made structures and physical features; and

**(c)** using a variety of maps to locate specific places, and identify major landforms, bodies of water, and other places of significance around the United States.

**(2)** The student shall demonstrate an understanding of location, place, and region by explaining how human-made structures are all examples of how people modify the physical environment to meet needs and wants.

(3) The student shall demonstrate an understanding of human-environmental interactions and sustainability by explaining how people interact with their physical environment in ways that may have a positive or a negative effect on natural resources.

#### **D. History.**

(1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by comparing life in New Mexico in the past to life in New Mexico today.

(2) The student shall demonstrate an understanding of historical thinking by:

(a) comparing fact and opinion in stories and narratives from the past; and

(b) demonstrating chronological thinking by distinguishing among past, present, and future using family, school, or community events.

(3) The student shall demonstrate an understanding of critical consciousness and perspectives by examining and identifying cultural differences within their community.

#### **E. Ethnic, cultural, and identity studies.**

(1) The student shall demonstrate an understanding of diversity and identity by:

(a) explaining how groups of people believe different things and live in unique ways; and

(b) explaining how student and individual identities are part of what makes each person unique and special.

(2) The student shall demonstrate an understanding of identity in history by investigating significant events, people, and observances in history, and discussing their effects on local and national communities.

(3) The student shall demonstrate an understanding of community equity building by investigating how people work together to accomplish a common task, and how working together benefits and challenges people.

#### **F. Inquiry.**

(1) The student shall demonstrate an understanding of constructing compelling and supporting questions by:

(a) recognizing a compelling question; and

(b) generating supporting questions related to compelling questions within a variety of social studies topics.

(2) The student shall demonstrate an understanding of gathering and evaluating sources by interacting with a variety of primary and secondary sources.

(3) The student shall demonstrate an understanding of communicating and critiquing conclusions by constructing responses to compelling questions using examples.

(4) The student shall demonstrate an understanding of taking informed action by:

(a) taking group or individual action to help address local, regional, or global problems or issues; and

(b) using deliberative and democratic procedures to make decisions about, and act on, civic problems or issues in their classrooms.

[6.29.11.9 NMAC – Rp, 6.29.11.9 NMAC, 2/22/2022]

#### **6.29.11.10 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR SECOND GRADE:**

##### **A. Civics.**

(1) The student shall demonstrate an understanding of processes, rules, and laws by:

(a) evaluating how American society has changed through rules and laws; and

(b) understanding the purposes and structures of government (e.g. tribal, local, state, national).

(2) The student shall demonstrate an understanding of civic dispositions and democratic principles by:

(a) assessing how the contributions of diverse individuals have helped develop our national identity; and

(b) examining and comparing the American democratic principles to neighboring countries.

**(3)** The student shall demonstrate an understanding of the roles and responsibilities of a civic life by examining and understanding the various qualities of leadership.

**B. Economics and personal financial literacy.**

**(1)** The student shall demonstrate an understanding of economic decision-making by:

**(a)** examining how consumers react to changes in the prices of goods and how this influences economic decision-making and the use of money; and

**(b)** exploring how communities share resources and services with other communities.

**(2)** The student shall demonstrate an understanding of economic systems and models by investigating what resources are available in their community, how available resources differ in communities, and what resources are obtained from neighboring communities.

**(3)** The student shall demonstrate an understanding of personal financial literacy by:

**(a)** identifying different types of jobs performed in the community;

**(b)** assessing priorities when making financial decisions; and

**(c)** classifying financial goals as short-term or long-term.

**C. Geography.**

**(1)** The student shall demonstrate an understanding of geographic representations and reasoning by:

**(a)** using maps, identifying and locating the United States, Canada, and Mexico as the countries that make up North America; and

**(b)** identifying and locating the bordering states to New Mexico and understanding that New Mexico is in the southwest.

**(2)** The student shall demonstrate an understanding of location, place, and region by:

**(a)** comparing the human and physical characteristics of two regions in the United States; and

(b) generating a description for their region of the United States by identifying unique features.

(3) The student shall demonstrate an understanding of movement, population, and systems by listing at least three different waves of migration to the western hemisphere in chronological order.

(4) The student shall demonstrate an understanding of human-environmental interactions and sustainability by describing ways in which individuals and groups use or conserve natural resources.

#### **D. History.**

(1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by:

(a) describing events in North America that illustrate how people from diverse cultural groups aimed to work through conflicts to solve a problem;

(b) comparing diverse world communities to local communities in terms of members, customs, and traditions; and

(c) demonstrating chronological thinking by distinguishing among years and decades using a timeline of local and national events.

(2) The student shall demonstrate an understanding of critical consciousness and perspectives by:

(a) identifying and comparing the diverse North American cultural groups of the past and today; and

(b) evaluating the effects of people, goods, and ideas that diffused from one community to other communities and their impact.

#### **E. Ethnic, cultural, and identity studies.**

(1) The student shall demonstrate an understanding of diversity and identity by:

(a) expressing a positive view of themselves while demonstrating respect and empathy for others; and

(b) describing ways people are similar and different from people who share identities, and people who do not.

(2) The student shall demonstrate an understanding of community equity building by demonstrating respect for the feelings of people who are similar and different from the student.

#### **F. Inquiry.**

(1) The student shall demonstrate an understanding of constructing compelling and supporting questions by:

(a) explaining why a compelling question is important; and

(b) generating supporting questions related to compelling within a variety of social studies topics.

(2) The student shall demonstrate an understanding of gathering and evaluating sources by, with support, determining if a source is primary or secondary.

(3) The student shall demonstrate an understanding of communicating and critiquing conclusions by, with support, constructing responses to compelling questions using reasoning, examples, and relevant details.

(4) The student shall demonstrate an understanding of taking informed action by:

(a) taking group or individual action to help address local, regional, or global problems or issues; and

(b) using deliberative and democratic procedures to make decisions about, and act on, civic problems or issues in their classrooms.

[6.29.11.10 NMAC - Rp, 6.29.11.10 NMAC, 2/22/2022]

#### **6.29.11.11 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR THIRD GRADE:**

##### **A. Civics.**

(1) The student shall demonstrate an understanding of civic dispositions and democratic principles by explaining how the democratic principles motivate people to migrate then and now.

(2) The student shall demonstrate an understanding of the roles and responsibilities of a civic life by explaining how to be a responsible and active citizen in a democracy.

##### **B. Economics and personal financial literacy.**

**(1)** The student shall demonstrate an understanding of economic systems and models by investigating who receives the goods that are produced in various world communities.

**(2)** The student shall demonstrate an understanding of global economy by:

**(a)** exploring the concepts of surplus and scarcity in relation to resources for various world communities;

**(b)** exploring the basic economic concepts of supply and demand;

**(c)** explaining how supply and demand influence prices and trade;

**(d)** describing how technological developments in transportation and communication influence trade over time;

**(e)** identifying currency, credit, debit, and checks as the basic means of exchange in western society; and

**(f)** comparing currency, credit, debit, and checks in the United States to other world money systems.

**(3)** The student shall demonstrate an understanding of personal financial literacy by:

**(a)** examining the various ways people earn a living to meet their basic needs (e.g. food, clothing, shelter) and how this has changed over time in various world communities; and

**(b)** creating a plan with specific steps to reach a short-term financial goal.

### **C. Geography.**

**(1)** The student shall demonstrate an understanding of geographic representations and reasoning by:

**(a)** creating a model to demonstrate how geographic factors influence where people settle and how some people make adaptations to the environment to make a location more suitable for settlement; and

**(b)** identifying and using a variety of digital and analog mapping tools to locate places.

**(2)** The student shall demonstrate an understanding of location, place, and region by:

(a) explaining how physical and cultural characteristics of world regions affect people, and examining geographic features of various global communities that might create a need for migration or immigration using a variety of maps, photos, and other geographic representations; and

(b) identifying the components of the Earth's biosystems and their makeup.

(3) The student shall demonstrate an understanding of movement, population, and systems by:

(a) evaluating the reasons for migration and immigration and the effects on people, culture, and ideas in world communities;

(b) analyzing how human settlement and movement impact diverse groups of people; and

(c) analyzing the movement of indigenous groups, including the removal and return of Indigenous people throughout New Mexico and the United States.

#### **D. History.**

(1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by explaining how world events impact New Mexico and the United States in the past and present.

(2) The student shall demonstrate an understanding of historical thinking by using a timeline to analyze connections among historical events, including how human settlement and movement impacted diverse groups of people.

#### **E. Ethnic, cultural, and identity studies.**

(1) The student shall demonstrate an understanding of diversity and identity by:

(a) expressing a positive view of themselves while demonstrating respect and empathy for others; and

(b) comparing and contrasting their cultural identity with other people and groups.

(2) The student shall demonstrate an understanding of community equity building by identifying the actions of people and groups who have worked throughout history to improve their community, which leads to a more equitable society.

#### **F. Inquiry.**



(1) The student shall demonstrate an understanding of constructing compelling and supporting questions by:

(a) explaining how a compelling question represents key ideas; and

(b) using supporting questions to help answer the compelling question in an inquiry.

(2) The student shall demonstrate an understanding of gathering and evaluating sources by, with support, determining the credibility of sources.

(3) The student shall demonstrate an understanding of developing claims by citing evidence that supports a response to supporting or compelling questions.

(4) The student shall demonstrate an understanding of communicating and critiquing conclusions by constructing responses to compelling questions using reasoning, examples, and relevant details.

(5) The student shall demonstrate an understanding of taking informed action by:

(a) identifying challenges and opportunities when taking action to address problems or issues, including predicting possible outcomes; and

(b) using deliberative and democratic procedures to make decisions about, and act on, civic problems or issues in their classrooms.

[6.29.11.11 NMAC - Rp, 6.29.11.11 NMAC, 2/22/2022]

#### **6.29.11.12 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR FOURTH GRADE:**

##### **A. Civics.**

(1) The student shall demonstrate an understanding of processes, rules, and laws by examining and evaluating the rules, laws, and authorities that keep people safe in New Mexico.

(2) The student shall demonstrate an understanding of civic dispositions and democratic principles by:

(a) explaining how democratic principles guide local, state, and sovereign governments; and

**(b)** demonstrating an understanding that state symbols, holidays, traditions, and songs represent various cultural heritages, natural treasures, and the democratic values of New Mexico.

## **B. Economics and personal financial literacy.**

**(1)** The student shall demonstrate an understanding of economic decision-making by explaining the impact of using natural resources on the local, county, and state economy.

**(2)** The student shall demonstrate an understanding of economic systems and models by:

**(a)** explaining how trade and industry in New Mexico is impacted by surrounding economies (e.g. Mexico, Arizona, Colorado, Texas); and

**(b)** researching and creating a list of products, goods, and services that New Mexico imports and exports.

**(3)** The student shall demonstrate an understanding of money and markets by exploring the significance of various industries in New Mexico.

**(4)** The student shall demonstrate an understanding of personal financial literacy by:

**(a)** establishing the purpose of banks and how they work; and

**(b)** explaining what a checking and savings account are used for.

## **C. Geography.**

**(1)** The student shall demonstrate an understanding of geographic representations and reasoning by:

**(a)** examining and synthesizing data from at least two types of maps (e.g. physical, topographical, thematic) to support a claim about the regional divisions of New Mexico, and comparing and contrasting its diverse geography;

**(b)** using a variety of maps, investigating and comparing how New Mexico's boundaries have changed over time;

**(c)** applying geographic tools of title, grid system, legends, symbols, scale, and compass rose to construct and interpret digital and analog maps; and

**(d)** describing and identifying the regions and four provinces that make up New Mexico's land surface.

(2) The student shall demonstrate an understanding of movement, population, and systems by describing the different groups of people that have settled in New Mexico throughout history and describing their contributions to New Mexico cultures.

(3) The student shall demonstrate an understanding of human-environmental interactions and sustainability by exploring how geographic factors influence locations of settlements and use of natural resources to meet the basic needs of humans.

#### **D. History.**

(1) The student shall demonstrate an understanding of causes and consequences by describing the interactions between indigenous people and European settlers including agriculture, cultural exchanges, alliances, and conflicts.

(2) The student shall demonstrate an understanding of historical thinking by creating a timeline that depicts events and the changes in New Mexico during a selected time period.

(3) The student shall demonstrate an understanding of critical consciousness and perspectives by explaining why various individuals and groups during the same historical period differed in their perspectives toward significant historical events.

(4) The student shall demonstrate an understanding of power dynamics, leadership, and agency by:

(a) investigating how different groups have influenced the ways that state issues are viewed and resolved; and

(b) examining the changes in governance of New Mexico.

#### **E. Ethnic, cultural, and identity studies.**

(1) The student shall demonstrate an understanding of diversity and identity by participating in inquiry of other people's lives and experiences while demonstrating respect and empathy for others.

(2) The student shall demonstrate an understanding of identity in history by explaining connections among historical contexts and people's perspectives at the time.

#### **F. Inquiry.**

(1) The student shall demonstrate an understanding of constructing compelling and supporting questions by:

(a) generating compelling questions in an inquiry; and

(b) using supporting questions to help answer the compelling question in an inquiry.

(2) The student shall demonstrate an understanding of developing claims by citing evidence that supports a response to supporting or compelling questions.

(3) The student shall demonstrate an understanding of communicating and critiquing conclusions by constructing responses to compelling questions using reasoning, examples, and relevant details.

(4) The student shall demonstrate an understanding of taking informed action by:

(a) identifying challenges and opportunities when taking action to address problems or issues, including predicting possible outcomes; and

(b) using deliberative and democratic procedures to make decisions about, and act on, civic problems or issues in their classrooms.

[6.29.11.12 NMAC - Rp, 6.29.11.12 NMAC, 2/22/2022]

#### **6.29.11.13 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR FIFTH GRADE:**

##### **A. Civics.**

(1) The student shall demonstrate an understanding of civic and political institutions by identifying and explaining the structure and function of the three branches government and how they form the basis for our constitutional and federal republic.

(2) The student shall demonstrate an understanding of processes, rules, and laws by analyzing how different individuals and groups influenced the creation and interpretation of the founding documents.

(3) The student shall demonstrate an understanding of civic dispositions and democratic principles by explaining how the principles of the founding documents and the principle of liberty became unifying ideas of American democracy.

(4) The student shall demonstrate an understanding of roles and responsibilities of a civic life by evaluating how the bill of rights shaped the rights of United States citizens.

##### **B. Economics and personal financial literacy.**

(1) The student shall demonstrate an understanding of economic decision-making by:

(a) using examples from the western hemisphere, exploring and illustrating the role of scarcity historically and today;

(b) analyzing how economic success is defined differently by various communities in the United States throughout the past and present; and

(c) identifying and comparing the major natural resources and industries of two or more countries in the western hemisphere.

(2) The student shall demonstrate an understanding of economic systems and models by examining products that are imported and exported into markets within the United States based on demand for these products, noting how this affects the United States economy.

(3) The student shall demonstrate an understanding of personal financial literacy by:

(a) creating a way to keep track of money spent and saved; and

(b) determining the relationship between long-term goals and opportunity cost.

### **C. Geography.**

(1) The student shall demonstrate an understanding of geographic representations and reasoning by:

(a) demonstrating how physical maps reflect the varied climate zones, landforms, bodies of water, and natural resources of the western hemisphere;

(b) using maps and globes, identifying the regions within the western hemisphere and locating major physical features within each region;

(c) demonstrating how the states are organized, including time zones and the regions of the United States; and

(d) using geographic and place-based vocabulary to communicate locations and navigate from one place to another.

(2) The student shall demonstrate an understanding of location, place, and region by using a map, identifying and locating the 50 states in the United States, and knowing the capitals of each state along with the surrounding United States territories.

(3) The student shall demonstrate an understanding of human-environmental interactions and sustainability by examining and explaining how the physical environment influences human population distribution and land use.

#### **D. History.**

(1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by examining history from the perspective of the participants using a variety of narratives.

(2) The student shall demonstrate an understanding of causes and consequences by:

(a) creating and using a chronological sequence of events and timelines to organize and analyze cause and effect relationships; and

(b) using primary and secondary sources to acquire historical information.

(3) The student shall demonstrate an understanding of historical thinking by:

(a) analyzing the causes of the American revolution and the effects individuals and groups had on the conflict; and

(b) analyzing the causes of the civil war and the effects individuals and groups had on the conflict.

(4) The student shall demonstrate an understanding of critical consciousness and perspectives by:

(a) explaining the connections among historical contexts and people's perspectives

during major historical events in the United States; and

(b) identifying how the beliefs, experiences, perspectives, and values contribute to forming points of view about civic issues.

(5) The student shall demonstrate an understanding of power dynamics, leadership, and agency by exploring inequity throughout the history of the United States and its connection to conflict that arises today.

**E. Ethnic, cultural, and identity studies.** The student shall demonstrate an understanding of diversity and identity by:

(1) demonstrating knowledge of family history, culture, and past contributions of people in their main identity groups; and

(2) explaining how the treatment of groups of people in the past and present impacts who they are.

## **F. Inquiry.**

**(1)** The student shall demonstrate an understanding of constructing compelling and supporting questions by:

- (a)** generating compelling and related supporting questions in an inquiry; and
- (b)** using supporting questions to help answer the compelling question in an inquiry.

**(2)** The student shall demonstrate an understanding of gathering and evaluating sources by, with support, identifying primary and secondary sources and determining their credibility.

**(3)** The student shall demonstrate an understanding of developing claims by identifying evidence that draws information from multiple perspectives and sources in response to a compelling question.

**(4)** The student shall demonstrate an understanding of communicating and critiquing conclusions by constructing responses to compelling questions supported by reasoning and evidence.

**(5)** The student shall demonstrate an understanding of taking informed action by:

**(a)** identifying challenges and opportunities when taking action to address problems or issues, including predicting possible outcomes; and

**(b)** using a range of consensus-building and democratic procedures to make decisions about, and act on, civic problems or issues in the classroom.

[6.29.11.13 NMAC - Rp, 6.29.11.13 NMAC, 2/22/2022]

## **6.29.11.14 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR SIXTH GRADE:**

### **A. Civics.**

**(1)** The student shall demonstrate an understanding of civic and political institutions by:

- (a)** identifying the social structures of early humans;
- (b)** describing cultural and political structures in classical eastern societies;

(c) describing cultural and political structures in classical western societies;  
and

(d) comparing and contrasting classical forms of government and political structure to the current United States government and political structure.

(2) The student shall demonstrate an understanding of roles and responsibilities of a civic life by identifying rights and responsibilities of citizens and non-citizens in civic participation within the governmental systems, such as monarchy, democracy, republic, and oligarchy.

### **B. Economics and personal financial literacy.**

(1) The student shall demonstrate an understanding of economic decision-making by:

(a) describing the distribution of resources among classes in the feudal hierarchy of European and Asian societies;

(b) describing how trade networks and the transfer of goods and ideas linked post-classical societies; and

(c) explaining the role of trade in the development and growth of societies.

(2) The student shall demonstrate an understanding of money and markets by explaining how the interaction between producers and consumers in the trade networks satisfied economic wants and needs.

(3) The student shall demonstrate an understanding of global economy by analyzing the economic impact that surpluses of food and goods have on the growth of civilizations.

(4) The student shall demonstrate an understanding of personal financial literacy by:

(a) analyzing how external factors might influence spending decisions for different individuals and households; and

(b) giving examples of financial risks that individuals and households face.

### **C. Geography.**

(1) The student shall demonstrate an understanding of geographic representations and reasoning by:



**(a)** creating and using maps, globes, and graphs to gather, analyze, and report geographic information;

**(b)** comparing environmental and geographic characteristics of locations of the earliest human settlements; and

**(c)** using maps to explain how encounters and exchanges linked the world.

**(2)** The student shall demonstrate an understanding of location, place, and region by:

**(a)** identifying how natural forces shape Earth's environments and regions;

**(b)** comparing ancient cultural and early technological innovations of one early Mesoamerican and one South American civilization; and

**(c)** comparing cultural, political, and religious characteristics of early river valley civilizations.

**(3)** The student shall demonstrate an understanding of movement, population, and systems by identifying and comparing the movement of key religions and philosophies over time.

**(4)** The student shall demonstrate an understanding of human-environmental interactions and sustainability by:

**(a)** describing how the local environment impacts culture and technology;

**(b)** describing how people impact the local environment; and

**(c)** comparing how regional environments impacted the advances of technology for travel and trade.

#### **D. History.**

**(1)** The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by:

**(a)** evaluating the lasting impact of philosophy, art, science, and technology of classical Greece, Rome, India, and China;

**(b)** evaluating the factors that allowed classical civilizations to thrive;

**(c)** analyzing the significance of innovations (e.g. scientific, mathematical, technological) in European, African, and Asian societies;

(d) explaining how religion and philosophy shaped European, Asian, and African societies during the post-classical period; and

(e) examining instances of conflict and oppression in medieval times, and responses to these violations.

(2) The student shall demonstrate an understanding of causes and consequences by:

(a) analyzing the impact that the agricultural revolution had on hunter-gatherers and nomadic peoples;

(b) identifying the political and social issues that led to the development of new philosophies during the classical period;

(c) comparing strategies used by classical civilizations to maintain their empires;

(d) comparing causes of decline in Roman, Han, and Gupta empires;

(e) explaining what led to the emergence of European feudalism; and

(f) analyzing the diffusion and the social, political, and economic effects of the black death.

(3) The student shall demonstrate an understanding of critical consciousness and perspectives by examining and explaining how the perspectives and encounters between Christians, Muslims, and Jews impacted individuals and society.

#### **E. Ethnic, cultural, and identity studies.**

(1) The student shall demonstrate an understanding of diversity and identity by:

(a) identifying how differences and similarities between diverse groups impact perspectives; and

(b) describing the interactions of religious and philosophical perspectives and explaining their impact on European, Asian, and African societies during the classical period.

(2) The student shall demonstrate an understanding of identity in history by demonstrating relationships between personal events and historical events.

(3) The student shall demonstrate an understanding of community equity building by explaining how the treatment of people in ancient civilizations shaped group identities and cultures.

## **F. Inquiry.**

**(1)** The student shall demonstrate an understanding of constructing compelling and supporting questions by:

**(a)** distinguishing primary and secondary sources by correctly identifying the author, type of document, and date of publication of the text in relation to the historical event described in the text;

**(b)** categorizing and sequencing significant people, places, events, and ideas using both chronological and conceptual graphic organizers;

**(c)** categorizing questions as compelling (e.g. main topic) or supporting questions; and

**(d)** generating relevant questions to be answered by historical inquiry that allow for multiple approaches of exploration.

**(2)** The student shall demonstrate an understanding of gathering and evaluating sources by:

**(a)** identifying where and how to locate sources to best answer a research question;

**(b)** distinguishing among fact, opinion, and reasoned judgment in a source, and identifying the author perspectives and possible biases;

**(c)** comparing a variety of map projections to evaluate how information is presented, and analyzing how cartographic conventions portray intended and unintended bias; and

**(d)** evaluating the credibility of a source by determining its relevance and intended use.

**(3)** The student shall demonstrate an understanding of developing claims by:

**(a)** formulating a claim based on evidence from primary and secondary sources in response to a question;

**(b)** supporting a claim using a variety of sources and perspectives;

**(c)** citing specific textual evidence to support analysis of primary and secondary sources; and

**(d)** using primary and secondary sources to analyze conflicting and diverse points of view on a certain topic.

(4) The student shall demonstrate an understanding of communicating and critiquing conclusions by:

(a) using applicable presentation technology to communicate research findings or other significant information; and

(b) creating maps, charts, infographics, or digital media that communicate research findings or other significant information.

(5) The student shall demonstrate an understanding of taking informed action by:

(a) describing the many facets of student identity, including family history and culture, and how they are connected to the history and culture of other people; and

(b) explaining the challenges and opportunities people from the past faced when taking action to address problems.

[6.29.11.14 NMAC - Rp, 6.29.11.14 NMAC, 2/22/2022]

#### **6.29.11.15 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR SEVENTH GRADE:**

##### **A. Civics.**

(1) The student shall demonstrate an understanding of civic and political institutions by:

(a) explaining the role of the political decision-making process at the tribal, state, and local levels of government;

(b) describing the relationships of tribal, state, and local governments with the national government under the federal system;

(c) comparing and contrasting global and historical government systems to the United States federal system; and

(d) examining how conflict over social class (e.g., castas), land, and culture led to Mexican independence from Spain.

(2) The student shall demonstrate an understanding of processes, rules, and laws by:

(a) describing the relationship between a nation-state and its colonies;

(b) drawing conclusions about how the policies of the Spanish monarchy in New Spain impacted the people of New Spain; and

(c) evaluating New Mexico's transition into a United States territorial government from the perspectives of the various groups residing in the territory at the time.

(3) The student shall demonstrate an understanding of civic dispositions and democratic principles by:

(a) describing the role of citizens in ensuring the long-term survival of their community, including cooperation, obligations, rights, and responsibilities; and

(b) analyzing United States policies on expansion into the southwest, including how they reflected United States civic ideals of the time and conflicted with those that resided in New Mexico already and had historically made their home here.

## **B. Economics and personal financial literacy.**

(1) The student shall demonstrate an understanding of economic decision-making by:

(a) explaining how tribal, state, and local government agencies work to sustain resources in New Mexico;

(b) discussing New Mexico's economic limitations and successes;

(c) demonstrating how early humans compete and cooperate to gather and use resources;

(d) explaining the economic motivation of Spaniards as they enter the lands of, and interact with, the indigenous people of the Americas;

(e) describing Spanish economics policies that led to colonial isolation and their impact on the people of New Mexico; and

(f) summarizing the relationship between specialization and interdependence between 1821 CE and 1850 CE.

(2) The student shall demonstrate an understanding economic systems and models by showing the correlation between the territorial and indigenous economies, including how both were impacted by United States federal policies.

(3) The student shall demonstrate an understanding of money and markets by:

(a) defining the relationship between specialization and interdependence between c. 1200 BCE and c. 1500 CE;

(b) explaining early trade networks and their impact on cultural groups;

(c) investigating the use of trade routes and systems to analyze the economic impact they had on New Mexico and those who traded with New Mexicans; and

(d) describing the economy of territorial New Mexico from various perspectives.

(4) The student shall demonstrate an understanding of the global economy by demonstrating connections between the economies of Spain and the indigenous people of the Americas.

(5) The student shall demonstrate an understanding of personal financial literacy by:

(a) summarizing how the distribution of resources impacts consumerism and individual financial decisions; and

(b) differentiating between saving and investing.

### **C. Geography.**

(1) The student shall demonstrate an understanding of geographic representations and reasoning by:

(a) explaining the physical and human characteristics of New Mexico using the five themes of geography;

(b) discussing the role of El Camino Real as a significant corridor for movement of people, goods, and ideas; and

(c) describing how the movement of people influenced the division and control of resources.

(2) The student shall demonstrate an understanding of movement, population, and systems by:

(a) discussing patterns of migration of early people as they settled across New Mexico and the southwest region;

(b) analyzing the movement of people, goods, and ideas across the world during the age of exploration;

(c) distinguishing land use patterns of Anglo-Americans during the American westward expansion period; and

(d) identifying cultural diffusion into and out of the New Mexico territory.

(3) The student shall demonstrate an understanding of human-environmental interactions and sustainability by:

(a) describing how environmental factors affect human activities and resources;

(b) comparing and contrasting nomadic and semi-nomadic lifestyles;

(c) analyzing land use patterns of ancestral Pueblo, Mogollon, and Athabaskan peoples;

(d) discussing the importance of resource shortages on the lifestyles of the Mogollon and ancestral Puebloans;

(e) explaining how differing places, people, and resources affected events and conditions in New Mexico during the Spanish colonial period; and

(f) evaluating and comparing practices of land usage and ownership between indigenous people and Spaniards.

#### **D. History.**

(1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by:

(a) explaining the importance of artifacts and oral histories in understanding how prehistoric people lived;

(b) connecting cultural adaptations of the Pueblo, Apache, and Diné people to today;

(c) comparing and contrasting Athabascan culture, agricultural practices, and settlement patterns with those of the Pueblos;

(d) exploring the interactions between the Spaniards and indigenous people;

(e) comparing and contrasting the revolts and resistance movements under Spanish rule;

(f) explaining the impact Mexican independence had on New Mexico;

(g) demonstrating how troubles between Texas and the government of Mexico impacted New Mexico; and

(h) evaluating the significance of short- and long-range trails throughout the lands gained in the Mexican cession.

(2) The student shall demonstrate an understanding of causes and consequences by identifying the causes and consequences of United States government policies that impacted the territory of New Mexico.

(3) The student shall demonstrate an understanding of historical thinking by:

(a) describing the technical limitations of historians and archeologists studying the distant past;

(b) explaining the political and religious motivations of Spaniards as they encounter the indigenous people of the Americas;

(c) analyzing the patterns of colonization, exploration, destruction, and creation that came with the occupation of the Americas by Spaniards;

(d) interpreting the factors that led people in New Mexico to resist and rebel against political leadership between 1821 CE and 1850 CE;

(e) categorizing causes and consequences of the United States military invasion of Mexico and New Mexico; and

(f) exploring the impact of land ownership throughout New Mexico history.

(4) The student shall demonstrate an understanding of critical consciousness and perspective by assessing evidence of Spanish influence in New Mexico today.

**E. Ethnic, cultural, and identity studies.** The student shall demonstrate an understanding of diversity and identity by:

(1) analyzing how groups maintain their cultural heritage and how we see this heritage through the symbols, traditions, and culture of New Mexico;

(2) defining and explaining the present demographics of New Mexico;

(3) evaluating how society's responses to different social identities lead to access and barriers for various demographic groups in relation to various societal institutions, including education, healthcare, government, and industry;

(4) analyzing who have been key figures that have contributed to an individual culture, and what they did;



(5) describing the relationship between cultural heritage(s) and personal identity or identities;

(6) identifying what tribal leaders want the world to see when their culture is on display, and how to address negative perceptions;

(7) demonstrating how diversity includes the impact of unequal power relations on the development of group identities and cultures;

(8) brainstorming ways in which New Mexicans might heal from past and current injustices;

(9) describing key figures that have made significant contributions to an individual culture;

(10) exploring personal, familial, and societal cultures in the modern day;

(11) discussing the importance of respecting individual cultures and exploring how to address stereotypes;

(12) using primary and secondary sources to evaluate the lasting impacts of unequal power relations and disenfranchisement of persons and groups;

(13) identifying how stereotyping influences social perspectives about members of a group; and

(14) identifying and describing the traditions, rites, and norms of the groups to which the student identifies as belonging; and exploring how these traditions, rights, and norms may have changed over time.

#### **F. Inquiry.**

(1) The student shall demonstrate an understanding of constructing compelling and supporting questions by:

(a) developing compelling (e.g., big idea) questions about a relevant topic of interest; and

(b) creating supporting questions from credible sources to expand upon the compelling question.

(2) The student shall demonstrate an understanding of gathering and evaluating sources by:

**(a)** identifying, locating, and gathering reliable and relevant primary and secondary sources from a variety of media, such as print, digital, multimedia, artifacts, and oral traditions;

**(b)** evaluating primary and secondary sources for fact, opinion, author's bias, perspective of the creator, and relevance to the topic;

**(c)** analyzing various forms of media to identify polarizing language, logical fallacy, and reasonable judgment; and

**(d)** using a coherent system or structure to evaluate the credibility of a source by determining its relevance and intended use.

**(3)** The student shall demonstrate an understanding of developing claims by:

**(a)** using primary and secondary sources to develop an argument and cite specific textual evidence to support the claim; and

**(b)** making connections between current events, historical materials, and personal experience.

**(4)** The student shall demonstrate an understanding of communicating and critiquing conclusions by:

**(a)** presenting student-developed texts communicating thinking and understanding, including written text, oral presentation, visual representation, and multimedia; and

**(b)** engaging in academic discussions analyzing multiple viewpoints on public issues.

**(5)** The student shall demonstrate an understanding taking informed action by:

**(a)** examining the relationship between stereotypes, bias, and group identity;

**(b)** exploring opportunities to be an ally and describing ways in which stereotyping can be a barrier to acting as an ally; and

**(c)** engaging in positive civic behaviors to make decisions and take action in classrooms, schools, and communities.

[6.29.11.15 NMAC - Rp, 6.29.11.15 NMAC, 2/22/2022]

## **6.29.11.16 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR EIGHTH GRADE:**

### **A. Civics.**

**(1)** The student shall demonstrate an understanding of civic and political institutions by:

**(a)** comparing indigenous government structures to those of the United States today;

**(b)** describing the ways indigenous people organize themselves and their societies;

**(c)** discussing the relationship between a ruler of a nation-state and the citizens of its colonies;

**(d)** examining how challenges the government faced because of the articles of confederation resolved at the constitutional convention;

**(e)** evaluating how individuals and groups addressed specific problems at various levels to form a new republic;

**(f)** identifying and applying the function of the bill of rights; and

**(g)** discussing the nature of civil wars in general, and the role of border states and territories in the United States civil war specifically, and exploring the role the territory of New Mexico played.

**(2)** The student shall demonstrate an understanding of processes, rules, and laws by:

**(a)** identifying policies of this era that define the relationship between federal, state, and tribal governments through treaties, court decisions, and land acquisition statutes;

**(b)** evaluating the efficacy of formal United States policies of expansion, their effects on sovereign tribal nations' ability to self-govern, and indigenous resistance efforts to preserve tribal sovereignty;

**(c)** comparing the federal government's response to the southern states' call for independence with that of the original 13 colonies;

**(d)** discussing the impact of significant legislation and judicial precedents in formally perpetuating systemic oppression; and

(e) analyzing the impact of individuals and reform movements that advocated for greater civil rights and liberties throughout early United States history.

(3) The student shall demonstrate an understanding of civic dispositions and democratic principles by:

(a) describing the role of community members in ensuring the long-term survival of their community, including cooperation, obligations, rights, and responsibilities;

(b) assessing the responses of various groups to British policies in the 13 colonies;

(c) identifying parallels in language or intent (i.e. construct or content) between enlightenment philosophies and the ideas expressed in the founding documents of the United States;

(d) citing specific examples of precedents established in the early republic that impact American lives today; and

(e) critiquing citizens' responses to changing political and social policies during the early 19th century.

(4) The student shall demonstrate an understanding of roles and responsibilities of a civic life by investigating the causes and effects of diverse ideologies on politics, society, and culture that are associated with immigration and migration.

## **B. Economics and personal financial literacy.**

(1) The student shall demonstrate an understanding of economic decision-making by:

(a) identifying and analyzing the economic specializations of the 13 colonies; and

(b) identifying and explaining the economic differences between the north and the south.

(2) The student shall demonstrate an understanding of incentives and choices by analyzing the benefits and challenges associated with rapidly growing urban areas because of industrialization.

(3) The student shall demonstrate an understanding of economic systems and models by illustrating significant European economic theories and their connection to the colonization of the western hemisphere.

**(4)** The student shall demonstrate an understanding of money and markets by:

**(a)** summarizing a significant economic warfare initiative of the civil war through creative expression; and

**(b)** explaining how union army strategies and other socio-economic changes at the end of the civil war led to an economic depression in the southeast United States.

**(5)** The student shall demonstrate an understanding of personal financial literacy by:

**(a)** determining the relationship between long-term goals and opportunity cost;

**(b)** identifying ways insurance may minimize personal financial risk; and

**(c)** illustrating the power of compounding to highlight the importance of investing at a young age.

### **C. Geography.**

**(1)** The student shall demonstrate an understanding of geographic representations and reasoning by:

**(a)** using the five themes of geography (i.e. location, place, movement, human-environmental interaction, and region) to describe a specific sovereign tribal nation or indigenous people group of North America;

**(b)** analyzing how historic events are shaped by geography; and

**(c)** synthesizing geographic information about the significance of the 13 colonies to the British empire.

**(2)** The student shall demonstrate an understanding of location, place, and region by defining a region by its human and physical characteristics.

**(3)** The student shall demonstrate an understanding of movement, population, and systems by:

**(a)** describing the causes and effects of exploration and expansion into the Americas, by the Europeans during the 15th and 16th centuries;

**(b)** comparing and contrasting reasons why people moved to and left the 13 colonies; and

(c) identifying immigration and emigration factors that motivated groups to move to and within the United States during time periods of mass immigration.

(4) The student shall demonstrate an understanding of human-environmental interactions and sustainability by:

(a) describing how indigenous people of North America adapted to their environment;

(b) critiquing the ideas and belief systems related to land and resource-use among indigenous people and Europeans; and

(c) describing a human-created environmental concern related to western expansion, including different contemporary perspectives and other historical context between 1815 CE and 1850 CE.

#### **D. History.**

(1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by:

(a) identifying key people, places, and ideas from major European nations of the 15th and 16th centuries;

(b) identifying and describing the structure and function of the three branches of government, as laid out in the United States constitution;

(c) comparing and contrasting indigenous and Hispanic peoples' assimilation experiences with later immigrants' experiences as part of expansion across the territorial United States;

(d) analyzing the development of the women's suffrage movement over time and its legacy; and

(e) making personal connections to immigration stories and experiences in the past and present.

(2) The student shall demonstrate an understanding of causes and consequences by:

(a) evaluating the impacts of European colonization on indigenous populations;

(b) describing the impact of slavery on African populations in Africa and the Americas;

**(c)** identifying indigenous alliances during and after the American revolutionary war;

**(d)** comparing and contrasting the efforts of the American and British governments to gain the services of African Americans with recruitment of indigenous people;

**(e)** describing the causes and effects of the Mexican American war and its consequences on residents living in the "new" United States territories;

**(f)** examining the ways the United States acquired new territories, including purchases, forced relocation, treaties, annexation, and war;

**(g)** demonstrating how conflicts over slavery led the north and the south to war; and

**(h)** evaluating the impact of science and technology during the civil war period.

**(3)** The student shall demonstrate an understanding of historical thinking by:

**(a)** comparing and contrasting the causes, demographics, and results of the American revolution;

**(b)** discussing the role of religion in the 13 colonies and its impact on developing American identity;

**(c)** comparing and contrasting the causes, demographics, and results of the American revolution with the French and Latin American revolutions; and

**(d)** comparing and contrasting the causes, demographics, and results of the Haitian revolution and enslaved peoples' rebellions between 1830 CE and 1860 CE.

**(4)** The student shall demonstrate an understanding of critical consciousness and perspective by:

**(a)** demonstrating why different people may have different perspectives of the same historical event and why multiple interpretations should be considered to avoid historical linearity and inevitability; and

**(b)** examining both sides in debate or academic discussion of politics in response to immigration.

**(5)** The student shall demonstrate an understanding of power dynamics, leadership, and agency by:

(a) describing how white supremacist organizations in the United States arose with the intention of maintaining the oppression of specific groups through informal institutions;

(b) describing demographic shifts because of the civil war and reconstruction;  
and

(c) analyzing why and how indigenous people resisted United States territorial expansion.

#### **E. Ethnic, cultural, and identity studies.**

(1) The student shall demonstrate an understanding of diversity and identity by:

(a) describing how knowledge and perspectives of indigenous people can help inform solutions to environmental and human rights issues;

(b) drawing a diagram or making a model to illustrate how indigenous people have preserved their histories;

(c) examining how enslaved people adapted within and resisted their captivity;

(d) describing the formation of African American cultures and identities in free and enslaved communities; and

(e) identifying and exploring how current traditions, rites, and norms or identity groups have changed or are changing over time.

(2) The student shall demonstrate an understanding of identity in history by:

(a) comparing and contrasting the various origins – indigenous, forced, voluntary – of identity groups in the United States;

(b) examining the impact of historical, cultural, economic, political, religious, and social factors, which resulted in unequal power relations among identity groups;

(c) examining historical and contemporary cultural, economic, intellectual, political, and social contributions to society by individuals or groups within an identity group between c. 1400 CE and 1500 CE;

(d) examining historical and contemporary cultural, economic, intellectual, political, and social contributions to society by individuals or groups within an identity group between 1490 CE and 1750 CE;



**(e)** examining the demographics of the 13 colonies in the years leading to, and during, the American revolution;

**(f)** describing the influence of diverse ideologies on politics, society, and culture in early United States history;

**(g)** analyzing the motivations of various groups and their impacts of western expansion and the settlement of the United States;

**(h)** examining the role assimilation plays in the loss of cultural, ethnic, racial, and religious identities and language;

**(i)** deconstructing the emancipation proclamation to determine its contemporary purpose and current significance;

**(j)** discussing the impact of the western campaign on indigenous people;

**(k)** exploring and demonstrating the contemporary and current significance of Juneteenth; and

**(l)** assessing how social policies and economic forces offer privilege or systemic inequity in accessing social, political, and economic opportunity for identity groups in education, government, healthcare, industry, and law enforcement.

**(3)** The student shall demonstrate an understanding of community equity building by:

**(a)** discussing how the exchanges of resources and culture across civilizations led to the emergence of a global society;

**(b)** identifying and analyzing cultural, differently abled, ethnic, gender, national, political, racial, and religious identities and related perceptions and behaviors by society of these identities;

**(c)** discussing the similarities, differences, and interactions between civil rights and civil liberties;

**(d)** evaluating the role of racial social constructs in the structures and functions of a 21st century American society;

**(e)** applying knowledge of an event of the sectionalism and reform era to analyze current issues and events; and

**(f)** investigating how identity groups and society address systemic inequity through individual actions, individual champions, social movements, and local, community, national, and global advocacy.

## **F. Inquiry.**

**(1)** The student shall demonstrate an understanding of constructing compelling and supporting questions by:

**(a)** developing compelling questions about a relevant topic of interest; and

**(b)** creating supporting questions from credible sources to expand upon the compelling question.

**(2)** The student shall demonstrate an understanding of gathering and evaluating sources by:

**(a)** identifying, locating, and gathering reliable and relevant primary and secondary sources from a variety of media, such as print, digital, multimedia, artifacts, and oral traditions;

**(b)** evaluating primary and secondary sources for the author's bias, perspective of the creator, and relevance to the topic;

**(c)** describing how geographic representations can express both geo-spatial locations and human bias; and

**(d)** using a coherent system or structure to evaluate the credibility of a source by determining its relevance and intended use.

**(3)** The student shall demonstrate an understanding of developing claims by:

**(a)** categorizing and sequencing significant people, places, events, and ideas in history using both chronological and conceptual graphic organizers;

**(b)** formulating a claim based on evidence from primary and secondary sources in response to a question;

**(c)** citing specific textual evidence to support analysis of primary and secondary sources;

**(d)** using primary and secondary sources to analyze conflicting and diverse points of views on a certain topic;

**(e)** making connections between current events, historical materials, and personal experience; and

**(f)** examining how and why diverse groups have been denied equality and opportunity, both institutionally and informally.

**(4)** The student shall demonstrate an understanding of communicating and critiquing conclusions by:

**(a)** engaging in discussion, debate, or academic conversation analyzing multiple viewpoints on public issues;

**(b)** creating maps, charts, infographics, or other visual media that communicate research findings or other significant information digitally or on paper;

**(c)** developing informational texts, including analyses of historical and current events;

**(d)** portraying historical people, places, events, and ideologies of the time to examine history from the perspective of the participants through creative expression;

**(e)** using applicable presentation technology to communicate research findings or other significant information; and

**(f)** conducting a research project to answer a self-generated question of historical significance, and applying problem-solving skills for historical research.

**(5)** The student shall demonstrate an understanding of taking informed action by:

**(a)** recognizing and valuing the student's group identities without perceiving or treating others as inferior;

**(b)** identifying facets of personal identity, determining how the student wants to present themselves to the world as a person belonging to an identity group, and brainstorming how to address negative perceptions.

**(c)** describing ways in which stereotyping can be a barrier to acting as an ally and engaging in positive civic behaviors in classrooms, schools, and the broader community;

**(d)** explaining the challenges and opportunities people face when taking action to address problems, including predicting possible results; and

**(e)** synthesizing historical and local knowledge to take age-appropriate action toward mending, healing, and transforming the future.

[6.29.11.16 NMAC - Rp, 6.29.11.16 NMAC, 2/22/2022]

## **6.29.11.17 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR HIGH SCHOOL CIVICS:**

## **A. High school civics.**

**(1)** The student shall demonstrate an understanding of civic and political institutions by:

**(a)** distinguishing the powers and responsibilities of local, state, indigenous, national, and international civic and political institutions;

**(b)** developing claims about the purpose, processes, strengths, and weaknesses of the United States government;

**(c)** evaluating efforts to adapt and redesign the United States constitution and political institutions over time;

**(d)** analyzing the role of groups without formal decision-making power in influencing change in the United States government;

**(e)** evaluating multiple sources and citing evidence investigating the relationships between equality, equity, justice, freedom, and order in American constitutional democracy;

**(f)** investigating relationships among governments, civil societies, and economic markets;

**(g)** distinguishing historical and current types and systems of government in the United States and in diverse regions in the world;

**(h)** using data and evidence from multiple perspectives related to federal policy toward indigenous groups to develop an understanding of indigenous and United States relations over time;

**(i)** evaluating the way America's founding principles and constitutional structures have influenced initiatives and revisions to foreign policy over time; and

**(j)** researching multiple sources to think critically about how the United States conducts itself in international relations and how international standards affect United States domestic policy.

**(2)** The student shall demonstrate an understanding of processes, rules, and laws by:

**(a)** analyzing the United States Constitution and its founding principles;

**(b)** evaluating procedures for making governmental decisions at the local, state, national, and international levels in terms of the civic purposes achieved;

**(c)** evaluating sources to determine how people use and challenge local, state, national, and international laws, to address a variety of public issues;

**(d)** evaluating public policies in terms of intended and unintended outcomes and related consequences;

**(e)** analyzing historical, contemporary, and emerging means of changing societies, promoting the common good and protecting civil and human rights;

**(f)** evaluating the United States justice system over time and its impacts on policy, society, economics, and individual rights;

**(g)** explaining the unique features and processes of New Mexico's constitution;

**(h)** evaluating the contributions of New Mexico's diverse populations to its governmental structure and outcomes; and

**(i)** investigating challenges and opportunities within and between different government entities in New Mexico.

**(3)** The student shall demonstrate an understanding of civic dispositions and democratic principles by:

**(a)** analyzing the impact and the appropriate roles of personal interests and perspectives on the application of civic virtues, democratic principles, constitutional rights, and human rights;

**(b)** analyzing civic virtues and principles, governance, and the role of the people in creating a government "of the people, by the people, and for the people" at all levels of government;

**(c)** applying civic dispositions and democratic principles when working with others;

**(d)** analyzing founding documents and their impact on national unity over time;

**(e)** evaluating the tensions between personal interests, different cultural groups, and civic responsibilities or the common good over time.

**(4)** The student shall demonstrate an understanding of roles and responsibilities of a civic life by:

**(a)** participating in civil discourse to promote greater understanding around historical, contemporary, and future opportunities and obstacles;

**(b)** using historical data and evidence related to various actors' interests and motivations to determine their influence on contemporary issues;

**(c)** evaluating how fundamental American principles have been interpreted over time and how they currently shape policy debates;

**(d)** developing strategies for evaluating multiple perspectives about current events and policy issues;

**(e)** analyzing historic inequalities and evaluating proposed solutions to correct them;

**(f)** applying an effective questioning strategy to evaluate sources intended to inform the public, and consider the effects of choices made by media organizations, including internet social platforms, on elections and social movements;

**(g)** evaluating sources and determining potential bias in the media and how that impacts government decision-making;

**(h)** evaluating the effects of diverse ideologies and the process of political socialization on oneself and society;

**(i)** analyzing rights and obligations of citizens of the United States;

**(j)** critiquing leadership strategies through past and present examples of change-makers;

**(k)** planning and demonstrating some ways in which an active citizen can effect change in the community, state, nation, or world;

**(l)** evaluating citizens' and institutions' effectiveness in addressing social and political problems at the local, state, tribal, national, and international government; and

**(m)** taking informed action to improve the student's community.

## **B. Inquiry.**

**(1)** The student shall demonstrate an understanding of constructing compelling and supporting questions by:

**(a)** creating compelling questions representing key ideas within the disciplines; and

**(b)** developing supporting questions that contribute to an inquiry and demonstrating how, through engaging source work, new compelling and supporting questions emerge.

**(2)** The student shall demonstrate an understanding of gathering and evaluating sources by:

**(a)** gathering relevant information from multiple sources representing a wide range of views while using the origin, authority, structure, context, and corroborative value of the sources to guide the selection; and

**(b)** evaluating the credibility of a source by examining how experts value the source.

**(3)** The student shall demonstrate an understanding of developing claims by:

**(a)** identifying evidence that draws information directly and substantively from multiple sources to detect inconsistencies in evidence to revise or strengthen claims; and

**(b)** refining claims and counterclaims attending to precision, significance, and knowledge conveyed through the claim while pointing out the strengths and limitations of both.

**(4)** The student shall demonstrate an understanding of communicating and critiquing conclusions by:

**(a)** constructing arguments using precise and knowledgeable claims, with evidence from multiple sources, while acknowledging counterclaims and evidentiary weaknesses;

**(b)** constructing explanations using reasoning, correct sequence, examples, and details with significant and pertinent information and data, while acknowledging the strengths and weaknesses of the explanations given its purpose;

**(c)** presenting adaptations of arguments and explanations that feature expressive ideas and perspectives on issues and topics to reach a range of audiences and venues outside the classroom using print, oral, and digital technologies; and

**(d)** critiquing the use of claims and evidence in arguments for credibility.

**(5)** The student shall demonstrate an understanding of taking informed action by:

**(a)** using disciplinary and interdisciplinary lenses to understand the characteristics and causes of local, regional, and global problems; instances of such problems in multiple contexts; and challenges and opportunities faced by those trying to address these problems over time and place; and

(b) applying a range of deliberative and democratic strategies and procedures to make decisions and take action in their classrooms, schools, and out-of-school contexts.

[6.29.11.17 NMAC - Rp, 6.29.11.17 NMAC, 2/22/2022]

#### **6.29.11.18 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR HIGH SCHOOL ECONOMICS:**

##### **A. High school economics.**

(1) The student shall demonstrate an understanding of economic decision-making by:

(a) applying understanding of economic concepts and systems to analyze decision-making and the interactions between consumers, businesses, governments, and societies;

(b) gathering and evaluating sources to explain the relationship between economic decisions and environmental consequences;

(c) using cost-benefit analysis and marginal analysis to evaluate an economic issue;

(d) evaluating how economic principles influence choices and can produce varied outcomes for different individuals or groups; and

(e) evaluating the market value of income earned through wages and other activities associated with saving and investing.

(2) The student shall demonstrate an understanding of economic systems and models by:

(a) analyzing the production, distribution, and consumption of goods and services;

(b) evaluating economic theories for their compatibility with democracy;

(c) comparing the advantages and disadvantages of major economic systems found around the world;

(d) critiquing inequalities that exist in economic systems;

(e) using economic data to evaluate the positive and negative aspects of American capitalism in relation to other economic systems;



**(f)** analyzing how national and global economic trends, practices, and policies impact the state and local economies in New Mexico;

**(g)** critiquing the impact of globalization on New Mexico and its citizens;

**(h)** evaluating the impact of environmental externalities in New Mexican communities; and

**(i)** evaluating opportunities for economic diversification that can significantly impact state and local conditions.

**(3)** The student shall demonstrate an understanding of money and markets by:

**(a)** explaining how buyers and sellers interact to create markets and market structures;

**(b)** evaluating how a variety of factors and conditions in a market determine price and the allocation of scarce goods and resources;

**(c)** evaluating the role played by competition in the market;

**(d)** evaluating the role of financial institutions in a market economy;

**(e)** analyzing the role of money in the economy;

**(f)** critiquing specific government policies and regulations initiated to improve market outcomes and the intended and unintended consequences experienced by individuals, businesses, communities, and states;

**(g)** generating possible explanations for a government role in markets when market inefficiencies exist;

**(h)** evaluating the causes and implications of market failures;

**(i)** explaining how governments establish the rules and institutions in which markets operate at the local, state, tribal, national, and international levels;

**(j)** using economic indicators and data to analyze the health of the national economy in relation to other countries;

**(k)** evaluating how fiscal and monetary policy choices have economic consequences for different stakeholders in a variety of economic conditions;

**(l)** evaluating foreign and domestic issues related to United States economic growth overtime; and

**(m)** explaining the effect of advancements in technology and training on economic growth and standards of living across diverse groups and circumstances.

**(4)** The student shall demonstrate an understanding of global economy by:

**(a)** explaining how current globalization trends and policies affect economic growth, labor, markets, rights of citizens, the environment, and resource and income distribution in different nations;

**(b)** explaining how economic conditions and policies in one nation increasingly affect economic conditions and policies in other nations;

**(c)** evaluating how geography, demographics, industry structure, and the rules of economic institutions influence a nation's economic development;

**(d)** analyzing why a country might participate in global trade;

**(e)** connecting how trade agreements between nations have short- and long-term effects; and

**(f)** constructing an argument about how global interdependence impacts individuals, institutions, or societies based on documented evidence.

**(5)** The student shall demonstrate an understanding of personal financial literacy by:

**(a)** explaining how and why people make choices to improve their economic well-being;

**(b)** comparing the costs and benefits of saving, using credit, or making certain types of financial investments;

**(c)** evaluating how and why individuals choose to accept risk, reduce risk, or transfer risk to others;

**(d)** investigating ways personal information is fraudulently obtained;

**(e)** identifying voluntary (i.e., retirement contributions) and involuntary deductions (i.e. payroll taxes) and how they impact net income;

**(f)** preparing a budget or spending plan that depicts varying sources of income, a planned saving strategy, taxes, and other sources of fixed and variable spending;

**(g)** evaluating options for payment on credit cards and the consequences of each option;

(h) describing how a credit score impacts the ability to borrow money and at what rate;

(i) identifying various strategies students can use to finance higher education and how to access student aid through completion of the free application for federal student aid;

(j) calculating the total cost of repaying a loan under various rates of interest and over different time periods;

(k) explaining what a mortgage is, why most Americans require a mortgage to finance a home, and the challenges of financing mortgages on tribal land;

(l) explaining how investing may build wealth and help meet financial goals (e.g., stocks, bonds, mutual funds, retirement savings options, real estate); and

(m) explaining various types of insurance and the purpose of using insurance to protect financial interests.

## **B. Inquiry.**

(1) The student shall demonstrate an understanding of constructing compelling and supporting questions by:

(a) creating compelling questions representing key ideas within the disciplines; and

(b) developing supporting questions that contribute to an inquiry and demonstrate how, through engaging source work, new compelling and supporting questions emerge.

(2) The student shall demonstrate an understanding of gathering and evaluating sources by:

(a) gathering relevant information from multiple sources representing a wide range of views while using the origin, authority, structure, context, and corroborative value of the sources to guide the selection; and

(b) evaluating the credibility of a source by examining how experts value the source.

(3) The student shall demonstrate an understanding of developing claims by:

(a) identifying evidence that draws information directly and substantively from multiple sources to detect inconsistencies in evidence to revise or strengthen claims; and

(b) refining claims and counterclaims attending to precision, significance, and knowledge conveyed through the claim while pointing out the strengths and limitations of both.

(4) The student shall demonstrate an understanding of communicating and critiquing conclusions by:

(a) constructing arguments using precise and knowledgeable claims, with evidence from multiple sources, while acknowledging counterclaims and evidentiary weaknesses;

(b) constructing explanations using reasoning, correct sequence, examples, and details with significant and pertinent information and data, while acknowledging the strengths and weaknesses of the explanations given its purpose;

(c) presenting adaptations of arguments and explanations that feature evocative ideas and perspectives on issues and topics to reach a range of audiences and venues outside the classroom using print, oral, and digital technologies; and

(d) critiquing the use of claims and evidence in arguments for credibility.

(5) The student shall demonstrate an understanding of taking informed action by:

(a) using disciplinary and interdisciplinary lenses to understand the characteristics and causes of local, regional, and global problems; instances of such problems in multiple contexts; and challenges and opportunities faced by those trying to address these problems over time and place; and

(b) applying a range of deliberative and democratic strategies and procedures to make decisions and take action in their classrooms, schools, and out-of-school contexts.

[6.29.11.18 NMAC - Rp, 6.29.11.18 NMAC, 2/22/2022]

## **6.29.11.19 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR HIGH SCHOOL GEOGRAPHY:**

### **A. High school geography.**

(1) The student shall demonstrate an understanding of geographic representations and reasoning by:

(a) analyzing and evaluating the characteristics, purposes, and uses of geographic tools, knowledge, and skills;

**(b)** creating maps to display and explain the spatial patterns of culture and environment;

**(c)** interpreting geographic characteristics of cultures, economies, and political systems;

**(d)** analyzing geographic representations to explain changes over time; and

**(e)** applying geographic knowledge and geospatial skills to interpret the past and present to make informed decisions.

**(2)** The student shall demonstrate an understanding of location, place, and religion by:

**(a)** interpreting the reciprocal relationship between physical, geographical locations, and the patterns and processes humans create within them;

**(b)** evaluating the process of place-making and the development of place-based identity; and

**(c)** explaining the distinguishing features of formal, functional, and perceptual regions.

**(3)** The student shall demonstrate an understanding of movement, population, and systems by:

**(a)** explaining the causes, characteristics, and impact of human movement (migration, immigration, emigration) and settlement patterns at the local, national, and global scale;

**(b)** evaluating the causes, characteristics, and impact of diffusion: the spread of ideas, religion, beliefs, cultural practices and traits, language, artifacts, methods, technologies, and diseases over time;

**(c)** describing how human systems, perceptions, and identities shape places and regions over time;

**(d)** analyzing and predicting how location, place, and region impact the evolution of human perspectives and identities;

**(e)** describing how particular historical events and developments shape human processes and systems in a given place or region over time; and

**(f)** predicting future social, political, economic, cultural, spiritual, and environmental opportunities, and obstacles associated with movement, population, decision-making, and perspectives in a given place or region.

**(4)** The student shall demonstrate an understanding of human-environmental interactions and sustainability by:

**(a)** developing reasoned ethical judgements about people, places, events, phenomena, ideas, or developments, and determining appropriate ways to respond;

**(b)** analyzing shifting United States government environmental policies and regulations in response to changing human-environment interactions;

**(c)** evaluating the consequences of human-made and natural catastrophes on global trade, politics, and human migration;

**(d)** assessing the reciprocal relationships between physical environment and culture within local, national, and global scales;

**(e)** evaluating how economic globalization and the scarcity of resources contribute to conflict and cooperation within and among countries;

**(f)** analyzing how the forces of cooperation and conflict within and among people, nations, and empires influence the division and control Earth's surface and resources; and

**(g)** assessing how social, economic, political, and environmental developments at global, national, regional, and local levels affect the sustainability of modern and traditional cultures.

## **B. Inquiry.**

**(1)** The student shall demonstrate an understanding of constructing compelling and supporting questions by:

**(a)** creating compelling questions representing key ideas within the disciplines; and

**(b)** developing supporting questions that contribute to an inquiry and demonstrate how, through engaging source work, new compelling and supporting questions emerge.

**(2)** The student shall demonstrate an understanding of gathering and evaluating sources by:

**(a)** gathering relevant information from multiple sources representing a wide range of views while using the origin, authority, structure, context, and corroborative value of the sources to guide the selection; and

(b) evaluating the credibility of a source by examining how experts value the source.

(3) The student shall demonstrate an understanding of developing claims by:

(a) identifying evidence that draws information directly and substantively from multiple sources to detect inconsistencies in evidence to revise or strengthen claims; and

(b) refining claims and counterclaims attending to precision, significance, and knowledge conveyed through the claim while pointing out the strengths and limitations of both.

(4) The student shall demonstrate an understanding of communicating and critiquing conclusions by:

(a) constructing arguments using precise and knowledgeable claims, with evidence from multiple sources, while acknowledging counterclaims and evidentiary weaknesses;

(b) constructing explanations using reasoning, correct sequence, examples, and details with significant and pertinent information and data, while acknowledging the strengths and weaknesses of the explanations given its purpose;

(c) presenting adaptations of arguments and explanations that feature evocative ideas and perspectives on issues and topics to reach a range of audiences and venues outside the classroom using print, oral, and digital technologies; and

(d) critiquing the use of claims and evidence in arguments for credibility.

(5) The student shall demonstrate an understanding of taking informed action by:

(a) using disciplinary and interdisciplinary lenses to understand the characteristics and causes of local, regional, and global problems; instances of such problems in multiple contexts; and challenges and opportunities faced by those trying to address these problems over time and place; and

(b) applying a range of deliberative and democratic strategies and procedures to make decisions and take action in their classrooms, schools, and out-of-school contexts.

[6.29.11.19 NMAC - Rp, 6.29.11.19 NMAC, 2/22/2022]

**6.29.11.20 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR HIGH SCHOOL NEW MEXICO HISTORY:**

## **A. Civics.**

(1) The student shall demonstrate an understanding of civic and political institutions by comparing and contrasting the similarities and differences between the three branches of the federal and state governments.

(2) The student shall demonstrate an understanding of processes, rules, and laws by analyzing the requirements for statehood.

(3) The student shall demonstrate an understanding of civic dispositions and democratic principles by defining sovereignty, exploring how tribal sovereignty has been interpreted over time by indigenous people, and distinguishing ways in which the different tribes in New Mexico conduct governmental affairs.

## **B. Economics and personal financial literacy.**

(1) The student shall demonstrate an understanding of economic decision-making by:

(a) discussing the sequence of events that led to the great depression and the implementation of new deal programs in New Mexico, including the efficacy of the programs for different communities;

(b) analyzing the private and public industries that have impacted New Mexico's economy; and

(c) evaluating the main sources of income for indigenous populations and how they might be different.

(2) The student shall demonstrate an understanding of global economy by summarizing how the United States and Soviet Union emerged from World War II as superpowers, and articulating the difference between communism and capitalism.

## **C. Geography.**

(1) The student shall demonstrate an understanding of location, place, and region by:

(a) explaining the impact of the military bases and weapons testing sites in New Mexico as influenced by World War II and the cold war; and

(b) giving examples of the different types of sites and activities that would make people want to tour aspects of New Mexico.

(2) The student shall demonstrate an understanding of human-environmental interactions and sustainability by:



(a) examining the changes in the plains of New Mexico as irrigation and cattle ranches expand into the territory;

(b) analyzing the pros and cons of New Mexico's role in the production of uranium fueled weapons built during the cold war; and

(c) analyzing how New Mexicans maintain an agricultural industry being that we are one of the driest states in the country.

#### **D. History.**

(1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by:

(a) connecting various disputes that occur as a result of Article X being stricken from the treaty of Guadalupe Hidalgo;

(b) assessing the changes of the land and society initiated by the railroad system, along with the immigrant population it brought to the New Mexican territory;

(c) evaluating efforts from the people of New Mexico to become a state, and analyzing outside perspectives to the entrance of New Mexico as a state;

(d) interpreting data and evidence to conduct periodization of key events and contributions by key people to the events that occurred during the early 20th century; and

(e) analyzing the civil rights era in New Mexico using multiple perspectives.

(2) The student shall demonstrate an understanding of causes and consequences by:

(a) examining the causes and effects of the civil war, and the battles that ensued within New Mexico;

(b) explaining how the Homestead Act of 1862 impacted the demographics of New Mexico;

(c) probing the beginnings of the boarding school system, and the ramifications that it had on indigenous communities in New Mexico and abroad; and

(d) analyzing the causes and effects of the dust bowl in New Mexico, and how it changed or eliminated communities.

(3) The student shall demonstrate an understanding of historical thinking by:

(a) demonstrating historical argumentation by using various resources and perspectives to show the impact of World War II on the people of New Mexico, and the impact that our citizens and resident populations had on the war;

(b) examining the development of the first atomic bomb and the dawn of the nuclear age born in New Mexico;

(c) explaining the importance of military research and testing facilities in New Mexico, during the cold war and today;

(d) analyzing multiple perspectives of how water use, policy, and management has changed over the centuries in New Mexico; and

(e) evaluating the importance of preserving historical sites, culture, and New Mexico's resources.

(4) The student shall demonstrate an understanding of critical consciousness and perspectives by:

(a) dissecting the treaty of Guadalupe Hidalgo, and evaluating how the different people of New Mexico were addressed and impacted by the document; and

(b) evaluating the role of race and racism in the acts of land redistribution during the territorial period.

(5) The student shall demonstrate an understanding of power dynamics, leadership, and agency by:

(a) examining the rights that were guaranteed to New Mexico citizens in Article IX of the treaty of Guadalupe Hidalgo, and reason why Article X would have been stricken;

(b) contextualizing the struggles toward statehood by including the resistance of the Hispanic and Native American population to newcomers;

(c) comparing and contrasting the liberties of people living within a territory versus a state; and

(d) comparing organizations engaged in civil rights work.

**E. Ethnic, cultural, and identity studies.** The student shall demonstrate an understanding of diversity and identity by assessing how social policies and economic forces offer privilege or systemic inequity in accessing social, political, and economic opportunity for identity groups in education, government, healthcare, industry, and law enforcement.

## **F. Inquiry.**

**(1)** The student shall demonstrate an understanding of constructing compelling and supporting questions by:

**(a)** creating compelling questions representing key ideas within the disciplines; and

**(b)** developing supporting questions that contribute to an inquiry and demonstrate how, through engaging source work, new compelling and supporting questions emerge.

**(2)** The student shall demonstrate an understanding of gathering and evaluating sources by:

**(a)** gathering relevant information from multiple sources representing a wide range of views while using the origin, authority, structure, context, and corroborative value of the sources to guide the selection; and

**(b)** evaluating the credibility, reliability, and validity of a source by examining how experts value the source.

**(3)** The student shall demonstrate an understanding of developing claims by:

**(a)** identifying evidence that draws information directly and substantively from multiple sources to detect inconsistencies in evidence to revise or strengthen claims; and

**(b)** refining claims and counterclaims attending to precision, significance, and knowledge conveyed through the claim while pointing out the strengths and limitations of both.

**(4)** The student shall demonstrate an understanding of communicating and critiquing conclusions by:

**(a)** constructing arguments using precise and knowledgeable claims, with evidence from multiple sources, while acknowledging counterclaims and evidentiary weaknesses;

**(b)** constructing explanations using reasoning, correct sequence, examples, and details with significant and pertinent information and data, while acknowledging the strengths and weaknesses of the explanations given its purpose;

**(c)** presenting adaptations of arguments and explanations that feature evocative ideas and perspectives on issues and topics to reach a range of audiences and venues outside the classroom using print, oral, and digital technologies; and

(d) critiquing the use of claims and evidence in arguments for credibility.

(5) The student shall demonstrate an understanding of taking informed action by:

(a) using disciplinary and interdisciplinary lenses to understand the characteristics and causes of local, regional, and global problems; instances of such problems in multiple contexts; and challenges and opportunities faced by those trying to address these problems over time and place; and

(b) applying a range of deliberative and democratic strategies and procedures to make decisions and take action in their classrooms, schools, and out-of-school contexts.

[6.29.11.20 NMAC - Rp, 6.29.11.20 NMAC, 2/22/2022]

#### **6.29.11.21 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR HIGH SCHOOL UNITED STATES HISTORY:**

##### **A. Geography.**

(1) The student shall demonstrate an understanding of movement, population, and systems by:

(a) analyzing and predicting how locations, places, and regions impact the evolution of human perspective and identity;

(b) predicting future social, political, economic, cultural, religious, spiritual, and environmental opportunities, and obstacles associated with movement, population, decision-making, and perspectives in a given place or region between 1945 and 1975;

(c) describing how particular historical events and developments shape human processes and systems in World War II;

(d) predicting future social, political, economic, cultural, religious, spiritual, and environmental opportunities, and obstacles associated with movement, population, decision-making, and perspectives in World War II; and

(e) describing how particular historical events and developments shape human processes and systems in a given place or region over time, between 1945 and 1975.

(2) The student shall demonstrate an understanding of human-environmental interactions and sustainability by:

**(a)** assessing how social, economic, politic, and environmental developments at global, national, regional, and local levels affect the sustainability of modern and traditional cultures between 1865 and 1877;

**(b)** describing how particular historical events and developments shape human processes and systems in a given place or region over time, between 1890 and 1920;

**(c)** analyzing how the forces of cooperation and conflict within and among people, nations, and empires influence the division and control of the Earth's surface and resources between 1920 and 1929;

**(d)** analyzing how the forces of cooperation and conflict within and among people, nations, and empires influence the division and control of the Earth's surface and resources between 1929 and 1941;

**(e)** analyzing how the forces of cooperation and conflict within and among people, nations, and empires influence the division and control of the Earth's surface and resources between 1945 and 1975; and

**(f)** assessing how social, economic, political, and environmental developments at global, national, regional, and local levels affect the sustainability of modern and traditional cultures between 2008 and the present.

## **B. High school United States history.**

**(1)** The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by:

**(a)** evaluating the long-term consequences of the end of reconstruction and the rise of Jim Crow on formerly enslaved people and their descendants in all regions of the country;

**(b)** examining immigration policy in the United States;

**(c)** evaluating what an efficient, equitable, equal, and just economic system would look like in the United States;

**(d)** examining labor struggles and populist movements in the United States and comparing to other movements around the world;

**(e)** examining United States imperialist policies and practices;

**(f)** analyzing the influence of cultural, literary, and artistic movements between 1890 and 1920;

**(g)** examining the ethics of the suppression of civil liberties and human rights during times of conflict and war, past and present;

**(h)** analyzing the role of the United States in the world and the balance of foreign and domestic priorities;

**(i)** analyzing the influence of cultural, literacy, and artistic movements during the progressive era and World War I;

**(j)** exploring the change between traditionalism and modernity in American society in the past and compare it with today;

**(k)** evaluating new deal programs and their impact on diverse groups of people in Americas;

**(l)** analyzing the influence of cultural, literary, and artistic movements between 1929 and 1941;

**(m)** analyzing the similarities, differences, and connections between the racial social order in the United States, Germany, and other countries during World War II;

**(n)** analyzing the influence of cultural, literary, and artistic movements during World War II;

**(o)** exploring the legacy of "othering" in the United States, including boarding schools, internment camps, and detention centers;

**(p)** examining the short- and long-term effects of central intelligence agency involvement in Latin America;

**(q)** analyzing the impact of cold war rhetoric and ideology on social movements and activists in the United States;

**(r)** examining how evolving global and domestic understanding of, and respect for, universal human rights affected in the development of the civil rights movement in the United States;

**(s)** analyzing issues related to race relations in the United States since the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965;

**(t)** evaluating the role of McCarthyism on the civil rights movement;

**(u)** evaluating the influence of 1960s cultural and artistic movements from past to present day;

**(v)** assessing the short- and long-term social and political impacts of conservatism and liberalism in the United States;

**(w)** examining the short- and long-term impacts of criminal justice policy implemented during the presidencies of Ronald Reagan and Bill Clinton;

**(x)** examining the push-pull relationship between conservatism and liberalism in America over time;

**(y)** evaluating whether the cold war definitively ended in 1991;

**(z)** analyzing the influence of cultural, literary, and artistic movements between 2008 and the present; and

**(aa)** analyzing major trends, issues, and advances to address healthcare disparities in the past, present, and future.

**(2)** The student shall demonstrate an understanding of causes and consequences by:

**(a)** analyzing the short- and long-term effects of the end of the civil war and reconstruction period;

**(b)** examining the impact of the end of the civil war on the settlement of the west, and on the relationships between the United States and the indigenous nations of the west;

**(c)** explaining the various causes of the industrial revolution;

**(d)** evaluating the consequences of the industrial revolution;

**(e)** analyzing social, political, and economic reasons groups migrated to and within the United States, including push and pull factors;

**(f)** analyzing the causes and course of the growing role of the United States in world affairs from the civil war to World War I;

**(g)** distinguishing between the long-term causes and triggering events that led the United States into World War I;

**(h)** explaining the course and significance of Woodrow Wilson's wartime diplomacy, including his fourteen points, the league of nations, and the failure of the treaty of Versailles;

**(i)** assessing how new technology in transportation, communication, and finance impacted American society;

**(j)** describing the multiple causes and consequences of the global and the United States depression of the 1930s;

**(k)** assessing the impact and legacy of new deal relief, recovery, and reform programs;

**(l)** explaining the reasons for American involvement in World War II and the key actions and events leading up to declarations of war against Japan and Germany;

**(m)** explaining the rise of fascism and the forms it took in Germany and Italy, including ideas and policies that led to the Holocaust, also known as Shoah;

**(n)** analyzing the events that led to World War II, the major battles of the war, use of nuclear weapons, and the Holocaust, also known as Shoah;

**(o)** analyzing the consequences of World War II, including the conferences of allied leaders following the war, and the development of human rights;

**(p)** assessing the social, political, and economic transformation of the United States during World War II.;

**(q)** analyzing the causes, conflicts, and consequences of the cold war;

**(r)** evaluating the policy of containment as a response by the United States to Soviet expansionist policies;

**(s)** analyzing how United States foreign policy during the cold war shaped conflicts in Asia and the Americas;

**(t)** analyzing the roots of domestic communism and anti-communism in the 1950s, the origins and consequences of, and the resistance to McCarthyism;

**(u)** analyzing the origin, goals, and outcomes of civil rights groups in the 1950s and the 1960s, and their influence on contemporary civil rights movements;

**(v)** evaluating resistance to integration in white communities, protests to end segregation, and the supreme court decisions on civil rights;

**(w)** analyzing the social, political, and economic conditions of the 1960s and 1970s that led to a rise in conservatism and its overall impact on society; and

**(x)** analyzing how communist economic policies and United States-sponsored resistance to Soviet military and diplomatic initiatives contributed to the fall of the Berlin wall in 1989 and the dissolution of the Soviet Union in 1991.



**(3)** The student shall demonstrate an understanding of critical consciousness and perspectives by:

**(a)** evaluating how the events of reconstruction impacted people from diverse groups;

**(b)** exploring African American economic, political, and sociocultural (educational, artistic, literary) responses to emancipation and reconstruction;

**(c)** identifying the ways in which gender roles were changing and unchanged during the 19th century;

**(d)** evaluating the effects of the entry of women into the workforce after the civil war and analyzing women's political organizations;

**(e)** analyzing the consequences of the continuing westward expansion of the American people after the civil war;

**(f)** evaluating the impact of the 14th Amendment on indigenous people and Asian and European immigrant men and women;

**(g)** examining the ways that the great migration changed America, and exploring the ways that African Americans adapted and resisted;

**(h)** evaluating how events during imperialism impacted people from diverse groups;

**(i)** examining the ways in which art, journalism, literature, and cultural artifacts served as forms of resistance and contributed to the anti-imperialist movement;

**(j)** evaluating major reform movements and reformers during the progressive era;

**(k)** evaluating the inclusivity and exclusivity of progressive era reform movements;

**(l)** analyzing the campaign for, and the opposition to, women's suffrage in the late 19th and early 20th centuries;

**(m)** analyzing the strategies of African Americans to achieve basic civil rights in the early 20th century;

**(n)** analyzing how ideologies of the progressive movement impacted indigenous people in the United States;

**(o)** evaluating how the events of the 1920s impacted people from diverse groups;

**(p)** exploring the arts, entrepreneurship, and philanthropy of the Harlem renaissance and its connections to the great migration;

**(q)** evaluating the passage of the 19th amendment from the perspective of diverse groups in American society;

**(r)** examining the ways in which gender role norms changed and stayed the same in 1920s America;

**(s)** examining the lives and experiences of Latinos and other diverse groups and the relationship of the United States to Mexico;

**(t)** evaluating how the events of this time period, during World War II, impacted people from diverse groups;

**(u)** examining the ways in which gender roles changed and stayed the same for women during World War II;

**(v)** evaluating how the events during the cold war impacted people from diverse groups;

**(w)** examining the ways in which gender roles changed and stayed the same during World War II;

**(x)** evaluating how the events of the civil rights movement impacted people from diverse groups;

**(y)** analyzing the causes, course, and impact on American politics and society of new social and political movements, including consideration of the role of protest, advocacy organizations, and active citizen participation;

**(z)** evaluating how major world events between 1968 and 2008, such as 9/11, and the rise of global terrorism impacted people from diverse groups;

**(aa)** examining the ways in which gender roles changed and stayed the same between 1945 and 1975;

**(bb)** evaluating the significance of the federal 1990 Americans with Disabilities Act;

**(cc)** examining the experiences, activism, and legislation impacting the LGBTQIA+ community;

**(dd)** evaluating how the events between 2008 and the present impact people from diverse groups; and

**(ee)** examining the ways in which gender roles changed and stayed the same between 1968 and 2008.

**(4)** The student shall demonstrate an understanding of power dynamics, leadership, and agency by:

**(a)** exploring the efforts of the federal government, African Americans, and civil society reformers to create a new political and social order after emancipation;

**(b)** explaining what progressivism meant in the early 20th century through the ideas, actions, and experiences of progressive leaders;

**(c)** analyzing the governmental policies of the progressive period, determine which problems they were designed to solve, and assessing long- and short-term effectiveness;

**(d)** analyzing the role of the United States in World War I;

**(e)** examining the conflict between traditionalism and modernity as manifested in the major political and economic events in the first two decades of the 20th century;

**(f)** summarizing United States diplomatic and military policies during the cold war;

**(g)** analyzing the important policies and events that took place during the presidencies of John F. Kennedy, Lyndon Johnson, and Richard Nixon;

**(h)** analyzing the rise of conservatism and liberalism in American politics and society;

**(i)** evaluating the role of the United States in contemporary global issues;

**(j)** evaluating the impacts of contemporary global issues on the United States;

**(k)** analyzing the current state and health of American democracy;

**(l)** analyzing some of the major technological and social trends and issues of the late 20th and early 21st centuries;

**(m)** evaluating the effectiveness of the federal government's response to international and domestic terrorism in the 21st century;

and  
(n) examining contemporary civil and human rights struggles and successes;

(o) analyzing United States government policies to reduce climate disruption.

### **C. Ethnic, cultural, and identity studies.**

(1) The student shall demonstrate an understanding of diversity and identity by:

(a) investigating how identity groups and society address systemic inequity through individual actions, individual champions, social movements, and local community, national, and global advocacy;

(b) identifying and exploring how current traditions, rites, and norms of identity groups have or are changing over time;

(c) comparing and contrasting the various origins – indigenous, forced, voluntary – of identity groups in the United States;

(d) examining the role assimilation plays in the loss of cultural, ethnic, racial, and religious identities and language, between 1865 and 1920;

(e) examining the impact of historical, cultural, economic, political, religious, and social factors, which resulted in unequal power relations among identity groups, between 1890 and 1920;

(f) examining the impact of historical, cultural, economic, political, religious, and social factors, which resulted in unequal power relations among identity groups, during the progressive era and World War I;

(g) examining the role assimilation plays in the loss of cultural, ethnic, racial, and religious identities and language, during the progressive era and World War I;

(h) examining the impact of historical, cultural, economic, political, religious, and social factors, which resulted in unequal power relations among identity groups, between 1920 and 1929;

(i) examining the impact of historical, cultural, economic, political, religious, and social factors, which resulted in unequal power relations among identity groups, between 1929 and 1941; and

(j) assessing how social policies and economic forces offer privilege or systemic inequity in accessing social, political, and economic opportunity for identity groups in education, government, healthcare, industry, and law enforcement.

**(2)** The student shall demonstrate an understanding of community identity in history by examining the impact of historical, cultural, economic, political, religious, and social factors that resulted in unequal power relations among identity groups.

**(3)** The student shall demonstrate an understanding of community equity building by:

**(a)** examining historical and contemporary cultural, economic, political, and social contributions to society by individuals or groups within an identity group;

**(b)** examining the impact of historical, cultural, economic, political, religious, and social factors, which resulted in unequal power relations among identity groups, during World War II;

**(c)** investigating how identity groups and society address systemic identity through individual actions, individual champions, social movements, and local community, national, and global advocacy;

**(d)** examining historical and contemporary cultural, economic, intellectual, political, and social contribution to society by individuals or groups within an identity group;

**(e)** investigating how identity groups and society address systemic inequity through individual actions, individual champions, social movements, and local community, national, and global advocacy; and

**(f)** evaluating the role of racial social construct in the structure and function of a 21st century American society;

#### **D. Inquiry.**

**(1)** The student shall demonstrate an understanding of constructing compelling and supporting questions by:

**(a)** creating compelling questions representing key ideas within the disciplines; and

**(b)** developing supporting questions that contribute to an inquiry and demonstrate how, through engaging source work, new compelling and supporting questions emerge.

**(2)** The student shall demonstrate an understanding of gathering and evaluating sources by:

**(a)** gathering relevant information from multiple sources representing a wide range of views while using the origin, authority, structure, context, and corroborative value of the sources to guide the selection; and

**(b)** evaluating the credibility of a source by examining how experts value the source.

**(3)** The student shall demonstrate an understanding of developing claims by:

**(a)** identifying evidence that draws information directly and substantively from multiple sources to detect inconsistencies in evidence to revise or strengthen claims; and

**(b)** refining claims and counterclaims attending to precision, significance, and knowledge conveyed through the claim while pointing out the strengths and limitations of both.

**(4)** The student shall demonstrate an understanding of communicating and critiquing conclusions by:

**(a)** constructing arguments using precise and knowledgeable claims, with evidence from multiple sources, while acknowledging counterclaims and evidentiary weaknesses;

**(b)** constructing explanations using reasoning, correct sequence, examples, and details with significant and pertinent information and data, while acknowledging the strengths and weaknesses of the explanations given its purpose;

**(c)** presenting adaptations of arguments and explanations that feature evocative ideas and perspectives on issues and topics to reach a range of audiences and venues outside the classroom using print, oral, and digital technologies; and

**(d)** critiquing the use of claims and evidence in arguments for credibility.

**(5)** The student shall demonstrate an understanding of taking informed action by:

**(a)** using disciplinary and interdisciplinary lenses to understand the characteristics and causes of local, regional, and global problems; instances of such problems in multiple contexts; and challenges and opportunities faced by those trying to address these problems over time and place; and

**(b)** applying a range of deliberative and democratic strategies and procedures to make decisions and take action in their classrooms, schools, and out-of-school contexts.

**6.29.11.22 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR HIGH SCHOOL WORLD HISTORY:**

**A. Civics.** The student shall demonstrate an understanding of roles and responsibilities of a civic life by:

- (1) assessing options for individual and collective action to address local, regional, and global problems;
- (2) applying a range of strategies and procedures to make decisions and take action in classrooms, schools, and out-of-school civic contexts; and
- (3) evaluating methods people use to create, change, expand, or oppose systems of power or authority.

**B. Economics.** The student shall demonstrate an understanding of a global economy by:

- (1) evaluating the impact of global interconnectedness on international economic stability and growth; and
- (2) analyzing how national and global economic trends and policies impact the state and local economies in New Mexico.

**C. Geography.**

- (1) The student shall demonstrate an understanding of location, place, and region by analyzing and explaining the reciprocal relationship between physical, geographical locations, and the patterns and processes humans create within them.
- (2) The student shall demonstrate an understanding of movement, population, and systems by identifying, evaluating, and explaining the causes, characteristics, and impact of diffusion: the spread of ideas, beliefs, religions, cultural practices and traits, language, artifacts, methods, technologies, and diseases across space and over time.
- (3) The student shall demonstrate an understanding of human-environmental interactions and sustainability by assessing how social, economic, political, and environmental developments at global, national, regional, and local levels affect the sustainability of modern and traditional cultures.

**D. History.**

- (1) The student shall demonstrate an understanding of historical change, continuity, context, and reconciliation by:

**(a)** identifying significant transformative moments in world history, analyzing the reasons behind their transformative nature, and explaining how they continue to shape contemporary global interactions;

**(b)** tracing political, intellectual, religious, artistic, technological, economic, and social developments in historical periods, and within individual societies;

**(c)** identifying patterns of continuity and change over time in world history, focusing on patterns within and between historical eras;

**(d)** examining how historical events and developments were shaped by unique circumstances of time and place, and broader historical contexts; and

**(e)** identifying how individuals, groups, and events in New Mexico's history that have influenced or were influenced by events in world history.

**(2)** The student shall demonstrate an understanding of causes and consequences by:

**(a)** identifying and evaluating multiple causes and effects of historical events within world history;

**(b)** distinguishing between long- and short-term causes in developing historical interpretations; and

**(c)** identifying contemporary global issues that influence or are influenced by New Mexicans.

**(3)** The student shall demonstrate an understanding of historical thinking by:

**(a)** analyzing and evaluating the values and limitations of primary and secondary sources of information, including digital, with attention to the source, its context, reliability, and usefulness;

**(b)** effectively using and integrating evidence from a variety of diverse sources to evaluate and develop historical claims; and

**(c)** synthesizing historical information to create new understandings.

**(4)** The student shall demonstrate an understanding of critical consciousness and perspectives by:

**(a)** using a variety of source materials to compare and contrast treatments of the same topic;



(b) examining historical events from the perspectives of diverse groups, including indigenous people, national, regional, racial, ethnic, class, gender, sexual orientation, and differently abled; and

(c) analyzing and evaluating multiple points of view to explain the ideas and actions of individuals and groups.

(5) The student shall demonstrate an understanding of power dynamics, leadership, and agency by:

(a) using historical thinking skills to evaluate historical and contemporary sources of information relating to local, regional, and global problems, and identify challenges and opportunities faced by those trying to address these problems;

(b) investigating cultural and historical developments within societies with attention to belief systems, ideologies, the arts, science, and technology; and

(c) analyzing the complex relationship between dominant cultures and minority groups throughout world history, including constructions of race, ethnicity, gender, sexual orientation, differently abled, nationality, class, religion, reactions, and long-term effects of oppression.

**E. Ethnic, cultural, and identity studies.** The student shall demonstrate an understanding of identity in history by:

(1) comparing and contrasting the various origins (including indigenous, forced, voluntary) of identity groups in world history;

(2) examining the impact of historical cultural, economic, political, religious, and social factors, which resulted in unequal power relations among identity groups; and

(3) examining the role colonization, assimilation, and syncretism plays in the evolution of cultural, ethnic, racial, and religious identities and language.

#### **F. Inquiry.**

(1) The student shall demonstrate an understanding of constructing compelling and supporting questions by creating compelling questions representing key ideas in world history.

(2) The student shall demonstrate an understanding of gathering and evaluating sources by:

(a) evaluating the credibility of sources from a range of media (print, internet, audio, visual) by examining origin, author, context, content, and corroborative value; and

(b) gathering relevant information from credible sources representing a wide range of views and noting inconsistencies in the information.

(3) The student shall demonstrate an understanding of developing claims by:

(a) developing claims and analyzing counterclaims about the significance of historical events using evidence that draws directly and substantively from multiple sources; and

(b) analyzing evidence to detect inconsistencies within the evidence to revise or strengthen claims.

(4) The student shall demonstrate an understanding of communicating and critiquing conclusions by presenting arguments and explanations that reach a range of audiences using print and oral technologies (e.g. posters, essays, letters, debates, speeches, reports, maps) and digital technologies (e.g. internet, social media, digital documentary).

(5) The student shall demonstrate an understanding of taking informed action by:

(a) evaluating historical and contemporary sources of information relating to local, regional, and global problems and identifying challenges and opportunities faced by those trying to address these problems;

(b) assessing options for individual and collective action to address local, regional, and global problems; and

(c) applying a range of strategies and procedures to make decisions and take action in classrooms, schools, and out-of-school civic contexts.

[6.29.11.22 NMAC - Rp, 6.29.11.22 NMAC, 2/22/2022]

### **6.29.11.23 ANCHOR STANDARDS AND PERFORMANCE STANDARDS FOR HIGH SCHOOL ETHNIC, CULTURAL, AND IDENTITY STUDIES:**

#### **A. Ethnic, cultural, and identity studies.**

(1) The student shall demonstrate an understanding of diversity and identity by:

(a) recognizing and valuing the student's group identities without perceiving or treating others as inferior;

(b) identifying and analyzing cultural, differently abled, ethnic, gender, sexual orientation, national, political, racial, and religious identities, and related perceptions and behaviors by society of these identities;

(c) identifying and exploring how current traditions, rites, and norms of identity groups have or are changing over time; and

(d) assessing how social policies and economic forces offer various identity groups privilege or systemic inequity in accessing social, political, and economic opportunity in education, government, healthcare, industry, and law enforcement.

(2) The student shall demonstrate an understanding of identity in history by:

(a) comparing and contrasting the various origins (including indigenous, forced, voluntary) of identity groups in the United States;

(b) examining the impact of historical cultural, economic, political, religious, and social factors, which resulted in unequal power relations among identity groups; and

(c) examining the role assimilation plays in the loss of cultural, ethnic, racial, and religious identities and language.

(3) The student shall demonstrate an understanding of community equity building by:

(a) examining historical and contemporary cultural, economic, intellectual, political, and social contributions to society by individuals or groups within an identity group;

(b) investigating how identity groups and society address systemic inequity and transformational change through individual actions, individual champions, social movements, and local community, national, and global advocacy; and

(c) evaluating the role of racial social constructs in the structures and functions of a 21st century American society.

## **B. Inquiry.**

(1) The student shall demonstrate an understanding of constructing compelling and supporting questions by:

**(a)** creating compelling questions representing key ideas within the disciplines; and

**(b)** developing supporting questions that contribute to an inquiry and demonstrate how, through engaging source work, new compelling and supporting questions emerge.

**(2)** The student shall demonstrate an understanding of gathering and evaluating sources by:

**(a)** gathering relevant information from multiple sources representing a wide range of views while using the origin, authority, structure, context, and corroborative value of the sources to guide the selection; and

**(b)** evaluating the credibility of a source by examining how experts value the source.

**(3)** The student shall demonstrate an understanding of developing claims by:

**(a)** identifying evidence that draws information directly and substantively from multiple sources to detect inconsistencies in evidence to revise or strengthen claims; and

**(b)** refining claims and counterclaims attending to precision, significance, and knowledge conveyed through the claim while pointing out the strengths and limitations of both.

**(4)** The student shall demonstrate an understanding of communicating and critiquing conclusions by:

**(a)** constructing arguments using precise and knowledgeable claims, with evidence from multiple sources, while acknowledging counterclaims and evidentiary weaknesses;

**(b)** constructing explanations using reasoning, correct sequence, examples, and details with significant and pertinent information and data, while acknowledging the strengths and weaknesses of the explanations given its purpose;

**(c)** presenting adaptations of arguments and explanations that feature evocative ideas and perspectives on issues and topics to reach a range of audiences and venues outside the classroom using print, oral, and digital technologies; and

**(d)** critiquing the use of claims and evidence in arguments for credibility.

**(5)** The student shall demonstrate an understanding of taking informed action by:

(a) using disciplinary and interdisciplinary lenses to understand the characteristics and causes of local, regional, and global problems; instances of such problems in multiple contexts; and challenges and opportunities faced by those trying to address these problems over time and place; and

(b) applying a range of deliberative and democratic strategies and procedures to make decisions and take action in their classrooms, schools, and out-of-school contexts.

[6.29.11.23 NMAC - Rp, 6.29.11.23 NMAC, 2/22/2022]

## **PART 12: LIBRARY, MEDIA AND INFORMATION LITERACY [RESERVED]**

## **PART 13: ENGLISH LANGUAGE ARTS COMMON CORE STANDARDS**

### **6.29.13.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.13.1 NMAC - N, 10-29-2010]

### **6.29.13.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than the New Mexico military institute.

[6.29.13.2 NMAC - N, 10-29-2010]

### **6.29.13.3 STATUTORY AUTHORITY:**

A. Section 22-2-2 NMSA 1978 grants the department the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute.

B. Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable.

C. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.13.3 NMAC - N, 10-29-2010]

### **6.29.13.4 DURATION:**

Permanent.

[6.29.13.4 NMAC - N, 10-29-2010]

**6.29.13.5 EFFECTIVE DATE:**

October 29, 2010, unless a later date is cited at the end of a section.

This rule is filed effective October 29, 2010. School districts and charter schools will not be accountable for the requirements of this rule until July 1, 2012.

[6.29.13.5 NMAC - N, 10-29-2010]

**6.29.13.6 OBJECTIVE:**

The New Mexico common core content standards for English language arts are mandated for students in grades K-12. The New Mexico content standards with benchmarks and performance standards for English language arts were adopted in April 1996 as part of 6 NMAC 3.2; they were revised in June 2000. The content standards, benchmarks and performance standards for grades K-4 were again revised in April 2008, and the content standards and performance indicators for Grades 9-12 were again revised in May 2009.

[6.29.13.6 NMAC - N, 10-29-2010]

**6.29.13.7 DEFINITIONS:**

"Text" means written language, oral language, digital communications (written, oral, and graphic), and other forms of multimedia communications.

[6.29.13.7 NMAC - N, 10-29-2010]

**6.29.13.8 CONTENT STANDARDS FOR ENGLISH LANGUAGE ARTS, Grades K-5:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute are bound by the English language arts common core state standards published by the national governor's association center for best practices and the council of chief state school officers. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us). The English language arts common core state standards published by the national governor's association center for best practices and the council of chief state school officers are incorporated in this rule by reference.

A. The following standards are additional New Mexico standards that shall be utilized for grades K-5 in conjunction with the common core state standards incorporated by reference in 6.29.13 NMAC.

B. Reading literature. Key ideas and details.

(1) Kindergarten students will identify the main topic, retell key details of a text, and make predictions.

(2) Grade 1 students will:

(a) identify the main topic, retell key details of a text, and make predictions;

(b) identify characters and simple story lines from selected myths and stories from around the world.

(3) Grade 2 students will:

(a) identify the main topic, retell key details of a text, and make predictions;

(b) use literature and media to develop an understanding of people, cultures, and societies to explore self identity.

(4) Grade 3 students will:

(a) ask and answer questions and make predictions to demonstrate understanding of a text;

(b) develop an understanding of people, cultures, and societies and explore self identity through literature, media, and oral tradition;

(c) understand that oral tribal history is not a myth, fable, or folktale, but a historical perspective.

(5) Grade 4 students will:

(a) develop an understanding of people, cultures, and societies and explore self identity through literature, media, and oral tradition;

(b) understand that oral tribal history is not a myth, fable, or folktale, but a historical perspective.

(6) Grade 5 students will:

(a) develop an understanding of people, cultures, and societies and explore self identity through literature, media, and oral tradition;

(b) understand that oral tribal history is not a myth, fable, or folktale, but a historical perspective.

C. Reading literature: Craft and structure. Grade 1 students will recognize repetition and predict repeated phrases.

D. Reading literature: Integration of knowledge and ideas. Grade 1 students will relate prior knowledge to textual information.

E. Writing standards: Production and distribution of writing.

(1) Kindergarten students will apply digital tools to gather, evaluate, and use information.

(2) Grade 1 students will apply digital tools to gather, evaluate, and use information.

(3) Grade 2 students will:

(a) apply digital tools to gather, evaluate, and use information;

(b) use digital media and environments to communicate and work collaboratively.

F. Writing standards: text type and purposes. In grades 3, 4, and 5 students will use digital media environments to communicate and work collaboratively, including at a distance, to support individual learning and to contribute to the learning of others.

G. Writing standards: research to build and present knowledge.

(1) Grade 3 students will:

(a) gather relevant information from multiple sources, including oral knowledge;

(b) apply digital tools to gather, evaluate, and use information.

(2) Grade 4 students will:

(a) gather relevant information from multiple sources, including oral knowledge;

(b) apply digital tools to gather, evaluate, and use information;

(c) demonstrate creative thinking, construct knowledge, and develop innovative products and processes using technology.



(3) Grade 5 students will:

(a) gather relevant information from multiple sources, including oral knowledge;

(b) apply digital tools to gather, evaluate, and use information;

(c) demonstrate creative thinking, construct knowledge, and develop innovative products and processes using technology.

H. Speaking and listening standards: presentation of knowledge and ideas.

(1) Kindergarten students will:

(a) demonstrate familiarity with stories and activities related to various ethnic groups and countries;

(b) with prompting and support: role play; make predictions; and follow oral and graphic instructions.

(2) Grade 1 students will:

(a) describe events related to the students' experiences, nations, and cultures;

(b) follow simple written and oral instructions.

(3) Grade 2 students will describe events related to the students' experiences, nations, and cultures.

(4) Grade 3, 4, and 5 students will:

(a) understand the influence of heritage language in English speech patterns;

(b) orally compare and contrast accounts of the same event and text;

(c) demonstrate appropriate listening skills for understanding and cooperation within a variety of cultural settings.

I. Language standards: Conventions of standard English. Students in grades K, 1, and 2 will use letter formation, lines, and spaces to create a readable document.

[6.29.13.8 NMAC - N, 10-29-2010]

**6.29.13.9 CONTENT STANDARDS FOR ENGLISH LANGUAGE ARTS, Grades 6-8:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico Military institute are bound by the English language arts common core state standards published by the national governors association center for best practices and the council of chief state school officers. The standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us). The English language arts common core state standards published by the national governors association center for best practices and the council of chief state school officers are incorporated in this rule by reference.

A. The following standards are additional New Mexico standards that shall be utilized in conjunction with the common core state standards incorporated by reference in 6.29.13 NMAC.

B. Reading literature. Key ideas and details.

(1) Grade 6 students will:

(a) analyze how a cultural work of literature, including oral tradition, draws on themes, patterns of events, or character types, and how the differing structure of the text contributes to society, past or present;

(b) analyze works of Hispanic and Native American text by showing how it reflects the heritage, traditions, attitudes, and beliefs of the author and how it applies to society;

(c) compare a cultural value as portrayed in literature with a personal belief or value.

(2) Grade 7 students will:

(a) analyze how a cultural work of literature, including oral tradition, draws on themes, patterns of events, or character types, and how the differing structure of the text contributes to society, past or present;

(b) analyze works of Hispanic and Native American text by showing how it reflects the heritage, traditions, attitudes, and beliefs of the author and how it applies to society;

(c) use oral and written texts from various cultures to cite evidence that supports or negates understanding of a cultural value.

(3) Grade 8 students will:

(a) analyze how a cultural work of literature, including oral tradition, draws on themes, patterns of events, or character types, and how the differing structure of the text contributes to society, past or present;

(b) analyze works of Hispanic and Native American text by showing how it reflects the heritage, traditions, attitudes, and beliefs of the author and how it applies to society;

(c) use oral or written texts from various cultures, cite textual evidence that supports or negates reader inference of a cultural value.

C. Reading literature. Range of reading and level of text complexity. Grade 8 students will, by the end of the year, read and comprehend significant works of 18<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup> century literature including stories, dramas, and poems independently and proficiently.

D. Reading standards for informational text: integration of knowledge and ideas. Students in grades 6, 7, and 8 will:

- (1) distinguish between primary and secondary sources;
- (2) describe how the media use propaganda, bias, and stereotyping to influence audiences.

E. Speaking and listening standards: presentation of knowledge and ideas. Students in grades 6, 7, and 8 will:

- (1) understand the influence of heritage language in English speech patterns;
- (2) orally compare and contrast accounts of the same event and text;
- (3) demonstrate appropriate listening skills for understanding and cooperation within a variety of cultural settings.

[6.29.13.9 NMAC - N, 10-29-2010]

#### **6.29.13.10 CONTENT STANDARDS FOR ENGLISH LANGUAGE ARTS, Grades 9-12:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute are bound by the English language arts common core state standards published by the national governors association center for best practices and the council of chief state school officers. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us). The English language arts common core state standards published by the national governor's association center for best practices and the council of chief state school officers are incorporated in this rule by reference. The department, in consultation with relevant stakeholders, shall develop guidelines for the implementation of standards set forth in 6.29.13.10 NMAC.

A. The following standards are additional New Mexico standards that shall be utilized in conjunction with the common core state standards incorporated by reference in 6.29.13 NMAC.

B. Reading literature. Key ideas and details. Students in grades 9, 10, 11, and 12 will:

(1) analyze and evaluate common characteristics of significant works of literature from various genres, including Hispanic and Native American oral and written texts;

(2) cite strong and thorough textual evidence to support analysis of British, world, and regional literatures, including various Hispanic and Native American oral and written texts.

C. Reading standards for informational text: Integration of knowledge and ideas. Students in grades 9, 10, 11, and 12 will:

(1) analyze and evaluate common characteristics of significant works, including Hispanic and Native American oral and written texts;

(2) cite strong and thorough textual evidence to support analysis of significant works, including Hispanic and Native American oral and written texts.

[6.29.13.10 NMAC - N 10-29-2010]

## **PART 14: MATHEMATICS COMMON CORE STANDARDS**

### **6.29.14.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.14.1 NMAC - N, 10-29-2010]

### **6.29.14.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than the New Mexico military institute.

[6.29.14.2 NMAC - N, 10-29-2010]

### **6.29.14.3 STATUTORY AUTHORITY:**

A. Section 22-2-2 NMSA 1978 grants the department the authority and responsibility for the assessment and evaluation of public schools, state-supported

educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

B. Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable.

C. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.14.3 NMAC - N, 10-29-2010]

**6.29.14.4 DURATION:**

Permanent.

[6.29.14.4 NMAC - N, 10-29-2010]

**6.29.14.5 EFFECTIVE DATE:**

October 29, 2010, unless a later date is cited at the end of a section.

This rule is filed effective October 29, 2010. School districts and charter schools will not be accountable for the requirements of this rule until July 1, 2012.

[6.29.14.5 NMAC - N, 10-29-2010]

**6.29.14.6 OBJECTIVE:**

The New Mexico common core content standards for mathematics provide a framework of required knowledge and skills in this field; they are mandated for grades K-12. The content standards with benchmarks and performance standards for mathematics were adopted in 1996 as part of 6 NMAC 3.2; they were replaced in 2002. The mathematics content standards for grades 9-12 were again revised in April 2008 and in June 2009. In May 2010, the content standards for grades K-12 were revised; the benchmarks and performance standards will be developed from this foundation document.

[6.29.14.6 NMAC - N, 10-29-2010]

**6.29.14.7 DEFINITIONS:**

[RESERVED]

**6.29.14.8 CONTENT STANDARDS, GRADES K-12:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute are bound by the mathematics common core state standards published by the national governor's association center for best practices and the council of chief state school officers. The standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us). The mathematics common core state standards published by the national governor's association center for best practices and the council of chief state school officers are incorporated in this rule by reference. The department, in consultation with relevant stakeholders, shall develop guidelines for the implementation of standards set forth in 6.29.14.8 NMAC.

[6.29.14.8 NMAC - N, 10-29-2010]

## **PART 15: SPANISH LANGUAGE ARTS COMMON CORE STANDARDS**

### **6.29.15.1 ISSUING AGENCY:**

Public Education Department hereinafter referred to as the department.

[6.29.15.1 NMAC - N, 07/01/2018]

### **6.29.15.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than the New Mexico military institute.

[6.29.15.2 NMAC - N, 07/01/2018]

### **6.29.15.3 STATUTORY AUTHORITY:**

**A.** Section 22-2-2 NMSA 1978 grants the department the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute.

**B.** Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable.

**C.** Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.15.3 NMAC - N, 07/01/2018]

### **6.29.15.4 DURATION:**

Permanent.

[6.29.15.4 NMAC - N, 07/01/2018]

**6.29.15.5 EFFECTIVE DATE:**

July 1, 2018, unless a later date is cited at the end of a section.

[6.29.15.5 NMAC - N, 07/01/2018]

**6.29.15.6 OBJECTIVE:**

The New Mexico common core content standards for Spanish language arts are mandated for students in grades K-12 receiving required Spanish language arts instruction through participation in state-funded bilingual multicultural education programs.

[6.29.15.6 NMAC - N, 07/01/2018]

**6.29.15.7 DEFINITIONS:**

**A. "Text"** means written language, oral language, digital communications (written, oral, and graphic), and other forms of multimedia communications.

**B. "Heritage language"** means a language other than English that is inherited from a family, tribe, community or country of origin.

[6.29.15.7 NMAC - N, 07/01/2018]

**6.29.15.8 CONTENT STANDARDS FOR SPANISH LANGUAGE ARTS, Grades K-5:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute are bound by the Spanish language arts common core state standards published by the national governor's association center for best practices and the council of chief state school officers. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us) or are otherwise published and made available by the department. The common core state standards Spanish language version published by council of chief state school officers are incorporated in this rule by reference. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us) or are otherwise published and made available by the department.

**A.** The following standards are additional New Mexico Spanish language arts standards that shall be utilized for grades K-5 in conjunction with the common core state standards incorporated by reference to this regulation.

**B.** Reading literature: Key ideas and details.

**(1)** Kindergarten students will identify the main topic, retell key details of a text, and make predictions.

**(2)** Grade 1 students will:

**(a)** identify the main topic, retell key details of a text, and make predictions;

**(b)** identify characters and simple story lines from selected myths and stories from around the world.

**(3)** Grade 2 students will:

**(a)** identify the main topic, retell key details of a text, and make predictions;

**(b)** use literature and media to develop an understanding of people, cultures, and societies to explore self-identity.

**(4)** Grade 3 students will:

**(a)** ask and answer questions and make predictions to demonstrate understanding of a text;

**(b)** develop an understanding of people, cultures, and societies and explore self-identity through literature, media, and oral tradition;

**(c)** understand that oral tribal history is not a myth, fable, or folktale, but a historical perspective.

**(5)** Grade 4 students will:

**(a)** develop an understanding of people, cultures, and societies and explore self-identity through literature, media, and oral tradition;

**(b)** understand that oral tribal history is not a myth, fable, or folktale, but a historical perspective.

**(6)** Grade 5 students will:

**(a)** develop an understanding of people, cultures, and societies and explore self-identity through literature, media, and oral tradition;

**(b)** understand that oral tribal history is not a myth, fable, or folktale, but a historical perspective.

**C. Reading literature: Craft and structure.** Grade 1 students will recognize repetition and predict repeated phrases.



**D. Reading literature: Integration of knowledge and ideas.** Grade 1 students will relate prior knowledge to textual information.

**E. Writing standards: Production and distribution of writing.**

**(1)** Kindergarten students will apply digital tools to gather, evaluate, and use information.

**(2)** Grade 1 students will apply digital tools to gather, evaluate, and use information.

**(3)** Grade 2 students will:

**(a)** apply digital tools to gather, evaluate, and use information;

**(b)** use digital media and environments to communicate and work collaboratively.

**F. Writing standards: Text type and purposes.** In grades 3, 4, and 5 students will use digital media environments to communicate and work collaboratively, including at a distance, to support individual learning and to contribute to the learning of others.

**G. Writing standards: Research to build and present knowledge.**

**(1)** Grade 3 students will:

**(a)** gather relevant information from multiple sources, including oral knowledge;

**(b)** apply digital tools to gather, evaluate, and use information.

**(2)** Grade 4 students will:

**(a)** gather relevant information from multiple sources, including oral knowledge;

**(b)** apply digital tools to gather, evaluate, and use information;

**(c)** demonstrate creative thinking, construct knowledge, and develop innovative products and processes using technology.

**(3)** Grade 5 students will:

**(a)** gather relevant information from multiple sources, including oral knowledge;

(b) apply digital tools to gather, evaluate, and use information;

(c) demonstrate creative thinking, construct knowledge, and develop innovative products and processes using technology.

**H. Speaking and listening standards: Presentation of knowledge and ideas.**

(1) Kindergarten students will:

(a) demonstrate familiarity with stories and activities related to various ethnic groups and countries;

(b) with prompting and support: role play; make predictions; and follow oral and graphic instructions.

(2) Grade 1 students will:

(a) describe events related to the students' experiences, nations, and cultures;

(b) follow simple written and oral instructions.

(3) Grade 2 students will describe events related to the students' experiences, nations, and cultures.

(4) Grade 3, 4, and 5 students will:

(a) understand the influence of English in heritage language speech patterns;

(b) orally compare and contrast accounts of the same event and text;

(c) demonstrate appropriate listening skills for understanding and cooperation within a variety of cultural settings.

**I. Language standards: Conventions of standard Spanish.** Students in grades K, 1, and 2 will use letter formation, lines, and spaces to create a readable document.

[6.29.15.8 NMAC - N, 07/01/2018]

### **6.29.15.9 CONTENT STANDARDS FOR SPANISH LANGUAGE ARTS, Grades 6-8:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute are bound by the Spanish language arts common core state standards published by the national governors association center for best practices and the council of chief state school

officers. The standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us) or are otherwise published and made available by the department. The common core state standards Spanish language version published by council of chief state school officers are incorporated in this rule by reference. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us) or are otherwise published and made available by the department.

**A.** The following standards are additional New Mexico standards that shall be utilized in conjunction with the common core state standards incorporated by reference in this regulation.

**B.** Reading literature: Key ideas and details.

**(1)** Grade 6 students will:

**(a)** analyze how a cultural work of literature, including oral tradition, draws on themes, patterns of events, or character types, and how the differing structure of the text contributes to society, past or present;

**(b)** analyze Hispanic and Native American texts by showing how they reflect the heritage, traditions, attitudes, and beliefs of the authors and how they apply to society;

**(c)** compare a cultural value as portrayed in literature with a personal belief or value.

**(2)** Grade 7 students will:

**(a)** analyze how a cultural work of literature, including oral tradition, draws on themes, patterns of events, or character types, and how the differing structures of the text contribute to society, past or present;

**(b)** analyze Hispanic and Native American texts by showing how they reflect the heritage, traditions, attitudes, and beliefs of the authors and how they apply to society;

**(c)** use oral and written texts from various cultures as evidence cited to support or negate understanding of a cultural value.

**(3)** Grade 8 students will:

**(a)** analyze how a cultural work of literature, including oral tradition, draws on themes, patterns of events, or character types, and how the differing structure of the text contributes to society, past or present;

(b) analyze Hispanic and Native American texts by showing how they reflect the heritage, traditions, attitudes, and beliefs of the authors and how they apply to society;

(c) use oral and written texts from various cultures as evidence cited to support or negate reader inference of a cultural value.

**C.** Reading literature: Range of reading and level of text complexity. Grade 8 students will, by the end of the school year, independently and proficiently read and comprehend significant works of 18<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup> century literature including stories, dramas, and poems.

**D.** Reading standards for informational text: Integration of knowledge and ideas. Students in grades 6, 7, and 8 will:

- (1) distinguish between primary and secondary sources;
- (2) describe how the media use propaganda, bias, and stereotyping to influence audiences.

**E.** Speaking and listening standards: Presentation of knowledge and ideas. Students in grades 6, 7, and 8 will:

- (1) understand the influence of English in heritage language speech patterns;
- (2) orally compare and contrast accounts of the same event and text;
- (3) demonstrate appropriate listening skills for understanding and cooperation within a variety of cultural settings.

[6.29.15.9 NMAC - N, 07/01/2018]

#### **6.29.15.10 CONTENT STANDARDS FOR SPANISH LANGUAGE ARTS, GRADES 9-12:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute are bound by the Spanish language arts common core state standards published by the national governors association center for best practices and the council of chief state school officers. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us) or are otherwise published and made available by the department. The common core state standards Spanish language version published by council of chief state school officers are incorporated in this rule by reference. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us) or are otherwise published and made available by the department.

**A.** The following standards are additional New Mexico standards that shall be utilized in conjunction with the common core state standards incorporated by reference in this regulation.

**B.** Reading literature: Key ideas and details. Students in grades 9, 10, 11, and 12 will:

(1) analyze and evaluate common characteristics of significant works of literature from various genres, including Hispanic and Native American oral and written texts;

(2) cite strong and thorough textual evidence to support analysis of British, world, and regional literatures, including various Hispanic and Native American oral and written texts.

**C.** Reading standards for informational text: Integration of knowledge and ideas. Students in grades 9, 10, 11, and 12 will:

(1) analyze and evaluate common characteristics of significant works, including Hispanic and Native American oral and written texts;

(2) cite strong and thorough textual evidence to support analysis of significant works, including Hispanic and Native American oral and written texts.

[6.29.15.10 NMAC - N, 07/01/2018]

**6.29.15.11 CONTENT STANDARDS FOR SPANISH LANGUAGE ARTS  
INSTRUCTION IN BILINGUAL MULTICULTURAL EDUCATION PROGRAMS,  
GRADES K-12:**

All public schools, state supported educational institutions and educational programs conducted in state institutions other than the New Mexico military institute whose students participate in state Spanish bilingual multicultural education programs pursuant to 22-23-1 NMSA 1978 and 6.32.2 NMAC are bound by the common core state standards Spanish language version published by council of chief state school officers are incorporated in this rule by reference. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us) or are otherwise published and made available by the department.

[6.29.15.11 NMAC - N, 07/01/2018]

**PART 16: SPANISH LANGUAGE DEVELOPMENT**

**6.29.16.1 ISSUING AGENCY:**

Public Education Department hereinafter referred to as the department.

[6.29.16.1 NMAC - N, 07/01/2018]

**6.29.16.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.16.2 NMAC - N, 07/01/2018]

**6.29.16.3 STATUTORY AUTHORITY:**

**A.** Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

**B.** Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.16.3 NMAC - N, 07/01/2018]

**6.29.16.4 DURATION:**

Permanent.

[6.29.16.4 NMAC - N, 07/01/2018]

**6.29.16.5 EFFECTIVE DATE:**

July 1, 2018, unless a later date is cited at the end of a section.

[6.29.16.5 NMAC - N, 07/01/2018]

**6.29.16.6 OBJECTIVE:**

The department-approved Spanish language development standards provide companion piece to the New Mexico content standards for Spanish language arts (6.29.15 NMAC). The approved standards shall guide second-language instruction for PreK-12 Spanish language learner students. The Spanish language learner population falls into three basic categories: students whose primary or home language (L1) is Spanish; students from heritage language groups needing enrichment and further development of academic Spanish, some of whom maintain degrees of fluency in their heritage language; and any other students needing further development of academic Spanish. Because instruction must address the appropriate proficiency level of the

individual student, which may vary greatly for any age, some consideration must be made for the student's maturity level.

[6.29.16.6 NMAC - N, 07/01/2018]

#### **6.29.16.7 DEFINITIONS:**

**A. "Academic content standards"** means statements that define the knowledge and skills students need to know and be able to demonstrate as proof of competency in the core content areas associated with schooling.

**B. "Academic language"** means the language used in academic content in formal schooling contexts, including specialized or technical language and discourse related to each content area.

**C. "Discourse"** means extended, connected language that may include explanations, descriptions and propositions.

**D. "Heritage language"** means a language other than English that is inherited from a family, tribe, community or country of origin.

**E. "Language domains"** means the four main subdivisions of language: listening, speaking, reading and writing.

**F. "Levels of Spanish language proficiency"** means the arbitrary division of the second language acquisition continuum into stages of language development.

**G. "Listening"** means the ability to process, understand, interpret and evaluate spoken language in a variety of situations.

**H. "Reading"** means the ability to process, understand, interpret and evaluate written language, symbols and text with understanding and fluency.

**I. "Spanish language learner"** means a student who is not yet able to understand, speak, read or write Spanish at a level comparable to grade-level Spanish proficient peers and native Spanish speakers.

**J. "Speaking"** means oral communication used in a variety of situations for a variety of purposes and audiences.

**K. "Writing"** means written communication used in a variety of forms for a variety of purposes and audiences.

[6.29.16.7 NMAC - N, 07/01/2018]

#### **6.29.16.8 SPANISH LANGUAGE DEVELOPMENT STANDARDS GRADE SPANS:**

The Spanish language development standards established by the department are organized in grade levels as follows: PreK-12.

[6.29.16.8 NMAC - N, 07/01/2018]

#### **6.29.16.9 SPANISH LANGUAGE DEVELOPMENT STANDARDS PROFICIENCY LEVELS AND LANGUAGE DOMAINS:**

**A.** The Spanish language development standards have five general levels of Spanish language proficiency: "entering" (level 1), "emerging" (level 2), "developing" (level 3), "expanding" (level 4), "bridging" (level 5), "reaching" (level 6)."

**B.** Reading, writing, listening and speaking skills are addressed at each proficiency level.

[6.29.16.9 NMAC - N, 07/01/2018]

#### **6.29.16.10 CONTENT STANDARDS FOR SPANISH LANGUAGE DEVELOPMENT, GRADES PreK-12:**

The world class instructional design and assessments (WIDA) Spanish language development standards distinguish five general standards: "social and instructional language," "the language of language arts," "the language of mathematics," "the language of science," and "the language of social studies." Reading, writing, listening and speaking skills are addressed in each standard.

**A.** Spanish language proficiency standard 1: PreK-12. Social and instructional language: Spanish language learners communicate for social and instructional purposes within the school setting.

**(1)** Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

**(2)** Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

**(3)** Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

**(4)** Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

**B.** Spanish language proficiency standard 2: PreK-12. The language of language arts: Spanish language learners communicate information, ideas and concepts necessary for academic success in the content area of language arts.



- (1) Listening.
- (2) Speaking.
- (3) Reading.
- (4) Writing.

**C.** Spanish language proficiency standard 3: PreK-12. The language of mathematics: Spanish language learners communicate information, ideas and concepts necessary for academic success in the content area of mathematics.

- (1) Listening.
- (2) Speaking.
- (3) Reading.
- (4) Writing.

**D.** Spanish language proficiency standard 4: PreK-12. The language of science: Spanish language learners communicate information, ideas and concepts necessary for academic success in the content area of science.

- (1) Listening.
- (2) Speaking.
- (3) Reading.
- (4) Writing.

**E.** Spanish language proficiency standard 5: PreK-12. The language of social studies: Spanish language learners communicate information, ideas and concepts necessary for academic success in the content area of social studies.

- (1) Listening.
- (2) Speaking.
- (3) Reading.
- (4) Writing.

## **PART 17: NEW MEXICO COMPUTER SCIENCE STANDARDS**

### **6.29.17.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.2.1 NMAC - N, 7/1/2019]

### **6.29.17.2 SCOPE:**

All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.2.2 NMAC - N, 7/1/2019]

### **6.29.17.3 STATUTORY AUTHORITY:**

**A.** Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

**B.** Section 22-2-2 NMSA 1978 directs the department to set graduation expectations.

**C.** Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.2.3 NMAC - N, 7/1/2019]

### **6.29.17.4 DURATION:**

Permanent.

[6.29.2.4 NMAC - N, 7/1/2019]

### **6.29.17.5 EFFECTIVE DATE:**

July 1, 2019, unless a later date is cited at the end of a section.

[6.29.2.5 NMAC - N, 7/1/2019]

### **6.29.17.6 OBJECTIVE:**

The department-approved New Mexico computer science standards represent the required knowledge and skills in this field. These standards are mandatory for any courses in kindergarten through grade 12 in which computer science content is being taught.

[6.29.2.6 NMAC - N, 7/1/2019]

#### **6.29.17.7 DEFINITIONS:**

**[RESERVED]**

[6.29.2.7 NMAC - N, 7/1/2019]

#### **6.29.17.8 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS:**

All public schools, state supported educational institutions and educational programs conducted in state institutions, other than the New Mexico military institute, are bound by the New Mexico computer science standards. These standards are available at [www.ped.state.nm.us](http://www.ped.state.nm.us). The K-12 computer science standards published by the computer science teachers association and the association for computing machinery, inc. and any amendments made thereto are incorporated in this rule by reference.

[6.29.2.8 NMAC - N, 7/1/2019]

### **PART 18 BRAILLE STANDARDS**

#### **6.29.18.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.29.18.1 NMAC - N, 6/25/2024]

#### **6.29.18.2 SCOPE:**

This rule applies to all public schools, state educational institutions, and educational programs conducted in state institutions other than the New Mexico military institute with students who are blind or visually impaired. These standards shall be used with students who are blind or visually impaired unless a student's individualized education program (IEP) team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including the child's future needs for instruction in braille or the use of braille, that instruction in braille or the use of braille is not appropriate for the child.

[6.29.18.2 NMAC - N, 6/25/2024]

### **6.29.18.3 STATUTORY AUTHORITY:**

This rule is being promulgated pursuant to Sections 9-24-8, 22-2-1, 22-2-2, and 22-15-26 to 22-15-31 NMSA 1978.

[6.29.18.3 NMAC - N, 6/25/2024]

### **6.29.18.4 DURATION:**

Permanent.

[6.29.18.4 NMAC - N, 6/25/2024]

### **6.29.18.5 EFFECTIVE DATE:**

June 25, 2024, unless a later date is cited in the history at the end of a section.

[6.29.18.5 NMAC - N, 6/25/2024]

### **6.29.18.6 OBJECTIVE:**

In accordance with part B of the Individuals with Disabilities Education Act (IDEA), the New Mexico content standards with benchmarks and performance standards for braille literacy were developed to provide students in grades K-12 who are blind or visually impaired equal access to literacy instruction and materials. Braille standards outline the sequence of skills to be developed to a level of proficiency at each grade level, prerequisite to instruction in the next grade level. This rule also establishes requirements for teachers of students who are blind or visually impaired for whom braille instruction and the use of braille in learning are required. This includes both specialists teaching braille and other teachers in the primary education setting.

[6.29.18.6 NMAC - N, 6/25/2024]

### **6.29.18.7 DEFINITIONS:**

**A. "Accessible formats"** means alternative methods of communication that provide the same information in another form to address the barriers text-based materials can present for some learners. Examples of accessible formats include audio, braille, large print, tactile graphics, and digital text conforming with accessibility standards.

**B. "Accessible tools"** means tools that have been adapted to modify visual content or that have auditory or tactile markers or that include manipulatives, tactile graphics, and concrete models.

**C. "Braille"** means the tactile system of reading and writing used by persons who are blind and visually impaired, as defined by the braille authority of North America.

**D. "Content standards"** means standards of learning in all subject areas pursuant to 6.29.2 through 6.29.17 NMAC, "standards of excellence", including "Spanish language arts common core standards" and "world readiness standards for learning languages".

**E. "Hand-under-hand"** means a method of instruction in which the teacher's hand is under a child's hand to guide it toward an object to center the locus of control with the child.

**F. "Nemeth code"** means a system for reading and writing mathematical symbols based on the six-cell braille cell and developed by Dr. Abraham Nemeth.

**G. "Part-to-whole processing"** means learning and understanding by first noticing specific details and then putting these details together to understand what they comprise.

**H. "Tactile"** means materials, experiences, or environments designed to communicate through the sense of touch.

**I. "Tactile graphics"** means a way of conveying non-textual information using raised lines and surfaces and may include tactile representations of pictures, maps, graphs, diagrams, and other images.

**J. "Tactual"** means learning or a learner relying primarily on the sense of touch for mental representation in thought and learning, that is, acquiring, processing, and recalling information. Unlike visual processing, which affords either whole-to-part or part-to-whole approaches, tactual learners employ part-to-whole processing approaches.

**K. "Teacher of students with visual impairments" or "TSVI"** means an educator with the appropriate teaching license pursuant to 6.61.10 NMAC that authorizes the educator to teach students who are blind or visually impaired, birth through grade 12 as defined under the federal guidelines.

[6.29.18.7 NMAC - N, 6/25/2024]

#### **6.29.18.8 STANDARDS OF EFFECTIVE BRAILLE INSTRUCTION:**

**A.** Collaboration between instructors. Braille instructors shall be TSVIs and shall collaborate with the student's educational team as well as with other teachers of the blind or visually impaired to provide effective, relevant instruction in both the primary educational setting and individually.

**B. A TSVI shall:**

- (1) provide general training and support to primary educational setting staff about learners who are blind or visually impaired using braille in the primary education setting;
- (2) ensure that assessments related to reading fluency and comprehension required in the primary education setting are in a format accessible to the student who is blind or visually impaired;
- (3) assess the student's progress in developing braille proficiency;
- (4) provide braille instruction using appropriate instructional approaches for the individual student to develop proficiency in braille;
- (5) pre-teach the objectives and materials provided by the teacher in the primary education setting to the student who is blind or visually impaired;
- (6) teach methods of annotation and organization of textual materials and information that are appropriate for braille readers;
- (7) select assistive technology appropriate for the student who is blind or visually impaired;
- (8) provide training and support or consult with others to provide training and support to the staff of the primary education setting regarding the use appropriate assistive technology in the classroom; and
- (9) teach keyboarding skills and skills needed to use accessible format electronic technology.

**C. A teacher of the student in the primary education setting shall, with training and support from the TSVI:**

- (1) organize the classroom learning environment to accommodate the tactual learning of students who are blind or visually impaired;
- (2) understand differences between tactual and visual processing and accommodate part-to-whole processing approaches of a tactual learner;
- (3) provide aural descriptions of all visual learning materials for the students who are blind or visually impaired;
- (4) provide time and opportunity for a blind or visually impaired student to safely explore the tactile characteristics of materials and environments;

- (5) understand how to use hand-under-hand support techniques to guide tactual explorations by students who are blind or visually impaired;
- (6) provide pre-teaching materials to the TSVI for individualized instruction in the content area;
- (7) allow extra time needed for blind and visually impaired students to find their places in a braille text or scan paragraphs to locate the main idea;
- (8) examine their own attitudes about blindness;
- (9) demonstrate flexibility in thinking about education of students who are blind or visually impaired;
- (10) understand how a braillewriter works and reinforce braille skills learned outside of the primary education setting; and
- (11) request materials that need to be transcribed into braille in a timely manner to ensure that the blind or visually impaired student has access to the material.

**D.** So that blind and visually impaired students shall have the same instructional material content as sighted peers, a TSVI or a braille transcriptionist shall:

- (1) order content-area instructional materials in braille;
- (2) transcribe content-area instructional materials, including teacher-created materials, in braille; or
- (3) provide tactile versions of visual instructional materials, including teacher-created materials.

[6.29.18.8 NMAC - N, 6/25/2024]

#### **6.29.18.9 BRAILLE LEARNING STANDARDS:**

Standards for learning braille incorporate all New Mexico content standards with the following changes for students who are learning braille or who use braille for learning:

**A.** Where "text" is included in the content standards, braille learning standards shall substitute "braille".

**B.** Where "digital tools" are included in the content standards, braille learning standards shall substitute "accessible format digital tools".

**C.** Where "sources" are included in the content standards, braille learning standards shall substitute "tactile materials and experiences" or "accessible format sources".

**D.** Where "graphic instructions" or "written instructions" are included in the content standards, braille learning standards shall substitute "tactile instructions" or "braille instructions".

**E.** Where "letter formation" is included in the content standards, braille learning standards shall substitute "braille letter or contraction formation".

**F.** Where "reading" is included in the content standards, braille learning standards shall substitute "reading in braille".

**G.** Where "represent and solve mathematical equations" is included in the content standards, braille learning standards shall add "using Nemeth code".

**H.** Where "tools" is included in the content standards, braille learning standards shall substitute "accessible tools".

**I.** Where "writing", or "written" are included in the content standards, braille learning standards shall substitute "braille-writing" or "braille-written".

**J.** Where "maps", "globes", "mapping tools", "diagrams", "charts", or "measurement tools" are included in the content standards, braille learning standards shall substitute "tactile graphics or accessible tools".

**K.** Where production of visual formats is required of students in the content standards, braille standards shall add "using accessible tools".

[6.29.18.9 NMAC - N, 6/25/2024]

## **CHAPTER 30: EDUCATIONAL STANDARDS - GENERAL REQUIREMENTS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: STANDARDS FOR EXCELLENCE [REPEALED]**

[This part was repealed on June 30, 2009]

### **PART 3: ELIGIBILITY FOR THE GENERAL EDUCATIONAL DEVELOPMENT TESTS (GED TESTS) AND DIPLOMA IN NM**

#### **6.30.3.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.30.3.1 NMAC - Rp, 6.30.3.1 NMAC, 1/28/2020]



#### **6.30.3.2 SCOPE:**

All individuals seeking to obtain a high school equivalency credential or department-issued New Mexico high school adult diploma and all publishers or program providers who seek to become qualified in the state of New Mexico to administer high school equivalency assessments or programs or adult diploma programs.

[6.30.3.2 NMAC - Rp, 6.30.3.2 NMAC, 1/28/2020]

#### **6.30.3.3 STATUTORY AUTHORITY:**

This rule is being promulgated pursuant to Sections 22-1-9.2, 22-2-1, 22-2-2, 22-2-8.8, 22-2-8.14, 22-12A-4, 22-13-1.1, and 43-1-3 NMSA 1978.

[6.30.3.3 NMAC - Rp, 6.30.3.3 NMAC, 1/28/2020]

#### **6.30.3.4 DURATION:**

Permanent.

[6.30.3.4 NMAC - Rp, 6.30.3.4 NMAC, 1/28/2020]

#### **6.30.3.5 EFFECTIVE DATE:**

January 28, 2020, unless a later date is cited at the end of a section or paragraph.

[6.30.3.5 NMAC - Rp, 6.30.3.5 NMAC, 1/28/2020]

#### **6.30.3.6 OBJECTIVE:**

To give individuals who have not graduated from high school the opportunity to earn a high school equivalency credential or department-issued New Mexico high school adult diploma. To establish criteria for a high school equivalency publisher or program provider to become qualified to administer a high school equivalency credential assessment or program in the state of New Mexico. To establish criteria for an adult diploma program to become qualified to administer an adult diploma program in the state of New Mexico.

[6.30.3.6 NMAC - Rp, 6.30.3.6 NMAC, 1/28/2020]

#### **6.30.3.7 DEFINITIONS:**

**A. "Adult diploma program"** means a program administered by a qualified adult diploma program in the state of New Mexico.

**B. "Department-issued New Mexico high school adult diploma"** means a diploma issued by the department, its designee, or a qualified adult diploma program to any candidate who is at least 18 years of age and who has successfully completed an adult diploma program.

**C. "High school equivalency credential"** means a credential issued by the department, its designee, or a qualified publisher or program to any candidate who is at least 16 years of age and who has successfully completed a high school equivalency assessment or program.

**D. "High school equivalency credential assessment or program"** means an assessment or program administered by a qualified high school equivalency publisher or program provider.

**E. "Program administrator"** means an office within the New Mexico higher education department that coordinates activities related to high school equivalency credentials, and high school equivalency assessments and programs, department-issued New Mexico high school adult diplomas, and adult diploma programs.

**F. "Qualified adult diploma program"** means a program that has been approved by the department to administer the adult diploma program in the state of New Mexico.

**G. "Qualified high school equivalency publisher or program provider" or "qualified publisher or program provider"** means a publisher or program provider that has been approved by the department to administer the high school equivalency assessment or program in the state of New Mexico.

[6.30.3.7 NMAC - Rp, 6.30.3.7 NMAC, 1/28/2020]

#### **6.30.3.8 TESTING ELIGIBILITY AND USE OF THE UNDERAGE FORM:**

**A.** Any individual, whether or not a New Mexico resident, who is at least 16 years of age, who has not earned a high school diploma or high school equivalency credential, and is not currently enrolled or required to be enrolled in a high school is eligible to complete a high school equivalency credential assessment or program, administered by a qualified publisher or program provider.

**B.** Any individual who seeks to withdraw from public school before their 18th birthday shall not be permitted to begin a high school equivalency credential assessment or program unless that individual can demonstrate compliance with the New Mexico school attendance law. The individual seeking to complete a high school equivalency assessment or program shall complete forms, as required by the department, and obtain all necessary signatures. The individual shall file copies of the completed forms with the following entities:

- (1) the school district that provides the necessary signatures; and

(2) the qualified publisher or program provider through which the individual seeks to obtain the high school equivalency credential.

**C.** Individuals detained at a New Mexico juvenile correctional institution or a juvenile justice division facility operated by the New Mexico children, youth and families department, shall be permitted to take a high school equivalency credential assessment or program at age 16 or 17 only when the individual requests and receives written approval to take the high school equivalency credential assessment or participate in the high school equivalency credential program from the warden, director, or educational director of that institution or facility. Such individuals shall receive the high school equivalency credential upon successful completion of a high school equivalency credential assessment or program. No other consent to take a high school equivalency credential assessment or program is required.

**D.** An individual enrolled in a state institution under the authority of the secretary of the department of health shall be permitted to take a high school equivalency credential assessment or program at age 16 or 17 only when the individual requests and receives written approval to take the high school equivalency credential assessment or participate in the high school equivalency credential program from the director of the facility where the individual is enrolled or from the educational director of that institution. Such individuals shall receive the high school equivalency credential upon successful completion of a high school equivalency credential assessment or program. No other consent to take a high school equivalency credential assessment or program is required.

**E.** Individuals enrolled in any other state institution shall be permitted to take a high school equivalency credential assessment or program at age 16 or 17 only when the individual requests and receives written approval to take the high school equivalency credential assessment or participate in the high school equivalency credential program from the director of the institution where the individual is enrolled or from the educational director of that institution. Such individuals shall receive the high school equivalency credential upon successful completion of a high school equivalency credential assessment or program. No other consent to take a high school equivalency credential assessment or program is required.

[6.30.3.8 NMAC - Rp, 6.30.3.8 NMAC, 1/28/2020]

#### **6.30.3.9 ISSUANCE OF HIGH SCHOOL EQUIVALENCY CREDENTIALS:**

**A.** Upon successful completion of a high school equivalency credential assessment or program:

(1) the qualified high school equivalency publisher or program provider shall issue a transcript to the individual; and

(2) the individual shall submit documentation of the successful completion to the program administrator.

B. Any individual, whether or not a New Mexico resident, who successfully completes a high school equivalency credential assessment or program and is at least 16 years of age will receive the high school equivalency credential.

C. A high school equivalency credential issued after successful completion of a high school equivalency credential assessment or program shall be equivalent to a high school diploma or a New Mexico diploma of excellence issued by a school district pursuant to Section 22-13-1.1 NMSA 1978.

[6.30.3.9 NMAC - Rp, 6.30.3.9 NMAC, 1/28/2020]

#### **6.30.3.10 ISSUANCE OF DEPARTMENT HIGH SCHOOL ADULT DIPLOMAS:**

A. Upon successful completion of an adult diploma program:

(1) the qualified adult diploma program provider shall issue a transcript to the individual; and

(2) the individual shall submit documentation of the successful completion to the program administrator.

B. Any individual, whether or not a New Mexico resident, who successfully completes an adult diploma program and is at least 18 years of age will receive a department-issued New Mexico high school adult diploma.

C. A department-issued New Mexico high school adult diploma awarded after successful completion of a high school equivalency credential assessment or program shall be equivalent to a high school diploma or a New Mexico diploma of excellence issued by a school district pursuant to Section 22-13-1.1 NMSA 1978.

[6.30.3.10 NMAC - Rp, 6.30.3.10 NMAC, 1/28/2020]

#### **6.30.3.11 CRITERIA FOR BECOMING A QUALIFIED HIGH SCHOOL EQUIVALENCY PUBLISHER OR PROGRAM PROVIDER:**

A. A high school equivalency publisher or program provider shall submit an application to the department, as required by the department, and shall meet criteria to be designated a qualified high school equivalency publisher or program provider in the state of New Mexico. The application shall include the following criteria:

(1) the high school equivalency credential assessment or program shall be recognized by the division of the United States department of education that oversees

career and college readiness standards as an eligible high school equivalency publisher or program;

(2) the high school equivalency assessment or program shall be comparable to all college and career readiness standards established by the state of New Mexico;

(3) the high school equivalency publisher or program provider shall assess high school-level skills in applied life and work contexts;

(4) the high school equivalency publisher or program provider shall prepare individuals within its program to enter college or the workforce, upgrade their skills, advance to a better job, or move from one field of work to another; and

(5) the high school equivalency publisher or program provider shall issue a transcript acceptable for college admissions and applications.

**B.** The department shall convene a review committee composed of staff from the department and the New Mexico higher education department, including the program administrator and staff from the adult education division. The review committee shall evaluate high school equivalency publisher or program provider applications and make a determination as to whether the applicant meets criteria to become a qualified high school equivalency publisher or program provider in the state of New Mexico.

[6.30.3.11 NMAC - Rp, 6.30.3.11 NMAC, 1/28/2020]

#### **6.30.3.12 CRITERIA FOR BECOMING A QUALIFIED ADULT DIPLOMA PROGRAM:**

**A.** An adult diploma program shall submit an application to the department, as required by the department, and shall meet criteria to be designated a qualified adult diploma program in the state of New Mexico. The application shall include the following criteria:

(1) the adult diploma program shall be recognized by the division of the United States department of education that oversees career and college readiness standards as an eligible adult diploma program;

(2) the adult diploma program shall be comparable to all college and career readiness standards established by the state of New Mexico;

(3) the adult diploma program shall assess high school-level skills in applied life and work contexts;

(4) the adult diploma program shall prepare individuals within its program to enter college or the workforce, upgrade their skills, advance to a better job, or move from one field of work to another; and

(5) the adult diploma program shall issue a transcript acceptable for college admissions and applications.

**B.** The department shall convene a review committee composed of staff from the department and the New Mexico higher education department, including the program administrator and staff from the adult education division. The review committee shall evaluate adult diploma program applications and make a determination as to whether the applicant meets criteria to become a qualified adult diploma program in the state of New Mexico.

[6.30.3.12 NMAC - Rp, 6.30.3.12 NMAC, 1/28/2020]

## **PART 4: PROFESSIONAL QUALIFICATIONS TO TEACH DRIVER'S SAFETY FOR ELECTIVE GRADUATION CREDIT**

### **6.30.4.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.30.4.1 NMAC - Rn, 6 NMAC 4.6.1.1, 05-31-01; A, 11-13-09]

### **6.30.4.2 SCOPE:**

This rule governs licensure for those individuals delivering instruction in driver education in the public schools.

[12-31-98; 6.30.4.2 NMAC - Rn, 6 NMAC 4.6.1.2, 05-31-01; A, 11-13-09]

### **6.30.4.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 and 22-2- 2 NMSA 1978 and subsection L of Section 66-7-506, NMSA, 1978.

[12-31-98; 6.30.4.3 NMAC - Rn, 6 NMAC 4.6.1.3, 05-31-01; A, 11-13-09]

### **6.30.4.4 DURATION:**

Permanent

[12-31-98; 6.30.4.4 NMAC - Rn, 6 NMAC 4.6.1.4, 05-31-01]

### **6.30.4.5 EFFECTIVE DATE:**

December 31, 1998

[12-31-98; 6.30.4.5 NMAC - Rn, 6 NMAC 4.6.1.5, 05-31-01]

#### **6.30.4.6 OBJECTIVE:**

To establish rules developed cooperatively by the public education department and traffic safety bureau to implement the statutory requirement (66-7-506(L), NMSA 1978) that secondary schools must offer classroom instruction in defensive driving as an elective course for students and to develop licensure requirements for instructors of driver safety education to ensure that instruction is provided by trained and qualified teachers.

[12-31-98; 6.30.4.6 NMAC - Rn, 6 NMAC 4.6.1.6, 05-31-01; A, 11-13-09]

#### **6.30.4.7 DEFINITIONS:**

**[RESERVED]**

[12-31-98; 6.30.4.7 NMAC - Rn, 6 NMAC 4.6.1.7, 05-31-01]

#### **6.30.4.8 IMPLEMENTATION:**

A. Required qualification-driver safety instruction (classroom): Any individual teaching a driver education course in a New Mexico public school must.

- (1) possess a valid New Mexico teacher license appropriate for the age of students; and
- (2) possess a valid New Mexico driver's license; and
- (3) be free of any DWI convictions for the past five years; and
- (4) possess a certificate issued by the traffic safety bureau indicating completion of training in classroom instruction.

B. Required qualification - driver safety instructor (behind the wheel): Any individual providing behind the wheel instruction for elective credit in a public school must:

- (1) meet the qualifications listed under Subsection A of 6.30.4.8 NMAC; and
- (2) possess a certificate issued by the traffic safety bureau indicating completion of 40 hours of training in behind the wheel instruction.

[12-31-98; 6.30.4.8 NMAC - Rn, 6 NMAC 4.6.1.8, 05-31-01; A, 11-13-09]

#### **6.30.4.9 COMPLIANCE MONITORING RESPONSIBILITIES:**

The public education department and the traffic safety bureau and the motor vehicle division have agreed to cooperate in the following manner to monitor compliance with this rule:

A. The public education department will monitor the requirement requiring instructions to have a current secondary teaching license.

B. With the cooperation of the public education department, the motor vehicle division will monitor the requirement that the instructor has a valid drivers license and is free from DWI convictions for 5 years.

C. With the cooperation of the public education department, the traffic safety bureau will monitor the requirement that instructors possess the training certificate. Temporary certificates - schools instructor: The traffic safety bureau may establish procedures for the issuance of temporary certificates based on criteria established by the bureau.

[12-31-98; 6.30.4.9 NMAC - Rn, 6 NMAC 4.6.1.9, 05-31-01; A, 11-13-09]

## **PART 5: OPTIONAL FULL-DAY KINDERGARTEN PROGRAM**

### **6.30.5.1 ISSUING AGENCY:**

Public Education Department.

[6.30.5.1 NMAC - N, 11-14-2000; A, 11-13-2009]

### **6.30.5.2 SCOPE:**

This rule applies to public schools receiving full-day kindergarten state funding.

[6.30.5.2 NMAC - N, 11-14-2000; A, 11-13-2009]

### **6.30.5.3 STATUTORY AUTHORITY:**

Subsection B of Section 22-2-1 and Subsection D of Section 9-24-8 NMSA 1978.

[6.30.5.3 NMAC - N, 11-14-2000; A, 11-13-2009]

### **6.30.5.4 DURATION:**

Permanent

[6.30.5.4 NMAC - N, 11-14-2000]

### **6.30.5.5 EFFECTIVE DATE:**



November 14, 2000, unless a later date is cited at the end of a section.

[6.30.5.5 NMAC - N, 11-14-2000]

#### **6.30.5.6 OBJECTIVE:**

To provide program requirements for optional full-day kindergarten programs.

[6.30.5.6 NMAC - N, 11-14-2000]

#### **6.30.5.7 DEFINITIONS:**

**A. "Scientifically-based reading research"** is the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties.

**B. "Developmentally appropriate practices"** result from the process of professionals making decisions about the well being and education of children based on at least three important kinds of information:

- (1) child development and learning;
- (2) strengths, interests, and needs of each individual child; and
- (3) knowledge of the social and cultural contexts in which children live.

**C. "MEM"** means "**membership**," which is total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as 10 consecutive school days. (Subsection B of Section 22-8-2 NMSA 1978).

**D. "Department"** means the public education department.

**E. "Interim assessment"** means an assessment conducted three to four times a year for all students to assess specific skills and to identify those at risk academically.

**F. "Kindergarten entry assessment"** means an assessment conducted within the first 30 instructional days of the school year.

**G. "Progress monitoring"** means assessments conducted between interim assessments on students who are receiving targeted and intensive interventions to determine whether the student is benefitting from interventions.

[6.30.5.7 NMAC - N, 11-14-2000; A, 06-13-2014; A, 08-28-2015]

#### **6.30.5.8 PROGRAM ELIGIBILITY:**

The number of early childhood education program units is determined by multiplying the early childhood MEM by the cost differential factor 1.44. Students enrolled in full-day kindergarten programs shall be counted for 1.0 early childhood MEM (Section 22-8-19 NMSA 1978).

[6.30.5.8 NMAC - N, 11-14-2000; A, 11-13-2009]

#### **6.30.5.9 STUDENT PARTICIPATION:**

**A.** A student must be at least five years of age prior to 12:01 a.m., on September 1 of that school year (Subsection M of Section 22-8-2 NMSA 1978) to participate in a full-day kindergarten program.

**B.** All public school districts will offer full-day kindergarten programs. Such programs will be offered to kindergarten students on a voluntary basis. No parent will be required to send his/her child to a full-day kindergarten program.

[6.30.5.9 NMAC - N, 11-14-2000; A, 11-13-2009]

#### **6.30.5.10 LENGTH OF SCHOOL DAY-MINIMUM:**

Students in full-day kindergarten programs must comply with the minimum length of school day and school year as required in Section 22-2-8.1 NMSA 1978 and 6.10.5 NMAC.

[6.30.5.10 NMAC - N, 11-14-2000; A, 11-13-2009; A, 06-13-2014]

#### **6.30.5.11 PROGRAM ELEMENT: INSTRUCTION:**

**A.** Public schools providing full-day kindergarten programs, utilizing state funding, will include:

**(1)** a comprehensive research-based early literacy program that:

**(a)** identifies the concepts and skills necessary to establish the foundation of success in early reading;

**(b)** includes instructional strategies that ensure children learn identified concepts and skills;

**(c)** includes developmentally appropriate early literacy assessment; and

**(d)** includes key early literacy skills instruction, e.g. language development, vocabulary development, auditory comprehension, appreciation of stories and books,

writing concepts of print, alphabet knowledge, letter sounds, phonemic awareness and beginning phonics;

**(2)** child-centered programs based on developmentally appropriate teaching practices that:

**(a)** support the growth of social and emotional competence; and

**(b)** are culturally and linguistically appropriate;

**(3)** a sequential comprehensive, developmentally appropriate early mathematics program that:

**(a)** identifies the concepts and skills necessary to establish the foundation of success in early mathematics;

**(b)** includes instructional strategies that ensure children learn identified concepts and skills; and

**(c)** includes developmentally appropriate early mathematics assessment.

**B.** Schools must continue to provide a sequential comprehensive, developmentally appropriate early literacy program in the first second and third grades following kindergarten. The program must include program elements, assessments, and professional development as addressed in the rule.

[6.30.5.11 NMAC - N, 11-14-2000; A, 11-13-2009]

#### **6.30.5.12 PROGRAM ELEMENT: ASSESSMENT:**

**A.** Beginning with the 2016-2017 school year, all students in kindergarten must be administered the New Mexico kindergarten entry assessment provided by the department. Kindergarten entry assessment data must be reported through the department's data collection reporting system no later than October 15 of each school year.

**B.** All students in kindergarten must be administered a department-approved interim assessment at least three times per school year to determine if students are making adequate progress toward grade level reading proficiency by the end of the school year. Interim assessment data must be reported to the department's data collection and reporting system within the first 30 instructional days of the school year. Any student identified with a reading deficiency based on the interim assessment measure must receive more frequent progress monitoring to determine if the student is on target to meet grade level expectations by the end of the school year.

**C.** Public schools districts having both half-day and full-day state-funded kindergarten programs will assess performance of all kindergarten students.

[6.30.5.12 NMAC - N, 11-14-2000; A, 11-13-2009; A, 06-13-2014; A, 08-28-2015]

**6.30.5.13 PROGRAM ELEMENT: PROFESSIONAL DEVELOPMENT:**

**A.** So that schools can plan and implement comprehensive and aligned reading programs, school districts must provide professional development to teachers, teacher assistants, and principals in the areas of:

- (1) scientific-based early literacy research and its implications for instruction;
- (2) best practices of English as a second language (ESL)/English language learner (ELL) instruction;
- (3) the principles of peer and expert coaching;
- (4) best practices in early mathematics instruction; and
- (5) developmentally appropriate practice.

**B.** To ensure systematic implementation of full-day kindergarten literacy readiness programs that are research-based, teachers must be provided ongoing supervision and coaching.

[6.30.5.13 NMAC - N, 11-14-2000; A, 11-13-2009]

**6.30.5.14 [RESERVED]**

[6.30.5.14 NMAC - N, 11-14-2000; A, 11-13-2009; Repealed, 06-13-2014]

**6.30.5.15 [RESERVED]**

[6.30.5.15 NMAC - N, 11-14-2000; A, 11-13-2009; Repealed, 06-13-2014]

**PART 6: SUSPENSION OF AUTHORITY OF A LOCAL SCHOOL BOARD**

**6.30.6.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.30.6.1 NMAC - Rp. 6.30.6.1 NMAC, 5/24/2022]

**6.30.6.2 SCOPE:**

This rule shall apply to all local school boards.

[6.30.6.2 NMAC - Rp. 6.30.6.2 NMAC, 5/24/2022]

**6.30.6.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-2-14 NMSA 1978.

[6.30.6.3 NMAC - Rp. 6.30.6.3 NMAC, 5/24/2022]

**6.30.6.4 DURATION:**

Permanent.

[6.30.6.4 NMAC - Rp. 6.30.6.4 NMAC, 5/24/2022]

**6.30.6.5 EFFECTIVE DATE:**

May 24, 2022, unless a later date is cited at the end of a section.

[6.30.6.5 NMAC - Rp. 6.30.6.5 NMAC, 5/24/2022]

**6.30.6.6 OBJECTIVE:**

This rule establishes the process for suspending the authority of local school boards for failing to attain and maintain the requirements of law, standards, or rules of the department as a final step following notice from the department of disapproval or failure to meet requirements and attempts to resolve in accordance with 6.30.6 NMAC.

[6.30.6.6 NMAC - Rp. 6.30.6.6 NMAC, 5/24/2022]

**6.30.6.7 DEFINITIONS:**

**A. "Emergency suspension"** means a suspension imposed by the secretary when there is sufficient reason to believe the educational process in the school district or public school has been severely impaired or halted as a result of severe deficiencies.

**B. "Public school"** means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings or remotely administered program generally recognized as either an elementary, middle, junior high, or high school or any combination of those and includes a charter school; and

**C. "School district"** means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.

**6.30.6.8 FACTORS IN DETERMINING SUSPENSION BY THE SECRETARY:**

**A.** Suspending the authority of local school boards is warranted whenever there has been a failure to meet requirements of law, standards, or rules of the department, relating to any part of the school district under their respective control. Whether or not to commence the suspension process under this rule shall be at the discretion of the secretary who will make this determination on a case by case basis.

**B.** The secretary, after consultation with the commission, shall suspend from authority and responsibility a local school board that has had notice of disapproval and fails to comply with the requirements or procedures of Subsection B of 6.30.6.9 NMAC.

**C.** To determine a failure to meet the requirements of law, department standards, or department rules, the secretary shall consider the following factors, including but not limited to:

- (1) the existence of a pattern of noncompliance with requirements of any applicable law, department standards, state or federal rules, or department directives;
- (2) the nature and severity of any identified area or areas of noncompliance with requirements of any applicable law, department standards, state or federal rules, or department directives;
- (3) the nature and type of notice given by the department to the applicable local school board regarding the area or areas of noncompliance with requirements of law, department standards, or department directives;
- (4) the opportunity to correct the area or areas of noncompliance, if correction is possible under the circumstances;
- (5) the extent of any efforts to correct the area or areas of noncompliance;  
and
- (6) the reasons given by the local school board for failing to comply with Subsection B of Section 22-2-14 NMSA 1978 or with other requirements of law, department standards, and department directives, leading to the proposed suspension.

**D.** If suspension is ordered, the department shall act in lieu of the suspended local school board, provided that any expenses or payments associated with the authority delegated by the secretary to act in lieu of the suspended local school board shall be the responsibility of the local school board as part of its operational funds.

**E.** Money budgeted by a local school board shall be spent first to attain and maintain the requirements for a school district as prescribed by law and by standards

and rules as prescribed by the department. The department may disapprove instructional units or administrative functions that it determines to be detrimental to the educational process.

[6.30.6.8 NMAC - Rp. 6.30.6.8 NMAC, 5/24/2022]

#### **6.30.6.9 PROCEDURES FOR NON-EMERGENCY SUSPENSION:**

**A.** Before suspending a local school board, the department shall deliver written notification to a local school board of its failure to meet requirements of laws, rules, or standards. The notice shall describe the deficiency or deficiencies.

**B.** Within 30 calendar days after the receipt of the notice of failure to meet requirements, the local school board shall:

(1) comply with the specific and attendant requirements in order to remove the cause for disapproval; or

(2) submit plans satisfactory to the department to meet the requirements and remove the cause for disapproval.

**C.** At any time prior to the entry of a permanent order of suspension, the secretary shall consult with the public education commission at a public meeting to discuss the reasons for and purpose of the proposed suspension. The commission may recommend other alternatives to suspension, which the secretary may consider in rendering a final decision in the process.

**D.** If after 30 calendar days from receipt of a notice of failure to meet requirements, the local school board has failed or refused to comply with the specific and attendant requirements set forth in the notice, including submitting a satisfactory plan of compliance to the department, the secretary shall issue an alternative order of suspension that states the cause(s) for the suspension, the effective date and time the suspension will begin, and any other information the secretary deems relevant. The alternative order of suspension shall be delivered to the local school board by physical or electronic mail.

**E.** The alternative order shall also contain notice of a time, date, and place for a public hearing, prior to the beginning of suspension, to be conducted by the secretary or their designated hearing officer, at which the local school board may appear and show cause why the suspension should not be put into effect.

**F.** Members of the suspended local school board shall notify the department in writing of the suspended local school board members' intent to appear and show cause regarding why the suspension should not be put into effect.

[6.30.6.9 NMAC - Rp. 6.30.6.9 NMAC, 5/24/2022]

#### **6.30.6.10 PROCEDURES FOR EMERGENCY SUSPENSION:**

**A.** The secretary may suspend a local school board when the local school board has been notified of disapproval and when the department has sufficient reason to believe that the educational process in the school district has been severely impaired or halted as a result of deficiencies so severe as to warrant disapproved status before a public hearing can be held.

**B.** An emergency suspension may occur before a hearing. As soon as practicable after the secretary suspends a local school board, a public hearing shall be held in accordance with the procedures outlined in 6.30.6.12 NMAC.

**C.** The secretary shall include in the written notice of disapproval status the following:

(1) a description of the laws, rules, or standards that have not been followed; and

(2) summary of the reasons why the educational process in a local school district has been deemed to be so severely impaired or halted as a result of such severe deficiencies to warrant disapproval status before a public hearing can be held.

**D.** The notice shall provide the method by which the suspended local school board members may declare their intent to appear for a hearing to show cause why the suspension should not be made permanent.

**E.** If suspension is ordered before a public hearing can be held, the department shall immediately take control and act in the place of the local school board. The department shall act in lieu of the suspended local school board and shall execute all the legal authority of the local school board until such suspension is removed.

**F.** The secretary may delegate authority to an individual or individuals to act in lieu of the suspended local school board, provided that any expenses associated with such actions shall be the responsibility of the school district.

[6.30.6.10 NMAC - N, 5/24/2022]

#### **6.30.6.11 DURATION OF SUSPENSION:**

Suspension of a local school board shall continue until and the secretary removes the suspension. Nothing in this rule shall limit the term of office, membership, election, re-election, or recall of a local school board.

[6.30.6.11 NMAC - Rp. 6.30.6.10 NMAC, 5/24/2022]

#### **6.30.6.12 HEARING PROCEDURES:**



**A.** A hearing shall be held:

(1) within 30 calendar days of the date the secretary issues the alternative order of suspension; or

(2) within 60 days after the secretary issues an emergency order of suspension, which may be extended by the secretary upon good cause shown.

**B.** The local school board subject to an order of suspension, within 25 calendar days of the date an order of suspension is issued, may submit to the secretary a written statement explaining why the secretary should not issue an order of suspension.

(1) The written statement shall address only the cause(s) for suspension specified in the order of suspension and the reasons for opposing the suspension, which shall address the factors outlined in Subsection C of 6.30.6.8 NMAC.

(2) The written statement shall be submitted to the department's office of general counsel.

**C.** Only matters relevant to the contents of the order of suspension and the statement from the local school board required by this section may be raised at the hearing.

**D.** The secretary or hearing officer may have the department's legal counsel and other department staff present at the hearing and may seek their advice at any time.

**E.** The rules of evidence and rules of civil procedure shall not apply to the hearing.

**F.** The hearing shall be presided over by the secretary or a hearing officer designed by the secretary, and shall be open to the public. A hearing officer shall, within two business days after the hearing, or sooner if requested by the secretary, submit a recommended decision to the secretary.

**G.** The secretary or hearing officer shall open the hearing by presenting a summary of the reasons for the alternative order or emergency suspension.

**H.** The local school board shall then commence a presentation to show why the secretary should not make permanent the alternative order or emergency suspension.

**I.** The local school board may present witnesses and introduce documentary evidence to rebut the department's recommendation of the alternative order or imposition of the emergency suspension. The local school board's presentation and witnesses may be subject to objection or cross-examination. The department may also present witnesses and introduce documentary evidence related to the alternative order or imposition of the emergency suspension. The department's presentation and witnesses may also be subject to objection or cross-examination.

**J.** The secretary or hearing officer may question department staff or the local school board subject to the alternative order or suspension regarding the causes for the alternative order or emergency suspension and the reasons stated by the recipient for opposing the alternative order or emergency suspension. The local school board may also question the department's witnesses regarding the causes for the alternative order or emergency suspension and the reasons stated by the recipient for opposing the alternative order or emergency suspension.

**K.** The secretary or hearing officer may question witnesses and rule on admission of testimony or documentary evidence, including exercising discretion to exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence.

**L.** The secretary shall make permanent, modify, or withdraw the alternative order or emergency suspension within five business days after the hearing date.

(1) The secretary's decision shall be in writing and delivered to the local school board subject to the alternative order or emergency suspension.

(2) The secretary's written decision shall address the requirements for removing the suspension.

(3) The decision may be delivered by physical or electronic mail at the address or email with school district.

**M.** The local school board subject to the alternative order or emergency suspension may waive the timelines provided in this rule by submitting such waiver to the secretary in writing and signed by a person with authority to make the submission.

**N.** An administrative record shall be made, including a record of the proceedings, which may be an audio recording. Payment may be required for receipt of the administrative record.

**O.** The matter may be settled by the parties at any time prior to the conclusion of the hearing. Any such agreement shall address the timelines provided in this rule.

**P.** The local school board subject to the suspension that is aggrieved by the secretary's decision may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

[6.30.6.12 NMAC - Rp. 6.30.6.12 NMAC, 5/24/2022]

#### **6.30.6.13 IMPLEMENTATION:**

**A.** The secretary may employ or contract with consultants, contractors, or other individuals determined to be appropriate by the secretary in executing their legal authority over a suspended local school board, provided that any expenses or payments

associated with the use of these groups or individuals shall be the responsibility of the local school board.

**B.** While it shall not be the express purpose of a suspension under this rule to terminate, discharge, or replace licensed or unlicensed school district employees, the secretary shall possess and execute all the legal authority and responsibility of the suspended local school board subject to the following restrictions:

(1) The retention of existing school district administrators and employees shall be considered.

(2) Any termination or discharge of school district employees shall be conducted in accordance with the applicable sections of the School Personnel Act, Section 22-10A-1 et seq. NMSA 1978.

(3) Any adverse personnel action of any licensed or unlicensed school district employee shall be limited to the authority set forth in the school district's policies of the suspended local school board.

(4) The secretary shall not be obligated to honor any school district employment plans or letters of intent issued pursuant to Section 22-10A-14 NMSA 1978 that involve the hiring of an individual holding or seeking a certificate of waiver.

[6.30.6.13 NMAC - Rp. 6.30.6.11 NMAC, 5/24/2022]

#### **6.30.6.14 SEVERABILITY:**

If any part or application of this rule is held invalid by a court of competent jurisdiction, the remainder or its application to other situations shall not be affected.

[6.30.6.14 NMAC - Rp. 6.30.6.13 NMAC, 5/24/2022]

### **PART 7: DUAL CREDIT**

#### **6.30.7.1 ISSUING AGENCY:**

New Mexico Public Education Department.

[6.30.7.1 NMAC - Rp, 6.30.7.1 NMAC, 06/30/08]

#### **6.30.7.2 SCOPE:**

This rule applies to local education agencies (LEAs) (public school districts including high schools, charter schools and state-supported schools), and bureau of Indian education-funded high schools), high school students who attend secondary schools, and public postsecondary institutions in New Mexico. Districts and public postsecondary

institutions are required to implement rules no later than the beginning of the 2008-2009 school year.

[6.30.7.2 NMAC - Rp, 6.30.7.2 NMAC, 06/30/08; A, 08/16/10]

#### **6.30.7.3 STATUTORY AUTHORITY:**

Section 9-24-8, 21-1-1.2, 22-2-1, 22-2-2 NMSA 1978.

[6.30.7.3 NMAC - Rp, 6.30.7.3 NMAC, 06/30/08; A, 08/16/10]

#### **6.30.7.4 DURATION:**

Permanent

[6.30.7.4 NMAC - Rp, 6.30.7.4 NMAC, 06/30/08]

#### **6.30.7.5 EFFECTIVE DATE:**

June 30, 2008, unless a later date is cited at the end of a section.

[6.30.7.5 NMAC - Rp, 6.30.7.5 NMAC, 6/30/08]

#### **6.30.7.6 OBJECTIVE: THE PURPOSES OF DUAL CREDIT ARE:**

A. to provide high school students the opportunity to enroll in college-level academic or career-technical courses offered by a post-secondary educational institution, and

B. to permit those enrolled students to simultaneously earn credit toward high school graduation and a post-secondary degree or certificate.

[6.30.7.6 NMAC - Rp, 6.30.7.6 NMAC, 6/30/08; A, 08/16/10]

#### **6.30.7.7 DEFINITIONS:**

A. **"ACT high school code"** is the unique code provided to each high school by ACT, Inc., a 501(c)(3) not-for-profit organization.

B. **"Agreement"** is the dual credit master agreement.

C. **"Classification of instructional program"** or **"CIP"** is a taxonomic coding scheme that contains titles and descriptions of instructional programs, primarily at the postsecondary level. The CIP was originally developed to facilitate the United States department of education national center for education statistics' collection and reporting of postsecondary degree completions, by major field of study, using standard classifications that capture the majority of program activity.

**D. "Common core"** means the common general education core of lower division college-level courses for which, pursuant to Subsection D of Section 21-1B-3 NMSA 1978 and 5.55.3.9 NMAC credit is eligible for transfer from one public postsecondary institution to another and is applied toward requirements for postsecondary graduation and receipt of a degree.

**E. "Concurrent enrollment"** refers to enrollment of high school students in courses at the postsecondary level that are not designated as dual credit. This includes courses not listed within the dual credit master agreement between the eligible LEAs and postsecondary institution. Students who are concurrently enrolled may also be enrolled in the dual credit program if they meet eligibility requirements as specified in 6.30.7 NMAC.

**F. "Core course"** means courses required for high school graduation as defined in 22-13-1.1 NMSA, 1978, excluding physical education activity courses and electives.

**G. "Developmental course"** refers to courses with CIP codes of 32.0101, 32.0107 or 32.0199 that fall within the basic skills or career exploration/awareness skills categories.

**H. "Dual credit council"** is an advisory group consisting of staff of the public education department and higher education department that issues recommendations to the cabinet secretaries of the public education and higher education departments regarding dual credit issues outside of the scope of the agreement.

**I. "Dual credit program"** means a program that allows high school students to enroll in college-level courses offered by a postsecondary institution that may be academic or career technical but not remedial or developmental, and simultaneously to earn credit toward high school graduation and a postsecondary degree or certificate.

**J. "Elective course"** means courses defined and approved as such by local school boards.

**K. "FERPA"** is the Family Educational Rights and Privacy Act [20 U.S. Code 1232g].

**L. "Form"** is the dual credit request form.

**M. "General fees"** as defined in 5.7.18 NMAC and Subsection B of Section 21-1-4-NMSA 1978 means a fixed sum charged to students for items not covered by tuition and required of such a proportion of all students that the student who does not pay the charge is an exception. General fees include fees for matriculation, library services, student activities, student union services, student health services, debt service and athletics. An institution may charge fees in addition to general fees that are course-specific or that pertain to a smaller proportion of students.

**N. "Individualized education program" or "IEP"** means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR Secs. 300.320 through 300.324.

**O. "Local educational agency (LEA)"** is a district as defined in 6.29.1.7 NMAC (a public school district, a state-chartered charter school or a state educational institution), or a bureau of Indian education-funded high school.

**P. "Physical education activity course"** refers to courses with CIP code of 36.0108.

**Q. "Postsecondary institution"** refers to a public postsecondary educational institution operating in the state, including a community college, branch community college, technical vocational institute, four-year educational institution, and tribal colleges.

**R. "Remedial course"** refers to courses with CIP codes of 32.0104 or 32.0108 that fall within the numeracy and computational skills, precollegiate mathematics skills, precollegiate reading skills, precollegiate writing skills, or communications skills categories.

**S. "Tribal college"** means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and schools.

[6.30.7.7 NMAC - Rp, 6.30.7.7 NMAC, 06/30/08; A, 08/16/10]

#### **6.30.7.8 UNIFORM MASTER AGREEMENT:**

A. The agreement specifies the means by which the state will provide equal opportunities to all public high school students who wish to participate in the dual credit program.

B. LEAs and postsecondary institutions providing dual credit programs shall complete the agreement and the LEA shall submit the completed agreement to the public education department.

C. A completed agreement shall contain signatures from all parties and includes an appendix developed collaboratively by the LEA and postsecondary institution that specifies eligible dual credit courses.

D. LEAs may complete agreements with multiple postsecondary institutions.

E. A fully executed copy of each agreement shall be submitted by the LEA to the public education department within 10 days of approval.

F. The agreement:

- (1) specifies eligible courses, academic quality of dual credit courses, student eligibility, course approval, course requirements, required content of the form, state reporting, liabilities of parties, and student appeals; and
- (2) states the roles, responsibilities, and liabilities of the LEA, the postsecondary institution, student, and the student's family.

G. Duties and responsibilities of the postsecondary institution. The postsecondary institution shall:

- (1) designate a representative to review and sign the completed form with the understanding that only forms endorsed by all parties shall constitute a dual credit approval request;
- (2) determine, in collaboration with the LEA, the required academic standing of each student eligible to participate in the dual credit program;
- (3) collaborate with the LEA to reach agreement on admission and registration of eligible dual credit students for the stated semester;
- (4) employ a method of qualifying the student for dual credit that demonstrates that the student has the appropriate skills and maturity to benefit from the instruction requested;
- (5) provide advisement to review the appropriateness of each student's enrollment in a course prior to registration in terms of academic readiness, age requirements, and programmatic issues;
- (6) provide the form to eligible students and appropriate LEA staff online and in hard copy;
- (7) approve the form for each student on a course-by-course basis each semester based on each student's prior coursework, career pathway, or academic readiness;
- (8) provide a copy of each approved form to the appropriate LEA representative;
- (9) provide course placement evaluation and consider a high school college readiness assessment to verify a student's academic skill level and to ensure compliance with course prerequisites;
- (10) provide information and orientation, in collaboration with the LEA to the student and parent or guardian regarding the responsibilities of dual credit enrollment

including academic rigor, time commitments, and behavioral expectations associated with taking college courses and the importance of satisfactorily completing the postsecondary institution credits attempted in order for dual credit to be awarded;

(11) inform students of course requirement information which includes course content, grading policy, attendance requirements, course completion requirements, performance standards, and other related course information;

(12) advise the parent or guardian of FERPA rules;

(13) waive all general fees for dual credit courses;

(14) waive tuition for high school students taking dual credit courses;

(15) make every effort to adopt textbooks for at least three years;

(16) provide the LEA within the first thirty days of the academic term, access to each student's official schedule of classes as verification of registration; the LEA shall notify the postsecondary institution if the report is in conflict with the school endorsed registration;

(17) track progress of dual credit enrolled students on the issue of academic performance and provide reports, as needed, to the LEA;

(18) retain the official transcript or grade report of the dual credit student that records the term of enrollment, courses/credits attempted, courses/credits completed, grades and grade point average earned;

(19) release, at the request of the student, official postsecondary institution transcripts in accordance with the postsecondary institution's transcript request practices;

(20) provide final grades to the LEA for each dual credit student;

(21) deliver final grades for all dual credit students to the LEA with sufficient time to be included with final grades; this schedule shall be defined by the parties in the agreement and shall address the time frame appropriate for determining student graduation from high school;

(22) comply with data collection and reporting provisions in 6.30.7.12 NMAC;

(23) approve faculty for all dual credit courses;

(24) retain educational records in accordance with New Mexico statutes and record retention regulations as per 1.20.3 NMAC;



(25) have a student appeals process pertaining to student enrollment in dual credit programs (postsecondary institution decisions are final); and

(26) have the right to appeal to the dual credit council on issues related to implementing the dual credit program, agreement, and rules.

H. Duties and responsibilities of the LEA. The LEA shall:

(1) designate a representative to collaborate with the postsecondary institution to reach agreement on admission and registration of eligible dual credit students for the stated semester;

(2) determine, in collaboration with the postsecondary institution, the required academic standing of each student eligible to participate in the dual credit program;

(3) collaborate with the postsecondary institution to reach agreement on admission and registration of eligible dual credit students for the stated semester;

(4) employ a method of qualifying the student for dual credit based on factors which may include academic performance review, use of next step plan, assessments, advisement and career guidance, and therefore recommend enrollment at the postsecondary institution with evidence that the student has the appropriate skills and maturity to benefit from the instruction requested;

(5) provide information and orientation to students about opportunities to participate in dual credit programs during student advisement, academic support, and formulation of annual next step plans;

(6) provide the form to eligible students and appropriate LEA staff online and in hard copy;

(7) approve the form for each student on a course-by-course basis each semester based on each student's prior coursework, career pathway, or academic readiness;

(8) provide information and orientation, in collaboration with the postsecondary institution, to the student and student's family regarding the responsibilities of dual credit enrollment including academic rigor, time commitments, and behavioral expectations associated with taking college courses and the importance of satisfactorily completing the college credits attempted in order for dual credit to be awarded;

(9) inform students of course requirement information which includes course content, grading policy, attendance requirements, course completion requirements, performance standards, and other related course information;

(10) notify the postsecondary institution if the student's official schedule of classes is in conflict with the school endorsed registration;

(11) provide appropriate accommodations and services for special education students while the students are enrolled in dual credit classes, including academic adjustments and auxiliary aids and services for eligible students across educational activities and settings (e.g. equipping school computers with screen-reading, voice recognition or other adaptive hardware or software and providing note-takers, recording devices, or sign language interpreters, or other adaptation as required by law);

(12) inform students in need of accommodations or other arrangements of the need to speak directly with the disabilities coordinator at the postsecondary institution;

(13) work collaboratively with the postsecondary institution to submit a student's request for change in registration according to postsecondary institution policies and within officially published deadlines;

(14) make it clear to students that if they fail or withdraw from dual credit classes that they were intending to use to substitute for a high school requirement that they will have to make up those credits in order to graduate; the dual credit course grade will appear on the student high school transcript;

(15) pay the cost of the required textbooks and other course supplies for the postsecondary course the dual credit student is enrolled in through purchase arrangements with the bookstore at the postsecondary institution or other cost-efficient methods;

(16) collaborate with the postsecondary institution to offer dual credit courses at the high school site according to LEA site time blocks;

(17) furnish an official high school transcript to the postsecondary institution if required by the postsecondary institution;

(18) record, unchanged, the grade given to the dual credit student by the postsecondary institution on each student high school transcript;

(19) retain educational records in accordance with New Mexico statutes and record retention regulations as per 1.20.2 NMAC;

(20) comply with data collection and reporting provisions in 6.30.7.12 NMAC;

(21) have a student appeals process pertaining to student enrollment in dual credit programs LEA decisions are final); and

(22) have the right to appeal to the dual credit council on issues related to implementing the dual credit program, agreement, and rules.

I. Duties and responsibilities of the student. The student shall:

(1) qualify for dual credit courses offered in the fall, winter and summer by:

(a) being enrolled during the fall and winter in a LEA in one-half or more of the minimum course requirements approved by the New Mexico public education department for public school students under its jurisdiction or by being in physical attendance at a bureau of Indian education-funded high school at least three documented contact hours per day pursuant to 25 CFR 39.211(c);

(b) obtaining permission from the LEA representative (in consultation with the student's individualized education program team, as needed), the student's parent or guardian, and postsecondary institution representative through a fully executed form prior to enrolling in a dual credit course; and

(c) meeting postsecondary institution requirements to enroll as a dual credit student;

(2) discuss potential dual credit courses with the appropriate LEAs and postsecondary institution staff, including postsecondary institution admission and registration requirements, course requirements, credits to be attempted, credits to be awarded, scheduling under dual credit, and implications for failure to successfully complete the course;

(3) obtain course requirements for each course, including course prerequisites, course content, grading policy, attendance requirements, course completion requirements, performance standards, and other related course information;

(4) meet the prerequisites and requirements of the course(s) to be taken;

(5) complete the form available online or in hard copy from the LEA or postsecondary institution;

(6) obtain approval for enrolling in the dual credit program each semester by acquiring all necessary signatures on the form;

(7) register for courses during the postsecondary institution's standard registration periods (note: enrollments shall not be permitted after the close of posted late registration);

(8) discuss any request for a change in registration (add, drop, withdrawal) and complete all necessary forms and procedures with appropriate LEA and postsecondary institution staff;

(9) comply with the LEA and postsecondary institution student code of conduct and other institutional policies;

(10) have rights and privileges that include:

(a) the rights and privileges equal to those extended to LEA and postsecondary institution students, unless otherwise excluded by any section of this agreement;

(b) use of the postsecondary institution library, course-related labs and other instructional facilities, use of the postsecondary institution programs and services such as counseling, tutoring, advising, and special services for the students with disabilities, and access to postsecondary institution personnel and resources as required; and

(c) the right to appeal, in writing to the LEA or postsecondary institution, as applicable, any decision pertaining to enrollment in the dual credit program;

(11) return the textbooks and unused course supplies to the LEA when the student completes the course or withdraws from the course (subject to provisions in Subsection B of Section 22-15-10 NMSA 1978 regarding lost or damaged instructional material);

(12) arrange transportation to the site of the dual credit course; depending upon the time and course location, the student may have access to transportation through the LEA if the dual credit course is offered during the school day;

(13) be responsible for course-specific (e.g. lab, computer) fees;

(14) allow educational records to be retained and disseminated in accordance with the requirements of the FERPA;

(15) sign the FERPA release form, along with student parent or guardian, if applicable, in order to participate in dual credit courses; and

(16) abide by regular operating calendars, schedules and associated requirements of both the LEA and postsecondary institution; in instances in which the calendars are incongruent, the student is required to independently satisfy both calendar requirements and may consult with LEA counselors for assistance.

[6.30.7.8 NMAC - Rp, 6.30.7.8 NMAC, 06/30/08; A, 08/16/10]

#### **6.30.7.9 LIMITATIONS OF THE AGREEMENT:**

A. With the exception of the appendix, the agreement may not be altered or modified by either party.

B. The agreement shall automatically renew for additional fiscal years unless either party notifies the other party of their intent not to renew 60 days before the end of the fiscal year.

C. LEAs, in collaboration with postsecondary institutions, may modify the list of dual credit courses in the appendix of the agreement. Modifications shall be submitted to the higher education department and the public education department by the end of each semester.

[6.30.7.9 NMAC - Rp, 6.30.7.9 NMAC, 06/30/08; A, 08/16/10]

#### **6.30.7.10 LIABILITIES OF PARTIES:**

A. Dual credit status shall neither enhance nor diminish on-campus liabilities for the LEA or the postsecondary institution.

B. Management of risk and liabilities shall be in accordance with the LEA and the postsecondary institution policies and codes of conduct.

C. Personal liabilities for the student shall be equal to those of regular postsecondary institution students.

[6.30.7.10 NMAC - Rp, 6.30.7.10 NMAC, 06/30/08; A, 08/16/10]

#### **6.30.7.11 ELIGIBLE COURSES:**

A. Types of courses.

(1) College courses that are academic or career technical and that simultaneously earn credit toward high school graduation and a postsecondary degree or certificate shall be eligible for dual credit. Remedial, developmental and physical education activity courses are not eligible for dual credit.

(2) Courses taken for audit are not eligible for dual credit.

(3) Dual credit courses may be taken as elective or core course (except physical education activity course) high school credits.

(4) Dual credit courses must meet the public education department standards and benchmarks.

(5) College courses eligible for dual credit shall meet the rigor for postsecondary institution credit and be congruent with the postsecondary institution's academic standards.

(6) Dual credit courses offered in high school settings shall conform to college academic standards.

(7) Course requirements for high school students enrolled in dual credit courses shall be equal to those of regular college students.

(8) Dual credit courses that are part of the general education common core for postsecondary institutions are eligible for transfer among New Mexico postsecondary institutions pursuant to Subsection D of 21-1B-3 NMSA 1978.

B. Identifying courses.

(1) The LEA in collaboration with the postsecondary institution shall determine a list of academic and career technical courses eligible for dual credit for inclusion into the appendix.

(2) The appendix shall indicate the name of the postsecondary institution, the name of the LEA, the date, course subject and number, course title, location of course delivery and semesters offered.

(3) The LEA shall annually submit the appendix to the higher education department and the public education department; Subsection C of 6.30.7.9 NMAC still applies.

(4) The higher education department and the public education department shall post the appendix on their respective websites and update the appendix as needed.

C. Course delivery.

(1) Dual credit courses may be offered at LEAs,, postsecondary institutions, and off-campus centers as determined by the LEA in collaboration with the postsecondary institution offering the courses.

(2) Dual credit courses may be delivered during or outside of regular LEA hours.

(3) Postsecondary institutions may offer dual credit courses via distance learning (ITV, online, hybrid, correspondence) in accordance with 6.30.7 NMAC as this option becomes available and cost-effective. All dual credit course rules apply.

(4) LEAs and postsecondary institutions participating in the cyber academy shall be subject to applicable rules pertaining to it.

D. Semesters dual credit may be taken; caps for dual credit; nature of high school credit earned.

(1) Eligible students may enroll in dual credit courses year-round.

(2) There is no state limit to the number of credits a student may earn through dual credit in an academic term; however, the student must meet eligibility requirements.

(3) Unless otherwise approved by the cabinet secretaries of the higher education and public education departments, successful completion of three credit hours of postsecondary instruction shall result in the awarding of one high school unit for said completed postsecondary course. If the LEA and postsecondary institution determine that a different ratio is warranted for a particular dual credit course comparable to LEA core courses in order to meet public education department standards and benchmarks, they may appeal to the council, which may recommend a different ratio to the cabinet secretaries of the public education and higher education departments. The joint decision of the public education and higher education department cabinet secretaries shall be final.

#### E. Dual credit council.

(1) The cabinet secretaries of the higher education department and public education department shall appoint individuals to a dual credit council consisting of six members.

(2) Council composition. The council shall consist of an equal number of higher education department and public education department staff with the council chairs alternating between the departments every two years.

(3) The council shall administer an appeals process for LEA and postsecondary institution representatives to address issues outside the scope of the agreement, including the determination of alignment of course content to determine the appropriate credit ratio.

(4) The council shall issue recommendations to the department secretaries on issues not addressed in the agreement.

(5) LEAs and postsecondary institutions shall be allowed to continue current practices regarding core courses offered for dual credit until the council issues its recommendations or no later than the beginning of the 2009-2010 school year, the time that dual credit courses become a high school graduation requirement.

(6) The higher education department and public education department cabinet secretaries shall act jointly upon dual credit council recommendations.

[6.30.7.11 NMAC - Rp, 6.30.7.11 NMAC, 06/30/08; A, 08/16/10]

### **6.30.7.12 DATA COLLECTION AND REPORTING:**

#### A. Data collection.

(1) Each semester, a form shall be used to document each student request for enrollment in courses for dual credit and the review and approval process within the

LEA and postsecondary institution. The postsecondary institution may require additional forms and information from the student.

(2) A completed form shall contain the high school student first name, middle initial, and last name, unique state student identification number, student grade level or expected date of high school graduation, student address (street address, city, state, and zip code), student county of residence, student telephone number, student gender, ACT high school code, secondary school name, postsecondary institution name, postsecondary institution course information (schedule number, course number, course section, course title, day, time, location, higher education credits, high school credits semester and year), a signed FERPA release form, required signatures, check boxes that indicate: whether form was completed and signed by all parties, whether student meets course prerequisites, and, if applicable, whether student high school record was received; applicable placement exam scores, high school grade point average, expected graduation date, and, if applicable, date of birth.

(3) In the event of scheduling changes, the postsecondary institution may change course information.

(4) Each LEA and postsecondary institution shall use the completed form to capture dual credit student data.

(5) Each LEA and postsecondary institution shall devise procedures for capturing dual credit data from the form.

(6) If applicable, each postsecondary institution shall bear responsibility for obtaining each dual credit student's social security number to meet data reporting requirements.

(7) Each postsecondary institution shall capture the public school student identification number retrieved from the completed form for each dual credit high school student.

(8) The public education department shall modify student transcripts to include the student identification number.

(9) The public education department shall capture the postsecondary institution course subject and number and course title from the appendix of each completed agreement.

#### B. Data reporting.

(1) For each completed form received, each LEA shall indicate which courses a dual credit student takes within the public education department data system.



(2) Each postsecondary institution shall report dual credit student data to the higher education department as stated in 5.6 NMAC.

(3) Each LEA shall submit the dual credit report during the appropriate reporting period to the public education department that contains:

(a) the number of dual credit students enrolled in college courses; and

(b) the courses taken and grades earned of each dual credit student.

(4) Each postsecondary institution shall submit the dual credit report during the appropriate reporting period to the higher education department that contains:

(a) the number of dual credit students enrolled in college courses; and

(b) the courses taken and grades earned of each dual credit student.

(5) The higher education department and the public education department shall verify and reconcile the respective dual credit reports at the end of each academic year.

(6) The public education department shall report to the legislature the high school graduation rates for participating LEAs for dual credit students once the students graduate from high school.

(7) The higher education department shall report to the legislature on the New Mexico postsecondary institutions dual credit students ultimately attend.

(8) The higher education department and the public education department shall annually report to the legislature the estimated cost of providing the statewide dual credit program, including tuition, fees, textbooks, and course supplies.

[6.30.7.12 NMAC - Rp, 6.30.7.12 NMAC, 6/30/08; A, 08/16/10]

#### **6.30.7.13 HOME SCHOOL OR PRIVATE SCHOOL STUDENTS:**

A. A home school or private school student who meets the eligibility criteria may receive both high school and college credit, provided that the student pays the full cost of the college courses.

B. Home school or private school students taking college courses for both high school and college credit shall be considered as being concurrently enrolled by the postsecondary institution for the purposes of data reporting.

[6.30.7.13 NMAC - Rp, 6.30.7.13 NMAC, 6/30/08; A, 08/16/10]

## **PART 8: DISTANCE LEARNING**

### **6.30.8.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.30.8.1 NMAC - Rp, 6.30.8.1 NMAC, 9-30-08]

### **6.30.8.2 SCOPE:**

All public schools, charter schools, nonpublic schools, home schools and schools or institutions that serve delinquent children and youth who are detained temporarily or who are committed for long-term care and rehabilitation. This rule does not apply to the use of technologies or methods used in distance learning programs when such technology or methods are used within a regular classroom setting solely to supplement or aid classroom instruction.

[6.30.8.2 NMAC - Rp, 6.30.8.2 NMAC, 9-30-08]

### **6.30.8.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-13-1.1, and 22-30-1 et seq. NMSA 1978.

[6.30.8.3 NMAC - Rp, 6.30.8.3 NMAC, 9-30-08]

### **6.30.8.4 DURATION:**

Permanent

[6.30.8.4 NMAC - Rp, 6.30.8.4 NMAC, 9-30-08]

### **6.30.8.5 EFFECTIVE DATE:**

September 30, 2008, unless a later date is cited at the end of a section.

[6.30.8.5 NMAC - Rp, 6.30.8.5 NMAC, 9-30-08]

### **6.30.8.6 OBJECTIVE:**

This rule establishes requirements for statewide and locally administered distance learning courses taken for credit or for a grade by distance learning students enrolled in public school districts, charter schools, state-supported schools, nonpublic schools, and home schools, and for children and youth detained or committed to juvenile detention facilities or other facilities for the long-term care and rehabilitation of delinquent children and youth, as well as for professional development opportunities for teachers, instructional support providers and administrators.

**6.30.8.7 DEFINITIONS:**

**A. "Asynchronous instruction"** means the course provider and the distance-learning student do not interact at the same time and can, but need not, utilize the internet.

**B. "Council on technology in education"** means the council established pursuant to the Technology for Education Act [22-15A-5 NMSA 1978], which advises the department on implementing educational technology, promotes the collaborative development and implementation of educational technologies, develops and recommends a statewide plan to the department related to educational standards, and provides assistance to the department in reviewing school district technology plans to support on-site and distance learning.

**C. "Course provider"** means a person, institution, or organization that supplies educational course content for distance learning courses.

**D. "Department"** means the public education department.

**E. "Distance learning"** means the technology and educational process used to provide instruction for credit or grade when the course provider and the distance-learning student are not necessarily physically present at the same time or place. Distance learning does not include educational software that utilizes only on-site teaching.

**F. "Distance learning course"** means an educational course that is taught where the student and primary instructor are separated by time or space and linked by technology.

**G. "Distance learning irregularities"** means any circumstances within or beyond the control of a local distance learning site that in the opinion of the department or a local distance learning site raises doubts about the propriety of procedures followed, preparation or validity of materials, testing administration, testing security, online security, or teacher or student conduct.

**H. "Distance learning student"** means a qualified student as defined in 22-8-2 NMSA 1978 who is enrolled in one or more distance learning courses for credit.

**I. "District coordinator"** means the superintendent or designee who administers and monitors the distance learning program in a public school district or charter school.

**J. "Dual credit course"** means a program of studies that allows high school students to enroll in college-level courses offered by public post-secondary educational institutions that may be academic or career-technical in nature, but may not be remedial

or developmental, and through which students can simultaneously earn credit toward high school graduation and a post-secondary degree or certificate.

**K. "Enrolling district"** means the school district or charter school in which a distance-learning student is enrolled for the purposes of compulsory attendance. Students shall have only one enrolling district for purposes of membership.

**L. "HED"** means the higher education department.

**M. "Innovative digital education and learning-New Mexico"** or IDEAL-NM means the operating program for the administration and management of the statewide cyber academy.

**N. "Local board"** means the policy-setting body of a school district or the governing structure of a charter school as set forth in the school's charter.

**O. "Local distance learning site"** means a public school district or charter school that offers and grants credit for distance learning courses to distance learning students enrolled in public school districts, charter schools or contracted nonpublic schools.

**P. "Membership"** means the total number of qualified students as defined in 22-8-2 NMSA 1978.

**Q. "Online" or "web based"** means utilizing the internet.

**R. "Public school"** means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes charter schools.

**S. "Qualified distance learning student"** means a qualified student as defined in 22-8-2 NMSA 1978, who is also participating in distance learning courses for credit or a grade.

**T. "REC"** means regional education cooperative.

**U. "Regional host"** means an educational institution, school district or other entity selected by IDEAL-NM to coordinate the delivery of distance learning courses within a broad geographic region of the state.

**V. "Site coordinator"** means a licensed school employee with the responsibility to facilitate student completion of online courses, including services related to student registration, monitoring student progress, communicating with online providers, and ensuring that grades are recorded on transcripts. Site coordinators shall not include substitute teachers.

**W. "Statewide cyber academy"** means the collaborative program among the department, HED, telecommunications networks and representatives of other state agencies engaged in providing distance education. The statewide cyber academy operates as IDEAL-NM.

**X. "Student"** means a qualified student as defined in 22-8-2 NMSA 1978.

**Y. "Synchronous instruction"** means the instructor and students interact at the same time, even though they might not be in the same physical location. Synchronous instruction includes:

- (1) web-based instruction, including web conferencing, that requires real time interaction between instructor and student;
- (2) two way interactive video;
- (3) traditional face-to-face classroom instruction; and
- (4) telephone based instruction.

[6.30.8.7 NMAC - Rp, 6.30.8.7 NMAC, 9-30-08]

#### **6.30.8.8 GENERAL PARAMETERS:**

A. Distance learning courses provide an opportunity for schools within the state to expand their course offerings and expand access to learning resources. While distance learning technologies may occasionally be used as full-time educational programming for students in unusual circumstances, asynchronous distance learning shall not be used as a substitute for all direct, face-to-face student and teacher interactions unless approved by the local board of education.

B. Local distance learning sites shall provide onsite access to the necessary technology for participation in distance learning courses involving internet-based instruction.

C. Local distance learning sites shall provide accompanying electronic formats that are usable by a person with a disability using assistive technology, and those formats shall be based on the American standard code for information interchange, hypertext markup language, and extensible markup language.

D. Districts and charter schools shall inform students about the distance-learning courses available to them.

E. Qualified distance-learning students must receive grades or academic credits for taking a distance learning course unless not taken for credit. Public school districts and charter schools entering into written agreements with each other for distance learning

courses shall determine through such agreements which entity or institution shall be responsible for granting students' grades and credits. Should a district or charter school determine that a student fails to comply with any provision of this rule or the local distance learning site's policies, in addition to any other disciplinary actions, the student may be denied credit for the distance-learning course or program in which the student was participating.

F. Should a local distance learning site fail to comply with this rule, the department may disapprove membership based on student enrollment in the distance learning courses or programs.

[6.30.8.8 NMAC - Rp, 6.30.8.8 NMAC, 9-30-08]

#### **6.30.8.9 PARTICIPATION AND MONITORING:**

A. In order to participate in distance-learning courses, a public school student must be enrolled in a public school district, charter school, state institution or educational program conducted in a state institution and must have the written permission of the student's enrolling district, charter school, state institution or educational program conducted in a state institution.

B. School districts and charter schools providing distance-learning courses to students statewide shall enter into written agreements with students' enrolling districts or charter schools prior to providing distance-learning courses to students. The agreements shall, at a minimum, include:

- (1) the courses to be delivered;
- (2) the delivery period;
- (3) the financial arrangements;
- (4) support mechanisms needed in behalf of students;
- (5) state assessment responsibilities on behalf of students;
- (6) identification of the responsible entity and timelines for granting grades and credit; and
- (7) a statement of assurance that all distance learning courses meet or exceed state content standards with benchmarks and performance standards and are taught by highly-qualified teachers.

C. If a student participates in a distance learning course offered by a district or charter school other than the student's enrolling district, the student shall be counted only once as a qualified student for state equalization guarantee funding purposes as

defined in 22-8-2 NMSA 1978, and for determining membership in the student's enrolling district. Any reimbursement for cross-district participation for distance learning courses shall be arranged between the districts or charter schools through signed written agreements.

D. Qualified distance learning students participating in asynchronous distance learning courses must log on to their distance learning courses at least the same number of days per week as the traditional face-to-face classes occur at the schools in which they are enrolled, and certify that they are the enrolled students. Students participating in synchronous distance learning courses shall log on to their computers at the scheduled class times and certify that they are the enrolled students.

E. Each qualified distance learning student participating in a distance learning course or program shall be evaluated, tested and monitored and shall be subject to the statewide assessments as required in the Assessment and Accountability Act. No student shall be allowed to participate in the statewide assessments at a place other than a department authorized site.

F. A qualified distance learning student may participate in and receive credit or a grade for a distance learning course that is at a different grade level than the student's current grade level. If allowed by district policy, a student may retake a course to earn a higher grade. However, credit cannot be earned twice for the same course.

G. Students enrolled in nonpublic schools and home school students may participate in distance learning courses as provided in section 11 of 6.30.8 NMAC.

[6.30.8.9 NMAC - Rp, 6.30.8.9 NMAC, 9-30-08]

#### **6.30.8.10 STATE DISTANCE EDUCATION SERVICES:**

A. The department and HED shall create and maintain a single central facility for statewide distance education services in New Mexico known as IDEAL-NM in cooperation with RECs, public school districts, charter schools, and post-secondary institutions to facilitate the delivery of distance learning courses statewide for students, training courses for state agency employees, and professional development courses for teachers, instructional support providers and school administrators. IDEAL-NM shall, at a minimum, provide distance learning courses for grades 6-12. Training courses for state agency employees and professional development courses for teachers, instructional support providers and school administrators shall be provided as resources permit.

B. IDEAL-NM shall define and coordinate the roles and responsibilities of the collaborating agencies to establish a distance learning governance and accountability framework.

(1) The department and HED shall administer IDEAL-NM operations.

(2) The department and HED may establish an advisory council to recommend policies and procedures relative to the vision, goals, and implementation of distance learning course offerings by IDEAL-NM.

(3) The department shall ensure that each distance learning course taught by IDEAL-NM meets state content standards with benchmark and performance standards. IDEAL-NM courses may be provided to schools and students pending department review, and during the time needed to make any revisions required by the department.

C. IDEAL-NM shall develop and maintain a distance education services plan that is statewide in scope and that contains short- and long-term goals that supports the work of the council on technology in education.

D. IDEAL-NM shall provide technology and program support to regional hosts and local distance learning sites via help desk, academic service, student service, and outreach training.

E. IDEAL-NM shall only use teachers who meet the highly qualified teacher requirements of the Elementary and Secondary Education Act of 1965 [20 U.S. Code 6301], or who are public post-secondary faculty members.

F. Cost allocation:

(1) IDEAL-NM shall annually establish per-semester course fees, subject to department approval, which shall be paid on behalf of students taking distance-learning courses through IDEAL-NM.

(2) The course fees shall be collected and used for teacher compensation and other per-course costs.

(3) Post-secondary educational institutions may charge tuition for distance learning courses in accordance with their fee structures except for high school students enrolled in credit courses as provided in 21-1-1.2 NMSA 1978.

(4) IDEAL-NM may charge districts or teachers for the per-course costs associated with the delivery of professional development distance learning opportunities for teachers.

(5) IDEAL-NM may charge state agencies or employees for the per-course costs associated with the delivery of agency training courses for employees.

(6) IDEAL-NM may enter into agreements with districts, charter schools and state agencies to waive course fees in exchange for online teaching or other provided services.



(7) The department shall create an intergovernmental agreement for districts and charter schools desiring to enroll students in IDEAL-NM courses. Participation in IDEAL-NM courses is contingent upon the district or charter school signing the intergovernmental agreement.

G. IDEAL-NM shall comply with all federal and state statutes pertaining to student privacy, the posting of images on the internet, copyright, or duplication of materials, and rules pertaining to the public broadcasting of audio and video technology.

H. IDEAL-NM shall report online coursework completed by students to the enrolling districts, which, in turn shall award grades and credits according to local standards.

I. Schools shall release student demographic and course completion information to IDEAL-NM for statistical purposes.

J. IDEAL-NM shall facilitate the delivery of online dual credit courses in accordance with the provisions of dual credit rules as per 5.55.4 NMAC and 6.30.7 NMAC.

K. IDEAL-NM shall provide an annual report to the secretaries of the department and HED, the legislative education study committee and legislative finance committee.

[6.30.8.10 NMAC - N, 9-30-08]

#### **6.30.8.11 PARTICIPATION IN IDEAL-NM:**

A. Students enrolled in nonpublic schools may participate in the distance learning courses offered by IDEAL-NM if the school in which the student is enrolled enters into a contract with the school district in which the nonpublic school is located. Nonpublic schools participating in distance learning shall pay the same per-semester course fee that school districts must pay to IDEAL-NM.

B. Home school students may participate in the distance learning courses offered by IDEAL-NM by enrolling for one-half or more of the minimum course requirements approved by the department for public school students in the school district in which the student resides; or, if the student is enrolled for less than one-half of the minimum course requirements, the student may participate in distance learning courses offered by IDEAL-NM by paying to the public school district where the student is located, or directly to the department, not more than thirty-five percent of the current unit value per curricular unit.

C. A student who is detained in or committed to a juvenile detention facility or a facility for the long-term care and rehabilitation of delinquent children may participate in the distance learning courses offered by IDEAL-NM if the facility in which the student is enrolled enters into a written agreement with the school district in which the facility is located, or directly with the department.

**6.30.8.12 LOCAL POLICIES REGARDING DISTANCE LEARNING COURSES:**

A. All local school boards and charter school governing authorities shall adopt written policies providing for student access to distance learning courses. The policies shall, at a minimum, include procedures for:

- (1) designating a district coordinator and a school site coordinator; charter schools may designate school site coordinators only;
- (2) designating a school official to approve or disapprove students' requests to participate in any distance learning courses or programs for credit or a grade pursuant to criteria established by local school board or charter school governing authority policy;
- (3) assigning scheduled class periods during the school day that correspond to the number of distance learning courses students are taking while making it possible for students to maintain a class schedule which incorporates both distance learning courses and locally scheduled classes without conflict;
- (4) monitoring student progress;
- (5) ensuring compliance with all federal and state statutes pertaining to student privacy, the posting of images on the internet, copyright or duplication of materials, and rules pertaining to the public broadcasting of audio and video technology;
- (6) ensuring the security of individual student data and records under the Family Educational Rights and Privacy Act [20 U.S. Code 1232g];
- (7) ensuring that all teachers of distance learning courses meet the highly qualified teacher requirements of the current authorization of the Elementary and Secondary Education Act of 1965 [20 U.S. Code 6301];
- (8) establishing the written criteria and approval process for determining the appropriateness of particular distance learning courses for each individual student prior to student enrollment in distance learning courses; including that all core curriculum delivered by distance learning courses must meet or exceed the state content standards with benchmarks and performance standards; and
- (9) determining the process for the prompt removal or non-use of a distance learning course provider should irregularities or deficiencies in the provider's services become apparent.

B. Districts and charter schools which utilize a distance learning option not provided by IDEAL-NM must provide documentation to the local school board that the distance

learning course meets the state content standards with benchmarks and performance standards.

[6.30.8.12 NMAC - N, 9-30-08]

**6.30.8.13 SEVERABILITY:**

If any part or application of this rule is held invalid by a court of competent jurisdiction, the remainder or its application to other situations shall not be affected.

[6.30.8.13 NMAC - N, 9-30-08]

**PART 9: PER-KINDERGARTEN PROGRAM**

**6.30.9.1 ISSUING AGENCY:**

Public Education Department.

[6.30.9.1 NMAC - N, 1/31/2007]

**6.30.9.2 SCOPE:**

This rule applies to all school districts, public schools, including charter schools.

[6.30.9.2 NMAC - N, 1/31/2007]

**6.30.9.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, NMSA 1978; Pre-Kindergarten Act 32A-23-1 to 32A-23-8, NMSA 1978.

[6.30.9.3 NMAC - N, 1/31/2007]

**6.30.9.4 DURATION:**

Permanent

[6.30.9.4 NMAC - N, 1/31/2007]

**6.30.9.5 EFFECTIVE DATE:**

1/31/2007, unless a later date is cited at the end of a section.

[6.30.9.5 NMAC - N, 1/31/2007]

**6.30.9.6 OBJECTIVE:**

This rule seeks to implement a state funded pre-kindergarten program through the public education department and addresses collaboration with the children, youth and families department, program requirements, pre-kindergarten eligibility, requests for applications, and administration of funds.

[6.30.9.6 NMAC - N, 1/31/2007; A, 06/13/2014]

#### **6.30.9.7 DEFINITIONS:**

**A. "Community"** means an area defined by school district boundaries, tribal boundaries or joint boundaries of a school district and tribe or any combination of school districts and tribes.

**B. "CYFD"** means the children, youth and families department.

**C. "Department"** means the public education department or PED.

**D. "Early childhood licensed teacher"** means the adult responsible for working directly with four-year-old children in implementing pre-kindergarten services and holding valid licensure issued by the PED in one or more of the following:

- (1) licensure in early childhood education from birth through grade 3
- (2) licensure in early child hood education from birth through pre-K;
- (3) early childhood education pre-K through grade 3.

**E. "Eligible provider"** means a person licensed by the children, youth and families department that provides early childhood developmental readiness services or preschool special education, or is a public school, tribal program or head start program.

**F. "Pre-kindergarten or pre-k"** mean a voluntary developmental readiness program for children who have attained their fourth birthday prior to September 1.

**G. "Pre-k program"** means a voluntary program for the provision of pre-k services throughout the state that addresses the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity.

**H. "Request for application or RFA"** means all documents, including those attached or incorporated by reference, used for soliciting applications for pre-k programs.

**I. "Tribe"** means an Indian nation, tribe or pueblo located in New Mexico.

[6.30.9.7 NMAC - N, 1/31/2007; A, 6/13/2014]

#### **6.30.9.8 COLLABORATION WITH CYFD:**

The PED shall collaborate with the CYFD in the development and implementation of a voluntary program for the provision of pre-kindergarten services throughout the state. Such collaboration shall include but not be limited to:

- A. development and issuance of the RFA;
- B. training and technical assistance provided to pre-k program administrators and program staff;
- C. collection of program data that is not identifiable to an individual student;
- D. reporting to the governor and legislative committees regarding implementation and progress;
- E. contacting the CYFD prior to recommending any changes to the Pre-Kindergarten Act or this rule.

[6.30.9.8 NMAC - N, 1/31/2007; A, 6/13/2014]

#### **6.30.9.9 REQUIREMENTS:**

The CYFD and PED shall cooperate in the development and implementation of a voluntary program for the provision of pre-k services throughout the state. The pre-k program shall address the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity. In order to implement the pre-k program, the PED shall:

- A. award program funds to public school districts and schools, including charter schools;
- B. provide technical assistance to providers to ensure effectiveness;
- C. ensure that funds shall not be used for any religious, sectarian or denominational purposes, instruction or material;
- D. ensure communities being served are meeting eligibility requirements based on the funding criteria of the Pre-Kindergarten Act;
- E. monitor programs for compliance with the pre-k law, rule and agreement to include scheduled and unscheduled visits and any necessary corrective actions; and
- F. determine public school requirements for teacher and educational assistant licensure for pre-k programs.

[6.30.9.9 NMAC - N, 1/31/2007; A, 6/13/2014]

#### **6.30.9.10 PRE-KINDERGARTEN ELIGIBILITY:**

Children who turn four years old before September 1 and are not age eligible for kindergarten are eligible to participate in pre-k programs. Pre-kindergarten services may be provided by public schools on a per-child reimbursement rate in communities with public elementary schools that are designated as Title I schools.

[6.30.9.10 NMAC - N, 1/31/2007; A, 6/13/2014]

#### **6.30.9.11 REQUESTS FOR APPLICATIONS AND AGREEMENTS FOR PRE-K SERVICES:**

The PED shall:

A. issue a RFA for pre-k services to serve eligible four-year-old children through public school programs and charter schools;

B. ensure that the proposal contains a detailed description of the services that are to be provided, including:

- (1) how those services shall meet pre-k program standards;
- (2) the number of four-year-old children that shall be served;
- (3) a description of the facilities along with site and floor plans;
- (4) additional revenue sources and funding amounts available for the pre-k program;
- (5) a description of the qualifications and experience of the early childhood licensed teacher for each site;
- (6) the plan for communicating with and involving parents in the program;
- (7) how program services meet the continuum of services to children; and
- (8) any other relevant information requested by the department.

C. for funding purposes, ensure that at least 66% of the children served live within the attendance zone of a Title I elementary school.

[6.30.9.11 NMAC - N, 1/31/2007; A, 6/13/2014]

## **PART 10: FINAL COURSE AND OTHER STUDENT GRADE CHANGES**

**6.30.10.1 ISSUING AGENCY:**

Public Education Department.

[6.30.10.1 NMAC - N, 7-16-08]

**6.30.10.2 SCOPE:**

This rule shall apply to school districts and charter schools.

[6.30.10.2 NMAC - N, 7-16-08]

**6.30.10.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-13-1.1.

[6.30.10.3 NMAC - N, 7-16-08]

**6.30.10.4 DURATION:**

Permanent.

[6.30.10.4 NMAC - N, 7-16-08]

**6.30.10.5 EFFECTIVE DATE:**

July 16, 2008, unless a later date is cited at the end of a section.

[6.30.10.5 NMAC - N, 7-16-08]

**6.30.10.6 OBJECTIVE:**

The purpose of this rule is to establish minimal requirements for those school districts and charter schools that seek to permit changes to a student's final course grades, and to require that school districts and charter schools adopt written policies for any change to a student's grade. While a change in a final course grade should be the exception and not the rule once a classroom teacher has issued a final course grade, the enactment of written policies coupled with consistent application of those policies should result in the changing of grades only when warranted and should lead to increased public confidence in the process.

[6.30.10.6 NMAC - N, 7-16-08]

**6.30.10.7 DEFINITIONS:**

**A. "Department"** means the New Mexico public education department and is identified by the acronym, PED.

**B. "FERPA"** means rights, pursuant to 20 U.S. Code 1232g and 34 CFR Part 99, afforded to parents and students over 18 years of age with respect to the student's education records, that include the right to inspect and review the student's education records within 45 days, the right to request amendment to the student's education records for various reasons, the right to consent or refuse to consent to disclosures of personally identifiable information in the student's records except for those records FERPA authorizes disclosure without consent, and the right to file a complaint with the U. S. department of education concerning non-compliance with FERPA.

[6.30.10.7 NMAC - N, 7-16-08]

#### **6.30.10.8 REQUIREMENTS:**

A. Nothing in this rule is intended to prevent a school district or charter school from permitting a teacher who has issued a course grade from changing or directing the changing of that grade due to clear mistake or clerical error. Such grade changes involving corrections of clerical errors should be authorized, documented and conducted in the manner determined by the district or charter school in a duly adopted written policy.

B. Except as provided in Subsection A of Section 6.30.10.8 NMAC, no school district or charter school shall permit the changing of a student's final course grade until a course grade change policy is adopted or amended by the local school board or governing authority of a charter school as set forth below. A local school board or governing authority of a charter school that permits or seeks to permit the changing of a student's final course grade shall adopt a policy that includes the following minimum components:

(1) the policy permits a course grade change upon receipt of a signed written request from a student's parent(s) or legal guardian or student of legal age that states the reasons for the requested grade change;

(2) the policy requires a written response to the grade change request by a set deadline that states, among other things, whether the request is denied or allowed and the grade entered if allowed;

(3) a grade change is based on articulated reasons that are stated in the response such as extenuating circumstances, additional graded work submitted by the student, additional or make-up testing, or any other meaningful criteria that can be verified;

(4) a grade change is equally available to all students who are similarly situated;



- (5) the policy requires strict adherence to FERPA;
- (6) the policy requires a good faith attempt to obtain the written input of the student's classroom teacher who issued the grade in dispute, who shall state reasons to support or oppose the requested grade change and shall not be pressured into or retaliated against for making a certain recommendation;
- (7) the policy requires the final written response to be made and signed in each case by a clearly designated person or group of persons who approve(s) a final course grade change and shall bear responsibility for ensuring that the local school board or governing authority's policy was followed;
- (8) the policy requires, unless a student is still enrolled in the school district or charter at the time of the grade change request, the request to be within a reasonable period of time after the student has exited the school unless extenuating circumstances permit consideration of a longer time;
- (9) determines if course grade change documents are to be maintained in a student's permanent record or maintained in a separate file that is destroyed after the student graduates, transfers from, or otherwise leaves the school; and
- (10) in no way limits or eliminates the rights afforded to parents under federal regulations 34 CFR Sections 300.618 through 300.621 under the Individuals with Disabilities Education Act, and 34 CFR Sections 99.20 through 99.22 under FERPA, both as they relate to amendment of a student's educational records.

C. A school district or charter school can impose stricter measures than provided for in this section or elect not to permit any final course grade changes. Stricter measures may include the convening of a grade change committee or addressing verbal input from parents. Additionally, a school district or charter school that permits final course grade changes can adopt or amend their employee discipline policies to address violations of or non-compliance with those policies. Any bargaining unit agreements for adopting policies that affect conditions of employment or licensed employee discipline should be followed.

D. A local school board or governing authority of a charter school that seeks to permit the changing of a student's grade on a test or class assignment shall adopt a policy that establishes criteria to be applied and the procedures to be followed. No such policy shall permit changing any test results on statewide tests used to determine adequate yearly progress or graduation from high school. However, where there is a need to change such a grade due to a clearly clerical mistake as where a student has been misidentified, the district or charter school shall promptly notify the assessment and accountability division of the department for guidance.

#### **6.30.10.9 UNPROFESSIONAL CONDUCT:**

A. It shall be considered unprofessional conduct pursuant to Paragraph (23) of Subsection C of 6.60.9.9 NMAC for anyone holding or seeking to renew their licensure issued by the department to:

(1) permit the changing of a student's final course grade contrary to the course grade change policy adopted by a local school board or governing authority of a charter school;

(2) knowingly withhold material information when asked on whether a student's grade should or should not be changed; or

(3) provide written recommendation for, or make a final written response allowing, a final course grade change knowing that a grade change under the circumstances is not warranted or that there has been a material non-compliance with the district's or charter school's grade change policy.

B. Any adverse licensure proceeding commenced by the department under this rule shall be conducted pursuant to the Uniform Licensure Act [Sections 61-1-1 through 61-1-31 NMSA 1978] together with any applicable rule of the department.

[6.30.10.9 NMAC - N, 7-16-08]

### **PART 11: ACADEMIC PROFICIENCY AND ATTENDANCE TIED TO INSTRUCTION PERMITS [REPEALED]**

[This part was repealed on November 15, 2011.]

### **PART 12: K-5 PLUS SCHOOLS [REPEALED]**

[This part was repealed on July 1, 2024.]

### **PART 13: EARLY COLLEGE HIGH SCHOOL**

#### **6.30.13.1 ISSUING AGENCY:**

Public Education Department, herein after referred to as the "department".

[6.30.13.1 NMAC - N, 5/15/2018]

#### **6.30.13.2 SCOPE:**

This rule applies to all school districts and public schools.

[6.30.13.2 NMAC - N, 5/15/2018]

#### **6.30.13.3 STATUTORY AUTHORITY:**

This rule is promulgated pursuant to Sections 9-24-8 and 22-2-1 NMSA 1978.

[6.30.13.3 NMAC - N, 5/15/2018]

#### **6.30.13.4 DURATION:**

Permanent.

[6.30.13.4 NMAC - N, 5/15/2018]

#### **6.30.13.5 EFFECTIVE DATE:**

May 15, 2018, unless a later date is cited at the end of a section.

[6.30.13.5 NMAC - N, 5/15/2018]

#### **6.30.13.6 OBJECTIVE:**

This rule outlines the necessary qualifications to receive designation as a department-approved early college high school in New Mexico.

[6.30.13.6 NMAC - N, 5/15/2018]

#### **6.30.13.7 DEFINITIONS:**

**A. "Career and technical education standards"** means the content standards with benchmarks and performance standards defined in 6.29.3 NMAC for students in grades seven through twelve enrolled in career and technical education coursework.

**B. "Career technical education" or "CTE"** means a sequence of courses directly related to the preparation of individuals for employment in current or emerging occupations requiring an industry-recognized credential, certificate or degree. This phrase is also referred to as "vocational education" in 22-14-1 NMSA 1978.

**C. "Dual credit"** means high school student enrollment in college-level courses offered by a postsecondary institution that allows students to earn credit toward high school graduation and a postsecondary degree or certificate simultaneously.

**D. "Early college high school" or "ECHS"** means a four-year high school that meets the qualifications outlined in 6.30.13.9 NMAC.

**E. "Meta major"** means a collection of majors with shared or similar coursework in alignment with a career field.

**F. "Postsecondary partner"** means a postsecondary educational institution that has an agreement or memorandum of understanding with an ECHS.

**G. "Pathway"** means a sequence of classes at the ECHS in partnership with the postsecondary partner that leads to a certification, associate's degree, or bachelor's degree.

**H. "Work-based learning"** means activities that develop work place skills such as tours, job shadowing, work experience rotations, mentoring, entrepreneurship, service learning, internships, co-ops, or youth pre-apprenticeships aligned with a registered apprenticeship program under the New Mexico department of workforce solutions.

**I. "Workforce recognized credential"** means industry-recognized workforce credentials, certificates, associate's degrees, or bachelor's degrees from a postsecondary partner.

**J. "Workforce partner"** means a local business, regional workforce investment board, workforce connection, one stop shop, chamber of commerce, economic development corporation, council of government, tribal council, or other industry representative that provides ongoing mentoring and on-the-job experience that connects ECHS students to employment settings and helps them to develop employability skills.

[6.30.13.7 NMAC - N, 5/15/2018]

#### **6.30.13.8 GOALS:**

The goals for a department-approved ECHS are for all enrolled students to simultaneously earn a New Mexico high school diploma and earn a workforce recognized credential through the postsecondary partner.

[6.30.13.8 NMAC - N, 5/15/2018]

#### **6.30.13.9 QUALIFICATIONS:**

To be designated a department-approved ECHS, a school shall meet the following qualifications:

**A.** Integrates state standards into courses within a structured pathway that meets local and state graduation requirements.

**B.** Follows a pathway that results in a workforce recognized credential without tuition cost to the student or the student's family.

**C.** Focuses on efforts to reach youth underrepresented in higher education by establishing outreach and recruiting processes striving for equitable access. Focused

recruiting efforts shall encourage applicants from underrepresented populations to enroll in an ECHS.

**D.** Accelerates student learning through the use of dual credit courses beginning no later than grade ten. Dual credit courses shall:

- (1) accelerate the timeline for high school students to complete college;
- (2) be delivered through one or more postsecondary partners;
- (3) be tuition free;
- (4) be taught by instructors who meet the higher learning commission qualifications for

college instructors;

- (5) use innovative, interactive, research-based support structures; and
- (6) align with:
  - (a) the pathway indicated on the student's next step plan;
  - (b) the established New Mexico higher education general education curriculum; and
  - (c) either the student's declared CTE pathway or declared major or meta major.

**E.** Operates in partnership with one or more workforce partners. Partnerships shall include:

- (1) meaningful work-based learning experiences in alignment with student pathways; and
- (2) CTE courses that use career and technical education standards to support core academic growth.

[6.30.13.9 NMAC - N, 5/15/2018]

#### **6.30.13.10 APPLICATION:**

**A.** ECHS applicants shall meet all of the qualifications listed in 6.30.13.9 NMAC. Schools seeking initial designation as a department-approved ECHS shall submit an

application on the department-designated form by July 1 of the year in which they seek to begin operating as an ECHS.

**B.** The initial application shall include:

- (1) a description of the proposed pathways;
- (2) a description of the proposed workforce-recognized credential for each pathway;
- (3) the projected number of students to be served;
- (4) a description of outreach and recruiting processes that incorporate targeted efforts to reach underrepresented populations;
- (5) a memorandum of understanding with at least one postsecondary partner that includes evidence of dual credit course offerings and support structures;
- (6) documentation of a partnership with at least one workforce partner that includes evidence of meaningful work-based learning experiences;
- (7) a sustainability plan that addresses continuing financial support and the support of the school board or governing body;
- (8) assurances that all district and school personnel are knowledgeable of the requirements to  
comply with 6.30.13 NMAC; and
- (9) evidence of tribal consultation to satisfy the goals of Article 23A NMSA 1978 including documentation of tribal consultation submitted annually to the department.

**C.** The department shall review initial applications for approval and confirm application acceptance or rejection by no later than August 1. Schools not receiving initial approval may request reconsideration which may be granted at the discretion of the department.

[6.30.13.10 NMAC - N, 5/15/2018]

#### **6.30.13.11 ANNUAL DATA REVIEW:**

**A. Data reviewed for compliance.** In order to evaluate program compliance with the qualifications outlined in 6.30.13.9 NMAC, the department shall annually review data collected through the department data reporting system. Data evaluated to determine compliance shall include:

- (1) student attainment of work-force recognized credentials;
- (2) student participation in work-based learning experiences; and
- (3) students earning college credit, to be evaluated for the following minimum

expectations:

(a) all students completing grade 11 have attempted a minimum of three postsecondary credit hours toward a workforce recognized credential; and

(b) at least eighty percent of students completing grade 12 have successfully completed a minimum of 12 postsecondary credit hours toward a workforce recognized credential.

**B. Additional data reviewed.** The department shall review additional data including:

- (1) number of students enrolled;
- (2) student participation in each pathway; and
- (3) the percentage of low-income students enrolled in the ECHS compared to the percentage of low-income high school students enrolled in the district in which the ECHS is located.

[6.30.13.11 NMAC - N, 5/15/2018]

#### **6.30.13.12 RENEWAL PROCESS:**

**A.** Once an ECHS has received initial approval from the department, the ECHS will not be required to submit a new application for the following year.

**B.** The department shall review the data listed in Subsection A of 6.30.13.11 NMAC to determine continued compliance of the ECHS. Based on this review, the department will determine whether the ECHS will be renewed without further conditions for the following year, or if the ECHS will be designated as on probation for non-compliance.

**C.** If an ECHS is determined by the department to be unable to demonstrate full compliance, the department shall issue a notice of non-compliance.

**D.** The department shall notify the ECHS of their status, whether renewed or non-compliant, no later than August 1.

**E.** Schools receiving a notice of non-compliance shall maintain their status as a department-approved ECHS and be placed on a one-year probation. Schools shall use the probation year to make any changes required to be in full compliance.

**(1)** Upon receipt of a notice of non-compliance from the department, schools shall submit an improvement plan addressing non-compliance issues to the department within 30 business days.

**(2)** The department shall offer technical assistance to schools during the implementation of the improvement plan.

**(3)** Schools may apply for an extension of their probationary period. The decision to grant or deny such extension shall be at the discretion of the department secretary or his or her designated authority.

**(4)** Schools granted an extended probation may be re-granted designation upon demonstrating compliance.

**F.** Schools not demonstrating compliance with 6.30.13 NMAC at the end of the probation year shall lose their designation as a department-approved ECHS. Any school that has lost designation shall wait no less than one school year before re-applying for designation as a department-approved ECHS.

[6.30.13.12 NMAC - N, 5/15/2018]

#### **6.30.13.13 WAIVERS:**

A qualifying ECHS shall submit any waiver requests with their initial application in the format requested by the department. Any waiver granted shall remain in effect for the duration of the school's approval as a department-approved ECHS. Schools that are non-renewed and not in their probationary year shall have all active waivers terminated. Schools may request waivers of, but not limited to, the following:

**A.** individual class load and teaching load;

**B.** length of school day in compliance with Section 22-2-8-1 NMSA 1978;

**C.** staffing patterns;

**D.** subject areas;

**E.** purchase of instructional materials; and

**F.** course work requirements.

[6.30.13.13 NMAC - N, 5/15/2018]



## **PART 14-15: [RESERVED]**

## **PART 16: EXTENDED LEARNING TIME PROGRAM [REPEALED]**

[This part was repealed on July 1, 2024.]

## **PART 17: STRUCTURED LITERACY INSTRUCTION, INTERVENTION AND PROFESSIONAL DEVELOPMENT**

### **6.30.17.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.30.17.1 NMAC – N, 7/14/2020]

### **6.30.17.2 SCOPE:**

This rule applies to all school districts and state-chartered charter schools.

[6.30.17.2 NMAC – N, 7/14/2020]

### **6.30.17.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-2, and 22-13-32 NMSA 1978.

[6.30.17.3 NMAC – N, 7/14/2020]

### **6.30.17.4 DURATION:**

Permanent.

[6.30.17.4 NMAC – N, 7/14/2020]

### **6.30.17.5 EFFECTIVE DATE:**

July 14, 2020, unless a later date is cited at the end of a section.

[6.30.17.5 NMAC – N, 7/14/2020]

### **6.30.17.6 OBJECTIVE:**

This rule provides criteria for improving literacy outcomes for all students through the development and implementation of structured literacy instruction and structured literacy interventions for students displaying difficulties in reading or characteristics of dyslexia, leading to a higher number of students achieving reading proficiency.

[6.30.17.6 NMAC – N, 7/14/2020]

#### **6.30.17.7 DEFINITIONS:**

**A. "Department-approved screener"** means a tool, approved by the department, used to identify characteristics of dyslexia.

**B. "First standardized reporting date"** means the 40th day count, or the second Wednesday of October.

**C. "Licensed and accredited or credentialed teacher preparation provider"** means a licensed and accredited professional development provider who specializes in providing evidence-based training in structured literacy.

**D. "Multi-layered system of supports"** means a coordinated and comprehensive framework that uses increasingly intensive evidence-based academic and behavioral supports that address student needs as evidenced by student data.

**E. "Student assistance team" or "SAT"** means the student assistance team, which is a school-based group of people whose purpose is to provide additional educational support to students who are experiencing difficulties that are preventing them from benefiting from general education.

**F. "Structured literacy"** means systematic, cumulative, explicit, diagnostic, and multisensory instruction that includes deep content knowledge and specific teaching expertise that focuses on the elements of phonological awareness, word recognition, phonics and decoding, spelling, and syntax at the sentence and paragraph levels for the prevention of reading deficits.

[6.30.17.7 NMAC – N, 7/14/2020]

#### **6.30.17.8 PARENT OR LEGAL GUARDIAN NOTIFICATION:**

At the beginning of a school year, school districts and charter schools shall notify parents or legal guardians that entering first grade students shall be screened for characteristics of dyslexia. If a student is determined to display characteristics of dyslexia per the department-approved screener, school districts and charter schools shall notify parents of the results of the screening and the structured literacy interventions that are taking place in response to the results. School districts and charter schools shall decide the method by which to inform parents or legal guardians of the results and interventions.

[6.30.17.8 NMAC – N, 7/14/2020]

#### **6.30.17.9 REQUIREMENTS FOR SCREENING, EVALUATION, AND INTERVENTION:**

**A.** Using a department-approved screener, elementary schools shall screen all entering first grade students, in accordance with PED guidance, for dyslexia by the first standardized reporting date.

**B.** A student whose screening demonstrates characteristics of dyslexia shall receive targeted structured literacy interventions with progress monitoring to determine if the student is making adequate progress, pursuant to 22-13-32 NMSA 1978, or be referred to a student assistance team.

**C.** Consideration shall be given to ensure the student is not demonstrating characteristics of dyslexia solely due to a lack of appropriate English language program or services.

**D.** Pursuant to 22-13-32 NMSA 1978, if a student does not make adequate progress with targeted structured literacy interventions, a school shall convene a student assistance team to prescribe more frequent and intensive structured literacy interventions with progress monitoring to determine the student's level of progress. The structured literacy interventions prescribed by the student assistance team shall be in accordance with the department's multi-layered system of supports.

**E.** At no time should a student identified as demonstrating characteristics of dyslexia stop receiving targeted structured literacy interventions.

**F.** Pursuant to 22-13-32 NMSA 1978, a parent or legal guardian of a student referred to a student assistance team shall be informed of the parent's right to request an initial special education evaluation at any time. If the school district or charter school agrees that the student may have a disability, the student assistance team shall refer the child for an evaluation without undue delay, and, shall document attempts at obtaining informed consent from the student's parent(s) or legal guardian(s). The student shall be evaluated within 60 days of receiving the parental consent for an initial evaluation. If the school district or charter school refuses the parent's request for an initial evaluation, the school district or charter school shall provide written notice of the refusal to the parent, including notice of the parent's right to challenge the school district's or charter school's decision as provided in state and federal law and rules.

[6.30.17.9 NMAC – N, 7/14/2020]

#### **6.30.17.10 REQUIREMENTS FOR DOCUMENTATION:**

School districts and charter schools shall submit data in accordance with PED guidance.

[6.30.17.10 NMAC – N, 7/14/2020]

#### **6.30.17.11 REQUIREMENTS FOR PROFESSIONAL DEVELOPMENT:**

**A.** Pursuant to 22-13-32 NMSA 1978, every school district and charter school shall develop and implement a literacy professional development plan that includes a detailed framework for the following:

(1) professional development in structured literacy by a licensed and accredited or credentialed teacher preparation provider for all elementary school teachers, including English language development teachers or teachers of English as a second language; and

(2) professional development in evidence-based reading interventions for reading interventionists and special education teachers working with students demonstrating characteristics of dyslexia or diagnosed with dyslexia.

**B.** Every school district and charter school shall provide sustained professional development for the following:

(1) school administrators and teachers who teach reading to implement appropriate structured literacy; and

(2) special education teachers to provide structured literacy for students who are identified with dyslexia as a specific learning disability and who are eligible for special education services.

**C.** The department shall:

(1) provide lists of recommended teacher professional development materials and opportunities for teachers and school administrators regarding structured literacy for students at risk for reading failure and displaying the characteristics of dyslexia; and

(2) provide technical assistance for special education diagnosticians and other special education professionals regarding the formal special education evaluation of students suspected of having a specific learning disability, such as dyslexia.

[6.30.17.11 NMAC – N, 7/14/2020]

## **PART 18: PARTIAL CREDIT FOR ADJUDICATED OR MOBILE STUDENTS**

### **6.30.18.1 ISSUING AGENCY:**

Public Education Department, hereinafter the "department".

[6.30.18.1 NMAC - N, 9/29/2020]

### **6.30.18.2 SCOPE:**

This rule shall apply to all public schools in New Mexico.

[6.30.18.2 NMAC - N, 9/29/2020]

**6.30.18.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-12A-14 NMSA 1978.

[6.30.18.3 NMAC - N, 9/29/2020]

**6.30.18.4 DURATION:**

Permanent.

[6.30.18.4 NMAC - N, 9/29/2020]

**6.30.18.5 EFFECTIVE DATE:**

September 29, 2020, unless a later date is cited at the end of a section.

[6.30.18.5 NMAC - N, 9/29/2020]

**6.30.18.6 OBJECTIVE:**

The purpose of this rule is to establish the parameters for awarding partial credits to students identified as adjudicated or mobile and who experience classroom disruption.

[6.30.18.6 NMAC - N, 9/29/2020]

**6.30.18.7 DEFINITIONS:**

**A. "Adjudicated student"** means a student identified as one of the following:

- (1) neglected or abused as determined by the children, youth and families department pursuant to the Abuse and Neglect Act;
- (2) part of a family in need of court-ordered services; or
- (3) delinquent if the parent wishes to disclose the adjudication of delinquency.

**B. "Mobile student"** means a student identified as one of the following:

- (1) migrant;
- (2) foster care;
- (3) military dependent;

(4) placed in a mental health treatment facility or habilitation program for developmental disabilities pursuant to the Children's Mental Health and Development Disabilities Act or placement in treatment foster care; or

(5) homeless as defined in the McKinney-Vento Homeless Act.

**C. "Partial credit form"** means the department-approved form that all public schools shall complete upon a student's transfer.

**D. "Receiving school"** means the public school receiving the partial credit form.

**E. "Sending school"** means the public school sending the partial credit form.

[6.30.18.7 NMAC - N, 9/29/2020]

#### **6.30.18.8 SENDING SCHOOL REQUIREMENTS:**

**A.** Sending schools shall award partial credit for work completed to students identified as adjudicated or mobile as defined in 6.30.18.7 NMAC.

**B.** Sending schools shall provide the transferring student's records, including a department-approved partial credit form, within two business days of receiving a request from the receiving school.

**C.** Sending schools shall certify that the school district, charter school, or institution has implemented a student information system to track student credit accrual and facilitate accurate and timely transfer of student academic credit.

[6.30.18.8 NMAC - N, 9/29/2020]

#### **6.30.18.9 RECEIVING SCHOOL REQUIREMENTS:**

**A.** Receiving schools shall request the transferring students' records from the sending school within two business days.

**B.** Receiving schools shall apply all partial credits to the same or equivalent course and prioritize the adjudicated or mobile student's placement in courses required for graduation within two business days of receiving the partial credit form.

**C.** Receiving schools shall certify that the school district, charter school, or institution has implemented a student information system to track student credit accrual and facilitate accurate and timely transfer of student academic credit.

[6.30.18.9 NMAC - N, 9/29/2020]

#### **6.30.18.10 DETERMINATION OF PARTIAL CREDIT:**

An adjudicated or mobile student shall receive credit for any work completed prior to the transfer.

**A.** Public schools shall award up to a maximum of one credit as follows for courses:

(1) 0.25 credit when a student was enrolled anywhere between ten and twenty-five percent of the total course;

(2) 0.50 credit when a student was enrolled anywhere between twenty-six and fifty percent of the total course;

(3) 0.75 credit when a student was enrolled anywhere between fifty-one and seventy-five percent of the total course;

(4) one credit when a student was enrolled anywhere between seventy-six and one hundred percent of the total course.

**B.** Public schools shall award up to a maximum of a half credit as follows for semester long courses:

(1) 0.25 credit when a student was enrolled anywhere between five and fifty percent of the total course; or

(2) 0.50 credit when a student was enrolled anywhere between fifty-one and one hundred percent of the total course.

[6.30.18.10 NMAC - N, 9/29/2020]

## **CHAPTER 31: EDUCATIONAL STANDARDS - SPECIAL EDUCATION**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: CHILDREN WITH DISABILITIES/GIFTED CHILDREN**

#### **6.31.2.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.31.2.1 NMAC - Rp, 6.31.2.1 NMAC, 7/14/2020]

#### **6.31.2.2 SCOPE:**

The requirements of these rules are binding on each New Mexico public agency that has direct or delegated authority to provide special education and related services,

regardless of whether that public agency is receiving funds under the federal Individuals with Disabilities Education Improvement Act of 2004 and regardless of whether it provides special education and related services directly, by contract, or through other arrangements such as referrals by the public agency to private schools or facilities. Each public agency is responsible for ensuring that all rights and protections under these rules are afforded to children referred to or placed in private schools or facilities, including residential treatment centers, day treatment centers, hospitals, or mental health institutions by that public agency.

[6.31.2.2 NMAC - Rp, 6.31.2.2 NMAC, 7/14/2020]

#### **6.31.2.3      STATUTORY AUTHORITY:**

This rule is being promulgated pursuant to Sections 22-2-1, 22-2-2, 22-13-5 and 22-13-6.1 NMSA 1978.

[6.31.2.3 NMAC - Rp, 6.31.2.3 NMAC, 7/14/2020]

#### **6.31.2.4      DURATION:**

Permanent.

[6.31.2.4 NMAC - Rp, 6.31.2.4 NMAC, 7/14/2020]

#### **6.31.2.5      EFFECTIVE DATE:**

July 1, 2020, unless a later date is specified at the end of a section.

[6.31.2.5 NMAC - Rp, 6.31.2.5 NMAC, 7/14/2020]

#### **6.31.2.6      OBJECTIVE:**

The following rule is promulgated to assist New Mexico public agencies in appropriately identifying and providing educational services for children with disabilities. The purposes of this rule are to ensure that all children with disabilities have available a free appropriate public education which includes special education and related services to meet their unique needs; to ensure that the rights of children with disabilities and their parents are protected; to assist public agencies to provide for the education of all children with disabilities; and to evaluate and ensure the effectiveness of efforts to educate those children.

[6.31.2.6 NMAC - Rp, 6.31.2.6 NMAC, 7/14/2020; A, 7/31/2023]

#### **6.31.2.7      DEFINITIONS:**



**A.** Terms defined by federal laws and rules. All terms defined in the following federal laws and rules and any other federally defined terms that are incorporated there by reference are incorporated here for purposes of these rules.

(1) The federal Individuals with Disabilities Education Improvement Act of 2004 (IDEA), 20 USC Sec. 1400 et seq.

(2) The IDEA rules, 34 CFR Parts 300 and 301.

(3) Pursuant to the paperwork reduction provisions of IDEA, 20 USC Sec. 1408, all definitions, with the exception of those found in Subsection B of 6.31.2.7 NMAC, contained in IDEA Parts 300 and 301 at 34 CFR Secs. 300.1 through 300.45, will be adopted by reference.

**B.** The following terms shall have the following meanings for purposes of these rules.

(1) **"CFR"** means the code of federal regulations, including future amendments.

(2) **"Child with a disability"** means a child who meets all requirements of 34 CFR Sec. 300.8 and:

(a) is age three through 21 or who will turn age three at any time during the school year;

(b) has been evaluated in accordance with 34 CFR Secs. 300.304 through 300.311 and any additional requirements of these or other department rules and standards and as having one or more of the disabilities specified in 34 CFR Sec. 300.8 including an intellectual disability; a hearing impairment, including deafness, speech or language impairment; a visual impairment, including blindness; emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairment; a specific learning disability; deaf-blindness; or being developmentally delayed as defined in Paragraph (4) of Subsection B of 6.31.2.7 NMAC; and who has not received a high school diploma; and

(c) at the discretion of each local educational agency and subject to the additional requirements of Paragraph (2) of Subsection F of 6.31.2.10 NMAC, may include a child age three through nine who is evaluated as being developmentally delayed and who, because of that condition, needs special education and related services.

(3) **"Developmentally delayed"** means a child age three through nine or who will turn age three at any time during the school year with documented delays in development which are at least two standard deviations below the mean on a standardized test instrument or thirty percent below chronological age and who in the

professional judgment of the IEP team and one or more qualified evaluators needs special education and related services in at least one of the following areas: communication development, cognitive development, physical development, social or emotional development, or adaptive development. Use of the developmentally delayed option by individual local educational agencies is subject to the further requirements of Paragraph (2) of Subsection F of 6.31.2.10 NMAC. Local educational agencies shall use appropriate diagnostic instruments and procedures to ensure that the child qualifies as a child with a developmental delay in accordance with the definition in this paragraph.

(4) **"Dual discrepancy"** means the child does not achieve adequately for the child's age or to meet grade-level standards established in New Mexico standards for excellence, 6.29.1 through 6.29.17 NMAC; and

(a) does not make sufficient progress to meet age or grade-level standards;  
or

(b) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards, or intellectual development.

(5) **"Dyslexia"** means a condition of neurological origin that is characterized by difficulty with accurate or fluent word recognition and by poor spelling and decoding abilities, which characteristics typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction and may result in problems in reading comprehension and reduced reading experience that may impede the growth of vocabulary and background knowledge.

(6) The **"educational jurisdiction"** of a public agency includes the geographic area, age range, and all facilities including residential treatment centers, day treatment centers, hospitals, mental health institutions, juvenile justice facilities, state supported schools, or programs within which the public agency is obligated under state laws, rules, or by enforceable agreements including joint powers agreements (JPAs) or memoranda of understanding (MOUs) to provide educational services for children with disabilities. In situations such as transitions, transfers, and special placements, the educational jurisdiction of two or more public agencies may overlap and result in a shared obligation to ensure that a particular child receives all the services to which the child is entitled.

(7) A **"free appropriate public education"** or **"FAPE"** means special education and related services which meet all requirements of 34 CFR Sec. 300.17 and which, pursuant to 34 CFR Sec. 300.17(b), meet all applicable department rules and standards, including but not limited to these rules; the New Mexico standards for excellence; and department rules governing school personnel preparation, licensure, and performance; student rights and responsibilities; and student transportation.

(8) The "**general education curriculum**," pursuant to 34 CFR Sec. 300.320, means the same curriculum that a public agency offers for nondisabled children. For New Mexico public agencies whose non-special education programs are subject to department rules, the general curriculum includes the content standards, benchmarks, and all other applicable requirements of the New Mexico standards for excellence and any other department rules defining curricular requirements.

(9) "**LEA**" means a local educational agency as defined in 34 CFR Sec. 300.28.

(10) "**Individualized education program**" or "**IEP**" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR Secs. 300.320 through 300.324.

(11) "**IEP team**" means, pursuant to 34 CFR Sec. 300.321, the public agency shall ensure that the IEP team for each child with a disability includes:

- (a) the parents of the child;
- (b) not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- (c) not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
- (d) a representative of the public agency who:
  - (i) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - (ii) is knowledgeable about the general education curriculum; and
  - (iii) is knowledgeable about the availability of resources of the public agency;
- (e) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in Subparagraphs (b) through (e) of Paragraph (11) of Subsection B of 6.31.2.7 NMAC;
- (f) at the discretion of the parent or public agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (g) whenever appropriate, the child with a disability.

(12) **"Individuals with Disabilities Education Improvement Act" or "IDEA"** means the federal Individuals with Disabilities Education Improvement Act of 2004, 20 USC Secs. 1401 et seq., including future amendments.

(13) **"NMAC"** means the New Mexico administrative code, including future amendments.

(14) **"NMSA 1978"** means the 1978 compilation of New Mexico statutes annotated, including future amendments.

(15) **"Parent"** includes, in addition to the persons specified in 34 CFR Sec. 300.30, a child with a disability who has reached age 18 and for whom there is no court-appointed general guardian, limited guardian, or other court-appointed person who has legal custody or has otherwise been authorized by a court to make educational decisions on the child's behalf as provided in Subsection K of 6.31.2.13 NMAC. Pursuant to 34 CFR Sec. 300.519 and department policy, a foster parent of a child with a disability may act as a parent under Part B of IDEA if: (i) the foster parent or the state children, youth, and families department (CYFD) provides appropriate documentation to establish that CYFD has legal custody and has designated the person in question as the child's foster parent; and (ii) the foster parent is willing to make the educational decisions required of parents under IDEA, and has no interest that would conflict with the interests of the child. A foster parent who does not qualify under the requirements but who meets all requirements for a surrogate parent under 34 CFR Sec. 300.519 may be appointed as a surrogate if the public agency responsible for making the appointment deems such action appropriate.

(16) **"Public agency"** means the state educational agency, local educational agencies (LEAs), educational services agencies (ESAs), or nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA and any other political subdivisions of the state that are responsible for providing education to children with disabilities pursuant to 34 CFR Sec. 300.33.

(17) **"Puente para los niños fund"** means a risk pool fund in New Mexico to support high cost students with disabilities identified by LEAs pursuant to 34 CFR Sec. 300.704(c)(3)(i).

(18) **"SAT"** means the student assistance team, which is a school-based group of people whose purpose is to provide additional educational support to students who are experiencing difficulties that are preventing them from benefiting from general education.

(19) **"SED"** means the special education division of the department.

(20) **"Special education"** means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction

conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education.

(a) As authorized by 34 CFR Secs. 300.8(a)(2)(ii) and 300.39(a)(2)(i), "special education" in New Mexico may include speech-language pathology services.

(b) Speech-language pathology services shall meet the following standards to be considered special education:

(i) the service is provided to a child who has received appropriate tier I universal screening under Subsection D of 6.29.1.9 NMAC as it may be amended from time to time, before being properly evaluated under 34 CFR Secs. 300.301 through 300.306 and Subsection E of 6.31.2.10 NMAC;

(ii) the IEP team that makes the eligibility determination finds that the child has a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance;

(iii) the speech language pathology service consists of specially designed instruction that is provided to enable the child to have access to the general curriculum and meet the educational standards of the public agency that apply to all children; and

(iv) the service is provided at no cost to the parents under a properly developed IEP that meets the requirements of Subsection B of 6.31.2.11 NMAC.

(c) If all of the standards are met, the service shall be considered as special education rather than a related service.

(d) Student/staff caseloads for special education shall meet the requirements of Paragraphs (1) and (2) of Subsection H of 6.29.1.9 NMAC.

(21) A **"state-supported educational program"** means a publicly-funded program that:

(a) provides special education and related services to children with disabilities who come within the program's educational jurisdiction;

(b) is operated by, or under contractual arrangements for, a state school, state educational institution, other state institution, state hospital, or state agency; and

(c) is primarily funded through direct legislative appropriations or other direct state support to a public agency other than a local school district.

(22) **"USC"** means the United States code, including future amendments.

**C.** Definitions related to dispute resolution. The following terms are listed in the order that reflects a continuum of dispute resolution options and shall have the following meanings for the purposes of these rules.

(1) **"Facilitated IEP meeting"** or **"FIEP meeting"** or **"FIEP"** means an IEP meeting that utilizes an independent, state-approved, state-funded, trained facilitator as an IEP facilitator to assist the IEP team to communicate openly and effectively, in order to resolve conflicts related to a student's IEP.

(2) **"Mediation"** means a meeting or series of meetings that utilizes an independent, state-approved, state-funded, trained mediator to assist parties to reconcile disputed matters related to a student's IEP or other educational, non-IEP-related issues.

**D.** The definitions in Subsection D of 6.31.2.7 NMAC apply only to Subsection I of 6.31.2.13 NMAC.

(1) **"Expedited hearing"** means a hearing that is available on request by a parent or a public agency under 34 CFR Sec. 300.532(c) and is subject to the requirements of 34 CFR Sec. 300.532(c).

(2) **"Transmit"** means to mail, send by electronic mail (email) or telecopier (facsimile machine), or hand deliver a written notice or other document and obtain written proof of delivery by one of the following means:

(a) an email system's confirmation of a completed transmission to an email address that is shown to be valid for the individual to whom the transmission was sent;

(b) a telecopier machine's confirmation of a completed transmission to a number which is shown to be valid for the individual to whom the transmission was sent;

(c) a receipt from a commercial or government carrier showing to whom the article was delivered and the date of delivery;

(d) a written receipt signed by the secretary of education or designee showing to whom the article was hand-delivered and the date delivered; or

(e) a final decision to any party not represented by counsel for a due process hearing by the U.S. postal service, certified mail, return receipt requested, showing to whom the articles was delivered and the date of delivery.

**E.** The definitions in Subsection E of 6.31.2.7 NMAC apply only to Subsection B of 6.31.2.9 NMAC and Subsection L of 6.31.2.11 NMAC:

(1) **"Qualified student"** means, pursuant to Paragraph (1) of Subsection A of Section 22-13-8 NMSA 1978, a public school student who:

(a) has not graduated from high school;

(b) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and

(c) in terms of age:

(i) is at least five years of age prior to 12:01 a.m. on September 1 of the school year or will be five years of age prior to 12:01 a.m. on September 1 of the school year if the student is enrolled in a public school extended-year kindergarten program that begins prior to the start of the regular school year;

(ii) is at least three years of age at any time during the school year and is receiving special education pursuant to rules of the department; or

(iii) has not reached the student's 22nd birthday on the first day of the school year and is receiving special education in accordance with federal law.

(2) **"School-age person"** means, pursuant to Paragraph (2) of Subsection A of Section 22-13-8 NMSA 1978, a person who is not a qualified student but who meets the federal requirements for special education and who:

(a) will be at least three years old at any time during the school year;

(b) is not more than 21 years of age; and

(c) has not received a high school diploma or its equivalent.

[6.31.2.7 NMAC - Rp, 6.31.2.7 NMAC, 7/14/2020; A, 7/1/2023; A, 7/31/2023]

#### **6.31.2.8 RIGHT TO A FREE APPROPRIATE PUBLIC EDUCATION (FAPE):**

**A.** All children with disabilities aged three through 21 or who will turn three at any time during the school year who reside in New Mexico, including children with disabilities who have been suspended or expelled from school, have the right to a FAPE that is made available by one or more public agencies in compliance with all applicable requirements of 34 CFR Secs. 300.101 and 300.120 and these or other department rules and standards. Children with disabilities who are enrolled in private schools have the rights provided by 34 CFR Secs. 300.129-300.148 and Subsection L of 6.31.2.11 NMAC.

**B.** Only children who meet the criteria in these rules may be included in calculating special education program units for state funding and counted as eligible children for federal flow-through funds under Part B of IDEA.

[6.31.2.8 NMAC - Rp, 6.31.2.8 NMAC, 7/14/2020]

#### **6.31.2.9 PUBLIC AGENCY RESPONSIBILITIES:**

**A.** Compliance with applicable laws and rules. Each New Mexico public agency, within the scope of its authority, shall develop and implement appropriate policies, procedures, programs, and services to ensure that all children with disabilities who reside within the public agency's educational jurisdiction, including children who are enrolled in private schools or facilities such as residential treatment centers, day treatment centers, hospitals, mental health institutions, or are schooled at home, are identified and evaluated and have access to a free appropriate public education (FAPE) in compliance with all applicable requirements of state and federal laws and rules. This obligation applies to all New Mexico public agencies that are responsible under laws, rules, rules, or written agreements for providing educational services for children with disabilities, regardless of whether that public agency receives funds under IDEA and regardless of whether it provides special education and related services directly, by contract, by referrals to private schools or facilities including residential treatment centers, day treatment centers, hospitals, mental health institutions, or through other arrangements.

**B.** Public agency funding and staffing.

**(1)** Each public agency that provides special education or related services to children with disabilities shall allocate sufficient funds, staff, facilities and equipment to ensure that the requirements of IDEA and all department rules and standards that apply to programs for children with disabilities are met.

**(2)** The public agency with primary responsibility for ensuring that FAPE is available to a child with a disability on the date set by the department for a child count or other report shall include that child in its report for that date. Public agencies with shared or successive responsibilities for serving a particular child during a single fiscal year are required to negotiate equitable arrangements through joint powers agreements or memorandums of understanding or interstate agreements for sharing the funding and other resources available for that child. Such agreements shall include provisions with regard to resolving disputes between the parties to the agreement.

**(3)** Placement of students in private residential treatment centers, or other out of home treatment or habilitation programs, by the IEP team, or by a due process decision. In no event shall a child with an IEP be allowed to remain in an out of home treatment or habilitation program for more than 10 days without receiving special education and related services. The school district in which the qualified student or school-age person lives, whether in-state or out-of-state, is responsible for the educational, nonmedical care and room and board costs of that placement. The sending school shall be responsible for the provision of special education and related services.

**(a)** Agreements between the resident school district of the qualified student or school-age person and a private residential treatment center shall be on the form



posted on the department's website or on a form otherwise approved by the department and shall be reviewed and approved by the secretary of public education.

**(b)** Agreements shall provide for:

- (i)** student evaluations and eligibility;
- (ii)** an educational program for each qualified student or school-age person that meets state standards for such programs, except that teachers employed by private schools are not required to be highly qualified;
- (iii)** the provision of special education and related services in conformance with an IEP that meets the requirements of federal and state law and applicable rules;
- (iv)** adequate classroom or other physical space that allows the school district to provide an appropriate education;
- (v)** a detailed description of the costs for the placement; and
- (vi)** an acknowledgement of the authority of the local school board and the department to conduct on-site evaluations of programs and student progress to ensure that state standards are met.

**(4)** Educational agencies may seek payment or reimbursement from noneducational agencies or public or private insurance for services or devices covered by those agencies that are necessary to ensure FAPE to children with disabilities. Claims for payment or reimbursement shall be subject to the procedures and limitations established in 34 CFR Secs. 300.154(b) and 300.154(d) through (g), Section 22-13-8 NMSA 1978 and any laws, rules, executive orders, contractual arrangements, or other requirements governing the noneducational payor's obligations.

**(5)** Risk pool fund. (Puente para los niños fund.)

**(a)** Local educational agency high cost fund.

**(i)** In compliance with 34 CFR Sec. 300.704(c), the department may maintain a risk pool fund to support high cost children with disabilities identified by LEAs.

**(ii)** Funds distributed under this program will be on a reimbursable basis.

**(b)** Application for funds. LEAs desiring to be reimbursed for the cost of children with disabilities with high needs shall file an application in accordance with the department's puente para los niños fund as described on the department's website.

**(6)** Children with disabilities who are covered by public benefits or insurance. Pursuant to 34 CFR Sec. 300.154(d), a public agency may use the medicaid or other public benefits or insurance in which a child participates to provide or pay for services required under IDEA-Part B rules, as permitted under the public insurance program, except as provided in Subparagraph (a) of Paragraph (6) of Section B of 6.31.2.9 NMAC.

**(a)** With regard to services required to provide FAPE to an eligible child, the public agency:

**(i)** may not require parents to sign up for or enroll in public insurance programs in order for their child to receive FAPE under Part B of IDEA;

**(ii)** may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to IDEA-Part B rules, but pursuant to 34 CFR Sec. 300.154(f)(2), may pay the cost that the parent otherwise would be required to pay; and

**(iii)** may not use a child's benefits under a public benefits or insurance program if that use would: (A) decrease available lifetime coverage or any other insured benefit; (B) result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the child outside of the time the child is in school; (C) increase premiums or lead to the discontinuation of benefits or insurance; or (D) risk loss of eligibility for home- and community-based waivers, based on aggregate health-related expenditures.

**(b)** Prior to obtaining the parental consent described in Subparagraph (c) of this paragraph, and prior to accessing the parent's or child's public benefits, the public agency shall provide written notice to the child's parents, consistent with 34 CFR Sec. 300.503(c). The written notice shall be provided annually thereafter.

**(i)** The notice shall include a statement of the parental consent provisions in 34 CFR Secs. 99.30 and 300.622 and shall specify: (A) the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to the child; (B) the purpose of the disclosure (e.g., billing for services under 34 CFR Part 300; (C) the public agency to which the disclosure may be made (e.g, New Mexico medicaid program); and (D) that the parent understands and agrees that the public agency may access the parent's or child's public benefits or insurance to pay for services under 34 CFR Part 300.

**(ii)** The notice shall further include: (A) a statement of the "no cost" provisions in 34 CFR Secs. 300.154(d)(2)(i) through 300.154(d)(2)(iii); (B) a statement that the parents have the right under 34 CFR Parts 99 and 300 to withdraw their consent to disclosure of their child's personally identifiable information to the New Mexico medicaid program at any time; and (C) a statement that the withdrawal of consent or refusal to provide consent under 34 CFR Parts 99 and 300 to disclose

personally identifiable information to the New Mexico medicaid program does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

**(c)** Prior to accessing a child's or parent's public benefits or insurance for the first time, and after providing notice to the child's parents consistent with Subparagraph (b) of this paragraph, the public agency shall obtain written parental consent as defined by 34 CFR Sec. 300.9. The written consent, consistent with the requirements of 34 CFR Sec. 300.154(d)(2)(iv), shall:

**(i)** meet the requirements of 34 CFR Secs. 99.30 and 300.622 and shall specify: (A) the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to the child; (B) the purpose of the disclosure (e.g., billing for services under 34 CFR Part 300; (C) the public agency to which the disclosure may be made (e.g, New Mexico medicaid program); and

**(ii)** shall specify that the parent understands and agrees that the public agency may access the parent's or child's public benefits or insurance to pay for services under 34 CFR Part 300.

**(d)** The public agency is not required to obtain a new parental consent if the following conditions are present:

**(i)** there is no change in any of the following: (A) the type of services to be provided to the child; (B) the amount of services to be provided to the child; or (C) the cost of the services to be charged to the public benefits or insurance program; and

**(ii)** the public agency has on file a parental consent meeting the requirements of 34 CFR Secs. 300.9, 99.30, and 300.622.

**(e)** Once the public agency obtains the one-time consent consistent with 34 CFR Sec. 300.154(d)(2)(iv), the public agency is not required to obtain parental consent before it accesses the child's or parent's public benefits or insurance in the future, regardless of whether there is a change in the type or amount of services to be provided to the child or a change in the cost of the services to be charged to the public benefits or insurance program.

**(f)** If a child transfers to a new public agency, the new public agency shall provide the written notification described in 34 CFR Sec. 300.154(d)(2)(v) and Subparagraph (b) of this paragraph, and shall then obtain parental consent meeting the requirements of 34 CFR Sec. 300.154(d)(2)(iv).

**(7)** Children with disabilities who are covered by private insurance benefits. Pursuant to 34 CFR Sec. 300.154(e), an educational agency shall obtain a parent's informed written consent for each proposed use of private insurance benefits and shall

inform parents that their refusal to permit the use of their private insurance will not relieve the educational agency of its responsibility to ensure that all required services are provided at no cost to the parents. The public agency may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to IDEA-Part B rules.

**(8)** Pursuant to 34 CFR Sec. 300.154(f):

**(a)** if a public agency is unable to obtain parental consent to use the parent's private insurance, or public benefits or insurance when the parent would incur a cost for a specified service required under IDEA-Part B rules, to ensure FAPE the public agency may use its Part B funds to pay for the service; and

**(b)** to avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parent would incur a cost, the public agency may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

**(9)** Staff training and qualifications.

**(a)** Each public agency is responsible for ensuring that personnel serving children with disabilities are qualified under state licensure requirements and are adequately prepared for their assigned responsibilities, pursuant to 34 CFR Sec. 300.156. Paraprofessionals and assistants who are appropriately trained and supervised in accordance with applicable department licensure rules or written department policy may be used to assist in the provision of special education and related services to children with disabilities under Part B of IDEA.

**(b)** Each public agency and charter school shall train their school administrators and teachers who teach reading to implement appropriate research-based reading interventions prior to referring the student for a special education evaluation and shall train their special education teachers to provide appropriate specialized reading instruction for students with dyslexia who have been identified as eligible for special education services.

**C.** IDEA applications and assurances. Each New Mexico public agency that desires to receive IDEA flow-through funds shall file an annual application with the department in the form prescribed by the department. Each application shall:

**(1)** provide all information requested by the department;

**(2)** demonstrate to the department's satisfaction that the public agency is in compliance with all applicable requirements of 34 CFR Secs. 300.200 through 300.230 and these or other department rules and standards;

(3) include an agreement that the public agency upon request will provide any further information the department requires to determine the public agency's initial or continued compliance with all applicable requirements;

(4) include assurances satisfactory to the department that the public agency does and will continue to operate its programs in compliance with all applicable federal and state programmatic, fiscal and procedural requirements including the development of joint powers agreements, memoranda of understanding or other interagency agreements to address shared or successive responsibilities to meet the educational needs of a particular child during a single fiscal year; and

(5) pursuant to Subsection C of Section 22-8-11 NMSA 1978, the department shall not approve and certify an operating budget of any school district or state-chartered charter school that fails to demonstrate that parental involvement in the process was solicited.

**D. Early intervening services set aside funds. Fifteen percent set aside.**

(1) Pursuant to 34 CFR Secs. 300.208(a)(2) and 300.226, LEAs may use up to fifteen percent of the amount the LEA receives under Part B of IDEA to implement early intervening services for children with or without disabilities in kindergarten through grade 12 with particular emphasis on children in kindergarten through grade three.

(2) Prior to the implementation or use of these set aside funds, the LEA shall have on record with the department an approved plan for use of these funds as described by 34 CFR Sec. 300.226(b) and how such activities will be coordinated with regional education cooperatives as described in 34 CFR Sec. 300.226(e), if applicable.

(3) The LEA plan for use of set aside funds shall be submitted as an addendum to its annual application for Part B funding. If the LEA determines to implement a set aside plan after the initial application, a request for implementation of a set aside plan shall be submitted for approval 60 days before the implementation of the plan.

(4) Each LEA that develops and maintains coordinated, early intervening services shall report annually to the department as provided in 34 CFR Sec. 300.226(d).

**E. Significant disproportionality.**

(1) Pursuant to CFR 34 Sec. 300.646, LEAs shall provide for the collection and examination of data to determine if significant disproportionality, based on race and ethnicity, is occurring with respect to:

(a) the identification of children as children with disabilities including the identification of children as children with disabilities in accordance with a particular impairment as defined by 34 CFR Sec. 300.8;

**(b)** the placement in particular educational settings of these children; and

**(c)** the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

**(2)** Each public agency shall reserve the fifteen percent early intervening funds if they are identified for having data that is significantly disproportionate in any one of the following categories:

**(a)** suspension of students with disabilities;

**(b)** over identification of students with disabilities;

**(c)** over identification of students in accordance with a particular impairment as defined by 34 CFR Sec. 300.8; and

**(d)** placement of students with disabilities in a particular setting.

**(3)** Review and revision of policies, practices, and procedures. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities or the placement in particular educational settings of these children, in accordance with Paragraph (1) of this subsection, the LEA shall:

**(a)** provide for the review and, if appropriate, revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the requirements of IDEA; and

**(b)** require any LEA identified under Paragraph (1) of this subsection to reserve the maximum amount of funds under 34 CFR Sec. 300.226 to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly over-identified under Paragraph (1) of this subsection; and

**(c)** require the LEA to publicly report on the revision of policies, practices, and procedures described under Subparagraph (b) of this paragraph.

**F. Annual determinations.** Each local educational agency and other public agencies when applicable shall be assigned an annual determination. The determinations shall be consistent with those provided in 34 CFR Sec. 300.603(b) based on the local educational agency's performance on the targets established in the department's state performance plan.

**(1)** For determinations of needs intervention and needs substantial intervention, the local educational agency may request an opportunity for an informal hearing. The request for hearing shall be made in writing to the secretary of public education within 30 days of the date of the determination.

**(2)** The hearing will afford the local educational agency the opportunity to demonstrate why the department should not make the determination of needs intervention or needs substantial intervention. The hearing shall be conducted by the secretary or the secretary's designee. Formal rules of evidence shall not apply to the hearing.

**G.** Notification of public agency in case of ineligibility. Pursuant to 34 CFR Sec. 300.221, if the department determines that a public agency is not eligible under Part B of IDEA, the department shall notify the affected public agency of that determination and provide the public agency with reasonable notice and an opportunity for a hearing under 34 CFR Sec. 76.401(d).

**H.** Withholding of funds for noncompliance. Pursuant to 34 CFR Sec. 300.222, if the department, after reasonable notice and an opportunity for a hearing under 34 CFR Sec. 76.401(d), finds that a public agency that has previously been determined to be eligible is failing to comply with any requirement described in 34 CFR Secs. 300.201 through 300.213 and 300.608, the department shall reduce or may not provide any further Part B payments to the public agency until the department is satisfied that the public agency is in compliance with that requirement.

**I.** Reallocation of funds. If a new LEA is created, the base payment portion of IDEA subgrant of the LEA that would have served children with disabilities now being served by the new LEA will be adjusted pursuant to 34 CFR Sec. 300.705(b)(2). IDEA funds to new charter schools that are LEAs will be allocated pursuant to 34 CFR Secs. 76.785 through 76.799 and 300.705(b). Pursuant to 34 CFR Sec. 300.705(c), if the department determines that a public agency is adequately providing FAPE to all children with disabilities residing in the area served by that public agency with state and local funds, the department may reallocate any portion of the funds under this part that are not needed by that public agency to provide FAPE to other LEAs in the state that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs or the department may also retain those funds for use at the state level as provided by 34 CFR Sec. 300.705(c).

**J.** Prohibition on mandatory medication. Each LEA and other public agencies serving students with disabilities are prohibited from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the federal Controlled Substances Act (21 USC 812(c)) for a student as a condition of attending school, receiving an evaluation under 34 CFR Secs. 300.300 through 300.311, or receiving services under Part B of IDEA. This prohibition shall be construed as provided in 34 CFR Sec. 300.174(b).

[6.31.2.9 NMAC - Rp, 6.31.2.9 NMAC, 7/14/2020]

#### **6.31.2.10 IDENTIFICATION, EVALUATIONS, AND ELIGIBILITY DETERMINATIONS:**

**A. Child find.** Each public agency shall adopt and implement policies and procedures to ensure that all children with disabilities who reside within the public agency's educational jurisdiction, including children with disabilities attending private schools or facilities such as residential treatment centers, day treatment centers, hospitals, mental health institutions, detention and correctional facilities, children who are schooled at home, highly mobile children, children who reside on Indian reservations, and children who are advancing from grade to grade, regardless of the severity of their disability, and who are in need of special education and related services, are located, evaluated, and identified in compliance with all applicable requirements of 34 CFR Secs. 300.111, 300.131, 300.301 through 300.306, and these or other department rules and standards. For preschool children, child find screenings shall serve as interventions under Subsection B of 6.31.2.10 NMAC.

**B.** The public agency shall follow the multi-layered system of supports as a proactive system for early intervention for students who demonstrate a need for educational support for learning as set forth in Subsection D of 6.29.1.9 NMAC. This support shall be provided regardless of whether a student has been referred for a full and individual evaluation for special education and related services or has been identified as eligible for special education.

(1) A student's participation in the multi-layered system of supports does not prevent the full and individual evaluation for special education of the student.

(2) A student may receive a full and individual evaluation for special education and related services at any time before, during, or after the implementation of the multi-layered system of supports. A parent may request a full and individual evaluation or special education and related services at any time.

(3) If the student is suspected of having a disability and demonstrates an obvious need for special education or related services by reason thereof, then the student shall be referred for a full and individual evaluation for special education without undue delay.

**C. Evaluations and reevaluations.**

(1) Initial evaluations.

(a) Each public agency shall conduct a full and individual initial evaluation, at no cost to the parent, and in compliance with requirements of 34 CFR Secs. 300.305 and 300.306 and other department rules and standards before the initial provision of special education and related services to a child with a disability.

(b) Each public agency shall follow evaluation procedures in compliance with applicable requirements of 34 CFR Secs. 300.301, 300.304, and 300.305, and other department rules and standards to determine:



- (i) if the child is a child with a disability under 34 CFR Sec. 300.8; and
- (ii) the educational needs of the child.

(2) **Reevaluations.**

(a) Each public agency shall ensure that a reevaluation of each child is conducted at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary.

(b) Reevaluations shall be conducted more often than every three years if:

(i) the public agency determines the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(ii) the child's parent or teacher requests a reevaluation.

(c) Reevaluations may not occur more than once a year, unless the parent and public agency agree otherwise.

(d) Each public agency shall follow evaluation procedures in compliance with applicable requirements of 34 CFR Secs. 300.304 and 300.305 and other department rules or standards.

(3) **Evaluation before termination of eligibility.**

(a) Pursuant to 34 CFR Sec. 300.305(e)(1), each public agency shall evaluate a child with a disability in accordance with 34 CFR Secs. 300.304 through 300.311 before determining that the child is no longer a child with a disability.

(b) Pursuant to 34 CFR Sec. 300.305(e)(2), evaluation before termination of eligibility is not required when a child graduates from secondary school with a regular high school diploma or the termination is due to the child exceeding the age of eligibility for special education upon turning 22 years old. In these circumstances, the public agency must provide the child with a summary of the child's academic achievement and functional performance, including recommendations on how to assist the child in meeting postsecondary goals as required by 34 CFR Sec. 300.305(e)(3).

(4) The public agency shall document its attempts to obtain parental consent.

**D. Evaluation requests and referrals.**

(1) Either a parent of a child or a public agency may initiate a request for a full and individual evaluation to determine if the child is a child with a disability or may request a reevaluation to determine if the child's educational needs have changed.

(2) The request for initial evaluation or reevaluation by a parent may be made in writing or orally to any licensed personnel of the school in which the student attends. A parental request for a full and individual evaluation shall be forwarded or communicated to the school or district special education director or a school or district administrator as soon as possible after it is received.

(3) The public agency shall respond to a parental request for initial evaluation or reevaluation to the public agency no later than 15 school days from the receipt of the request. If a parent request for an evaluation or reevaluation is received within 15 school days before the start of a scheduled period in which student attendance is not required for at least 14 calendar days, the public agency shall respond no later than 30 calendar days from the date of the request.

(4) The public agency shall respond to a parental request for initial evaluation or reevaluation by:

(a) providing prior written notice consistent with 34 CFR Sec. 300.503 that proposes to conduct the requested evaluation or reevaluation, providing a copy of the procedural safeguards notice to parents required by 34 CFR Sec. 300.504, and seeking parental consent for the evaluation; or

(b) providing prior written notice consistent with 34 CFR Sec. 300.503 of the public agency's refusal to conduct the evaluation or reevaluation and a copy of the procedural safeguards notice required by 34 CFR Sec. 300.504.

(5) When the public agency makes a referral for an evaluation without a parental request, the public agency shall provide prior written notice consistent with 34 CFR Sec. 300.503 that proposes to conduct the requested evaluation or reevaluation, providing a copy of the procedural safeguards notice to parents required by 34 CFR Sec. 300.504, and seek parental consent for the evaluation no later than 15 school days from the referral. If a referral for an evaluation or reevaluation is made within 15 school days before the start of a scheduled period in which student attendance is not required for at least 14 calendar days, the public agency shall request parental consent no later than 30 calendar days from the date of the referral.

(6) The parent may use the IDEA procedural safeguards of mediation, state complaint, or due process hearing as set forth in 6.31.12.13 NMAC to challenge the public agency's response to a request for evaluation or reevaluation, or the failure to respond to a parent's request for evaluation or reevaluation.

#### **E. Consent for evaluation.**

(1) The public agency shall provide notice to the parents of a child with a disability that describes any evaluation procedures the public agency proposes to conduct in compliance with 34 CFR Sec. 300.503.

(2) The public agency shall obtain written informed parental consent for the initial evaluation or reevaluation in accordance with the requirements of 34 CFR Sec. 300.300 and subsection of F of 6.31.2.13 NMAC prior to conducting any evaluation.

(3) The public agency may pursue an evaluation or reevaluation by using the consent override procedures described in 34 CFR Sec. 300.300(a)(3).

(4) The public agency shall document its attempts to obtain parental consent.

**F. Timelines for evaluations.**

(1) Each public agency shall maintain a record of the receipt, processing, and disposition of any request or referral for an initial evaluation or reevaluation. All appropriate evaluation data, including complete Student Assistance Team file documentation, multi-layered system of supports data, and summary reports from all individuals evaluating the child shall be reported in writing for presentation to the eligibility determination team.

(2) The initial evaluation and written evaluation report shall be completed within 60 calendar days of receiving parental consent for evaluation.

(3) Exception to the 60-day time frame. The requirements of this subsection do not apply if:

(a) the parent of a child repeatedly fails or refuses to produce the child for the evaluation; or

(b) the child enrolls in a school of another public agency after the 60-day time frame in this subsection has begun and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under 34 CFR Sec. 300.8. This applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

**G. Procedures for conducting evaluations and reevaluations.**

(1) Each public agency shall ensure that the child is evaluated in all areas related to the suspected disability and shall ensure that the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, regardless of whether they are commonly linked to the disability category in which the child has been classified. The public agency shall follow the procedures for evaluations and reevaluations established by 34 CFR Secs. 300.304 and 300.305, department rules, and standards for evaluations and reevaluations set forth in the New Mexico technical evaluation and assessment manual (New Mexico T.E.A.M.).

(2) The initial evaluation, if appropriate, and any reevaluations shall begin with a review of existing information by a group that includes the parents, the other members of a child's IEP team and other qualified professionals, as appropriate, to determine what further evaluations and information are needed to address the question in 34 CFR Sec. 300.305(a)(2). Pursuant to 34 CFR Sec. 300.305(b), the group may conduct its review without a meeting.

(3) In conducting an evaluation, the public agency shall:

(a) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the child's family that may assist:

(i) in determining if the child is a child with a disability; and

(ii) the content of the child's IEP, including information related to assisting the child to be involved and progress in the general education curriculum or for a preschool child to participate in appropriate activities.

(b) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(c) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(4) The public agency shall provide the parents with a written report of the evaluation or reevaluation at least two calendar days before the eligibility determination team meeting.

**H.** Procedural requirements for the assessment and evaluation of culturally and linguistically diverse children.

(1) Each public agency shall ensure that tests and other evaluation materials used to assess children are selected, provided, and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the child's native language or other mode of communication, such as American sign language, and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to select, provide, or administer pursuant to 34 CFR Sec. 300.304(c)(1).

(2) Each public agency shall consider information about a child's language proficiency in determining how to conduct the evaluation of the child to prevent misidentification. A child may not be determined to be a child with a disability if the determinant factor for that eligibility determination is limited English proficiency.

Comparing academic achievement results with grade level peers in the public agency with similar cultural and linguistic backgrounds should guide this determination process and ensure that the child is exhibiting the characteristics of a disability and not merely language difference in accordance with 34 CFR Sec. 300.306(b)(1).

(3) Public agencies in New Mexico shall devote particular attention to the foregoing requirements in light of the state's cultural and linguistic diversity. Persons assessing culturally or linguistically diverse children shall consult appropriate professional standards to ensure that their evaluations are not discriminatory and shall include appropriate references to such standards and concerns in their written reports.

(4) Policies for public agency selection of assessment instruments include:

(a) assessment and evaluation materials and methods that are tailored to assess specific areas of educational need; and

(b) assessments that are selected to ensure that results accurately reflect the child's aptitude or achievement level.

#### I. Independent education evaluations.

(1) The parents of a child [with a disability] who disagree with an evaluation or reevaluation of their child obtained by the public agency have the right to obtain an independent educational evaluation of the child at public expense pursuant to 34 CFR Sec. 300.502 and this subsection. A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

(2) If a parent requests an independent educational evaluation at public expense, the public agency shall, without unnecessary delay:

(a) file a due process complaint to show its evaluation is appropriate; or

(b) ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing the evaluation obtained by the parent did not meet agency criteria.

(3) If a parent requests an independent educational evaluation at public expense, the public agency may ask for the parent's reasons why he or she objects to the public agency evaluation, but may not require that parent to provide an explanation. The public agency may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public agency evaluation.

(4) If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense

and the evaluation meets agency criteria, the public agency must consider the evaluation in any decision made with respect to the provision of FAPE to the child and the evaluation may be presented as evidence at a due process hearing regarding the child.

**J. Eligibility determinations.**

(1) Upon completing the full and individual evaluation and written evaluation report, the public agency shall convene a meeting of the eligibility determination team, which shall include the parent and a group of qualified professionals, within 15 school days to determine whether the child is a child with a disability and requires special education and related services, as defined in 34 CFR Sec. 300.8 and Paragraph (2) of Subsection B of 6.31.2.7 NMAC. If an individual evaluation is completed during a scheduled period in which student attendance is not required for at least 14 calendar days, the public agency shall convene both a meeting of the eligibility determination team and (if the child is determined eligible) a meeting of the IEP team to develop or revise the child's IEP no later than 15 school days from the first day when student attendance resumes. The determination shall be made in compliance with all applicable requirements of 34 CFR Sec. 300.306 and these or other department rules and standards and, for a child suspected of having a specific learning disability, in compliance with the additional procedures of 34 CFR Secs. 300.307 through 300.311, and these or other department rules, policies, and standards. The eligibility determination team meeting includes a review of the full and individual evaluation to determine:

(a) the educational needs of the child;

(b) if the child is a child with a disability; and

(c) if the child requires special education and related services as a result of the disability.

(2) Optional use of developmentally delayed classification for children aged three through nine.

(a) The developmentally delayed classification may be used at the option of individual local educational agencies but may only be used for children who [do not qualify] are not eligible for special education under any other disability category.

(b) Children who are eligible as children with developmental delay shall be reevaluated during the school year in which they turn nine and will no longer be eligible in this category when they become 10. A student who is not eligible for special education and related services under any other eligibility category at age 10 will no longer be eligible for special education and related services.

**K. Criteria for identifying children with suspected specific learning disabilities.**

(1) Each public agency shall use the multi-layered system of supports for students suspected of having a specific learning disability, consistent with the department rules, policies, and standards for children who are being referred for evaluation due to a suspected disability under the specific learning disability category in compliance with 34 CFR Sec. 300.307.

(a) The public agency shall, subject to Subparagraph (d) of this Paragraph, require that the group established under 34 CFR Secs. 300.306(a)(1) and 300.308 for the purpose of determining eligibility of students suspected of having a specific learning disability, consider data obtained during implementation of the multi-layered system of supports in making an eligibility determination.

(b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group shall consider, as part of the evaluation required in 34 CFR Secs. 300.304 through 300.306:

(i) data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

(ii) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

(c) The documentation of the determination of eligibility, as required by 34 CFR Sec. 300.306(c)(1), shall meet the requirements of 34 CFR Sec. 300.311, including:

(i) a statement of the basis for making the determination and an assurance that the determination has been made in accordance with 34 CFR Sec. 300.306(c)(1);

(ii) a statement whether the child does not achieve adequately for the child's age or to meet state-approved grade-level standards consistent with 34 CFR Sec. 300.309(a)(1);

(iii) a statement whether the child does not make sufficient progress to meet age or grade-level standards consistent with 34 CFR Sec. 300.309(a)(2)(i), or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards, or intellectual development consistent with 34 CFR Sec. 300.309(a)(2)(ii); and

(iv) if the child has participated in a process that assesses the child's response to scientific, research-based intervention: a statement of the instructional strategies used and the student-centered data collected; documentation that the child's

parents were notified about the state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; strategies for increasing the child's rate of learning; and the parents' right to request an evaluation.

(d) A parent may request a full and individual evaluation for eligibility for special education at any time during the public agency's implementation of the multi-layered system of supports. If the public agency agrees with the parent that the child may be a child who is eligible for special education services, the public agency shall evaluate the child. If the public agency declines the parent's request for an evaluation, the public agency shall issue prior written notice in accordance with 34 CFR Sec. 300.503 and Subsection D of this section. The parent may challenge the decision to decline a request for evaluation by requesting mediation or a due process hearing or by submitting a state complaint.

**(2)** Preschool children suspected of having a specific learning disability shall be evaluated in accordance with Subparagraph (f) of Paragraph (5) of Subsection A of 6.31.2.11 NMAC and 34 CFR Secs. 300.300 through 300.305.

**(3)** Public agencies shall use the dual discrepancy model to identify children with specific learning disabilities in kindergarten through grade 12 as described in the New Mexico technical evaluation and assessment manual. When using this model, public agencies shall utilize information provided, in part, by the student assistance team, as well as data and information obtained through the use of the multi-layered system of supports.

[6.31.2.10 NMAC - Rp, 6.31.2.10 NMAC, 7/14/2020; A, 7/31/2023]

#### **6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:**

##### **A. Preschool programs for children aged three through five.**

(1) Each public agency shall ensure that a free appropriate public education is available for each preschool child with a disability within its educational jurisdiction no later than the child's third birthday and that an individualized education program (IEP) under Part B or an individual family services plan (IFSP) under Part C of IDEA is in effect by that date in compliance with 34 CFR Secs. 300.101, 300.124, and 300.323(b).

(2) Eligibility to enroll in Part B preschool program. If a child turns three at any time during the school year and is determined to be eligible under Part B, the child may enroll in a Part B preschool program when the child turns three if the parent so chooses, whether or not the child has previously been receiving Part C services.

(3) To ensure effective transitioning from IDEA-Part C programs to IDEA-Part B programs, each public agency shall conduct a full and individual initial comprehensive evaluation, at no cost to the parent, and in compliance with requirements of 34 CFR



Secs. 300.300, 300.301, 300.302, 300.304, and 300.305, and other department rules and standards before the initial provision of Part B special education and related services to a child with a disability.

(a) The initial comprehensive evaluation process shall be conducted in all areas of suspected disability.

(b) The Part B eligibility determination team shall review current assessments and shall determine the additional data and assessments needed for the comprehensive evaluation. Current assessments are defined as assessments, other than medical assessments, conducted no more than six months prior to the date of the meeting of the Part B eligibility determination team.

(c) The Part B eligibility determination team shall consider educationally relevant medical assessments as part of the review of existing evaluation data. The determination of eligibility may not be made solely on the basis of medical assessments. If the team considers medical assessments conducted more than six months prior to the date of the meeting, the team shall document the appropriateness of considering such medical assessments.

(4) Each public agency shall develop and implement appropriate policies and procedures to ensure a smooth and effective transition from Part C to Part B programs for preschool children with disabilities within the public agency's educational jurisdiction, in compliance with 34 CFR Sec. 300.124. Each LEA and other public agencies as appropriate shall make reasonable efforts to establish productive working relations with local Part C programs and when given reasonable notice shall participate in the transition planning conferences arranged by local Part C providers.

(5) In particular:

(a) Each LEA shall survey Part C programs within its educational jurisdiction in its child find efforts to identify children who will be eligible to enter the LEA's Part B preschool program in future years.

(b) Each LEA shall promote parent and family involvement in transition planning with Part C programs, community programs, and related services providers at least six months before the child is eligible to enter the LEA's Part B preschool program.

(c) Each LEA shall establish and implement procedures to support successful transitions including parent training, professional development for special educators and general educators, and student and parent self-advocacy training and education.

(d) Each LEA shall assist parents in becoming their child's advocates as the child makes the transition through systems.

(e) Each LEA shall participate in transition planning conferences arranged by the designated Part C lead agency no less than 90 days prior to the anticipated transition or the child's third birthday, whichever occurs first, to facilitate informed choices for all families.

(f) Each LEA shall designate a team including parents and qualified professionals to review existing evaluation data for each child entering the LEA's preschool program in compliance with 34 CFR Sec. 300.305, and based on that review to identify what additional data, if any, are needed to determine the child's eligibility for Part B services or develop an appropriate program in a manner that is consistent with Paragraph (3) of Subsection A of this section. The notice of procedural safeguards shall be given to the parents as provided in Paragraph (3) of Subsection D of 6.31.2.13 NMAC.

(g) Development of IFSP, IEP or IFSP-IEP.

(i) The IFSP, IEP, or IFSP-IEP will be developed by a team constituted in compliance with 34 CFR Sec. 300.321, including parents. For children transitioning from Part C programs to Part B programs, the team shall also include one or more early intervention providers who are knowledgeable about the child. "Early intervention providers" are defined as Part C service coordinators or other representatives of the Part C system.

(ii) For each child transitioning from a Part C program to a Part B preschool program, the LEA shall initiate a meeting to develop the eligible child's IFSP, IEP, or IFSP-IEP, in accordance with 34 CFR Sec. 300.124. The IFSP, IEP or IFSP shall be developed and implemented no later than the child's third birthday, consistent with 34 CFR Sec. 300.101(b).

(h) In compliance with 34 CFR Sec. 300.101(b)(2), if a child's birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or IFSP will begin. Each public agency shall engage in appropriate planning with the Part C lead agency so that the eligible child will be prepared to receive Part B special education and related services when the IEP team determines that the services under the IEP or IFSP will begin.

(i) Each public agency shall develop policies and procedures to ensure a successful transition from Part B preschool for children with disabilities who are eligible for continued services in pre-kindergarten and kindergarten.

## **B. Individualized education programs (IEPs).**

(1) Except as provided in 34 CFR Secs. 300.130 through 300.144 for children enrolled by their parents in private schools, each public agency shall: (1) develop, implement, review, and revise an IEP in compliance with all applicable requirements of 34 CFR Secs. 300.320 through 300.328, and these or other department rules and

standards for each child with a disability within its educational jurisdiction; and (2) shall ensure that an IEP is developed, implemented, reviewed, and revised in compliance with all applicable requirements of 34 CFR Sec. 300.320 through 300.328, and these or other department rules and standards for each child with a disability who is placed in or referred to a private school or facility by the public agency.

(2) Each IEP or amendment shall be developed at a properly convened IEP meeting for which the public agency has provided the parent and, as appropriate, the child, with proper advance notice pursuant to 34 CFR Sec. 300.322 and Paragraph (1) of Subsection D of 6.31.2.13 NMAC and at which the parent and, as appropriate, the child have been afforded the opportunity to participate as members of the IEP team pursuant to 34 CFR Secs. 300.321, 300.322, and 300.501(b) and (c) and Subsection C of 6.31.2.13 NMAC.

(3) Except as provided in 34 CFR Sec. 300.324(a)(4), each IEP shall include the signature and position of each member of the IEP team and other participants in the IEP meeting to document their attendance. Written notice of actions proposed or refused by the public agency shall also be provided in compliance with 34 CFR Sec. 300.503 and Paragraph (2) of Subsection D of 6.31.2.13 NMAC and shall be provided at the close of the IEP meeting. Informed written parental consent shall also be obtained for actions for which consent is required under 34 CFR Sec. 300.300 and Subsection F of 6.31.2.13 NMAC. An amended IEP does not take the place of the annual IEP conducted pursuant to CFR Sec. 300.324(a)(4), which requires that members of a child's IEP team shall be informed of any changes made to the IEP without a meeting.

(4) Agreement to modify IEP meeting requirement.

(a) In making changes to a child's IEP after the annual IEP team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP team meeting for the purposes of making those changes and instead may develop a written document to amend or modify the child's current IEP.

(b) If changes are made to the child's IEP in accordance with Subparagraph (a) of this paragraph, the public agency shall ensure that the child's IEP team is informed of those changes.

(5) For students with autism spectrum disorders (ASD) eligible for special education services under 34 CFR Sec. 300.8(c)(1), the strategies described in Subparagraphs (a) through (k) of this paragraph shall be considered by the IEP team in developing the IEP for the student. The IEP team shall document consideration of the strategies. The strategies shall be based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed to provide FAPE, addressed in the IEP:

(a) extended educational programming, including extended day or extended school year services that consider the duration of programs or settings based on assessment of behavior, social skills, communication, academics, and self-help skills;

(b) daily schedules reflecting minimal unstructured time and reflecting active engagement in learning activities, including lunch, snack, and recess periods that provide flexibility within routines, adapt to individual skill levels, and assist with schedule changes, such as changes involving substitute teachers and other in-school extracurricular activities;

(c) in-home and community-based training or viable alternatives to such training that assist the student with acquisition of social or behavioral skills, including strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community;

(d) positive behavior support strategies based on relevant information including:

(i) antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and

(ii) a behavioral intervention plan focusing on positive behavior supports and developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings;

(e) futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;

(f) parent or family training and support, provided by qualified personnel with experience in ASD, that:

(i) provides a family with skills necessary for a child to succeed in the home or community setting;

(ii) includes information regarding resources such as parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching and management techniques related to the child's curriculum; and

(iii) facilitates parental carryover of in-home training, including, for example, strategies for behavior management and developing structured home environments or communication training so that parents are active participants in promoting the continuity of interventions across all settings;

(g) suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social or behavioral progress based on the child's developmental and learning level and that encourages work towards individual independence as determined by:

- (i) adaptive behavior evaluation results;
- (ii) behavioral accommodation needs across settings; and
- (iii) transitions within the school day;

(h) communication interventions, including communication modes and functions that enhance effective communication across settings such as augmentative, incidental, and naturalistic teaching;

(i) social skills supports and strategies based on social skills assessment or curriculum and provided across settings, including trained peer facilitators, video modeling, social stories, and role playing;

(j) professional educator and staff support, including training provided to personnel who work with the student to assure the correct implementation of techniques and strategies described in the IEP; and

(k) teaching strategies based on peer reviewed, research-based practices for students with ASD, including those associated with discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication, and social skills training.

(6) Each local education agency in the state shall provide the parents of a student who is diagnosed as hearing impaired, deaf, blind, visually impaired, or deafblind with information about the educational programs offered by the New Mexico school for the deaf (NMSD) or New Mexico school for the blind and visually impaired (NMSBVI) prior to and at each IEP. NMSD and NMSBVI shall provide LEAs relevant information as described in this paragraph. At the parent's or public agency's request, NMSD, NMSBVI, or both shall be invited to the IEP meeting so that the full continuum of services is represented at the IEP meeting pursuant to 34 CFR Secs. 300.115 and 300.321(a)(6).

**C. Least restrictive environment.**

(1) Except as provided in 34 CFR Sec. 300.324(d) and Subsection K of 6.31.2.11 NMAC for children with disabilities who are convicted as adults under state law and incarcerated in adult prisons, all educational placements and services for children with disabilities shall be provided in the least restrictive environment that is appropriate to each child's needs in compliance with 34 CFR Secs. 300.114 through 300.120.

(2) In determining the least restrictive environment for each child's needs, public agencies and their IEP teams shall ensure that the following requirements are met.

(a) The requirements of 34 CFR Sec. 300.114(a)(2) for each public agency to ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled, and that special classes, separate schooling, or other removal of children with disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) The required continuum of alternative placements as specified in 34 CFR Sec. 300.115.

(c) The requirement of 34 CFR Sec. 300.116(c) that each child with a disability be educated in the school that he or she would attend if nondisabled unless the child's IEP requires some other arrangement.

(d) The requirement of 34 CFR Sec. 300.116(e) that a child with a disability not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

(e) The requirements of 34 CFR Sec. 300.320(a)(4) that the IEP for each child with a disability include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities with nondisabled children.

(f) The requirement of 34 CFR Sec. 300.324(a)(3) that the regular education teacher of a child with a disability, as a member of the IEP team, shall assist in determining the supplementary aids and services, program modifications or supports for school personnel that will be provided for the child in compliance with 34 CFR Sec. 300.320(a)(4).

(g) The requirement of 34 CFR Sec. 300.320(a)(5) that the IEP include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and the activities described in 34 CFR Secs. 300.320(a)(4) and 300.117.

(h) The requirements of 34 CFR Sec. 300.503 that a public agency give the parents written notice a reasonable time before the public agency proposes or refuses to initiate or change the educational placement of the child or the provision of FAPE to

the child and that the notice include a description of any other options considered and the reasons why those options were rejected.

(i) The requirement of 34 CFR Sec. 300.120 that the department carry out activities to ensure that Sec. 300.114 is implemented by each public agency and that, if there is evidence that a public agency makes placements that are inconsistent with Sec. 300.114, the department shall review the public agency's justification for its actions and assist in planning and implementing any necessary corrective action.

**D. Performance goals and indicators.**

(1) Pursuant to the requirements of 34 CFR Sec. 300.157(a), the content standards and benchmarks from the department's standards for excellence (Chapter 29 of Title 6 of NMAC) for all children attending public schools and state-supported educational programs in New Mexico shall provide the basic performance goals and indicators for children with disabilities in the general education curriculum.

(2) The IEP academic goals shall align with the New Mexico content standards and benchmarks, including the expanded performance standards for students with significant cognitive disabilities, however, functional goals do not have to align with the standards and benchmarks.

(a) Beginning in the 2012-2013 school year, IEP academic goals in English language arts and mathematics for students in kindergarten through grade three shall align with the English Language Arts Common Core Standards (6.29.13 NMAC) and the Mathematics Common Core Standards (6.29.14 NMAC).

(b) Beginning in the 2013-2014 school year, IEP academic goals in English language arts and mathematics for students in grades four through 12 shall align with the English Language Arts Common Core Standards (6.29.13 NMAC) and the Mathematics Common Core Standards (6.29.14 NMAC).

(3) Unless waivers or modifications covering individual public agencies' programs have been allowed by the department or the secretary of education, the general education curriculum and the content standards and benchmarks shall only be adapted to the extent necessary to meet the needs of individual children with disabilities as determined by IEP teams in individual cases.

**E. Participation in statewide and district-wide assessments.** Each local educational agency and other public agencies when applicable shall include all children with disabilities in all statewide and district-wide assessment programs. Each public agency shall collect and report performance results in compliance with the requirements of 34 CFR Secs. 300.157 and 300.160(f) and Sec. 1111(h) of the Elementary and Secondary Education Act, and any additional requirements established by the department. Students with disabilities may participate:

(1) in the appropriate general assessment in the same manner as their nondisabled peers; this may include the use of adaptations that are deemed appropriate for all students by the department; or

(2) in the appropriate general assessment with appropriate accommodations in administration if necessary; public agencies shall use the current guidance from the department about accommodations as specified in the student's IEP; or

(3) in alternate assessments for the small number of students for whom alternate assessments are appropriate under the department's established participation criteria; the IEP team shall agree and document that the student is eligible for participation in an alternate assessment based on alternate achievement standards according to 34 CFR Sec. 300.320(a)(6).

#### **F. Behavioral management and discipline.**

(1) Behavioral planning in the IEP. Pursuant to 34 CFR Sec. 324(a)(2)(i), the IEP team for a child with a disability whose behavior impedes his or her learning or that of others shall consider, if appropriate, strategies to address that behavior, including the development of behavioral goals and objectives and the use of positive behavioral interventions, strategies, and supports to be used in pursuit of those goals and objectives. Public agencies are strongly encouraged to conduct functional behavioral assessments (FBAs) and integrate behavioral intervention plans (BIPs) into the IEPs for students who exhibit problem behaviors well before the behaviors result in proposed disciplinary actions for which FBAs and BIPs are required under the federal rules.

(2) Suspensions, expulsions, and disciplinary changes of placement. Suspensions, expulsions and other disciplinary changes of placement for children with disabilities shall be carried out in compliance with all applicable requirements of 34 CFR Secs. 300.530 through 300.536, and these or other department rules and standards, including particularly 6.11.2.11 NMAC, governing interim disciplinary placements and long-term suspensions or expulsions of students with disabilities.

(3) FAPE for children removed from current placement for more than 10 school days in a school year. FAPE shall be provided in compliance with all applicable requirements of 34 CFR Sec. 300.530(d) and these or other department rules and standards for all children with disabilities who have been removed from their current educational placements for disciplinary reasons for more than 10 school days during a school year, as defined in 34 CFR Sec. 300.536.

(4) LEAs shall keep an accurate accounting of suspension and expulsion rates for children with disabilities as compared to children without disabilities to ensure that children with disabilities are not being expelled or suspended at a significantly higher rate than children without disabilities.

#### **G. Graduation planning and post-secondary transitions.**



(1) The IEP for each child with a disability in grades 8 through 12 is developed, implemented, and monitored in compliance with all applicable requirements of the department's standards for excellence, (Chapter 29 of Title 6 of the NMAC), and these or other department rules and standards. The graduation plan shall be integrated into the transition planning and services provided in compliance with 34 CFR Secs. 300.320(b) and 300.324(c).

(a) Graduation plans shall include the course of study, projected date of graduation, and if the child is not on target for the graduation plan, the strategies and responsibilities of the public agency, child, and family shall be identified in the IEP.

(b) Graduation options for children with disabilities at Paragraph (13) of Subsection J of 6.29.1.9 NMAC shall align with state standards with benchmarks when appropriate. In accordance with Paragraph (13) of Subsection J of 6.29.1.9 NMAC, alternative programs of study to obtain a diploma may be utilized when appropriate.

(c) An alternative degree that does not fully align with the state's academic standards, such as a certificate high school equivalency credential, or diploma obtained through the modified and ability programs of study, does not end a child's right to FAPE pursuant to 34 CFR Sec. 300.102(a)(3)(ii).

(d) Prior to the student's receipt of a conditional certificate of transition or graduation with a diploma obtained through the modified or ability programs of study, a public agency must issue a prior written notice indicating that the student continues to be entitled to receive FAPE until either student meets the requirements to obtain a diploma through the standard program of study or until the end of the academic year in which the student becomes 22 years of age.

(2) Appropriate post-secondary transition planning for children with disabilities is essential. Public agencies shall integrate transition planning into the IEP process pursuant to 34 CFR Secs. 300.320(b) and 300.324(c) and shall establish and implement appropriate policies, procedures, programs and services to promote successful post-secondary transitions for children with disabilities. Transition services for students 14-21 include the following.

(a) Transition services are a coordinated set of activities for a child with a disability that emphasizes special education and related services designed to meet unique needs and prepare them for future education, employment, and independent living.

(b) Transition services are designed to be within a results oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

(c) Transition services shall be based on the individual child's needs, taking into account the child's strengths, preferences, and interests and includes:

- (i) instruction;
- (ii) related services;
- (iii) community experiences;
- (iv) the development of employment and other post-school adult living objectives; and
- (v) when appropriate, acquisition of daily living skills and the provision of a functional vocational evaluation.

(d) Transition services for children with disabilities may be considered special education, if provided as individually designed instruction, aligned with the state standards with benchmarks, or related service, if required to assist a child with a disability to benefit from special education as provided in 34 CFR Sec. 300.43.

(3) State rules require the development of measurable post-school goals beginning not later than the first IEP to be in effect when the child turns 14, or younger, if determined appropriate by the IEP team, and updated annually thereafter. Pursuant to 34 CFR Sec. 300.320(b), the IEP shall include:

(a) appropriate measurable post-secondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;

(b) the transition services (including courses of study) needed to assist the child in reaching those goals; and

(c) a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority.

(4) Measurable post school goals refer to goals the child seeks to achieve after high school graduation. The goals shall be measurable while the child is still in high school. In addition, the nature of these goals will be different depending on the needs, abilities, and wishes of each individual child.

(5) For a child whose eligibility terminates due to graduation from secondary school with a regular high school diploma obtained through the standard program of study or due to reaching the child's twenty-second birthday, the public agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post-secondary goals pursuant to 34 CFR Sec. 300.305(e)(3).

(6) Students eligible for special education services are entitled to a FAPE through age 21. If a student turns 22 during the school year, that student shall be allowed to complete the school year and shall continue to receive special education and related services during that school year. If the student turns 22 prior to the first day of the school year, the student is no longer eligible to receive special education and related services.

**H. Transfers and transmittals. When IEPs shall be in effect.**

(1) IEPs for children who transfer public agencies in the same state. If a child with a disability (who had an IEP that was in effect in a previous public agency in New Mexico) transfers to a new public agency in New Mexico, and enrolls in a new school within the same school year the new public agency shall provide FAPE to the child. The IEP shall include services comparable to those described in the child's IEP from the previous public agency, until the new public agency either:

(a) adopts and implements the child's IEP from the previous public agency; or

(b) develops and implements a new IEP that meets the applicable requirements in 34 CFR Secs. 300.320 through 300.324.

(2) IEPs for children who transfer from another state. If a child with a disability (who had an IEP that was in effect in a previous public agency in another state) transfers to a public agency in New Mexico, and enrolls in a new school within the same school year, the new public agency shall provide the child with FAPE. The IEP shall include services comparable to those described in the child's IEP from the previous agency, until the new public agency:

(a) conducts an evaluation pursuant to 34 CFR Secs. 300.304 through 300.306 (if determined to be necessary by the new public agency); and

(b) develops and implements a new IEP, if appropriate, that meets the applicable requirements in 34 CFR Secs. 300.320 through 300.324.

(3) Transmittal records. To facilitate the transition for a child described in Paragraphs (1) and (2) of this section:

(a) the new public agency in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled; and

(b) the previous public agency in which the child was enrolled shall take reasonable steps to promptly respond to the request from the new public agency.

I. Children in charter schools.

(1) Pursuant to 34 CFR Sec. 300.209, children with disabilities who attend public charter schools and their parents retain all rights under Part B of IDEA.

(2) Charter schools that are public schools of the LEA:

(a) the LEA shall serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools; and

(b) the LEA shall provide funds under Part B of IDEA to those charter schools on the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities, and at the same time as the LEA distributes other federal funds to the LEA's other public schools, consistent with the state's charter school law; and

(c) if the public charter school is a school of an LEA that receives funding under 34 CFR Sec. 300.705 and includes other public schools:

(i) the LEA is responsible for ensuring that the requirements of this part are met, unless state law assigns that responsibility to some other entity; and

(ii) the LEA shall meet the requirements of Paragraph (2) of this subsection.

(3) Public charter schools that are LEAs. If the public charter school is an LEA, consistent with 34 CFR Sec. 300.28, that receives funding under 34 CFR Sec. 300.705, that charter school is responsible for ensuring that the requirements of this part are met, unless state law assigns that responsibility to some other entity. Charter schools who are LEAs authorized under the public education commission shall satisfy child find requirements for children enrolled in the charter school.

(4) Public charter schools that are not an LEA or a school that is part of an LEA.

(a) If the public charter school is not an LEA receiving funding under 34 CFR Sec. 300.705, or a school that is part of an LEA receiving funding under 34 CFR Sec. 300.705, the department is responsible for ensuring that the requirements of this part are met.

(b) Subparagraph (a) of this paragraph does not preclude the governor from assigning initial responsibility for ensuring the requirements of this part are met to

another entity, however, the department shall maintain the ultimate responsibility for ensuring compliance with this part, consistent with 34 CFR Sec. 300.149.

**J. Children in state-supported educational programs.**

**(1) Children placed or referred by other public agencies.**

(a) Applicability. The rules in this Paragraph (1) of Subsection J of 6.31.2.11 NMAC apply to children with disabilities who are being considered for placement in a state-supported educational program or facility by another public agency as a means of providing special education and related services.

(b) Responsibility. Each public agency shall ensure that a child with a disability who is being considered for placement in a state-supported educational program by another public agency has all the rights of a child with a disability who is served by any other public agency, including being provided special education and related services:

(i) in conformance with an IEP;

(ii) at no cost to the child's parents; and

(iii) at a school or facility that is accredited by the department or licensed by the New Mexico department of health.

(c) Service delivery. With informed parent consent pursuant to 34 CFR Sec. 300.300 and Subsection F of 6.31.2.13 NMAC, and pursuant to the procedures in 34 CFR Sec. 300.304 and Subsection E of 6.31.2.10 NMAC, the state-supported program may conduct such additional evaluations and gather such additional information as it considers necessary to assist the IEP team in making the placement decision. The referring public agency and the receiving state-supported educational program shall be jointly responsible for developing IEPs and ensuring that the child receives a free appropriate public education.

(d) Joint IEPs and interagency agreements. Responsibility for services for children placed in or referred to state-supported educational programs shall be defined by a jointly agreed upon IEP or other written agreement between the referring public agency and the state-supported program.

(e) Annual review. At least annually, the referring public agency, the state-supported educational program, and the parent shall jointly review the child's IEP and revise it as the joint IEP team deems appropriate.

**(2) Children enrolled in state-supported educational programs by parents or other public authorities.** A state-supported educational program that accepts a child with a disability at the request of a parent or upon the request or order of a

noneducational public authority, and without inviting the public agency that has primary responsibility for serving the child to participate in the IEP process, assumes all responsibility for ensuring the provision of FAPE. The child's LEA or another public agency with educational jurisdiction may agree to share the responsibility pursuant to a joint IEP or other written agreement between the state-supported program, the other public agency and, if appropriate, the parent.

**K. Children at the New Mexico School for the Deaf (NMSD).**

(1) NMSD is a state educational agency established to provide educational services to persons who are 21 years of age or younger on the first day of school, who are deaf or hard of hearing, and who may have one or more other disabilities. The school serves as a special school on the continuum of placement options. The school serves students who require specialized or intensive educational services or services related to hearing impairment or deafness. NMSD provides a variety of services to the students and school districts around the state, including outreach, consultation, and training services. NMSD also provides comprehensive services on a day or residential basis. The comprehensive day and residential programs are not intended to serve students whose needs are appropriately addressed in a group home or hospital setting or in a residential treatment facility.

(2) To be eligible to receive free services from NMSD, a student shall be deaf or hearing impaired as determined by an audiological evaluation and be a resident of New Mexico.

(3) The student's resident school district shall conduct child find, pursuant to 34 CFR Sec. 300.111 and Subsection A of 6.31.2.10 NMAC.

(4) In addition to the requirements of identification, evaluations, and eligibility determinations of students with disabilities pursuant to 6.31.2.10 NMAC and 34 CFR Secs. 300.100 through 300.230 and 300.300 through 300.328, if a student's resident school district finds, has reason to know, or receives documentation that a student is deaf, has a hearing impairment, or is deafblind, the following criteria shall apply

(a) the resident school district shall convene the initial IEP team meeting;

(b) the IEP team shall include members specified in Paragraph (11) of Subsection B of 6.31.2.7 NMAC, including staff from the NMSD if invited by the parent or the resident school district pursuant 34 CFR Sec. 300.321(a)(6);

(c) the resident school district shall provide the parents of the student with information on the continuum of alternative placements, including the alternative placements listed in the definition of special education under 34 CFR Sec. 300.39 (instruction in regular classrooms, special classes, special schools, home instruction, and instruction in hospitals and institutions); and supplementary services, such as

resource room or itinerant instruction, to be provided in conjunction with regular class placement;

(d) in addition to the requirements of Subsection B of 6.31.2.11 NMAC, the IEP team shall be tasked with:

(i) determining if the student has a hearing disability, which impacts the student's ability to access education, ability to develop language or communication, social emotional development, and/or overall development; and

(ii) determining the student's placement in the least restrictive environment, in compliance with 34 CFR Secs. 300.114 through 300.120 and Subsection C of 6.31.2.11 NMAC, which for the student may be an environment specifically designed for deaf and hard of hearing children, and whether this is the most appropriate setting in providing educational services and supports to meet the student's IEP.

(e) the student's placement, whether in the resident school district, NMSD, or other educational entity, is the entity that shall have full responsibility for FAPE and all services defined in the student's IEP unless the resident school district and NMSD agree to share services, responsibilities, and costs pursuant to 34 CFR Sec. 300.103; and

(f) the composition of the IEP team after a student's placement and service determinations shall:

(i) include a representative from the resident school district at the request of the parent, NMSD, or the resident school district if the final placement for the student is at NMSD; and

(ii) include a representative from NMSD at the request of the parent, the resident school district, or NMSD if the final placement for the student is at the resident school district or other educational entity.

**L. Children at the New Mexico school for the blind and visually impaired (NMSBVI).**

(1) NMSBVI is a state educational agency established to provide educational services for students who are 21 years of age or younger on the first day of school and who have a diagnosed visual impairment and who may have one or more other disabilities. The school serves as a special school on the continuum of placement options. The school serves students who require specialized or intensive educational services or services related to the visual impairment or blindness and those who need extensive training related to the expanded core curriculum for blind and visually impaired students. NMSBVI provides a variety of services to the students and school districts around the state, including outreach, consultation, and training services. NMSBVI also provides comprehensive services on a day or residential basis. The

comprehensive day and residential programs are not intended to serve students whose needs are appropriately addressed in a group home or hospital setting or in a residential treatment facility.

(2) To be eligible to receive free services from the NMSBVI, a student shall have a visual impairment or blindness as determined by a medical eye exam and be a resident of New Mexico.

(3) The student's resident school district shall conduct child find, pursuant to 34 CFR Sec. 300.111 and Subsection A of 6.31.2.10 NMAC.

(4) In addition to the requirements of identification, evaluations, and eligibility determinations of students with disabilities pursuant to 6.31.2.10 NMAC and 34 CFR Secs. 300.100 through 300.230 and 300.300 through 300.328, if a student's resident school district finds, has reason to know, or receives documentation that a student is blind, has a visual impairment, or is deafblind, the following criteria shall apply:

(a) the resident school district shall convene the initial IEP team meeting;

(b) the IEP team shall include members specified in Paragraph (11) of Subsection B of 6.31.2.7 NMAC, including staff from NMSBVI if invited by the parent or the resident school district pursuant 34 CFR Sec. 300.321(a)(6);

(c) the resident school district shall provide the parents of the student with information on the continuum of alternative placements, including the alternative placements listed in the definition of special education under 34 CFR Sec. 300.39 (instruction in regular classrooms, special classes, special schools, home instruction, and instruction in hospitals and institutions); and supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement;

(d) in addition to the requirements of Subsection B of 6.31.2.11 NMAC, the IEP team shall be tasked with:

(i) determining if the student has a visual disability, which impacts the student's ability to access education, ability to develop language or communication, social emotional development, and/or overall development; and

(ii) determining the student's placement in the least restrictive environment, in compliance with 34 CFR Secs. 300.114 through 300.120 and Subsection C of 6.31.2.11 NMAC, which for the student may be an environment specifically designed for blind or visually impaired children, and whether this is the most appropriate setting in providing educational services and supports to meet the student's IEP.



(e) the student's placement, whether in the resident school district, NMSBVI, or other educational entity, is the entity that shall have full responsibility for FAPE and all services defined in the student's IEP unless the resident school district and NMSBVI agree to share services, responsibilities, and costs pursuant to 34 CFR Sec. 300.103; and

(f) the composition of the IEP team after a student's placement and service determinations shall:

(i) include a representative from the resident school district at the request of the parent, NMSBVI, or the resident school district if the final placement for the student is at NMSBVI; and

(ii) include a representative from NMSBVI at the request of the parent, the resident school district, or NMSBVI if the final placement for the student is at the resident school district or other educational entity.

**M. Children in detention and correctional facilities.**

(1) If a child with a disability is placed in a juvenile or adult detention or correctional facility, the facility shall provide the child with FAPE after the facility learns that the child had been eligible for special education and related services in the last educational placement prior to incarceration or otherwise determines that the child is eligible.

(2) Juvenile or adult detention or correctional facilities shall take reasonable steps to obtain needed educational records from a child's last known school or educational facility within two business days, as required under Section 22-13-33 NMSA 1978, of the child arriving at the juvenile or correctional facility. Record requests and transfers are subject to the rules under the Family Educational Rights and Privacy Act (FERPA) at 34 CFR Part 99 and the provisions of Paragraph (3) of Subsection L of 6.31.2.13 NMAC. The educational program of a juvenile or adult detention or correctional facility is an educational agency for purposes of FERPA.

(a) The previous public agency in which the child was enrolled shall take reasonable steps to promptly respond to the records request from the juvenile correctional facilities.

(b) To assist juvenile correctional facilities in providing FAPE for children entering the facility during the summer months, school districts shall provide summer emergency contact information of a person who has access to special education records, to the state's directors in the juvenile justice services division of the children, youth, and family department.

(3) A detention or correctional facility that is unable to obtain adequate records from other public agencies, the child or the parents within the required two

business days, as required under Section 22-13-33 NMSA 1978, after the child arrives at the facility, shall evaluate the child who is known or suspected to be a child with a disability as provided in Subsection F of 6.31.2.10 NMAC and develop an IEP for an eligible child without undue delay.

(4) FAPE for eligible students in juvenile or adult detention or correctional facilities shall be made available in programs that are suited to the security requirements of each facility and eligible student. The provisions of 34 CFR Sec. 300.324(d) apply to IEPs for students with disabilities who are convicted as adults under state law and incarcerated in adult prisons.

(5) A state-supported educational program that serves a juvenile or adult detention or correctional facility shall be responsible for ensuring that FAPE is provided to eligible children in that facility.

(6) The local school district in which a detention or correctional facility is located (that is not served by a state-supported educational program) shall be responsible for ensuring that FAPE is made available to eligible children in that facility. A child's LEA of residence or another public agency with educational jurisdiction may agree to share the responsibility pursuant to a written agreement between or among the public agencies involved.

(7) Children with disabilities who are detained or incarcerated in detention or correctional facilities are wards of the state and may have surrogate parents appointed pursuant to 34 CFR Sec. 300.519 and Subsection J of 6.31.2.13 NMAC to protect their rights under IDEA while in state custody.

(8) The public agency that administers the educational program in a juvenile or adult detention or correctional facility shall ensure that surrogate parents are appointed in cases where no parent as defined in 34 CFR Sec. 300.30(a) and Paragraph (14) of Subsection B of 6.31.2.7 NMAC is reasonably available or willing to make the educational decisions required for children with disabilities who are housed in that facility.

(9) Children placed in juvenile or adult detention or correctional facilities shall be provided learning opportunities and instruction that meet the state standards with benchmarks.

**N. Children in private schools or facilities.**

(1) Children enrolled by parents in private schools or facilities.

(a) Parentally placed private school children with disabilities means children with disabilities enrolled by their parents in private schools, including religious schools or facilities, such as residential treatment centers, day treatment centers, hospitals, and

mental health institutions, that include other children with disabilities who are covered under 34 CFR Secs. 300.145 through 300.147.

(b) A school district in which a private school or facility is located shall not be considered the resident school district of a school-age person if residency is based solely on the school-age person's enrollment at the facility and the school-age person would not otherwise be considered a resident of the state.

(c) Each LEA shall locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private schools, including religious elementary schools and secondary schools located in the education jurisdiction of the LEA, in accordance with 34 CFR Secs. 300.131 and 300.111.

(d) Each public agency shall develop a "service plan" that describes the special education and related services the LEA will provide to a parentally placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with 34 CFR Sec. 300.132 and that is developed and implemented in accordance with 34 CFR Secs. 300.137 through 300.139. The provision applies only to private schools and not to private facilities where an IEP shall be in place.

(e) Pursuant to 34 CFR Sec. 300.133, each LEA is obligated to spend a proportionate amount of its federal IDEA-Part B funds to assist private school children with disabilities placed in a private school or private facility by a parent who assumes responsibility for such placement. In doing so, LEAs shall use the formula for calculating proportionate amount and annual count of parentally placed private school children with disabilities in accordance with 34 CFR Sec. 300.133. The public agency shall not use IDEA funds to benefit private schools as provided in 34 CFR Sec. 300.141. The state is not required to distribute state funds for such school-age persons. Furthermore, the constitution and laws of New Mexico prohibit public agencies from spending state funds to assist private schools or facilities or their students.

(f) No parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. Pursuant to 34 CFR Sec. 300.137, the LEA shall make the final decisions with respect to the services to be provided to eligible parentally placed private school children with disabilities.

(g) Pursuant to 34 CFR Secs. 300.134 and 300.135, LEAs shall ensure timely and meaningful consultation with private school representatives and representatives of parents of parentally placed private school children with disabilities. If the LEA fails to engage in meaningful and timely consultation or did not give due consideration to a request from private school officials, private school officials have the right to submit a complaint to the department. The private school official and the LEA shall follow the procedures outlined in 34 CFR Sec. 300.136.

(h) Pursuant to 34 CFR Secs. 300.140, the due process provisions of Subsection I of 6.31.2.13 NMAC are not applicable except for child find complaints which shall be filed in compliance with 34 CFR Sec. 300.140(b). Any complaint that the department or any LEA has failed to meet the requirements in 34 CFR Secs. 300.132 through 300.135 and 300.137 through 300.144 shall be filed in accordance with the provisions described in Subsection H of 6.31.2.13 NMAC.

(2) Children placed in or referred to private schools or facilities by New Mexico public agencies. Each public agency shall ensure that a child with a disability who is placed in or referred to a private school or facility by the public agency as a means of providing special education and related services is provided services in compliance with the requirements of 34 CFR Secs. 300.146 and 300.147. Such a child has all the rights of a child with a disability who is served by a public agency.

(3) Children placed in or referred to private schools or facilities by New Mexico public non-educational agencies. For a qualified student or school-age person in need of special education placed in a private school or facility by a New Mexico public noneducational agency with custody or control of the qualified student or school-age person or by a New Mexico court of competent jurisdiction, the school district in which the facility is located shall be responsible for the planning and delivery of special education and related services, unless the qualified student's or school-age person's resident school district has an agreement with the facility to provide such services. The school district shall make reasonable efforts to involve the qualified student or school-age person's resident school district in the IEP process.

(4) Children placed in or referred to private schools or facilities by public noneducational agencies other than New Mexico public agencies. A school district in which a private school or facility is located shall not be considered the resident school district of a school-age person if residency is based solely on the school-age person's enrollment at the facility and the school-age person would not otherwise be considered a resident of the state.

(5) Children placed in private schools or facilities by parents when FAPE is at issue. The responsibility of a local educational agency to pay for the cost of education for a child with a disability who is placed in a private school or facility such as residential treatment centers, day treatment centers, hospitals or mental health institutions, by parents who allege that the LEA failed to offer FAPE is governed by the requirements of 34 CFR Sec. 300.148. Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures of Subsection I of 6.31.2.13 NMAC.

(6) If not otherwise governed by this rule, the department will determine which school district is responsible for the cost of educating a qualified student in need of special education who has been placed in a private school or facility outside the qualified student's resident school district in accordance with the following procedures.

(a) The receiving school district shall notify the SED of the department in writing no later than 30 days after the receiving school district receives notice of the placement. The notice, as described on the department's website, shall include: name of student, date of birth of student, date of placement, information regarding the qualified student's resident school district, documentation of placement, including student's IEP, cost of placement, and any other information deemed relevant by the SED. The receiving school district shall provide a copy of the notice to the school district identified as the student's resident school district.

(b) The school district identified as the student's resident school district may provide any additional information it deems relevant. Such additional information shall be provided no later than 15 days after the resident school district receives its copy of the notice described in Subparagraph (a) of this paragraph.

(c) No later than 60 days after its receipt of the notice described in Subparagraph (a) of this paragraph, the SED will issue its determination as to which school district is responsible for the cost of educating the student, together with the amount of any reasonable reimbursement owed to the receiving school district. The SED may extend the 60 day timeline for good cause.

(7) The department shall assign a unique student identifier for school-age persons who have service plans, including those who are not residents of the state but who are attending private residential treatment facilities in the state.

(8) Children schooled at home. Each LEA shall locate, evaluate, and determine the eligibility of children with disabilities who are schooled at home pursuant to Subsection H of Section 22-2-2 NMSA 1978.

[6.31.2.11 NMAC - Rp, 6.31.2.11 NMAC, 7/14/2020; A, 7/1/2023; A, 7/31/2023]

#### **6.31.2.12 [RESERVED]:**

[6.31.2.12 NMAC - Rp, 6.31.2.12 NMAC, 7/14/2020; A, 7/1/2023; Repealed, 7/31/2023]

#### **6.31.2.13 ADDITIONAL RIGHTS OF PARENTS, STUDENTS, AND PUBLIC AGENCIES:**

**A.** General responsibilities of public agencies. Each public agency shall establish, implement, and maintain procedural safeguards that meet the requirements of 34 CFR Secs. 300.500 through 300.536, and all other applicable requirements of these or other department rules and standards.

**B.** Examination of records. Each public agency shall afford the parents of a child with a disability an opportunity to inspect and review all education records related to the child in compliance with 34 CFR Secs. 300.501(a), 300.613 through 300.620, 34 CFR

Part 99, and any other applicable requirements of these or other department rules and standards.

**C. Parent and student participation in meetings.** Each public agency shall afford the parents of a child with a disability and, as appropriate, the child, an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement or the provision of FAPE to the child, in compliance with 34 CFR Secs. 300.322, 300.501(b), 300.501(c), and any other applicable requirements of these or other department rules and standards.

**D. Notice requirements.**

(1) Notice of meetings. Each public agency shall provide the parents of a child with a disability with advance written notice that complies with 34 CFR Sec. 300.322 for IEP meetings and any other meetings in which the parent has a right to participate pursuant to 34 CFR Sec. 300.501.

(2) Notice of agency actions proposed or refused. A public agency shall give written notice that meets the requirements of 34 CFR Sec. 300.503 to the parents of a child with a disability a reasonable time before the agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. If the notice relates to a proposed action that also requires parental consent under 34 CFR Sec. 300.300, the public agency may give notice at the same time it requests parental consent.

(3) Notice of procedural safeguards. A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, only one time a school year, except that a copy shall be given to the parents: (a) upon initial referral for evaluation; (b) upon receipt of the first state complaint under 34 CFR Secs. 300.151 through 300.153; (c) upon receipt of the first due process complaint under 34 CFR Sec. 300.507 of the school year; (d) in accordance with the discipline procedures in 34 CFR Sec. 300.530(h); and (e) upon request of the parents. The notice shall meet all requirements of 34 CFR Sec. 300.504, including the requirement to inform the parents of their obligation under 34 CFR Sec. 300.148 to notify the public agency if they intend to enroll the child in a private school or facility and seek reimbursement from the public agency. A public agency may place a current copy of the procedural safeguards notice on its internet website if a website exists.

**E. Communications in understandable language.** Pursuant to 34 CFR Secs. 300.9(a), 300.322(e), 300.503(c), and 300.504(d), each public agency shall communicate with parents in understandable language, including the parent's native language or other mode of communication, unless it is clearly not feasible to do so, if necessary for understanding, in IEP meetings, in written notices, and in obtaining consent where consent is required.

**F. Parental consent.**

(1) Informed parental consent as defined in 34 CFR Sec. 300.9 shall be obtained in compliance with 34 CFR Sec. 300.300 before: (a) conducting an initial evaluation or reevaluation; and (b) initial provision of special education and related services to a child with a disability. Consent for initial evaluation shall not be construed as consent for initial provision of special education and related services. If parental consent is not provided for the initial evaluation or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the due process and mediation procedures in Subsection I of 6.31.2.13 NMAC.

(2) Pursuant to 34 CFR Sec. 300.300(d)(1), parental consent is not required before: (a) reviewing existing data as part of an evaluation or a reevaluation; or (b) administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

(3) Pursuant to 34 CFR Sec. 300.300(b), if the parents of a child with a disability refuse consent for the initial provision of special education and related services, the public agency may not use the due process and mediation procedures in Subsection I of 6.31.2.13 NMAC in order to obtain agreement or a ruling that the services may be provided to the child. If the parent refuses consent or fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency will not be considered to be in violation of the requirement to make FAPE available to the child and is not required to convene an IEP team meeting or develop an IEP under 34 CFR Secs. 300.320 and 300.324. All provisions of 34 CFR Sec. 300.300 shall be followed with respect to parental consent.

(4) Pursuant to 34 CFR Sec. 300.300(c)(2), informed parental consent need not be obtained for reevaluation if the public agency can demonstrate that it has taken reasonable measures to obtain that consent by using procedures consistent with those in 34 CFR Sec. 300.322(d) and the child's parent has failed to respond.

(5) Pursuant to 34 CFR Sec. 300.300(d)(3), a public agency may not use a parent's refusal to consent to one service or activity for which consent is required to deny the parent or child any other service, benefit, or activity of the public agency, except as required by 34 CFR Part 300.

(6) Pursuant to 34 CFR Sec. 300.300(b)(4), parents may revoke consent for the continued provision of all special education and related services for their child. The revocation of consent shall be in writing. After providing prior written notice in accordance with 34 CFR Sec. 300.503, the public agency shall cease the provision of special education and related services for that child. The public agency may not use the due process and mediation procedures in Subsection I of 6.31.2.13 NMAC in order to obtain agreement or a ruling that services may be provided to the child. The public agency will not be considered to be in violation of the requirement to make FAPE available to the child once consent has been revoked. The public agency will also not

be required to convene an IEP team meeting or develop an IEP for the child for further provision of special education and related services.

**G. Conflict management and resolution.**

(1) Each public agency shall seek to establish and maintain productive working relationships with the parents of each child the public agency serves and to deal constructively with disagreements. Each public agency is strongly encouraged to provide appropriate training for staff and parents in skills and techniques of conflict prevention and management and dispute resolution and to utilize an informal dispute resolution method as set forth under Subparagraph (a) of Paragraph (2) of Subsection G of 6.31.2.13 NMAC to resolve disagreements at the local level whenever practicable.

(2) Spectrum of dispute resolution options. To facilitate dispute prevention as well as swift, early conflict resolution whenever possible, the department and the public agency shall ensure that the following range of dispute resolution options is available to parents and public agency personnel.

(a) Informal dispute resolution option. If a disagreement arises between parents and a public agency over a student's IEP or educational program, either the parents or the public agency may convene a new IEP meeting at any time to attempt to resolve their differences at the local level without state-level intervention.

(b) Third-party assisted intervention. The special education division (SED) of the department will ensure that mediation is available to parents and public agencies who request such third-party assisted intervention before filing a state-level complaint or a request for a due process hearing. The SED will honor a request for mediation that:

- (i) is in writing;
- (ii) is submitted to the SED;
- (iii) is a mutual request signed by both parties or their designated representatives;
- (iv) includes a statement of the matter(s) in dispute and a description of any previous attempts to resolve these matters at the local level; and
- (v) any request that does not contain all of these elements will be declined, with an explanation for the SED's decision and further guidance, as appropriate.

(c) Formal dispute resolution.

(i) A state-level complaint may be filed with the SED of the department by the parents of a child, or by another individual or organization on behalf of a child, as



described under Subparagraph (a) of Paragraph (2) of Subsection H of 6.31.2.13 NMAC. Once a complaint has been filed, the parties may agree to convene a FIEP meeting or mediation as described under Paragraph (3) of Subsection H of 6.31.2.13 NMAC.

(ii) A request for a due process hearing may be filed by parents or their authorized representative, or by a public agency, as described under Paragraph (5) of Subsection I of 6.31.2.13 NMAC. A resolution session between the parties shall be convened by the public agency following a request for a due process hearing, unless the parties agree in writing to waive that option or to convene a mediation instead, as described under Paragraph (8) of Subsection I of 6.31.2.13 NMAC.

(d) The Mediation Procedures Act, Section 44-7B-1 et seq. NMSA 1978, does not apply to mediations conducted under 6.31.2 NMAC.

#### **H. State complaint procedures.**

##### **(1) Scope and dissemination.**

(a) Subsection H of 6.31.2.13 NMAC prescribes procedures to be used in filing and processing complaints alleging the failure of the department or a public agency to comply with state or federal laws or rules governing programs for children with disabilities under IDEA.

(b) The SED shall disseminate information regarding state complaint procedures to parents and other interested individuals and organizations, as identified by the SED, including parent centers, information centers, advocacy agencies, independent living centers, and other appropriate entities throughout the state.

(i) The SED shall place documents regarding state complaint procedures in English and Spanish, including state complaint forms, in an easily accessible location on the SED website.

(ii) The SED shall, on a yearly basis, send an email to the organizations and individuals identified in Subparagraph (b) of Paragraph (1) of Subsection H of 6.31.2.13 NMAC providing information regarding state complaint procedures and encouraging these organizations and individuals to post a link to the SED website on their website.

(iii) Upon request by any individual or organization, the SED shall provide the information regarding state complaint procedures, as posted on the SED's website, in print or electronic form.

##### **(2) Requirements for complaints.**

(a) The SED of the department shall accept and investigate complaints from organizations or individuals that raise issues within the scope of this procedure as defined in the preceding Paragraph (1) of Subsection H of 6.31.2.13 NMAC. The complaint shall: (i) be in writing; (ii) be submitted to the SED (or to the secretary of education, in the case of a complaint against the department); (iii) be signed by the complainant or a designated representative and have the complainant's contact information; (iv) if alleging violations with respect to a specific child, include the name and address of the child and the school the child is attending; (v) include a statement that the department or a public agency has violated a requirement of an applicable state or federal law or rules; (vi) contain a statement of the facts on which the allegation of violation is based; and (vii) include a description of a proposed resolution of the problem to the extent known. Any complaint that does not contain each of these elements will be declined, with an explanation for the SED's decision and further guidance, as appropriate.

(b) If the complaint alleges violations with respect to a specific child, the complaint shall include the information required by 34 CFR 300.153(b)(4).

(c) The party filing the complaint shall forward a copy of the complaint to the public agency serving the child at the same time the party files the complaint with the SED of the department.

(d) Pursuant to 34 CFR Sec. 300.153(c), the complaint shall allege a violation that occurred not more than one year before the date the complaint is received by the SED in accordance with Subparagraph (a) of Paragraph (2) of Subsection H of 6.31.2.13 NMAC.

(3) Preliminary meeting.

(a) FIEP meeting: mediation. Parties to a state-level complaint may choose to convene a FIEP meeting or mediation. To do so, the public agency shall (and the parent may) notify the SED of the department in writing within one business day of reaching their decision to jointly request one of these ADR options. A FIEP meeting or mediation shall be completed not later than 14 days after the assignment of the IEP facilitator or mediator by the SED, unless a brief extension is granted by the SED based on exceptional circumstances. Each session in the FIEP or mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the complaint.

(b) Mediation requirements. If the parties choose to use mediation, the following requirements apply.

(i) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings.

(ii) Any mediated agreement shall state that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. Any such agreement shall also be signed by both the parent and a representative of the public agency who has the authority to bind such public agency, and shall be enforceable in any state court of competent jurisdiction or in a district court of the United States.

(iii) If a mediated agreement involves IEP-related issues, the agreement shall state that the public agency will subsequently convene an IEP meeting to inform the student's service providers of their responsibilities under that agreement, and revise the student's IEP accordingly.

(iv) The mediator shall transmit a copy of the written mediation agreement to each party within seven days of the meeting at which the agreement was concluded. A mediation agreement involving a claim or issue that later goes to a due process hearing may be received in evidence if the hearing officer rules that part or all of the agreement is relevant to one or more IDEA issues that are properly before the hearing officer for decision.

(v) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(vi) Any other requirement provided in 34 CFR 300.506(b) that is not otherwise provided herein.

(4) Complaints and due process hearings on the same issues, which are pursuant to 34 CFR Sec. 300.152(c).

(a) The SED of the department shall set aside any part of a written complaint that is also the subject of a due process hearing under Subsection I of 6.31.2.13 NMAC until the conclusion of the hearing and any civil action. Any issue in the complaint that is not a part of the due process hearing or civil action will be resolved by the SED as provided in Subsection H of 6.31.2.13 NMAC.

(b) If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the SED shall inform the complainant to that effect.

(c) A complaint alleging a public agency's failure to implement a due process decision will be resolved by the SED as provided in this Subsection H of 6.31.2.13 NMAC.

(5) Complaints against public agencies.

(a) Impartial review. Upon receipt of a complaint that meets the requirements of Paragraph (2) of Subsection H of 6.31.2.13 NMAC, the SED of the department shall:

(i) undertake an impartial investigation which shall include complete review of all documentation presented and may include an independent on-site investigation, if determined necessary by the SED;

(ii) give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(iii) provide the public agency with the opportunity to respond to the allegations in the complaint; and

(iv) review all relevant information and make an independent determination as to whether the public agency is violating a requirement of an applicable state or federal law or rule.

(b) Decision. A written decision which includes findings of fact, conclusions, and the reasons for the decision and which addresses each allegation in the complaint shall be issued by the SED and mailed to the parties within 60 days of receipt of the written complaint, regardless of whether or not the parties agree to convene a FIEP meeting or mediation. Such decision shall further include procedures for effective implementation of the final decision, if needed, including technical assistance, negotiations, and if corrective action is required, such action shall be designated and shall include the timeline for correction and the possible consequences for continued noncompliance.

(c) Failure or refusal to comply. If the public agency fails or refuses to comply with the applicable law or rules, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance may be effected by the department by any means authorized by state or federal laws or rules. The department shall retain jurisdiction over the issue of noncompliance with the law or rules and shall retain jurisdiction over the implementation of any corrective action required.

(6) Complaints against the department. If the complaint concerns a violation by the department and: is submitted in writing to the secretary of education; is signed by the complainant or a designated representative; includes a statement that the department has violated a requirement of an applicable state or federal law or rule; contains a statement of facts on which the allegation of violation is based, and otherwise meets the requirements of Paragraph (2) of Subsection H of 6.31.2.13 NMAC, the secretary of education or designee shall appoint an impartial person or impartial persons to conduct an investigation.

(a) Investigation. The person or persons appointed shall: acknowledge receipt of the complaint in writing; undertake an impartial investigation which shall include a complete review of all documentation presented and may include an

independent onsite investigation, if necessary; give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; provide the department with the opportunity to respond to the complaint; and review all relevant information and make an independent determination as to whether the department is violating a requirement of an applicable state or federal law or rule.

(b) Decision. A written decision, including findings of fact, conclusions, recommendations for corrective action, and the reasons for the decision and addressing each allegation in the complaint, shall be issued by the person or people appointed pursuant to this paragraph and mailed to the parties within 60 days of receipt of the written complaint. The person or people appointed pursuant to this paragraph has no authority to order rulemaking by the department.

(7) Extension of time limit. An extension of the time limit under Subparagraph (b) of Paragraph (5) or Subparagraph (b) of Paragraph (6) of this Subsection H of 6.31.2.13 NMAC shall be permitted by the SED of the department only if exceptional circumstances exist with respect to a particular complaint or if the parent or any other party filing a complaint and the public agency involved agree to extend the time to engage in mediation or a FIEP meeting.

(8) Conflicts with federal laws or rules. If any federal law or rule governing any federal program subject to this rule affords procedural rights to a complainant which exceed those set forth in Subsection H of 6.31.2.13 NMAC for complaints within the scope of these rules, such statutory or regulatory right(s) shall be afforded to the complainant. In acknowledging receipt of such a complaint, the SED shall set forth the procedures applicable to that complaint.

#### I. Due process hearings.

(1) Scope. Subsection I of 6.31.2.13 NMAC establishes procedures governing impartial due process hearings for requests for due process in IDEA cases governed by 34 CFR Secs. 300.506 through 300.518 and 300.530 through 300.532.

(2) Bases for requesting hearing. A parent or public agency may initiate an impartial due process hearing on the following matters:

(a) the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child;

(b) the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(3) Bases for requesting expedited hearing.

(a) Pursuant to 34 CFR Sec. 300.532 and 20 USC Sec. 1415(k)(3), a parent may request an expedited hearing to review any decision regarding placement or a manifestation determination under 34 CFR Secs. 300.530 through 300.531.

(b) Pursuant to 34 CFR Sec. 300.532(c) and 20 USC Sec. 1415(k)(3), a public agency may request an expedited hearing if it believes that maintaining the current placement of a child is substantially likely to result in injury to the child or others.

(4) Request for hearing. A parent requesting a due process hearing shall transmit written notice of the request to the public agency whose actions are in question and to the SED of the department. A public agency requesting a due process hearing shall transmit written notice of the request to the parent(s) and to the SED of the department. The written request shall state with specificity the nature of the dispute and shall include:

(a) the name of the child;

(b) the address of the residence of the child (or available contact information in the case of a homeless child);

(c) the name of the school the child is attending;

(d) the name of the public agency, if known;

(e) the name and address of the party making the request (or available contact information in the case of a homeless party);

(f) a description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem;

(g) a proposed resolution of the problem to the extent known and available to the party requesting the hearing at the time;

(h) a request for an expedited hearing shall also include a statement of facts sufficient to show that a requesting parent or public agency is entitled to an expedited hearing under 34 CFR Secs. 300.532(c) or 20 USC Sec. 1415(k)(3);

(i) a request for a hearing shall be in writing and signed and dated by the parent or the authorized public agency representative; an oral request made by a parent who is unable to communicate by writing shall be reduced to writing by the public agency and signed by the parent;

(j) a request for hearing filed by or on behalf of a party who is represented by an attorney shall include a sufficient statement authorizing the representation; a written statement on a client's behalf that is signed by an attorney who is subject to discipline

by the New Mexico supreme court for a misrepresentation shall constitute a sufficient authorization; and

(k) a party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of this paragraph.

(5) Response to request for hearing.

(a) A request for a hearing shall be deemed to be sufficient unless the party receiving the notice of request notifies the hearing officer and the other party in writing that the receiving party believes the request has not met the requirements of Paragraph (5) of Subsection I of 6.31.2.13 NMAC.

(b) Public agency response.

(i) In general. If the public agency has not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process hearing request, such public agency shall, within 10 days of its receipt of the request, send to the parent a response that meets the requirements of 34 CFR Sec. 300.508(e) and 20 USC Sec. 1415(c)(2)(B)(i). This requirement presents an additional opportunity for parties to clarify and potentially resolve their dispute(s).

(ii) Sufficiency. A response filed by a public agency pursuant to Item (i) of Subparagraph (b) of Paragraph (6) shall not be construed to preclude such public agency from asserting that the parent's due process hearing request was insufficient where appropriate.

(c) Other party response. Except as provided in Subparagraph (b) of Paragraph (6) of Subsection I of 6.31.2.13 NMAC, the non-complaining party shall, within 10 days of its receipt of the request for due process, send to the requesting party a response that specifically addresses the issues raised in the hearing request. This requirement also presents an opportunity to clarify and potentially resolve disputed issues between the parties.

(d) A party against whom a due process hearing request is filed shall have a maximum of 15 days after receiving the request to provide written notification to the hearing officer of insufficiency under Subparagraph (a) of Paragraph (6) of Subsection I of 6.31.2.13 NMAC. The 15-day timeline for the public agency to convene a resolution session under Paragraph (8) of Subsection I of 6.31.2.13 NMAC runs at the same time as the 15-day timeline for filing notice of insufficiency.

(e) Determination. Within five days of receipt of a notice of insufficiency under Subparagraph (d) of Paragraph (6) of Subsection I of 6.31.2.13 NMAC, the hearing officer shall make a determination on the face of the due process request of

whether it meets the requirements of Paragraph (5) of Subsection I of 6.31.2.13 NMAC and shall immediately notify the parties in writing of such determination.

(f) Amended due process request. A party may amend its due process request only if:

(i) the other party consents in writing to such amendment and is given the opportunity to resolve the complaint through a meeting held pursuant to Paragraph (8) of Subsection I of 6.31.2.13 NMAC; or

(ii) the hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than five days before a due process hearing occurs.

(g) Applicable timeline. The applicable timeline for a due process hearing under this part shall recommence at the time the party files an amended notice, including the timeline under Paragraph (8) of Subsection I of 6.31.2.13 NMAC.

(6) Duties of the SED of the department. Upon receipt of a written request for due process, the SED shall:

(a) appoint a qualified and impartial hearing officer who meets the requirements of 34 CFR Sec. 300.511(c) and 20 USC Sec. 1415(f)(3)(A);

(b) arrange for the appointment of a qualified and impartial mediator or IEP facilitator pursuant to 34 CFR Sec. 300.506 to offer ADR services to the parties;

(c) inform the parent in writing of any free or low-cost legal and other relevant services available in the area; the SED shall also make this information available whenever requested by a parent; and

(d) inform the parent that in any action or proceeding brought under 20 USC Sec. 1415, a state or federal court, in its discretion and subject to the further provisions of 20 USC Sec. 1415(g)(3)(b) and 34 CFR Sec. 300.517, may award reasonable attorneys' fees as part of the costs to a prevailing party;

(e) the SED shall also:

(i) keep a list of the persons who serve as hearing officers and a statement of their qualifications;

(ii) appoint another hearing officer if the initially appointed hearing officer excuses himself or herself from service;

(iii) ensure that mediation and FIEP meetings are considered as voluntary and are not used to deny or delay a parent's right to a hearing; and



(iv) ensure that within 45 days of commencement of the timeline for a due process hearing, a final written decision is reached and a copy transmitted to the parties, unless one or more specific extensions of time have been granted by the hearing officer at the request of either party (or at the joint request of the parties, where the reason for the request is to allow the parties to pursue an ADR option); and

(f) following the decision, the SED shall, after deleting any personally identifiable information, transmit the findings and decision to the state IDEA advisory panel and make them available to the public upon request.

(7) Preliminary meeting.

(a) Resolution session. Before the opportunity for an impartial due process hearing under Paragraphs (3) or (4) of Subsection I of 6.31.2.13 NMAC, the public agency shall convene a resolution session with the parents and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process request, unless the parents and the public agency agree in writing to waive such a meeting, or agree to use the mediation process instead. The resolution session:

(i) shall occur within 15 days of the respondent's receipt of a request for due process;

(ii) shall include a representative of the public agency who has decision-making authority on behalf of that public agency;

(iii) may not include an attorney of the public agency unless the parent is accompanied by an attorney; and

(iv) shall provide an opportunity for the parents of the child and the public agency to discuss the disputed issue(s) and the facts that form the basis of the dispute, in order to attempt to resolve the dispute;

(v) if the parties desire to have their discussions in the resolution session remain confidential, they may agree in writing to maintain the confidentiality of all discussions and that such discussions cannot later be used as evidence in the due process hearing or any other proceeding; and

(vi) if an agreement is reached following a resolution session, the parties shall execute a legally binding agreement that is signed by both the parent and a representative of the public agency who has the authority to bind that public agency, and which is enforceable in any state court of competent jurisdiction or in a district court of the United States; if the parties execute an agreement pursuant to a resolution session, a party may void this agreement within three business days of the agreement's execution; further, if the resolution session participants reach agreement on any IEP-related matters, the binding agreement shall state that the public agency will

subsequently convene an IEP meeting to inform the student's service providers of their responsibilities under that agreement and revise the student's IEP accordingly.

(b) FIEP meeting; mediation. Parties to a due process hearing may choose to convene a FIEP meeting or mediation instead of a resolution session. To do so, the party filing the request for the hearing shall (and the responding party may) notify the hearing officer in writing within one business day of the parties' decision to jointly request one of these options. A FIEP meeting or mediation shall be completed not later than 14 days after the assignment of the IEP facilitator or mediator by the SED, unless, upon joint request by the parties, an extension is granted by the hearing officer. Each session in the FIEP or mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the hearing. The requirements for mediation, as set forth at Subparagraph (c) of Paragraph (3) of Subsection H of 6.31.2.13 NMAC apply to mediation in this context as well.

(c) Applicable timelines.

(i) If the parties agree to convene a resolution session, the applicable timelines for the due process hearing shall be suspended for up to 30 days from the date the due process request was received by the SED (except in the case of an expedited hearing), and the meeting shall proceed according to the requirements set forth under Subparagraph (a) of Paragraph (8) of Subsection I of 6.31.2.13 NMAC.

(ii) If the parties agree to convene a FIEP meeting or mediation, the public agency shall contact the person or entity identified by the SED to arrange for mediation or a FIEP meeting, as appropriate. Except for expedited hearings, the parties to the FIEP meeting or mediation process may jointly request that the hearing officer grant a specific extension of time for the prehearing conference and for completion of the hearing beyond the 45 day period for issuance of the hearing decision. The hearing officer may grant such extensions in a regular case but may not exceed the 20 school day deadline in an expedited case.

(iii) If the parties agree to waive all preliminary meeting options and proceed with the due process hearing, the hearing officer shall send written notification to the parties that the applicable timelines for the due process hearing procedure shall commence as of the date of that notice. The hearing officer shall thereafter proceed with the prehearing procedures, as set forth under Paragraph (12) of Subsection I of 6.31.2.13 NMAC.

(d) Resolution. Upon resolution of the dispute, the party who requested the due process hearing shall transmit a written notice informing the hearing officer and the SED that the matter has been resolved and withdraw the request for hearing. The hearing officer shall transmit an appropriate order of dismissal to the parties and the SED.

(e) Hearing. If the parties convene a resolution session and they have not resolved the disputed issue(s) within 30 days of the receipt of the due process request by the SED in a non-expedited case, the public agency shall (and the parents may) notify the hearing officer in writing within one business day of reaching this outcome. The hearing officer shall then promptly notify the parties in writing that the due process hearing shall proceed and all applicable timelines for a hearing under this part shall commence as of the date of such notice.

(f) Further adjustments to the timelines may be made as provided in 34 CFR Secs. 300.510(b) and 300.510(c).

(g) The resolution of disputes by mutual agreement is strongly encouraged and nothing in these rules shall be interpreted as prohibiting the parties from engaging in settlement discussions at any time before, during, or after an ADR meeting, a due process hearing, or a civil action.

(8) Hearing officer responsibility and authority. Hearing officers shall conduct proceedings under these rules with due regard for the costs and other burdens of due process proceedings for public agencies, parents, and students. In that regard, hearing officers shall strive to maintain a reasonable balance between affording parties a fair opportunity to vindicate their IDEA rights and the financial and human costs of the proceedings to all concerned. Accordingly, each hearing officer shall exercise such control over the parties, proceedings, and the hearing officer's own practices as the hearing officer deems appropriate to further those ends under the circumstances of each case. In particular, and without limiting the generality of the foregoing, the hearing officer, at the request of a party or upon the hearing officer's own initiative and after the parties have had a reasonable opportunity to express their views on disputed issues:

(a) shall ensure by appropriate orders that parents and their duly authorized representatives have timely access to records and information under the public agency's control which are reasonably necessary for a fair assessment of the IDEA issues raised by the requesting party;

(b) shall limit the issues for hearing to those permitted by IDEA which the hearing officer deems necessary for the protection of the rights that have been asserted by the requesting party in each case;

(c) may issue orders directing the timely production of relevant witnesses, documents, or other information within a party's control, protective orders, or administrative orders to appear for hearings, and may address a party's unjustified failure or refusal to comply by appropriate limitations on the claims, defenses, or evidence to be considered;

(d) shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in federal courts or the courts of New Mexico;

(e) may issue such other orders and make such other rulings, not inconsistent with express provisions of these rules or IDEA, as the hearing officer deems appropriate to control the course, scope, and length of the proceedings while ensuring that the parties have a fair opportunity to present and support all allowable claims and defenses that have been asserted; and

(f) shall not permit non-attorneys to represent parties at due process hearings.

(9) Duties of the hearing officer. The hearing officer shall excuse himself or herself from serving in a hearing in which he or she believes a personal or professional bias or interest exists which conflicts with his or her objectivity. The hearing officer shall:

(a) make a determination regarding the sufficiency of a request for due process within five days of receipt of any notice of insufficiency and notify the parties of this determination in writing;

(b) schedule an initial prehearing conference within 14 days of commencement of the timeline for a due process hearing or as soon as reasonably practicable in an expedited case pursuant to Paragraph (12) of Subsection I of 6.31.2.13 NMAC;

(c) reach a decision, which shall include written findings of fact, conclusions of law, and reasons for these findings and conclusions and shall be based solely on evidence presented at the hearing;

(d) transmit the decision to the parties and to the SED within 45 days of the commencement of the timeline for the hearing, unless a specific extension of time has been granted by the hearing officer at the request of a party to the hearing, or at the joint request of the parties where the reason for the request is to permit the parties to pursue an ADR option; for an expedited hearing, no extensions or exceptions beyond the time frame provided in Subparagraph (a) of Paragraph (19) of Subsection I of 6.31.2.13 NMAC;

(e) the hearing officer may reopen the record for further proceedings at any time before reaching a final decision after transmitting appropriate notice to the parties; the hearing is considered closed and final when the written decision is transmitted to the parties and to the SED; and

(f) the decision of the hearing officer is final, unless a party brings a civil action as set forth in Paragraph (24) of Subsection I of 6.31.2.13 NMAC.

(10) Withdrawal of request for hearing. A party may unilaterally withdraw a request for due process at any time before a decision is issued. A written withdrawal that is transmitted to the hearing officer, and the other party at least two business days

before a scheduled hearing, shall be without prejudice to the party's right to file a later request on the same claims, which shall ordinarily be assigned to the same hearing officer. A withdrawal that is transmitted or communicated within two business days of the scheduled hearing shall ordinarily be with prejudice to the party's right to file a later request on the same claims unless the hearing officer orders otherwise for good cause shown. A withdrawal that is entered during or after the hearing but before a decision is issued shall be with prejudice. In any event, the hearing officer shall enter an appropriate order of dismissal.

(11) Prehearing procedures. Unless extended by the hearing officer at the request of a party, within 14 days of the commencement of the timeline for a due process hearing and as soon as is reasonably practicable in an expedited case, the hearing officer shall conduct an initial prehearing conference with the parent and the public agency to:

(a) identify the issues (disputed claims and defenses) to be decided at the hearing and the relief sought;

(b) establish the hearing officer's jurisdiction over IDEA;

(c) determine the status of the resolution session, FIEP meeting, or mediation between the parties and determine whether an additional prehearing conference will be necessary as a result;

(d) review the hearing rights of both parties, as set forth in Paragraphs (15) and (16) of Subsection I of 6.31.2.13 NMAC, including reasonable accommodations to address an individual's need for an interpreter at public expense;

(e) review the procedures for conducting the hearing;

(f) set a date, time, and place for the hearing that is reasonably convenient to the parents and child involved; the hearing officer shall have discretion to determine the length of the hearing, taking into consideration the issues presented;

(g) determine whether the child who is the subject of the hearing will be present and whether the hearing will be open to the public;

(h) set the date by which any documentary evidence intended to be used at the hearing by the parties shall be exchanged; the hearing officer shall further inform the parties that, not less than five business days before a regular hearing or, if the hearing officer so directs, not less than two business days before an expedited hearing, each party shall disclose to the other party all evaluations completed by that date and recommendations based on the evaluations that the party intends to use at the hearing; the hearing officer may bar any party that fails to disclose such documentary evidence, evaluation(s), or recommendation(s) by the deadline from introducing the evidence at the hearing without the consent of the other party;

(i) as appropriate, determine the current educational placement of the child pursuant to Paragraph (25) of this subsection;

(j) exchange lists of witnesses and, as appropriate, entertain a request from a party to issue an administrative order compelling the attendance of a witness or witnesses at the hearing;

(k) address other relevant issues and motions; and

(l) determine the method for having a written, or at the option of the parent, electronic verbatim record of the hearing; the public agency shall be responsible for arranging for the verbatim record of the hearing; and

(m) the hearing officer shall transmit to the parties and the SED of the department a written summary of the prehearing conference; the summary shall include, but not be limited to, the date, time, and place of the hearing, any prehearing decisions, and any orders from the hearing officer.

(12) Each hearing involving oral arguments shall be conducted at a time and place that is reasonably convenient to the parents and child involved.

(13) In order to limit testimony at the hearing to only those factual matters which remain in dispute between the parties, on or before 10 days before the date of the hearing, each party shall submit a statement of proposed stipulated facts to the opposing party. On or before five days before the date of the hearing, the parties shall submit a joint statement of stipulated facts to the hearing officer. All agreed-upon stipulated facts shall be deemed admitted, and evidence shall not be permitted for the purpose of establishing these facts.

(14) Any party to a hearing has the right to:

(a) be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(b) present evidence and confront, cross-examine, and compel the attendance of witnesses;

(c) prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before a regular hearing or, if the hearing officer so directs in the prehearing summary, at least two business days before an expedited hearing;

(d) obtain a written, or, at the option of the parents, electronic verbatim record of the hearing; and

(e) obtain written, or, at the option of the parents, electronic findings of fact and decisions.

(15) Parents involved in hearings also have the right to:

(a) have the child who is the subject of the hearing present; and

(b) open the hearing to the public.

(16) The record of the hearing and the findings of fact and decisions shall be provided at no cost to the parents.

(17) Limitations on the hearing.

(a) The party requesting the due process hearing shall not be allowed to raise issues at the hearing that were not raised in the request for a due process hearing (including an amended request, if such amendment was previously permitted) filed under Paragraph (5) of Subsection I of 6.31.2.13 NMAC, unless the other party agrees otherwise.

(b) Timeline for requesting hearing. A parent or public agency shall request an impartial due process hearing within two years of the date that the parent or public agency knew or should have known about the alleged action that forms the basis of the due process request.

(c) Exceptions to the timeline. The timeline described in Subparagraph (b) of Paragraph (18) of Subsection I of 6.31.2.13 NMAC shall not apply to a parent if the parent was prevented from requesting the hearing due to:

(i) specific misrepresentations by the public agency that it had resolved the problem that forms the basis of the due process request; or

(ii) the public agency's withholding of information from the parent that was required under this part to be provided to the parent.

(18) Rules for expedited hearings. The rules in Paragraphs (4) through (18) of Subsection I of 6.31.2.13 NMAC shall apply to expedited due process hearings with the following exceptions.

(a) The SED of the department and the hearing officer shall ensure that a hearing is held within 20 school days of the date the request for hearing is received by the SED, and a written decision is reached within 10 school days of the completion of the hearing, without exceptions or extensions, and thereafter mailed to the parties.

(b) The hearing officer shall seek to hold the hearing and issue a decision as soon as is reasonably practicable within the time limit described in Subparagraph (a) of

Paragraph (19) of Subsection I of 6.31.2.13 NMAC, and shall expedite the proceedings with due regard for any progress in a resolution session, FIEP meeting, or mediation, the parties' need for adequate time to prepare and the hearing officer's need for time to review the evidence and prepare a decision after the hearing.

(c) The parties shall decide whether to convene a resolution session, FIEP meeting, or mediation before the commencement of an expedited hearing in accordance with Paragraph (8) of Subsection I of 6.31.2.13 NMAC and are encouraged to utilize one of these preliminary meeting options. However, in the case of an expedited hearing, agreement by the parties to convene a resolution session, FIEP meeting, or mediation shall not result in the suspension or extension of the timeline for the hearing stated under Subparagraph (a) of Paragraph (19) of Subsection I of 6.31.2.13 NMAC. The timeline for resolution sessions provided in 34 CFR Sec. 300.532(c)(3) shall be observed.

(d) Subparagraph (a) of Paragraph (6) of Subsection I of 6.31.2.13 NMAC relating to sufficiency of the request for the expedited due process hearing does not apply to expedited hearings.

(e) The hearing officer may shorten the timeline for the exchange of proposed stipulated facts between the parties as the hearing officer deems necessary and appropriate given the circumstances of a particular case. The hearing officer may also shorten the timeline for providing agreed-upon stipulated facts to the hearing officer to two school days before the hearing.

(f) Decisions in expedited due process hearings are final, unless a party brings a civil action as provided in Paragraph (24) of Subsection I of 6.31.2.13 NMAC.

(19) Decision of the hearing officer.

(a) In general. Subject to Subparagraph (b) of Paragraph (20) of Subsection I of 6.31.2.13 NMAC, a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education (FAPE).

(b) Procedural issues. In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies:

- (i) impeded the child's right to a FAPE;
- (ii) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the student; or
- (iii) caused a deprivation of educational benefits.



(c) Rule of construction. Nothing in this paragraph shall be construed to preclude a hearing officer from ordering a public agency to comply with procedural requirements under this section.

(20) Rule of construction. Nothing in this Subsection I shall be construed to affect the right of a parent to file a complaint with the SED of the department, as described under Subsection H of 6.31.2.13 NMAC.

(21) Modification of final decision. Clerical mistakes in final decisions, orders, or parts of the record and errors therein arising from oversight or omission may be corrected by the hearing officer at any time on the hearing officer's own initiative or on the request of any party and after such notice, if any, as the hearing officer orders. Such mistakes may be corrected after a civil action has been brought pursuant to Paragraph (24) of Subsection I of 6.31.2.13 NMAC only with leave of the state or federal district court presiding over the civil action.

(22) Expenses of the hearing. The public agency shall be responsible for paying administrative costs associated with a hearing, including the hearing officer's fees and expenses and expenses related to the preparation and copying of the verbatim record, its transmission to the SED, and any further expenses for preparing the complete record of the proceedings for filing with a reviewing federal or state court in a civil action. Each party to a hearing shall be responsible for its own legal fees or other costs, subject to Paragraph (25) of Subsection I of 6.31.2.13 NMAC.

(23) Civil action. Any party aggrieved by the decision of a hearing officer in an IDEA matter has the right to bring a civil action in a state or federal district court pursuant to 20 USC Sec. 1415(i) and 34 CFR Sec. 300.516. Any civil action shall be filed within 30 days of the receipt of the hearing officer's decision by the appealing party.

(24) Attorney fees.

(a) In any action or proceeding brought under 20 USC Sec. 1415, the court, in its discretion and subject to the further provisions of 20 USC Sec. 1415(i) and 34 CFR Sec. 300.517, may award reasonable attorney fees as part of the costs to:

(i) the parent of a child with a disability who is a prevailing party;

(ii) a prevailing public agency against the attorney of a parent who files a request for due process or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

(iii) a prevailing public agency against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(b) Any action for attorney fees shall be filed within 30 days of the receipt of the last administrative decision.

(c) Opportunity to resolve due process complaints. A meeting conducted pursuant to Subparagraph (a) of Paragraph (8) of Subsection I of 6.31.2.13 NMAC shall not be considered:

(i) a meeting convened as a result of an administrative hearing or judicial action; or

(ii) an administrative hearing or judicial action for purposes of this paragraph.

(d) Hearing officers are not authorized to award attorney fees.

(e) Attorney fees are not recoverable for actions or proceedings involving claims based solely on state law.

(25) Child's status during proceedings.

(a) Except as provided in 34 CFR Sec. 300.533 and Paragraph (4) of Subsection I of 6.31.2.13 NMAC, and unless the public agency and the parents of the child agree otherwise, during the pendency of any administrative or judicial proceeding regarding an IDEA due process request, the child involved shall remain in his or her current educational placement. Disagreements over the identification of the current educational placement which the parties cannot resolve by agreement shall be resolved by the hearing officer as necessary.

(b) If the case involves an application for initial admission to public school, the child, with the consent of the parents, shall be placed in the public school until the completion of all the proceedings.

(c) If a hearing officer agrees with the child's parents that a change of placement is appropriate, that placement shall be treated as an agreement between the public agency and the parents for purposes of Subparagraph (a) of this paragraph.

#### **J. Surrogate parents and foster parents.**

(1) Each public agency shall ensure that a qualified surrogate parent is appointed in compliance with 34 CFR Sec. 300.519 when needed to protect the rights of a child with a disability who is within the public agency's educational jurisdiction. A surrogate parent need not be appointed if a person who qualifies as a parent under 34 CFR Sec. 300.30(b) and Paragraph (13) of Subsection B of 6.31.2.7 NMAC can be identified.

(2) A foster parent who meets all requirements of 34 CFR Sec. 300.30 may be treated as the child's parent pursuant to that rule. A foster parent who does not meet those requirements but meets all requirements of 34 CFR Sec. 300.519 may be appointed as a surrogate parent if the public agency that is responsible for the appointment deems such action appropriate.

(3) Pursuant to 34 CFR Sec. 300.519, a surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child.

#### **K. Transfer of parental rights to students at age 18.**

(1) Pursuant to Secs. 12-2A-3 and 28-6-1 NMSA 1978, a person's age of majority begins on the first instant of his or her 18th birthday and a person who has reached the age of majority is an adult for all purposes not otherwise limited by state law. A guardianship proceeding under the probate code is the only way an adult in New Mexico can legally be determined to be incompetent and have the right to make his or her own decisions taken away. Public agencies and their IEP teams are not empowered to make such determinations under New Mexico law. Accordingly, pursuant to 34 CFR Sec. 300.520, when a child with a disability reaches age 18 and does not have a court-appointed general guardian, limited guardian, or other person who has been authorized by a court to make educational decisions on the student's behalf or who has not signed a power of attorney as provided under New Mexico law:

(a) a public agency shall provide any notices required by 34 CFR Part 300 to the child and the parents;

(b) all other rights accorded to parents under Part B of IDEA, New Mexico law, or department rules and standards transfer to the child; and

(c) the public agency shall notify the individual and the parents of the transfer of rights.

(2) Pursuant to 34 CFR Sec. 300.320(c), each annual IEP review for a child who is age 14 or older shall include a discussion of the rights that will transfer when the child turns age 18 and, as appropriate, a discussion of the parents' plans for obtaining a guardian before that time. The IEP of a child who is age 14 or older shall include a statement that the child and the parent have been informed of the rights that will transfer to the child at age 18.

#### **L. Confidentiality of information.**

(1) Confidentiality requirements. Each public agency collecting, using, or maintaining any personally identifiable information on children under Part B of IDEA shall comply with all applicable requirements of 34 CFR Secs. 300.610 through 300.626, and the federal Family Educational Rights and Privacy Act, 34 CFR Part 99.

(2) Parental rights to inspect, review, and request amendment of education records. Each public agency shall permit parents or their authorized representatives to inspect and review any education records relating to their children that are collected, maintained, or used by the public agency under Part B of IDEA pursuant to 34 CFR Sec. 300.613. A parent who believes that information in the education records is inaccurate or misleading or violates the privacy or other rights of the child may request the public agency that maintains the information to amend the information pursuant to 34 CFR Sec. 300.618 and shall have the opportunity for a hearing on that request pursuant to 34 CFR Secs. 300.619 through 300.621 and 99.22.

(3) Transfer of student records.

(a) Pursuant to 34 CFR Sec. 99.31(a)(2), an educational agency may transfer child records without parental consent when requested by another educational agency in which a child seeks or intends to enroll as long as the sending educational agency has included the proper notification that it will do so in its required annual FERPA notice to children and parents. In view of the importance of uninterrupted educational services to children with disabilities, each New Mexico public agency is hereby directed to include such language in its annual FERPA notice and to ensure that it promptly honors each proper request for records from an educational agency that has become responsible for serving a child with a disability.

(b) State-supported educational programs and the educational programs of juvenile or adult detention or correctional facilities are educational agencies for purposes of the Family Educational Rights and Privacy Act (FERPA) and are entitled to request and receive educational records on children with disabilities on the same basis as local school districts. Public agencies shall promptly honor requests for records to assist such programs in providing appropriate services to children within their educational jurisdiction.

(c) Pursuant to 34 CFR Sec. 99.34(b), an educational agency that is authorized to transfer student records to another educational agency without parental consent under Sec. 99.31(a)(2) may properly transfer to the receiving educational agency all educational records the sending educational agency maintains on a child, including medical, psychological and other types of diagnostic and service information which the educational agency obtained from outside sources and used in making or implementing educational programming decisions for the child.

(d) Pursuant to Paragraph (3) of Subsection E of 6.29.1.9 NMAC, 34 CFR Sec. 300.229 and the federal Elementary and Secondary Education Act of 1965 at 20 USC 7221(g), any transfer of educational records to a private or public elementary or secondary school in which a child with disabilities seeks, intends, or is instructed to enroll shall include the following:

(i) transcripts and copies of all pertinent records as normally transferred for all students;

(ii) the child's current individualized education program with all supporting documentation, including the most recent multidisciplinary evaluations and any related medical, psychological, or other diagnostic or service information that was consulted in developing the IEP; and

(iii) disciplinary records with respect to current or previous suspensions or expulsions of the child.

(4) Parental refusals of consent for release of information. If parental consent is required for a particular release of information regarding a child with a disability and the parent refuses consent, the sending or receiving public agency may use the impartial due process hearing procedures specified in Subsection I of 6.31.2.13 NMAC to determine if the information may be released without parental consent. If the hearing officer determines that the proposed release of information is reasonably necessary to enable one or more public agencies to fulfill their educational responsibilities toward the child, the information may be released without the parent's consent. The hearing officer's decision in such a case shall be final and not subject to further administrative review.

(5) Destruction of information.

(a) Pursuant to 34 CFR Sec. 300.624, each public agency shall inform parents when personally identifiable information collected, maintained, or used under 34 CFR Part 300 is no longer needed to provide educational services to the child. As at other times, the parents shall have the right to inspect and review all educational records pertaining to their child pursuant to 34 CFR Sec. 300.613. The information shall be destroyed at the request of the parents or, at their option, the records shall be given to the parents. When informing parents about their rights to destruction of personally identifiable records under these rules, the public agency should advise them that the records may be needed by the child or the parents for social security benefits and other purposes.

(b) If the parents do not request the destruction of personally identifiable information about their children, the public agency may retain that information permanently. In either event, a permanent record of a student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. Additional information that is not related to the student's IDEA services may be maintained if allowed under 34 CFR Part 99.

(6) Educational records retention and disposition schedules.

(a) Definitions as used in this paragraph:

(i) "destruction" means physical destruction or removal of personal identifiers from educational records so that the information is no longer personally identifiable; and

(ii) "educational records" means the type of records covered under the definition of "educational records" in 34 CFR Part 99 of the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g (FERPA).

(b) Pursuant to 1.20.2.102 NMAC, the public agency shall notify the parents that the public agency shall retain specific information for five years to include:

- (i) most recent IEP;
- (ii) most recent 2 years of child progress reports or referral form;
- (iii) related services reports;
- (iv) summary of academic achievement and functional performance;
- (v) parent communication;
- (vi) public agency community action;
- (vii) writing sample; and
- (viii) staff reports on behavior.

(c) Pursuant to 34 CFR Sec. 300.624 and Paragraph (5) of this subsection, federal rules and department rules require public agencies to inform parents of proposed destruction of special education records.

(d) Pursuant to 34 CFR Sec. 300.624, the information shall be destroyed at the request of the parents. However, a permanent record of a child's name, address, phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limit. Notice of destruction of child records shall include:

(i) informing parents at the last IEP meeting of personally identifiable information that is no longer needed to provide special education and related service and information that shall be retained according to the state for five years under 1.20.1.102 NMAC;

(ii) documentation at the last IEP meeting and prior written notice of the information that is required to be maintained indefinitely;

(iii) documentation at the last IEP meeting and the prior written notice that the parent accepted or rejected the proposed action to maintain records;

(iv) if the parent requests that the public agency destroy information not required indefinitely, the public agency shall maintain the last IEP and prior written notice that states the parent required the public agency to destroy allowable information that shall be maintained for five years; and

(v) the public agency shall inform the parents of the proposed date of destruction of records at the last IEP meeting and document on the prior written notice of action the proposed date of destruction of records.

**M. Computation of time.**

(1) In computing any period of time prescribed or allowed by 6.31.2.13 NMAC, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a legal holiday in which case the last day shall be the next business day. As used in this rule, "legal holiday" includes any day designated as a state holiday.

(2) Notwithstanding Paragraph (1) of this subsection, if the due date of a decision referenced in Subsection H of 6.31.2.13 NMAC falls on a Saturday, a Sunday, or a legal holiday, the decision will be due on the previous business day.

(3) Notwithstanding Paragraph (1) of this subsection, if the due date of a decision referenced in Subsection I of 6.31.2.13 NMAC falls on a Saturday, a Sunday, or a legal holiday, the decision shall be mailed no later than the actual due date. A decision is considered "mailed" when addressed, stamped, and placed in a United States postal service mailbox. If a parent exercises the option of receiving the decision electronically, the decision is "mailed" when transmitted electronically.

[6.31.2.13 NMAC - Rp, 6.31.2.13 NMAC, 7/14/2020; A, 7/1/2023; A, 7/31/2023]

**6.31.2.14 RULES OF CONSTRUCTION:**

**A.** U.S. department of education interpretations. The U.S. department of education's (USDE) interpretations of the provisions of 34 CFR Part 300 as set forth in its Analysis of Comments and Changes to Part 300 at 71 Federal Register 46547-46753 (August 14, 2006), and other interpretations that are published or announced by the USDE in the federal register are recognized as the federal government's official positions regarding the requirements of IDEA. Such interpretations shall be followed by the department to the extent that they do not conflict with express provisions of IDEA or case law from the federal courts.

**B. Uniform Statute and Rule Construction Act.** The Uniform Statute and Rule Construction Act, Sections 12-2A-1 through 12-2A-20 NMSA 1978, applies to the interpretation of 6.31.2 NMAC except to the extent that these rules incorporate permissible variations under the New Mexico version of the Uniform Statute and Rule Construction Act. References in 6.31.2 NMAC to state or federal laws or rules are intended to incorporate future amendments unless a provision in these rules is irreconcilable with a future amendment under the standards of the Uniform Statute and Rule Construction Act.

**C. Conflicts with state or federal laws or rules.** If any state law or a state rule adopted by the department or a federal law or regulation grants greater rights to an individual or public agency than these rules provide, the provision(s) granting greater rights shall control to the extent necessary to avoid a conflict.

[6.31.2.14 NMAC - Rp, 6.31.2.14 NMAC, 7/14/2020]

## **PART 3 GIFTED AND TALENTED STUDENTS**

### **6.31.3.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.31.3.1 NMAC - N, 7/31/2023]

### **6.31.3.2 SCOPE:**

The requirements of these rules are binding on each New Mexico public agency that has direct or delegated authority to provide gifted education and related services, regardless of whether it provides gifted education and related services directly, by contract, or through other arrangements.

[6.31.3.2 NMAC - N, 7/31/2023]

### **6.31.3.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, 22-13-6 and 22-13-6.1 NMSA 1978.

[6.31.3.3 NMAC - N, 7/31/2023]

### **6.31.3.4 DURATION:**

Permanent.

[6.31.3.4 NMAC - N, 7/31/2023]

### **6.31.3.5 EFFECTIVE DATE:**



July 31, 2023, unless a later date is specified at the end of a section.

[6.31.3.5 NMAC - N, 7/31/2023]

#### **6.31.3.6 OBJECTIVE:**

This rule is promulgated to assist New Mexico public agencies in appropriately identifying and providing educational services for gifted students. The purposes of this rule are to ensure all gifted students have gifted education and related services to meet their individual needs; ensure that the rights of gifted students and their parents are protected; assist public agencies to provide for the education of all gifted students; and evaluate and ensure the effectiveness of efforts to educate those students.

[6.31.3.6 NMAC - N, 7/31/2023]

#### **6.31.3.7 DEFINITIONS:**

**A. "Aptitude"** means capacity to acquire competence, skill, or behaviors that can be monitored, evaluated, or observed.

**B. "Articulation"** means the communication and planning about student educational needs that occurs as students are promoted through the school system grade by grade.

**C. "Artistic ability"** means having exceptional capability or potential in visual art, theater, music, or dance. Artistic ability is demonstrated by achieving at an advanced level on a performance assessment or scoring in the ninety-fifth percentile or above on standardized arts assessments.

**D. "Commensurate growth"** means the academic and affective progress that can be measured and should be expected of a gifted student given the student's level of achievement, learning needs, and abilities matched with the appropriate instructional level.

**E. "Creative or divergent thinking"** means having exceptional capability or potential to solve a problem or reach a decision using strategies that deviate from commonly used or previously taught strategies, which is demonstrated by achieving an advanced level on performance assessments or scoring in the ninety-fifth percentile or above on standardized tests of creative or divergent thinking.

**F. "General intellectual ability"** means having exceptional capability or potential recognized through cognitive processes, such as memory, reasoning, rate of learning, spatial reasoning, ability to find and solve problems, ability to manipulate abstract ideas, and ability to make connections, which is demonstrated by scoring in the ninety-fifth percentile or above on standardized cognitive ability tests.

**G. "Gifted individualized education program" or "GIEP"** means a written statement for a gifted student that is developed, reviewed, and revised to deliver appropriate educational services to meet the needs of gifted students.

**H. "Gifted individualized education program team" or "GIEP team"** means a multidisciplinary team that includes:

- (1) the parents or guardians of the gifted student;
- (2) if the gifted student is participating in the general education environment, at least one of the gifted student's general education teachers;
- (3) at least one of the gifted student's gifted education teachers, and if appropriate, at least one of twice-exceptional student's special education providers;
- (4) an LEA representative who is:
  - (a) qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of gifted students;
  - (b) knowledgeable of the general education curriculum; and
  - (c) knowledgeable of the availability of resources of the department;
- (5) other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and
- (6) whenever appropriate, the gifted student.

**I. "Gifted student"** means a person between the ages of five and 21 whose abilities, talents, or potential for accomplishment are so exceptional or developmentally advanced that they require special provisions to meet their educational programming needs.

**J. "Identification process"** means a procedure for screening, referral, evaluation, and identification of gifted students.

**K. "LEA"** means a local education agency, being a public school district or a state-chartered charter school.

**L. "Leadership ability"** means exceptional capability or potential to influence, inspire, and empower groups demonstrated by achieving an advanced level on leadership ability performance assessment or scoring in the ninety-fifth percentile or above on standardized leadership tests.

**M. "Performance assessment"** means systematic analysis or evaluation of a student's product, performance, or behaviors based on valid criteria, scoring rubric, or rating scale norms.

**N. "Pre-advanced placement"** means a variety of programs and strategies that prepare students to take advanced placement courses before or during high school.

**O. "Precollege"** means a variety of programs to help students plan, apply, and pay for college. Programs may be administered by schools, colleges and universities, or community organizations or businesses.

**P. "Problem-solving or critical thinking"** means having outstanding capabilities to analyze a problem and engage in solutions-oriented performance, which is demonstrated by achieving an advanced level on problem-solving or critical thinking performance assessments or scoring in the ninety-fifth percentile or above on standardized problem-solving assessments.

**Q. "Screening"** means an assessment method used to provide evidence of exceptional potential ability or aptitude. Screening tools may be qualitative or quantitative. Screening data contribute to a body of evidence for making identification and instructional decisions.

**R. "Specific aptitude"** means having exceptional capability in a subject area, such as having a strong knowledge base or the ability to ask insightful, pertinent questions within the discipline, and achievement at an advanced level on performance assessments or state standardized achievement tests. Specific aptitude subject areas include all subject areas for which educational standards for students have been adopted in Chapter 29 of Title 6 NMAC.

**S. "Twice-exceptional"** means a student who is identified as a gifted student and is:

- (1) identified as a student with a disability pursuant to 6.31.2 NMAC; or
- (2) a qualified individual pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. §794.

[6.31.3.7 NMAC - N, 7/31/2023]

#### **6.31.3.8 ADVISORY COMMITTEE:**

**A.** Each LEA shall create a gifted advisory committee of parents, community members, students, and school staff members. A school district may create as many advisory committees as there are high schools in the school district or may create a district-wide advisory committee.

**B.** The membership of each advisory committee shall reflect the cultural diversity of the enrollment of the LEA or the schools which the advisory committee represents. Representation from all schools the committee is advising is required.

**C.** The advisory committee shall:

(1) regularly review the goals and priorities of the gifted program, including the operational plans for student evaluation, identification, placement, and service delivery;

(2) demonstrate support for the gifted program;

(3) provide information to the department about the impact that cultural background, linguistic background, socioeconomic status, and disability conditions within the community may have on the student identification process and service delivery;

(4) advocate for students of underrepresented groups due to cultural or linguistic background, socioeconomic status, or disability conditions, in order to ensure that these students have equal opportunities to benefit from services for gifted students;

(5) meet three or more times per year at regular intervals; and

(6) work with the LEA administration to complete an annual report of the LEA's gifted programming. The LEA shall submit the report to the department.

**D.** The LEA shall maintain formal documentation of committee membership, activities, and recommendations. If proposals are made by the committee, they shall be submitted in writing to the LEA. The LEA shall respond in writing to any proposed actions before the next scheduled meeting of the advisory committee.

[6.31.3.8 NMAC - N, 7/31/2023]

#### **6.31.3.9 GIFTED EDUCATION PROGRAM PLAN:**

**A.** LEAs shall submit a gifted education program plan for the next fiscal year to the department every other year by a department-assigned date. A gifted education program plan shall be deemed complete if it addresses all elements specified in Subsection B of this section. The gifted education program plan shall describe the efforts the LEA will make to identify gifted students from all demographic groups, including racially and ethnically diverse students, economically diverse students, culturally diverse students, students with limited English proficiency, and students with disabilities.

**B.** A gifted education program plan shall:

(1) describe how the LEA will communicate with parents and school personnel about the gifted program plan described in this subsection;

(2) describe the identification process the LEA will use to identify gifted students. The identification process shall recognize a student's exceptional abilities or potential, interests, and needs to guide student instruction and individualized programming. The description of the identification process shall include:

(a) procedures to equalize access to screening and to improve proportionality of representation for all demographic groups pursuant to Subsection A of this section;

(b) referral and screening procedures;

(c) multiple sources of qualitative and quantitative data;

(d) qualification criteria;

(e) GIEP team procedures;

(f) methods and timeline for communicating with parents about results and next steps of a student's eligibility, and GIEP development and review; and

(g) dispute resolution processes to address parent disputes over gifted identification or parent disputes over gifted services. The dispute resolution process shall be pursuant to Section 14 of this rule.

(3) describe the programming components the LEA will use to address the educational needs of gifted students. Programming components shall use evidence-based programs and service models to produce advanced outcomes, develop the strengths and interests of gifted students, and address other educational needs as determined by GIEP teams. Anticipating these needs, programming components shall address:

(a) alignment of current assessment data to services in the areas of gifted students' needs;

(b) structures by which gifted students' anticipated individual needs shall be met at each grade level;

(c) support for gifted students' general education teachers in differentiated instruction methods;

(d) social, affective, and guidance support systems for gifted students;

(e) alignment of general education and gifted education instructional content with gifted students' areas of strength;

(f) articulation to meet gifted students' needs as they are promoted to the next grade;

(g) articulation to meet gifted students' needs as they graduate from high school and continue in a postsecondary learning setting;

(h) pre-advanced placement or precollege support;

(i) whole-grade and single-subject acceleration policy or procedures; and

(j) GIEP development and annual review conducted through GIEP teams.

(4) describe how the LEA will:

(a) assess and monitor gifted students' commensurate growth in academic achievement;

(b) assess and monitor gifted students' affective development;

(c) ensure assessment and reporting of gifted students' academic achievement are consistent with accreditation requirements;

(d) periodically conduct a program evaluation of the gifted program, including evaluation feedback from the advisory committee pursuant to Section 8 of this rule, and review programming components including but not limited to gifted policy, goals, identification processes, programming components, staffing, budget and reporting practices, and the impact of programming on gifted student achievement and progress; and

(e) inform parents, educators, and other required GIEP team members of the program evaluation.

(5) describe the staffing plan and qualifications of those who provide instruction, counseling, coordination, and other support for gifted students. Qualified gifted education personnel shall have professional knowledge about characteristics and needs of gifted students and appropriate instruction methods, and shall demonstrate professional competencies in gifted education pursuant to 6.64.18 NMAC;

(6) describe how the LEA will manage and coordinate implementation of the program plan;

(7) describe professional development activities to:

(a) improve and enhance the skills, knowledge, and expertise of teachers and other personnel who provide instruction and other services to gifted students; and

(b) recruit and train new qualified gifted education teachers to fill any anticipated vacancies, if applicable;

(8) describe efforts to collaborate with postsecondary educational institutions to provide professional learning for gifted education teachers;

(9) provide evidence of the LEA's efforts to achieve equity by reporting:

(a) the number of formally identified gifted students served through gifted programming by grade level, gender, race, ethnicity, twice-exceptionality, and linguistic diversity;

(b) the number of non-identified students served through gifted programming;

(c) the percentage of all students identified as gifted through formal identification processes;

(d) the number and proportion of gifted education teachers to gifted students;  
and

(e) methods and tools used to monitor the effectiveness of services as evidenced by gifted students' achievement and commensurate growth.

**C.** Department approval or disapproval of a gifted education program plan shall remain in effect for two years or until a revised gifted education program plan is evaluated by the department.

**D.** Nothing in this section shall preclude a school district or charter school from offering additional gifted programs for students who fail to meet the eligibility criteria. However, the state will only provide state funds for department-approved gifted programs for those students who meet the established criteria.

[6.31.3.9 NMAC - N, 7/31/2023]

#### **6.31.3.10 GIFTED FUNDING EDUCATION PLAN REPORTING REQUIREMENTS:**

LEA shall report annually the revenue and expenditure details regarding gifted education funds received through the state equalization guarantee formula, and gifted expenditures from Title I and Title II funds in the Education Plan pursuant to 6.29.1 NMAC.

[6.31.3.10 NMAC - N, 7/31/2023]

#### **6.31.3.11 EVALUATION PROCEDURES FOR GIFTED STUDENTS:**

**A. Areas of need.** Student needs for individualized gifted education shall be based on evidence of:

- (1) general intellectual ability;
- (2) creative or divergent thinking;
- (3) problem solving or critical thinking;
- (4) specific aptitude or achievement;
- (5) artistic ability, creativity, problem solving, or achievement; or
- (6) leadership ability, creativity, problem solving, or achievement.

**B. Universal screening.** Each LEA shall establish a procedure to ensure that every student's potential to qualify as a gifted student is assessed by the end of grade three. Universal screening assessment results shall be used for referral for further assessment and may include group or individually administered assessments of academic achievement or cognitive ability.

**C. Analysis of qualification data.** Prior to determination of eligibility by the GIEP team, district or charter school personnel determining a student's qualification for gifted education shall consider documentation and analysis of qualitative and quantitative data from multiple sources to assess areas of strength. Sources shall include:

- (1) standardized quantitative assessment data;
- (2) qualitative data from the assessment of student abilities by qualified individuals evaluating evidence such as collections of work, audio and video recordings, interviews, or observations; and
- (3) if applicable, performance assessments or standardized assessments of artistic ability.

**D. Eligibility determination.** A GIEP team shall determine that a student is eligible for gifted identification using both qualitative and quantitative gifted qualification data. The GIEP team shall consider:

- (1) information regarding a student's cultural, linguistic, and socioeconomic background;
- (2) any disabling condition pursuant to Section 22-13.6.1 NMSA 1978; and
- (3) evidence of the areas of need in at least but not limited to Paragraphs (1) through (4) of Subsection A of this section.



**E.** An LEA may apply to use an alternative identification process for all students subject to the approval of the department. Eligibility of a student will then be determined by a properly administered and collected, department-approved alternative protocol designed to evaluate a student's potential giftedness in at least the four categories of need in Paragraphs (1) through (4) of Subsection A of this section.

[6.31.3.11 NMAC - N, 7/31/2023]

#### **6.31.3.12 GIFTED INDIVIDUAL EDUCATION PROGRAM:**

**A.** To ensure the individual needs of each gifted student are met, the GIEP team shall create and update annually a GIEP document. A GIEP shall include but not be limited to the following information:

- (1) student demographic information;
- (2) area(s) of original qualification;
- (3) qualification data used to determine gifted eligibility;
- (4) educational needs for growth in area(s) of strength;
- (5) educational needs for growth in other area(s);
- (6) short term goals to address areas of need;
- (7) long term goals to address areas of need;
- (8) teacher and parent input;
- (9) student input;
- (10) planned course of study;
- (11) accommodations and modifications;
- (12) schedule of services;
- (13) transition information; and
- (14) prior written notice of actions proposed and either accepted or rejected by the LEA with rationale for acceptance or rejection.

**B.** The IEP of a twice-exceptional student shall take the place of the GIEP when it provides the information required in Subsection A of this section.

[6.31.3.12 NMAC - N, 7/31/2023]

#### **6.31.3.13 GIFTED CASELOAD REQUIREMENTS:**

To ensure the specific needs of each gifted student are met, LEAs shall follow the caseload requirements found in Subsection I of 6.29.1.9 NMAC.

[6.31.3.13 NMAC - N, 7/31/2023]

#### **6.31.3.14 GIFTED DISPUTE RESOLUTION:**

**A.** To ensure the specific needs of each gifted student are met, LEAs shall:

(1) Provide a copy of dispute resolution processes to parents and legal guardians at least once a year and when the following occurs:

(a) the first time in a school year that an annual GIEP meeting is scheduled;  
or

(b) a parent or legal guardian makes a request for a copy of the dispute resolution processes;

(2) Provide explanations of a student's record upon request.

(3) Seek to establish and maintain productive working relationships with the parents of each child the LEA serves and to deal constructively with disagreements.

**B.** Informal dispute resolution. If disagreements arise between a parent and an LEA over a student's GIEP, either parents or the LEA may convene a new GIEP meeting at any time to attempt to resolve their differences at the local level without state-level intervention.

**C.** Alternative dispute resolution. Parents and LEAs may request that the department provide a facilitated GIEP meeting or mediation in order to resolve issues in the complaint filed with the department.

(1) Participation in alternative dispute resolution is voluntary, but participation in either mediation or a facilitated GIEP meeting is required prior to submitting a request for formal review pursuant to Subsection D of this section.

(2) The LEA and the parents or legal guardians shall notify the department in writing within five business days of reaching their decisions to jointly request one of these alternative dispute resolution options.

(3) A facilitated GIEP meeting or mediation session shall be completed not later than 30 days after the assignment of the facilitator or mediator by the department. The department may provide an extension of this deadline at the request of the parties.

(4) Mediation requirements. If the parties choose to use mediation, the following requirements apply:

(a) Any mediated agreement shall state that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any hearings of civil proceedings. Any such agreement shall also be signed by both the parent and the representative of the LEA who has authority to bind the LEA.

(b) If a mediated agreement involves GIEP issues, the agreement shall state that the LEA will subsequently convene a GIEP meeting to inform the student's services providers of their responsibilities under that agreement and revise the GIEP accordingly.

(c) The mediator shall transmit a copy of the written mediation agreement to each party within seven days of the meeting at which the agreement was concluded.

(d) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties in dispute.

**D. Formal Review.** If the parties are unable to resolve the issues through alternative dispute resolution, a written request for review by the department may be filed by the parent or legal guardian of the student. The department may conduct a review of the issues between the parties and the actions of the LEA related to the provision of gifted education.

(1) Requests for formal review by the department shall:

(a) be in writing;

(b) be submitted to the department;

(c) be signed by the parent or legal guardian of the child and have the requestor's contact information;

(d) include the name and the school the child is attending;

(e) include a statement that the LEA has violated a requirement of an applicable state law;

(f) contain a statement of facts on which the allegation of violation is based;  
and

(g) include a description of a proposed resolution of the problem to the extent known.

(2) Any request that does not contain each of these elements will be declined, and a written explanation for the decision to decline will be provided to the requestor.

(3) The department shall provide written notice to the parties of its decision to proceed with a review of the matter. If the department chooses not to proceed with a review it shall provide reasons for its decision not to proceed.

(4) Parties may continue to negotiate a resolution of the issues during the pendency of a review by the department. If the issues are satisfactorily resolved through continued negotiations between the parties, the requestor shall submit to the department in writing a formal withdrawal of the request for review.

(5) Review and suggested resolution. If the department decides to review the matter, it shall request all necessary records and information from the LEA and parent or guardian to complete its review. The department, after review of relevant information, shall issue written findings regarding the LEA's compliance with the state law and rules related to gifted education and provide a suggested resolution to address the identified non-compliance or to otherwise resolve the issues between the parties.

[6.31.3.14 NMAC - N, 7/31/2023]

#### **6.31.3.15 ENFORCEMENT OF GIFTED RULE:**

If an LEA fails or refuses to comply with the applicable law or rules, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance may be effected by the department or the student's parent or guardian by any means authorized by state or federal laws or rules.

[6.31.3.15 NMAC - N, 7/31/2023]

## **CHAPTER 32: EDUCATIONAL STANDARDS - BILINGUAL MULTICULTURAL EDUCATION**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: GUIDELINES FOR IMPLEMENTING BILINGUAL- MULTICULTURAL PROGRAMS**

#### **6.32.2.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.32.2.1 NMAC - Rp, 6.32.2.1 NMAC, 7/1/2018; A, 7/18/2023]

**6.32.2.2 SCOPE:**

This regulation applies to public schools receiving bilingual state funding, K-12.

[6.32.2.2 NMAC - Rp, 6.32.2.2 NMAC, 7/1/2018]

**6.32.2.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to Sections 9-24-8, 22-2-1, 22-2-2, and 22-23-1 through 22-23-6 NMSA 1978.

[6.32.2.3 NMAC - Rp, 6.32.2.3 NMAC, 7/1/2018; A, 7/18/2023]

**6.32.2.4 DURATION:**

Permanent.

[6.32.2.4 NMAC - Rp, 6.32.2.4 NMAC, 7/1/2018; A, 7/18/2023]

**6.32.2.5 EFFECTIVE DATE:**

July 1, 2018, unless a later date is cited at the end of a section.

[6.32.2.5 NMAC - Rp, 6.32.2.5 NMAC, 7/1/2018]

**6.32.2.6 OBJECTIVE:**

This regulation provides requirements for developing and implementing bilingual multicultural education and language revitalization programs and supports the state of New Mexico's long-standing policy in furthering bilingual multicultural education.

[6.32.2.6 NMAC - Rp, 6.32.2.6 NMAC, 7/1/2018; A, 7/18/2023]

**6.32.2.7 DEFINITIONS:**

**A. "Bilingual multicultural education program"** means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;

**B. "Culturally and linguistically different"** means students who are of a different cultural background than mainstream United States culture and whose home or heritage language, inherited from the student's family, tribe, or country of origin, is a language other than English;

**C. "District"** means a public school or any combination of public schools in a district;

**D. "English language learner"** means a student whose first or heritage language is not English and who is unable to read, write, speak, or understand English at a level comparable to grade-level English proficient peers and native English speakers;

**E. "Heritage language"** means a language other than English that is inherited from a family, tribe, community, or country of origin;

**F. "Home language"** means a language other than English that is the primary or heritage language spoken at home or in the community;

**G. "School board"** means a local school board; and

**H. "Standardized curriculum"** means a district curriculum that is aligned with the state academic content standards, benchmarks, and performance standards.

[6.32.2.7 NMAC - Rp, 6.32.2.7 NMAC, 7/1/2018; A, 7/18/2023]

#### **6.32.2.8 DEPARTMENT DUTIES:**

The department shall be responsible for carrying out the powers and duties as provided in the Bilingual Multicultural Education Act, Sections 22-23-1 through 22-23-6 NMSA 1978.

[6.32.28 NMAC - Rp, 6.32.2.8 NMAC, 7/1/2018]

#### **6.32.2.9 PROGRAM GOALS:**

The state's bilingual multicultural education program goals are to:

**A.** become bilingual and biliterate in English and a second language, including Spanish, a Native American language (with appropriate approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children), or another language. For Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking, and comprehension; and

**B.** meet state academic content standards and benchmarks in all subject areas.

[6.32.2.9 NMAC - Rp, 6.32.2.9 NMAC, 7/1/2018; A, 7/18/2023]

#### **6.32.2.10 PROGRAM ELIGIBILITY:**

To be eligible for financial support, each program shall:

**A.** provide for the educational needs of linguistically and culturally different students, including Native American children and other students who may wish to participate, in grades kindergarten through 12, with priority to be given to programs in grades kindergarten through three, in any public school or any combination of public schools in a district;

**B.** fund programs for culturally and linguistically different students in the state in grades kindergarten through three, for which there is an identifiable need to improve the language capabilities of both English and the home language of these students, before funding programs at higher grade levels;

**C.** use two languages as mediums of instruction for any part or all the curriculum of the grade levels within the program;

**D.** establish a parent advisory committee, representative of the languages and cultures of the students in the program, to assist and advise in the development, implementation, and evaluation of the program;

**E.** provide procedures to ensure that parental notification is given annually prior to program placement; and

**F.** provide personnel endorsed in bilingual education, modern classical and native languages, TESOL, or certified in Native American language and culture. The secretary of education may authorize other personnel to implement programs if qualified personnel are not available by the submission of an approved program design that addresses recruitment, professional development, and staffing patterns.

[6.32.2.10 NMAC - Rp, 6.32.2.10 NMAC, 7/1/2018; A, 7/18/2023]

#### **6.32.2.11 PROGRAM APPROVAL:**

**A.** A public school district shall submit an initial application to the department by the date of the preceding school year as specified by the department for each school requesting program approval. A proposed bilingual multicultural education program shall be eligible pursuant to Section 22-23-1 NMSA 1978 and 6.32.2 NMAC.

**B.** The initial application shall include:

(1) projected number of students to be served;

(2) assurances that district and school personnel are knowledgeable of the requirements to comply with Section 22-23-1 NMSA 1978 and 6.32.2 NMAC; signatures of school board president, superintendent, bilingual multicultural education director, school principal, and a parent advisory committee representative who shall not be employed by the district or school;

- (3) a program plan;
- (4) a resource allocation plan that supports program implementation;

(5) evidence of prior tribal consultation in program planning in accordance with the Indian Education Act, Sections 22-23A-1 through 22-23A-8 NMSA 1978; public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children; and

(6) districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall provide notification of approval and the application approved by the department to tribal councils or other appropriate tribal entities with authority to make education decisions on behalf of Native American children.

**C.** The department shall review initial applications for approval. Districts with approved applications shall submit by the 40th day of the target school year the following:

- (1) instructional plan; and
- (2) actual number of students to be served.

[6.32.2.11 NMAC - Rp, 6.32.2.11 NMAC, 7/1/2018; A, 7/18/2023]

#### **6.32.2.12 PROGRAM ELEMENT - INSTRUCTION:**

**A.** Public schools providing an approved bilingual multicultural education program shall include:

- (1) instruction to attain language proficiency and literacy skills in two languages, one of which is English;
- (2) instruction to attain academic achievement in two languages, one of which is English;
- (3) sheltered content instruction;
- (4) standardized curriculum, including instructional materials with scope and sequence, that is aligned with the state academic content standards, benchmarks, and performance standards;
- (5) instruction in the history and cultures of New Mexico; and



(6) culturally and linguistically responsive instruction designed to develop cross-cultural skills.

**B.** Public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children. An approved program shall include:

(1) instruction to attain language proficiency and literacy skills in English and a Native American language (where tribal language is written); for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking and comprehension;

(2) instruction to attain academic achievement in English and a Native American language;

(3) sheltered content instruction;

(4) standardized curriculum, including instructional materials with scope and sequence, that is aligned with the state academic content standards, benchmarks, and performance standards, unless otherwise agreed to in writing by the department in accordance with the Indian Education Act;

(5) instruction in the history and cultures of New Mexico Native American tribes; and

(6) culturally and linguistically responsive instruction designed to develop cross-cultural skills.

**C.** The following content areas shall be included, as appropriate:

(1) language arts in the home or heritage language - for funding purposes, time allotted for instruction in the home language shall be equivalent to the time provided for English language arts and shall be consecutive in nature (that is, not fragmented throughout the day);

(2) English language development - English language instruction to develop the English language proficiency of English language learners based on the student's English language proficiency level; instruction shall be distinct from content area instruction; and

(3) language acquisition in the home or heritage language – instruction to develop language proficiency based on the student's home or heritage language proficiency level; and

(4) depending on the time allotted for program:

(a) content area instruction in the home or heritage language of the program that utilizes the student's language, history, and culture; or

(b) fine arts instruction in the home or heritage language of the program that utilizes the student's language, history, culture, and the arts traditions of the student's community.

**D.** All programs shall implement one or more of the following bilingual multicultural education models in the public school:

(1) dual language immersion: designed to develop proficiency in two languages;

(2) enrichment: designed to further develop the home language, as defined in Subsection G of Section 22-23-2 NMSA 1978, of fully English proficient students;

(3) heritage language: designed to support and revitalize a student's heritage language and culture through oral and written communication; for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking and comprehension;

(4) maintenance: designed to develop and maintain proficiency and literacy in the home language while developing a student's literacy and oral skills in English; and

(5) transitional: designed to develop skills in the home language and culture while developing continued skills and proficiency in English.

[6.32.2.12 NMAC - Rp, 6.32.2.12 NMAC, 7/1/2018; A, 7/18/2023]

### **6.32.2.13 PROGRAM ELEMENT - PROFESSIONAL DEVELOPMENT:**

Districts shall provide professional development to employees.

**A.** Public school districts shall provide professional development to teachers, Native American language and culture teachers, teacher assistants, instructional support personnel, principals, bilingual directors or coordinators, associate superintendents, superintendents, other instructional personnel, and financial officers in the areas of:

(1) research-based bilingual multicultural education, language revitalization programs and implications for instruction;

(2) best practices of English as a second language (ESL); English language development (ELD), bilingual multicultural education and language revitalization programs;

(3) classroom assessments that support academic and language development;

(4) principles of first and second language acquisition, including language revitalization, differentiated language instruction and sheltered content instruction; and

(5) effective practices of program implementation and program evaluation.

**B.** Bilingual multicultural education or language revitalization programs shall be part of the district's professional development plan as required in Subsection E of Section 22-23-5 NMSA 1978.

[6.32.2.13 NMAC - Rp, 6.32.2.13 NMAC, 7/1/2018]

#### **6.32.2.14 PROGRAM ELEMENT - ASSESSMENT:**

**A.** Trained personnel shall administer state-approved language proficiency assessments in English and the home or heritage language annually until proficiency in each language is achieved; public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval for language proficiency assessments from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children; for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking, and comprehension.

**B.** Public school districts shall comply with federal assessment requirements.

**C.** Students enrolled in this program shall participate in the New Mexico standards-based assessment (NMSBA) program.

**D.** In those grades that students do not participate in the New Mexico standards-based assessment program, the public school district shall develop and implement an assessment and evaluation program.

[6.32.2.14 NMAC - Rp, 6.32.2.14 NMAC, 7/1/2018]

#### **6.32.2.15 PROGRAM EVALUATION:**

**A.** Bilingual multicultural education programs shall be evaluated by the department annually for effectiveness and for the appropriate use of funds generated by the bilingual cost differential in the funding formula. For the purposes of such evaluation, each district shall maintain academic achievement and language proficiency data for each school year of each program, which shall be updated annually. This data shall be provided to the department in an annual progress report submitted to the department by

September 30 of the following school year. The annual report shall include the following, by school and by model(s):

(1) verification that the program has identified and served students most in need (with priority given to K-3) based on language proficiency (English and home or heritage language) and academic achievement;

(2) a current analysis of language and academic assessment results demonstrating that participating students have made measurably significant growth toward meeting the state targets for language and academic proficiency;

(3) specific and measureable goals for the following school year, based on Paragraph (2) of Subsection A of 6.32.2.15 NMAC;

(4) verification that teachers, Native American language and culture teachers, teacher assistants, instructional support personnel, principals, bilingual directors or coordinators, associate superintendents, superintendents, other instructional personnel, and financial officers have participated in the districts professional development plan for the program;

(5) an expenditure report from the general ledger on the use of funds generated by the bilingual cost differential in the funding formula for the program; and

(6) districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall provide the annual progress report submitted to the department to tribal councils or other appropriate tribal entities with authority to make education decisions on behalf of Native American children.

**B.** The department shall compile and analyze the data submitted by public school districts and shall report annually to the appropriate interim legislative committee.

[6.32.2.15 NMAC - Rp, 6.32.2.15 NMAC, 7/1/2018]

#### **6.32.2.16 PROGRAM RENEWAL:**

Based on program monitoring and review of the annual report, the department will determine whether the bilingual multicultural education program is compliant pursuant to Section 22-23-1 NMSA 1978 and 6.32.2 NMAC.

**A.** If the department determines that a program is compliant, the public school district may continue the program as authorized in the approved application; districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall notify tribal councils or other appropriate tribal entities with authority to make educational decisions on behalf of Native American children of compliance and program continuation.

**B.** If the department determines that a program is not compliant, the department shall notify the district of such non-compliance, including specific areas of non-compliance.

(1) Upon receipt of a notice of non-compliance from the department, the district shall develop a program improvement plan, with technical assistance from the department, to address the non-compliance. This plan shall include provisions to adjust the curriculum, program components or method of instruction, as necessary. The plan shall be submitted to the department within 30 days, or, with prior written approval of the department, additional time not to exceed 90 days, from receipt by the district of the notice of non-compliance. The district shall implement this plan during the school year in which the district received the notice of non-compliance.

(2) A district in the process of implementing a program improvement plan shall submit its annual report to the department and will be evaluated by the department for compliance based on the standards articulated in 6.32.2.15 NMAC, and not solely on the basis of whether they have fully implemented and complied with the program improvement plan.

(3) If upon review, after receipt of the annual report submitted by a district with a program improvement plan, the department determines that the district remains non-compliant; the department shall notify the district. If the district remains non-compliant after the first year of implementation of the program improvement plan, the district will be required to re-evaluate the program improvement plan and make necessary adjustments. The district shall report the results of this evaluation and any revisions to the original program improvement plan to the department within 30 days, or, with prior written approval of the department, additional time not to exceed 90 days, of receipt of the notice of non-compliance.

(4) If a program is determined to be non-compliant after receiving three consecutive notices of non-compliance, the department shall notify the district and shall discontinue the program at the end of the third school year unless the district can verify compliance to the satisfaction of the department.

(5) A district may not apply for approval for a bilingual multicultural education program for the school year immediately following a discontinuation by the department.

(6) Districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall notify tribal councils or other appropriate tribal entities with authority to make educational decisions on behalf of Native American children of non-compliance and provide evidence of tribal consultation in the development of a program improvement plan in accordance with the Indian Education Act, Sections 22-23A-1 through 22-23A-8 NMSA 1978 and the Bilingual Multicultural Education Act, Section 22-23-1 NMSA 1978.

(7) All districts, regardless of any discontinuation by the department, shall submit the annual report to the department, for any year in which the district has provided assurances to the department.

[6.32.2.16 NMAC - Rp, 6.32.2.16 NMAC, 7/1/2018; A, 7/18/2023]

### **PART 3: SEAL OF BILINGUALISM - BILITERACY ON NEW MEXICO DIPLOMA OF EXCELLENCE**

#### **6.32.3.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.32.3.1 NMAC - N, 09-15-15]

#### **6.32.3.2 SCOPE:**

Local school boards and governing bodies of state-chartered schools.

[6.32.3.2 NMAC - N, 09-15-15]

#### **6.32.3.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to Sections 22-1-9.1, 22-2-1 and 9-24-8(D) NMSA 1978.

[6.32.3.3 NMAC - N, 09-15-15]

#### **6.32.3.4 DURATION:**

Permanent.

[6.32.3.4 NMAC - N, 09-15-15]

#### **6.32.3.5 EFFECTIVE DATE:**

September 15, 2015, unless a later date is cited at the end of a section.

[6.32.3.5 NMAC - N, 09-15-15]

#### **6.32.3.6 OBJECTIVE:**

This rule establishes the criteria for students to earn a state seal of bilingualism-biliteracy on a New Mexico diploma of excellence. The state seal of bilingualism-biliteracy certifies that the recipient is proficient for meaningful use in college, a career or to meet a local community language need in a world language other than English.

[6.32.3.6 NMAC - N, 09-15-15]

#### **6.32.3.7 DEFINITIONS:**

**A. "Academic language"** means the language used in academic content in formal schooling contexts, including specialized or technical language and discourse related to each content area.

**B. "English language learner"** means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade-level English proficient peers and native English speakers.

**C. "Expressive language"** means using language to express information, ideas or concepts in either oral, signed or written communication.

**D. "Language other than English"** is any language other than English, including world languages.

**E. "Proficiency"** means able to express oneself in a language with sufficient structural accuracy and vocabulary to participate effectively in most social and academic situations.

**F. "Receptive language"** means processing language to comprehend information, ideas or concepts in either oral, signed or written communication.

[6.32.3.7 NMAC - N, 09-15-15]

#### **6.32.3.8 PROFICIENCY REQUIREMENTS:**

**A.** To earn the bilingualism-biliteracy seal on the diploma of excellence, students must meet the graduation requirements as specified in Subsection J of 6.29.1.9 NMAC and demonstrate proficiency in a language other than English, through one of the following methods:

- (1)** certification by an individual tribe;
- (2)** units of credit and an assessment;
- (3)** units of credit and an alternative process portfolio; or
- (4)** an assessment and an alternative process portfolio.

**B.** Certification by an individual tribe. A tribe may certify that a student is proficient in the tribal language. Tribes will develop the methods and processes for determining proficiency in their respective tribal languages.

**C. Units of credit and assessments option.** A student may demonstrate proficiency by meeting both the units of credit and assessment requirements.

**(1)** The student must receive a grade of C or higher in four units of credit in a language other than English. All four units of credit must be in the same language other than English and shall consist of language courses, language arts courses, content area courses or any combination thereof. For the purposes of meeting the requirements of this option, a student may not use units of credit in English language arts or English as a second language for English language learners.

**(2)** The student must meet the assessment of proficiency requirement as follows:

**(a)** the student must attain a score of three or higher on an advanced placement examination for a language other than English; or

**(b)** the student must attain a score of four or higher on an international baccalaureate examination for a higher-level language other than English course; or

**(c)** the student must score proficient on a national assessment of language proficiency in a language other than English; or

**(d)** the student may demonstrate proficiency by passing a New Mexico assessment in a world language other than English.

**D. Units of credit and alternative process portfolio option.** A student may demonstrate proficiency by meeting both the units of credit and alternative process portfolio option requirements.

**(1)** The student must receive a grade of C or higher in four units of credit in a language other than English. All four units of credit must be in the same language other than English and shall consist of language courses, language arts courses, content area courses or any combination thereof. For the purposes of meeting the requirements of this option, units of credit in English language arts or English as a second language for English language learners cannot be used.

**(2)** The student must create a portfolio comprised of the following: a presentation, an interview with a panel composed of three or more members of the district's education staff and community who are proficient in the target language other than English, and a student-produced work sample, written when appropriate. Districts shall ensure that the alternative portfolio option includes both the receptive and expressive aspects of the language other than English.

**E. Assessment and alternative process portfolio option.** A student may demonstrate proficiency by meeting both the assessment and alternative process portfolio option requirements.



**(1)** The student must meet the assessment of proficiency requirement as follows:

**(a)** the student must attain a score of three or higher on an advanced placement examination for a language other than English; or

**(b)** the student must attain a score of four or higher on an international baccalaureate examination for a higher-level language other than English course; or

**(c)** the student must score proficient on a national assessment of language proficiency in a language other than English; or

**(d)** the student may demonstrate proficiency by passing a New Mexico assessment in a world language other than English.

**(2)** The student must create a portfolio comprised of the following: a presentation, an interview with a panel composed of three or more members of the district's education staff and community who are proficient in the target language other than English, and a student-produced work sample, written when appropriate. Districts shall ensure that the alternative portfolio option includes both the receptive and expressive aspects of the language other than English.

[6.32.3.8 NMAC - N, 09-15-15]

#### **6.32.3.9 TRANSCRIPT:**

The graduate's high school transcript must also indicate that the graduate received the state seal on the graduate's New Mexico diploma of excellence.

[6.32.3.9 NMAC - N, 09-15-15]

## **CHAPTER 33: EDUCATIONAL STANDARDS - VOCATIONAL EDUCATION**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: ESTABLISHMENT OF ACADEMIC AND TECHNICAL STANDARDS**

#### **6.33.2.1 ISSUING AGENCY:**

Public Education Department.

[6.33.2.1 NMAC - Rp, 6 NMAC 8.4.1.1, 12/31/09]

#### **6.33.2.2 SCOPE:**

Career and technical education in all public schools, including charter schools, eligible state educational institutions, and eligible state postsecondary institutions.

[6.33.2.2 NMAC - Rp, 6 NMAC 8.4.1.2, 12/31/09]

#### **6.33.2.3 STATUTORY AUTHORITY:**

Article 12, Section 6. New Mexico State Constitution; Section 21-13-2 NMSA 1978; Section 21-14-2 NMSA 1978; Section 21-16-7 NMSA 1978; Section 22-2-2(B) NMSA 1978; Section 22-13-1.1 NMSA 1978; Section 22-14-2 NMSA; 1978.

[6.33.2.3 NMAC - Rp, 6 NMAC 8.4.1.3, 12/31/09]

#### **6.33.2.4 DURATION:**

Permanent

[6.33.2.4 NMAC - Rp, 6 NMAC 8.4.1.4, 12/31/09]

#### **6.33.2.5 EFFECTIVE DATE:**

December 31, 2009, unless a later date is cited at the end of a section.

[6.33.2.5 NMAC - Rp, 6 NMAC 8.4.1.5, 12/31/09]

#### **6.33.2.6 OBJECTIVE:**

A. To establish challenging academic and technical standards with benchmarks and performance standards for students and to assist students in meeting such standards, including preparation for high skill, high wage or high demand occupations in current or emerging professions as defined in the scope of this regulation.

B. To establish the program requirements for career and technical education courses and programs at the elementary, secondary, and postsecondary levels.

C. To establish administrative requirements relating to career and technical education, instruction, programs, and services at the elementary, secondary, and postsecondary levels.

D. To establish a process for career and technical education program evaluation.

E. To assure accountability in the use of federal and state funds allocated for career and technical education programs.

F. To promote, strengthen, and assure the operation of quality career and technical education programs.

G. To promote provision of guidance and career counseling services.

H. To promote and strengthen partnerships with local schools, businesses, industry, and the entire community.

I. To establish follow-up and technical assistance procedures which provide for continuous assessment and improvement of career and technical education programs and services.

J. To establish career and technical education programs that offer a progressive, planned program of study which prepares students for: entry into an associate degree or two-year certificate program at a postsecondary institution; entry into a baccalaureate program at a four-year postsecondary institution; or entry into full-time employment in a chosen field, with the option to continue education.

K. To establish career and technical education programs that include, but are not limited to, school-based learning, work-based learning, and connecting activities which may include apprenticeship programs, academies, school-based enterprises, entrepreneurship, school-to-work programs, in-plant training programs, cooperative education programs, as well as other models which provide a planned program of study to develop employability skills and prepare students for further employment

[6.33.2.6 NMAC - Rp, 6 NMAC 8.4.1.6, 12/31/09]

#### **6.33.2.7 DEFINITIONS:**

**A. "Career and technical education"** means organized programs offering a sequence of courses (including technical education and applied technology education) which are directly related to the preparation of individuals in for paid or unpaid employment in current or emerging occupations requiring an industry-recognized credential, certificate, or degree. This term is also referred to as vocational education in state statute 22-14-1 NMSA 1978. Such term also includes applied technology education.

**B. "Career and technical education course"** means a course with content that provides technical knowledge, and skills, and competency-based applied learning, and that aligns with the regulations for educational standards and student expectations for all New Mexico students who attend schools as defined in the scope of 6.29.1 NMAC.

**C. "Career cluster"** means a grouping of occupations in industry sectors based on recognized commonalities. Career clusters provide an organizing tool for developing instruction within the education system.

**D. "Career pathways"** means a sub-grouping of occupations/career specialties used as an organizing tool for curriculum design and instruction of occupational career specialties that share a set of common knowledge and skills for career success.

**E. "Cooperative education"** means a method of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required rigorous and challenging academic courses and related career and technical education instruction, by alternation of study in school with a job in any occupational field, which alternation:

(1) shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual; and

(2) may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

**F. "Educational plan for student success (EPSS)"** means is the annual strategic long-range plan written by all schools districts and districts schools to improve student performance.

**G. "Eligible postsecondary institution"** means a postsecondary institution that grants a certificate or associate degree in a career and technical occupational area.

**H. "Eligible state educational institution"** means an identified institution school that is under the direction of a state agency other than the department or a separate board of regents.

**I. "Postsecondary education tech prep student"** means a student who:

(1) has completed the secondary education component of a tech prep program; and

(2) has enrolled in the postsecondary education component of a tech prep program at an institution of higher education.

**J. "Program of study"** is a progressive continuum of courses that may be offered across grades 9-14. A program of study is a means to provide technical training, training to prepare for employment and training to prepare for entry into postsecondary education.

**K. "Secondary education tech prep student"** means a secondary education student who has enrolled in two (2) courses in the secondary education component of a tech prep program.

**L. "Tech prep program"** means a program of study that combines a minimum of two (2) years of secondary education with a minimum of two (2) years of postsecondary education in a non-duplicative, sequential course of study.

[6.33.2.7 NMAC - Rp, 6 NMAC 8.4.1.7, 12/31/09]

#### **6.33.2.8 IMPLEMENTATION:**

A. Career and technical education program criteria - elementary and secondary levels. Career and technical education programs must:

(1) be in accordance with Section 22-14-1 through 30, NMSA 1978, and the Carl Perkins Act;

(2) provide exploratory and skill development program offerings linked to career pathways;

(3) provide school facilities and grounds which are:

(a) safe, healthy, orderly, clean, and in good repair;

(b) in compliance with the Americans with Disabilities Act, Part III and state fire marshal regulations, Sections 59A-52-1 through 59A-52-25 NMSA 1978;

(c) safe for conducting experiments and school projects in all school laboratories and shops, as established in written school safety procedures which are reviewed annually; these procedures must include, but are not limited to:

(i) personal protective equipment;

(ii) adequate ventilation and electrical circuitry;

(iii) material safety data sheets;

(iv) body and eye washes; and

(v) training appropriate for each teaching situation;

(d) the maximum number of occupants in a laboratory or shop teaching space shall be based on the following:

(i) the building and fire safety codes;

(ii) the design of the laboratory or shop teaching facility;

(iii) appropriate supervision and the special needs of students; and

(iv) all applicable OSHA regulations;

(4) be embedded in the district EPSS and school EPSS and aligned with school improvement initiatives and programs and the appropriate career cluster;

(5) ensure student mastery of New Mexico's career and technical education content standards, including consideration of any results from a workplace readiness assessment, an interest inventory, a portfolio of standards-based indicators, and the student's Next Step Plan; and

(6) include competency-based applied learning which contributes to an individual's academic knowledge, high-order reasoning, and problem-solving skills, work attitudes, general employability skills, technical skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society.

B. Career and technical education program criteria - postsecondary level.

(1) The program organization and delivery support the achievement of program objectives.

(a) Program descriptions include methods of learning, appropriate length of time for courses which comprise the career and technical education program, evidence that the program is coherent, and content that reflects a sequential course of study.

(b) Institutionally identified programs of study include academic and career and technical education skill development linked to the appropriate career cluster. Programs of study are of sufficient scope, quality and duration to ensure student competency and include course descriptions, student outcomes, and varied instructional methods.

(c) Licensure, regulations, or national industry skill standards are addressed through the institutionally identified program of study.

(d) Evaluation of student competencies required for each program incorporates consideration of any available results from a workplace readiness assessment, an interest inventory, a portfolio of standards-based indicators, or a certificate or degree plan at the postsecondary level.

(e) When appropriate, courses are available for dual credit, continuing education or job advancement.

(f) Institutionally identified programs of study are reviewed regularly and revised as necessary to meet the needs of business and industry and determine alignments with applicable public education department standards and benchmarks.

This review and revision may also include accreditation standards of postsecondary institutions.

(2) Career and technical education curricula, materials, and resources provide quality instruction and promote student success through mastery of competencies.

(a) Instructional supplies and materials are relevant, current, and sufficient in supply.

(b) Programs involve business and industry through representation on advisory boards, contribution of resources, and provisions of job training placement opportunities for students.

(c) Programs do not discriminate on the basis of gender, marital or parental status, race, religion, sexual preference, age, national origin or disabilities.

(d) Required materials are available to the students.

(e) Recognized, related student organizations and professional development organizations are available and encouraged.

(3) Program outcomes meet stated objectives, including:

(a) program competencies in the areas of basic and advanced academic skills and general and specific occupational competencies;

(b) evaluation results which demonstrate the effectiveness of the program;

(c) labor market and job placement and wage information verifying the success of the program in preparing students for future employment;

(d) program participation completion rates and employment retention rates;

(e) program and student certification requirements are addressed.

(4) The facility and equipment meet the stated objectives of the program.

(a) Classroom and laboratory space accommodate student enrollment.

(b) Classroom and laboratory space are physically accessible for individuals with disabilities.

(c) Laboratory space meets program or industry standards and includes office and storage space.

(d) Facility and equipment maintenance and replacement schedules are followed.

(e) Equipment is up-to-date, operational, sufficient in quantity and quality, and systematically inventoried.

(f) Supplies are sufficient in quantity and systematically inventoried.

(5) The program is held within safe and healthy work environments for students.

(a) Up-to-date facilities are utilized.

(b) Equipment safety inspections are conducted and safety and environmental procedures are utilized by the program.

(c) The program provides instruction in occupational safety and health in alignment with industry standards.

(6) The program area has business/industry and community partnerships that support the program.

(a) The program offers cooperative education, internships, apprenticeship or some other form of work-based learning opportunity.

(b) Program advisory committee members assist in evaluating the program's progress to ensure that students demonstrate workplace competencies which meet employer requirements.

(c) Program advisory committee recommendations are recognized and may be incorporated into the program.

(d) Programs involve community and interagency coordination, supported through shared resources.

(e) The program may offer tech prep, articulation, dual or concurrent enrollment agreements.

(f) Programs are responsive to the community's employment needs and offer special training programs as necessary to address unemployment.

C. Career and technical education program administrative criteria - postsecondary level.

(1) Information about the program is made available to the general public.



(a) Program information is available in the college catalog, program brochures, and media campaigns.

(b) Outreach and recruitment activities promote student enrollment.

(2) The institution does not discriminate with regard to race, culture, ancestry, color, national origin, sex, age, religion, or disabilities, and does provide special services to assist these special populations in meeting their educational objectives.

(a) Special population students are enrolled in the programs.

(b) Outreach and recruitment activities promote student enrollment that reflects the ethnic composition of the community.

(c) The program enrollment reflects non-traditional gender enrollments.

(d) Basic, remedial, and developmental supportive education services are made available to special populations and other students in need of such services.

(3) Students are provided with advisement, assessment, and counseling services and placement assistance.

(a) The institution maintains, coordinates, and facilitates articulation and recruitment with local high schools including tech prep activities.

(b) Career counseling, technical assessments, and counseling resources are available.

(c) Cooperative education, internships, apprenticeships, and job shadowing opportunities are available.

(d) Students are provided assistance with employability skills such as resume preparation, interview techniques, and job success information.

(e) Current local and national employment trends, occupational information, and career opportunities in the program area are provided to students as well as to instructors, counselors, admissions and placement personnel.

(f) Placement and follow-up data are collected on a continuing basis and are used in program planning and evaluation.

(4) The institution provides faculty and administrative support to meet the needs of the program.

(a) All program faculty have an appropriate credential or training background approved by the institution.

(b) The institution maintains a current professional development plan (PDP) for both full- and part-time career and technical education faculty.

(c) Funding is available for career and technical faculty/staff professional development.

(d) An adequate budget exists for program operation.

(5) The institution provides multimedia services such as library and computer services which support the educational objectives of the career and technical education program.

(a) An adequate level of services are available to support the career and technical education program.

(b) Services are provided for all ability levels.

(c) Services are available at times that are convenient to students and faculty.

(6) The institution maintains a planning strategy which aligns with the direction of industry in order to respond to the needs of the students, the community, business, and industry.

(a) The institution conducts program and institutional needs assessments.

(b) The institution has developed long- and short-range goals and objectives.

[6.33.2.8 NMAC - Rp, 6 NMAC 8.4.1.9, 12/31/09]

## **PART 3: PRE-APPRENTICESHIP PROGRAM**

### **6.33.3.1 ISSUING AGENCY:**

Public Education Department.

[6.33.3.1 NMAC - N, 5/14/2010]

### **6.33.3.2 SCOPE:**

This rule applies to public school districts (high schools, charter schools and state supported schools) that provide for industry-taught or guided pre-apprenticeship programs for qualified high school students.

[6.33.3.2 NMAC - N, 5/14/2010]

### **6.33.3.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to sections 9-24-8, 22-2-1, 22-2-2, 22-14-31 NMSA 1978.

[6.33.3.3 NMAC - N, 5/14/2010]

**6.33.3.4 DURATION:**

Permanent

[6.33.3.4 NMAC - N, 5/14/2010]

**6.33.3.5 EFFECTIVE DATE:**

May 14, 2010, unless a later date is cited at the end of a section.

[6.33.3.5 NMAC - N, 5/14/2010]

**6.33.3.6 OBJECTIVE:**

To provide a framework for pre-apprenticeship program development at the local level for public school districts.

[6.33.3.6 NMAC -N, 5/14/2010]

**6.33.3.7 DEFINITIONS:**

**A. "Apprentice"** means a person at least 16 years old who is covered by a written agreement with an employer, or with an association of employers or employees acting as agent for an employer, and approved by the apprenticeship council, which apprentice agreement provides for not less than 2,000 hours required for any given trade by reasonably continuous employment for such person, for his or her participation in an approved schedule of work experience through employment and for at least 144 hours per year of related supplemental instruction.

**B. "Apprenticeable trade or profession"** means those on the United States department of labor (USDOL) list of officially recognized apprenticeable occupations that meet the standards of apprenticeship. A skilled trade that possesses the following characteristics:

(1) customarily learned in a practical way through a structured, systematic program of on-the-job supervised training;

(2) clearly identified and commonly recognized throughout an industry;

(3) involves manual, mechanical or technical skills and knowledge that require a minimum of two thousand hours of on-the-job work experience; and

(4) requires related instruction to supplement on-the-job training.

**C. "Apprenticeship"** means a formal educational method for training a person in a skilled trade that combines supervised employment with classroom study.

**D. "Apprenticeship council"** means New Mexico state apprenticeship council, the registering authority in New Mexico.

**E. "Career-technical courses"** means a course with content that provides technical knowledge, and skills, and competency-based applied learning, and that aligns with the regulations for educational standards and student expectations for all New Mexico students who attend schools as defined in the scope of 6.29.1 NMAC.

**F. "Course of instruction"** means an organized and systematic program of study designed to provide the pre-apprentice with knowledge of the theoretical subjects related to one or more specific apprenticeable trades and that meets apprenticeship-related instruction requirements; provided that "course of instruction" may include hands-on training but does not include on-the-job training.

**G. "Department"** means public education department.

**H. "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.

**I. "Industry instructor"** means a person who is:

(1) working or has worked in an apprenticeable trade or profession for the minimum number of years required by the established industry practices of that particular trade to be an industry-recognized expert; or

(2) a career-technical faculty member at a public post-secondary educational institution.

**J. "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.

**K. "Local school district"** means the school board of a local school district or the governing body of a charter school or state supported school.

**L. "Nationally recognized trade organization"** means an industry trade group, founded and funded to operate in a specific industry that is registered with the state apprenticeship council.

**M. "Next-step plan"** means an annual personal written plan of studies developed by a student in a public school or other state-supported school or institution in consultation with the student's parent and school counselor or other school official charged with coursework planning for the student that includes one or more of the following:

- (1) advanced placement or honors courses;
- (2) dual-credit courses offered in cooperation with an institution of higher education;
- (3) distance learning courses;
- (4) career-technical courses; and
- (5) pre-apprenticeship programs.

**N. "Pre-apprentice"** means a public school student who is enrolled in a pre-apprenticeship program.

**O. "Pre-apprenticeship program"** means a local school board-approved course of instruction offered through a provider that results, upon satisfactory completion of the program, in a certificate of completion that is acceptable to an apprenticeship training program registered with the apprenticeship council.

**P. "Provider"** means an industry employer of an apprenticeable trade, a union, a trade association, or a post-secondary educational institution that provides a pre-apprenticeship program. The local school board shall only approve providers and pre-apprenticeship programs, including courses of instruction and industry instructors, that meet registered apprenticeship requirements of the apprenticeship council or the apprenticeship requirements of an appropriate nationally recognized trade organization.

**Q. "Qualified high school student"** means a student who is at least 16 years of age; is in the eleventh or twelfth grade; has available to schedule at least the number of electives required for the pre-apprenticeship program and commits those electives to the program; maintains compliance with the district attendance policy and code of conduct; and meets other local prerequisites outlined in memorandum of agreement between the provider and the local education agency.

**R. "Registered apprenticeship program"** means a program registered with the New Mexico state apprenticeship council.

[6.33.3.7 NMAC - N, 5/14/2010]

#### **6.33.3.8 MEMORANDUM OF AGREEMENT:**

A. Pre-apprenticeship programs shall be provided in accordance with the terms and conditions of a uniform memorandum of agreement (*hereafter* "MOA"), which supersedes all previous agreements, versions and addenda. This agreement applies to public school districts, including a charter school or charter school district, a state supported educational institution and a state-chartered school (*hereafter* "district"), high school students who attend public school districts, and pre-apprenticeship providers (*hereafter* "providers") in New Mexico. School districts and charter schools may complete agreements with multiple providers.

B. The MOA shall include provisions stating the following: The primary purposes of the pre-apprenticeship program are to allow school districts to provide for industry taught or guided pre-apprenticeship programs for qualified high school students. The pre-apprenticeship program will allow for the local school board to approve providers and pre-apprenticeship programs, including courses of instruction and industry instructors that meet apprenticeship requirements of the state apprenticeship council or the apprenticeship requirements of an appropriate nationally recognized trade organization. Pre-apprenticeship programs shall meet department content and performance standards and shall be provided at no cost to students. The pre-apprenticeship program is designed so that pre-apprentices may earn elective credits toward high school graduation and meet requirements for apprenticeship-related supplemental instruction or post-secondary education course credits. The pre-apprenticeship program makes available licensure exemptions for the provider's industry instructor(s). Pre-apprenticeship programs may be offered during the school day whenever possible, may be conducted at industry locations, including union halls or other industry training facilities; at existing school facilities, if available; or at any other location approved by the local school board.

C. The MOA specifies the means by which the state will provide equal opportunities to all qualified high school students who wish to participate in the pre-apprenticeship program.

D. This MOA shall provide the following duties and responsibilities of the pre-apprenticeship industry provider. The industry provider shall:

(1) provide an industry provider application form that addresses the name of pre-apprenticeship course of instruction or program offered by provider; program start date; name of course to include student teacher accountability reporting system (STARS) course code number, method of delivery, course alignment and if dual credit is offered; identification of tools needed for program; identification of supplies provided for program; identification of instructional materials provided for the program; evaluation process of program; method of grade reporting; method of attendance recording; how students are recruited; how students are accepted into program, retained and dismissed; circumstances under which the program may terminate; continuation plan for the pre-apprenticeship program that provides the student the opportunity to complete coursework that will bear the previously agreed upon semester credit; and identify an industry approved instructor;

(2) provide an industry instructor's application form to include the name of pre-apprenticeship course of instruction, or program; instructor's identifying information to include name, address, phone, gender, date of birth, approving industry entity, instructor resume and a completed character and fitness questionnaire to include the following:

(a) have you ever been disciplined, reprimanded, suspended or discharged, from any employment because of allegations of misconduct?

(b) have you ever resigned, entered into a settlement agreement, or otherwise left employment following an allegation of misconduct?

(c) is any action now pending against you for alleged misconduct, including application discrepancies?

(d) have you ever failed to fulfill the terms of a contract?

(e) do you currently have any outstanding criminal charges, warrants of arrest, or conditions of probation pending against you in New Mexico or in any other state?

(f) have you ever been fingerprinted as a result of any arrest or detainment for any crime or violation of the law?

(g) have you ever pled guilty to, or been convicted of, any crime or violation of law, including entering a plea of no contest or receiving a deferred or suspended sentence?

(h) are you currently delinquent in payment of court-ordered child support?

(i) have you ever had a court-ordered screening for alcohol or drug dependence?

(3) employ a method of qualifying the industry instructor that includes the following requirements:

(a) background checks:

(i) industry instructors shall be required to undergo a background check as provided for licensed school employees in Section 22-10A-5 NMSA 1978;

(ii) the school district or charter school may act on the information received from the background check and refuse to approve a person as an industry instructor; and

(iii) the district shall not allow persons who have not been vetted through the background check process to have unsupervised contact with students;

(b) licensure:

(i) licensure requirements shall not apply to industry instructors;

(ii) a complete resume demonstrating expert; verification by experience, license or certification may qualify as an industry instructor; and

(iii) a department licensed teacher may qualify as an industry instructor;

(c) adhere to the district confidentiality guidelines;

(4) designate a representative to review and sign the completed MOA with the understanding that only a MOA endorsed by all parties shall constitute a pre-apprenticeship program;

(5) determine, in collaboration with the district, the required academic standing of each student eligible to participate in the pre-apprenticeship program;

(6) employ a method of qualifying the student for pre-apprenticeship that demonstrates that the student has the appropriate skills and maturity to benefit from the instruction requested;

(7) provide information and orientation, in collaboration with the district, to the student and parent or guardian regarding the responsibilities of pre-apprenticeship including academic rigor, time commitments, and behavioral expectations associated with taking pre-apprenticeship courses and the importance of satisfactorily completing the pre-apprenticeship credits attempted in order for credit to be awarded;

(8) inform students of course requirement information which includes course content, grading policy, attendance requirements, course completion requirements, performance standards, and other related course information;

(9) evaluate progress of pre-apprenticeship students on the issue of academic performance and provide reports, as needed, to the district;

(10) retain the official grade report of the pre-apprenticeship student that records the term of enrollment, courses/credits attempted, courses/credits completed, grades and grade point average earned;

(11) provide final grades to the district for each pre-apprenticeship student;

(12) deliver final grades for all pre-apprenticeship students to the district with sufficient time to be included with final grades; this schedule shall be defined by the



parties in the MOA and shall address the time frame appropriate for determining student graduation from high school;

(13) issue to student a certificate of completion acceptable to an apprenticeship training program; the certificate shall identify:

(a) coursework showing industry standards and benchmarks completed;

(b) competency level of skills attained; and

(c) certifying signature from district and instructor verifying student level of completion;

(14) comply with data collection and reporting.

E. The MOA shall provide the following duties and responsibilities of the district. The district shall:

(1) work collaboratively with approved provider to recruit students;

(2) make available its facility for recruitment;

(3) ensure adequate information is available to students regarding participation in a pre-apprenticeship program;

(4) ensure the pre-apprenticeship course of instruction is identified in the next step plan and shows that the student has committed or intends to commit necessary electives;

(5) ensure that upon successful completion of coursework designated as elective coursework, the student may be awarded elective credit toward high school graduation;

(6) ensure that upon successful completion of coursework designated as core coursework, the student may be awarded core credit toward high school graduation;

(7) employ a method of qualifying the student for pre-apprenticeship based on factors which may include academic performance review, use of next step plan, assessments, advisement and career guidance, and recommend enrollment in the pre-apprenticeship program with evidence that the student has the appropriate skills and maturity to benefit from the instruction requested;

(8) provide information and orientation to students about career opportunities within the apprenticeship occupation during student advisement and formulation of annual next step plan;

(9) ensure counselors or advisors to pre-apprenticeship students shall have working knowledge about pre-apprentice programs;

(10) identify the location for delivery of the pre-apprenticeship program;

(11) designate a representative to collaborate with the provider to reach agreement on student participation in the pre-apprenticeship program;

(12) approve student participation in the pre-apprenticeship program on a semester by semester basis;

(13) provide information and orientation, in collaboration with the pre-apprenticeship industry provider, to the student and student's family regarding the responsibilities of pre-apprenticeship enrollment including academic rigor, time commitments, and behavioral expectations associated with taking pre-apprenticeship courses and the importance of satisfactorily completing the credits attempted in order for pre-apprenticeship to be awarded;

(14) inform students of course requirement information which includes course content, grading policy, attendance requirements, course completion requirements, performance standards, and other related course information;

(15) make clear to students that if they fail or withdraw from pre-apprenticeship classes that they were intending to use for elective high school credit that they will have to make up those credits in order to graduate; the pre-apprenticeship course grade will appear on the student high school transcript; and

(16) record, unchanged, the grade given to the pre-apprenticeship student by the pre-apprenticeship provider on each student high school transcript.

F. The MOA shall provide the following data collection and reporting:

(1) Each semester, the student application form shall be used to document each student request for enrollment in pre-apprenticeship courses and the review and approval process within the district and pre-apprenticeship provider. The pre-apprenticeship provider may require additional forms and information from the student.

(2) In the event of scheduling changes, the pre-apprenticeship provider may change course information upon mutual agreement with the school district.

(3) Data and reporting will be tracked with student teacher accountability reporting system (STARS) codes by assigning a numeric identifier to a pre-apprenticeship course.

(4) Each district and pre-apprenticeship provider shall devise procedures for reporting pre-apprenticeship data from the both the provider application and student application forms utilizing the public school student identification numbers.

G. Term and limitations of agreement

(1) Initial term. MOA shall identify the initial implementation term of the pre-apprenticeship program and contain signatures from all parties.

(2) Program cessation. A provider wishing to cease its pre-apprenticeship program shall notify the superintendent according to the agreed upon timeframe in the provider's application form.

(3) Program continuation. Upon notification of cessation of a pre-apprenticeship program, the local school district and provider must agree on a continuation plan for the pre-apprenticeship program that provides the student the opportunity to complete coursework that will bear the previously agreed upon semester credit.

(4) The MOA shall automatically renew for additional fiscal years unless either party notifies the other party of their intent not to renew 60 days before the end of the fiscal year.

[6.33.3.8 NMAC - N, 5/14/2010]

**6.33.3.9 PRE-APPRENTICESHIP PROGRAM IMPLEMENTATION:**

A. A pre-apprenticeship program must have an existing MOU as outlined in 6.33.3.8 NMAC.

B. A pre-apprenticeship course of instruction must:

(1) be provided at no cost to students, with the exception of course-specific fees that may apply;

(2) meet department content and performance standards;

(3) make available high school graduation credit that may be offered as elective; and

(4) allow for instruction to be conducted at existing training locations such as:

(a) industry training locations;

(b) union halls; and

(c) existing school facilities.

C. A student withdrawal process shall be included and addressed at the discretion of the principal or principal's designee. Student withdrawal from the program shall be subject to the local district's policy regarding eligibility and enrollment as outlined by school governance and their guidance counselor/advisors.

(1) A student may be withdrawn from the program at the discretion of the principal. Cessation of student participation is subject to local districts policy regarding eligibility and enrollment as outlined by school governance and their guidance counselor/advisors.

(2) Comply with the district and industry or institution provider student code of conduct and other industry or institutional policies.

D. The student will comply with the following assurances and responsibilities:

(1) provide a student application form that addresses the name of pre-apprenticeship program; student identification to include name address, phone, gender, date of birth, student teacher accountability reporting system (STARS) student identification number;

(2) be at least sixteen years of age; enrolled in eleventh or twelfth grade; have at least the number of electives required for the pre-apprenticeship program applied for and commit, by identification on the student's next step plan, those electives to the program and meet other requirements of the pre-apprenticeship program approved by the local education agency; maintain compliance with the district attendance policy and code of conduct; and meet other local prerequisites outlined in memorandum of agreement between the provider and the local education agency;

(3) discuss potential pre-apprenticeship courses with the appropriate district and pre-apprenticeship provider staff, including pre-apprenticeship provider admission and registration requirements, course requirements, credits to be attempted, credits to be awarded, scheduling under pre-apprenticeship, and implications for failure to successfully complete the course;

(4) qualify for pre-apprenticeship courses offered by meeting pre-apprenticeship provider and district requirements to enroll as a pre-apprenticeship student;

(5) comply with the district and industry providers' student code of conduct;

(6) return textbooks and unused course supplies to the district when the student completes the course or withdraws from the course (subject to provisions in Subsection B of Section 22-15-10 NMSA 1978 regarding lost or damaged instructional material);

- (7) arrange transportation to the pre-apprenticeship program instructional site;
- (8) be responsible for course-specific fees;
- (9) obtain course requirements for each course, including course prerequisites, if any, course content, grading policy, attendance requirements, course completion requirements, performance standards, and other related course information;
- (10) meet the prerequisites, if any, and requirements of the course(s) to be taken;
- (11) obtain approval for enrolling in the pre-apprenticeship program each semester by acquiring all necessary signatures on the student application form; and
- (12) register for courses during the district's registration periods.

E. Data reporting will be aligned with student teacher accountability reporting system (STARS) data requests to the public education department and subject to provisions of Section 22-8-13 NMSA 1978.

[6.33.3.9 NMAC - N, 5/14/2010]

#### **6.33.3.10 PRE-APPRENTICESHIP PROGRAM FORMS:**

To expedite the transmission of necessary information between the district and the provider, specific forms are required and are as follows:

A. The CTWEB/Pre-app: P-1 memorandum of agreement. The P-1 form provides the terms of the agreement by and between the industry provider and the local school district and becomes the master agreement. The agreement shall include, but not be limited to the following information:

- (1) legal names of the parties;
- (2) eligibility and approval requirements;
- (3) duties and responsibilities of the industry provider;
- (4) duties and responsibilities of the district; and
- (5) full name, signature and date of responsible parties approved to implement.

B. The CTWEB/Pre-app: P-2 industry provider application form. The P-2 form provides the name of the pre-apprenticeship program, legal name and contact

information of industry provider or post secondary partnership, if applicable. The provider application shall include, but not be limited to the following information:

- (1) program start date;
- (2) course information, to include pre-requisites, recruitment and acceptance for the program;
- (3) verification of alignment to New Mexico standards and benchmarks;
- (4) identifying tools, supplies, and instructional materials for the program;
- (5) method of delivery, evaluation, grading, attendance methods for reporting;
- (6) plan for continuation if provider wishes to cease its pre-apprenticeship program;
- (7) circumstances for dismissal of a student;
- (8) location where the pre-apprenticeship program will be conducted; and
- (9) full name, signature and date of responsible parties approved to implement.

C. The CTWEB/Pre-app: P-3 instructor application form. The P-3 form shall include, but not be limited to information which provides the instructor name, contact information, industry approval and qualification. Character and fitness detail is required as well as oath certification statement and signature.

D. The CTWEB/Pre-app: P-4 student application form. The P-4 form shall include but not be limited to the following information:

- (1) student name, contact, eligibility and reporting information;
- (2) school information;
- (3) assurances and responsibilities of the student, read and agreed by signature; and
- (4) full name, signature and date of responsible parties approval with completed application.

E. The CTWEB/Pre-app: P-5 skill achievement certification form. The P-5 form serves as a certificate of completion that is acceptable to an apprenticeship training program. It shall include but not be limited to the full name, signature and date of responsible parties involved in the training detail.

[6.33.3.10 NMAC - N, 5/14/2010]

## **CHAPTER 34: RURAL EDUCATION**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: FLEXIBILITY FOR RURAL SCHOOL DISTRICTS**

#### **6.34.2.1 ISSUING AGENCY:**

Public Education Department.

[6.34.2.1 NMAC - N, 08-31-06]

#### **6.34.2.2 SCOPE:**

This rule applies to public schools and school districts.

[6.34.2.2 NMAC - N, 08-31-06]

#### **6.34.2.3 STATUTORY AUTHORITY:**

This regulation is promulgated pursuant to Section 22-2-1 and 9-24-8 NMSA 1978.

[6.34.2.3 NMAC - N, 08-31-06]

#### **6.34.2.4 DURATION:**

Permanent

[6.34.2.4 NMAC - N, 08-31-06]

#### **6.34.2.5 EFFECTIVE DATE:**

August 31, 2006, unless a later date is cited at the end of a section.

[6.34.2.5 NMAC - N, 08-31-06]

#### **6.34.2.6 OBJECTIVE:**

This rule establishes the general provisions and definitions applicable to rural education.

[6.34.2.6 NMAC - N, 08-31-06]

#### **6.34.2.7 DEFINITIONS:**

**A. "Rural local educational agency ("rural LEA")"** means a local school district meeting the following criteria:

(1) the total number of students in average daily attendance at all schools served by the school district is fewer than 600, OR all schools in the district are located in counties with a population density of fewer than 10 persons per square mile; AND

(2) all schools served by the school district have a school locale code of 7 or 8 as determined by the secretary of the United States department of education in its small, rural school achievement eligibility spreadsheet for a given year.

**B. "Small rural school achievement spreadsheet ("SRSA")"** means that spreadsheet developed by the United States department of education office of elementary and secondary education for a given fiscal year/school year delineating those New Mexico school districts as eligible for the SRSA program for that fiscal year.

[6.34.2.7 NMAC - N, 08-31-06]

#### **6.34.2.8 FLEXIBILITY FOR RURAL SCHOOLS:**

A. Unless otherwise prohibited by federal law or regulation, school districts meeting the definition of rural LEA and currently employing teachers who teach multiple subjects but do not meet all the criteria for a highly qualified teacher in each of the core academic subjects they teach may have until the end of the 2006-2007 school year for these teachers to be highly qualified in each subject that they teach.

B. Newly hired teachers in school districts meeting the definition of rural LEA will have three years from the date of hire to become highly qualified in each core academic subject that they teach.

C. School districts using the flexibility described in subsections A and B of the section must:

(1) ensure that all teachers in core academic areas are highly qualified in at least one core academic subject they teach;

(2) provide high-quality professional development that increases the teachers' content knowledge in the additional subjects they teach; and

(3) provide mentoring or a program of intensive supervision that consists of structured guidance and regular, ongoing support so that they become highly qualified in the additional core academic subject(s) they teach.

[6.34.2.8 NMAC - N, 08-31-06]

#### **6.34.2.9 TECHNICAL ASSISTANCE:**



A. School districts not included in the annual SRSA listing may also be assisted through an application process to the rural education division of the public education department. Examples of assistance include:

- (1) school/community revitalization program;
- (2) filling teacher vacancies;
- (3) interpretation of test results;
- (4) advice on continuous improvement programs; and
- (5) integrating distance education programs.

B. The rural education division will develop an application for school districts to use in submitting requests for assistance. The application will address the following components:

- (1) percentage of students eligible for free and reduced price lunch;
- (2) percentage of minority enrollment;
- (3) migrant student population;
- (4) poverty rates;
- (5) accessibility to service centers;
- (6) administrator turnover;
- (7) ethnicity discrepancies between students and teachers and students and principals;
- (8) transportation costs; and
- (9) property wealth.

[6.34.2.9 NMAC - N, 08-31-06]

## **CHAPTER 35: INDIAN EDUCATION**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: IMPLEMENTING THE INDIAN EDUCATION ACT**

**6.35.2.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.35.2.1 NMAC - Rp, 6.35.2.1 NMAC, 7/1/2020]

**6.35.2.2 SCOPE:**

This rule applies to school districts, state-chartered charter schools, locally chartered charter schools, Indian nations, tribes, pueblos, state post-secondary institutions, the New Mexico higher education department, and the department.

[6.35.2.2 NMAC - Rp, 6.35.2.2 NMAC, 7/1/2020]

**6.35.2.3 STATUTORY AUTHORITY:**

This rule is being promulgated pursuant to Sections 9-24-8, 22-2-1, and 22-23A-1 et seq. NMSA 1978.

[6.35.2.3 NMAC - Rp, 6.35.2.3 NMAC, 7/1/2020]

**6.35.2.4 DURATION:**

Permanent.

[6.35.3.4 NMAC - Rp, 6.35.2.4 NMAC, 7/1/2020]

**6.35.2.5 EFFECTIVE DATE:**

July 1, 2020, unless a later date is cited at the end of a section.

[6.35.2.5 NMAC - Rp, 6.35.2.5 NMAC, 7/1/2020]

**6.35.2.6 OBJECTIVE:**

The objective of this rule is to implement the Indian Education Act.

[6.35.2.6 NMAC – Rp, 6.35.2.6 NMAC, 7/1/2020]

**6.35.2.7 DEFINITIONS:**

**A. "Advisory council"** means the Indian education advisory council established pursuant to Section 22-23A-6 NMSA 1978.

**B. "Assistant secretary"** means the assistant secretary for Indian education of the department.

**C. "Culturally relevant"** means learning environments, instructional materials, curriculum, support services, activities, and professional development that inform culturally and linguistically responsive pedagogy; reflect the cultures, languages, and lived experiences of tribal society; address tribal descriptions, tribal interpretations, or tribal perspectives of events and experiences; and encourage critical pedagogy.

**D. "Division"** means the Indian education division of the department.

**E. "Fund"** means the Indian education fund created in the state treasury.

**F. "Historically defined Indian impacted school district"** means a school district, a state-chartered charter school, or locally chartered charter school that meets at least one of the following criteria:

(1) serves at least 175 American Indian or Alaska Native students and is located wholly or partially on tribal land; or

(2) identifies at least ten percent of its overall student population as American Indian or Alaska Native and is located wholly or partially on tribal land; or

(3) identifies at least forty-five percent of its overall student population as American Indian or Alaska Native.

**G. "Secretary"** means the secretary of education.

[6.35.2.7 NMAC - Rp, 6.35.2.7 NMAC, 7/1/2020]

#### **6.35.2.8 INDIAN EDUCATION ACT PURPOSES:**

The department shall support and advance the purposes of the Indian Education Act to:

**A.** ensure equitable and culturally relevant learning environments, educational opportunities, and culturally relevant instructional materials for American Indian and Alaska Native students enrolled in public schools;

**B.** ensure maintenance of native languages;

**C.** provide for the study, development, and implementation of educational systems that positively affect the educational success of American Indian and Alaska Native students;

**D.** ensure that the department partners with Indian nations, tribes, and pueblos to increase tribal involvement and control over schools and the education of students located in tribal communities;

**E.** encourage cooperation among the educational leadership of Arizona, Utah, New Mexico, and the Navajo Nation to address the unique issues of educating students in Navajo communities that arise due to the location of the Navajo Nation in those states;

**F.** provide the means for a formal government-to-government relationship between the state and Indian nations, tribes, and pueblos in New Mexico and the development of relationships with the education division of the bureau of Indian education and other entities that serve American Indian and Alaska Native students;

**G.** provide the means for a relationship between the state and urban American Indian and Alaska Native community members in New Mexico to participate in initiatives and educational decisions related to American Indian and Alaska Native students residing in urban areas;

**H.** ensure that parents, tribal departments of education, community-based organizations, the department, universities, and tribal, state, and local policymakers work together to find ways to improve educational opportunities for American Indian and Alaska Native students;

**I.** ensure that Indian nations, tribes, and pueblos are notified of all curricula development for their approval and support;

**J.** encourage an agreement regarding the alignment of the bureau of Indian education and state assessment programs so that comparable information is provided to parents and Indian nations, tribes, and pueblos; and

**K.** encourage and foster parental involvement in the education of American Indian and Alaska Native students.

[6.35.2.8 NMAC - Rp, 6.35.2.8 NMAC, 7/1/2020]

#### **6.35.2.9 POST-SECONDARY EDUCATION:**

The department shall collaborate with the higher education department and New Mexico post-secondary institutions, including teacher education programs, tribal colleges, and tribal education departments, to coordinate transition efforts and support for American Indian and Alaska Native students in public schools pursuing post-secondary education and training, including sharing aggregate data on:

**A.** placement test scores; and

**B.** drop-out rates.

[6.35.2.9 NMAC - Rp, 6.35.2.9 NMAC, 7/1/2020]

#### **6.35.2.10 IMPLEMENTATION OF THE INDIAN EDUCATION ACT:**

**A. The secretary and the assistant secretary shall:**

**(1)** collaborate, in cooperation with the Indian education advisory council, state and federal departments and agencies, and tribal governments to identify ways such entities can assist the department in the implementation of the Indian Education Act; and

**(2)** convene semiannual government-to-government meetings for the purpose of receiving input on education of American Indian and Alaska Native students.

**B. The assistant secretary shall:**

**(1)** work to expand appropriate Indian education for American Indian and Alaska Native students in preschool through grade 20;

**(2)** coordinate with appropriate administrators and divisions to ensure that department administrators make implementation of the Indian Education Act a priority;

**(3)** in accordance with the rules of the department and after consulting with the Indian education advisory council and determining the resources available within the department:

**(a)** provide assistance, including advice on allocation of resources, to school districts and Indian nations, tribes, and pueblos to improve services to meet the educational needs of American Indian and Alaska Native students based on current published indigenous best practices in education;

**(b)** provide assistance to school districts and Indian nations, tribes, and pueblos in New Mexico in the planning, development, implementation, and evaluation of curricula in native languages, culture, and history designed for all students, including American Indian and Alaska Native students, as approved by Indian nations, tribes, and pueblos in New Mexico;

**(c)** develop or select for implementation a challenging, sequential, culturally relevant curriculum to provide instruction to American Indian and Alaska Native students in pre-kindergarten through sixth grade to prepare them for pre-advanced placement and advanced placement coursework in grades seven through 12;

**(d)** provide assistance to school districts, post-secondary institutions, and Indian nations, tribes, and pueblos in New Mexico to develop curricula and instructional materials in native languages, culture, and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the Indian nation, tribe, or pueblo;

**(e)** conduct indigenous research and evaluation for effective curricula for American Indian and Alaska Native students;

**(f)** collaborate with the department to provide distance learning for American Indian and Alaska Native students in public schools to the maximum limits of the department's abilities;

**(g)** establish, support, and maintain an Indian education advisory council;

**(h)** enter into agreements with each Indian nation, tribe, or pueblo in New Mexico or its authorized educational entity to share programmatic information and to coordinate technical assistance for public schools that serve American Indian and Alaska Native students;

**(i)** seek funds to establish and maintain an Indian education office in the northwest corner of the state, or other geographical location, to: implement agreements with each Indian nation, tribe, or pueblo in New Mexico or its authorized educational entity; monitor the progress of American Indian and Alaska Native students; and coordinate technical assistance at the public pre-kindergarten to post-secondary institutions that serve American Indian and Alaska Native students;

**(j)** seek funds to establish, develop, and implement culturally relevant support services for the purposes of increasing the number of American Indian and Alaska Native teachers, administrators, and principals and providing continued professional development, including training in cultural competency, for educational assistants, teachers, and principals serving American Indian and Alaska Native students; in conjunction with the Indian education advisory council, the assistant secretary shall:

**(i)** support recruitment and retention of highly qualified teachers and administrators;

**(ii)** identify academic transition programs;

**(iii)** identify academic financial support;

**(iv)** support teacher preparation;

**(v)** support teacher induction; and

**(vi)** support professional development;

**(k)** develop curricula to provide instruction in tribal history and government and develop plans to implement these subjects into history and government courses in school districts throughout the state;

**(l)** ensure that native language bilingual programs are part of a school district's professional development plan, as provided in Section 22-10A-19.1 NMSA 1978;

(m) encourage participation in cultural competency training by educational assistants, teachers, and principals serving American Indian and Alaska Native students; and

(n) develop a plan to establish a post-secondary investment system for American Indian and Alaska Native students to which parents, Indian nations, tribes, pueblos, and the state may contribute.

(4) require school districts to obtain a signature of approval by the tribal governments in New Mexico or their government designees residing within school district boundaries, verifying that the Indian nations, tribes, or pueblos agree to Indian education policies and procedures pursuant to federal requirements.

(a) If the district is unable to obtain the required signatures, the district must submit a written, signed explanation of the reasons.

(b) Tribal governments declining to provide a signature of approval will be afforded the opportunity to submit a written, signed explanation of the reasons for the refusal.

(c) A tribal leader or authorized designee of an Indian nation, tribe, or pueblo that has students attending a school district's schools may file a written complaint with the United States department of education regarding any action of the school district pursuant to, or relevant to, the school district's Indian policies and procedures in accordance with Subpart G of 34 CFR Part 222.

[6.35.2.10 NMAC - Rp, 6.35.2.10 NMAC, 7/1/2020]

#### **6.35.2.11 AMERICAN INDIAN/ALASKA NATIVE STUDENT NEEDS ASSESSMENT:**

**A.** Beginning in the 2020-2021 school year, a historically defined Indian impacted school district shall:

(1) by October 15, and every three years thereafter, conduct an American Indian/Alaska Native student needs assessment to determine what supports are needed in school, at home, and in the community to help American Indian and Alaska Native students succeed in school, graduate with a diploma of excellence, and be prepared to enter post-secondary education or the workplace;

(2) seek best practices for conducting an American Indian/Alaska Native student needs assessment that is appropriate for localized needs, to include school, home, and the community;

**(3)** conduct a tribal consultation with local Indian nations, tribes, and pueblos to prioritize and address, the needs identified in the American Indian/Alaska Native student needs assessment;

**(4)** prioritize in its school district budget the needs of American Indian and Alaska Native students and closing the achievement gap between American Indian and Alaska Native students and all other student groups through the use of state and federal funding for American Indian and Alaska Native students, at-risk students, or economically disadvantaged students;

**(5)** apply for appropriate financial assistance, which may include state, federal, or private grants, to assist with meeting the requirements of 6.35.2.11 NMAC;

**(6)** develop an accountability tool, which shall be reevaluated annually, that measures the success or failure of a public school's efforts pursuant to the systemic framework provided for in 6.35.2.12 NMAC;

**(7)** hold a public meeting with members of the district's American Indian and Alaska Native students' tribal leadership, parents, and the Indian education division at least twice during each school year, once by November 30 and once by April 30, to report on the American Indian/Alaska Native student needs assessment and the historically defined Indian impacted school district's evaluation of progress; and

**(8)** conduct, submit to the department, and publish on its website an annual review on the evaluation of progress to determine if amendments are needed to the systemic framework or accountability tool.

**B.** A historically defined Indian impacted school district or an Indian nation, tribe, or pueblo may request amendments to the systemic framework or accountability tool as the result of the annual review on the evaluation of progress.

**C.** A historically defined Indian impacted school district shall reevaluate the American Indian/Alaska Native student needs assessment every three years, or more frequently if determined necessary because of a change in American Indian or Alaska Native student enrollment within the historically defined Indian impacted school district.

**D.** The American Indian/Alaska Native student needs assessment may be incorporated into a historically defined Indian impact school district's existing school improvement structure.

**E.** Annually, the department shall:

**(1)** when approving school district budgets, consider whether a historically defined Indian impacted school district's budget accomplishes the prioritized needs from the American Indian/Alaska Native student needs assessment; and



(2) require the historically defined Indian impacted school district to submit a written statement to the department, which will be published on the department's website, detailing the ways in which the historically defined Indian impacted school district's budget successfully met or failed to meet the prioritized needs from the most recent American Indian/Alaska Native student needs assessment. The historically defined Indian impacted school district shall also submit the written statement to any Indian nation, tribe, or pueblo located within the exterior boundaries of the historically defined Indian impacted school district. Prior to April 15 of each year, the historically defined Indian impacted school district shall submit to the department the written statement, along with its operating budget, for the ensuing fiscal year. The date for the submission of the written statement for each historically defined Indian impacted school district as required by this paragraph may be extended to a later date by the secretary.

[6.35.2.11 NMAC - N, 7/1/2020]

**6.35.2.12 SYSTEMIC FRAMEWORK FOR IMPROVING EDUCATIONAL OUTCOMES FOR AMERICAN INDIAN AND ALASKA NATIVE STUDENTS:**

**A.** Beginning in the 2020-2021 school year, a historically defined Indian impacted school district shall:

(1) develop and publish on its website by January 15, a systemic framework for improving educational outcomes for American Indian and Alaska Native students, in collaboration with:

- (a) school employees;
- (b) American Indian and Alaska Native students and families;
- (c) social service providers;
- (d) community and civic organizations;
- (e) the school district's or charter school's equity council; and

(f) any other entities, including a consultant, identified by the historically defined Indian impacted school district; and

(2) conduct a tribal consultation with local Indian nations, tribes, and pueblos on the development and implementation of the systemic framework for improving educational outcomes for American Indian and Alaska Native students.

**B.** A historically defined Indian impacted school district may request assistance from schools of education at post-secondary institutions in New Mexico to identify best practices in collecting and using student-centered data to inform teaching strategies and

school-wide efforts to close the achievement gap between American Indian and Alaska Native students and all other student demographic groups.

**C.** The Indian education division shall assist a historically defined Indian impacted school district as required during the development and implementation of the systemic framework.

**D.** The systemic framework for improving educational outcomes for American Indian and Alaska Native students shall include programs, services, culturally relevant activities, and professional development required to improve Indian education in the state.

**E.** Based on the priorities developed through the American Indian/Alaska Native student needs assessment and the priorities established in the historically defined Indian impacted school district's budget for the school year, the systemic framework may include any of the following elements:

**(1)** academic and other programs within the context of the Indian education division's development or selection of culturally relevant curricula and instructional materials as provided in Subsection E of Section 22-23A-5 NMSA 1978:

**(a)** innovative programs designed to meet the educational needs of disadvantaged American Indian and Alaska Native students;

**(b)** high-quality, culturally relevant professional development for teaching professionals and paraprofessionals;

**(c)** the identification of early childhood, pre-kindergarten, and family programs in the school district that emphasize school readiness and that are effective in preparing young children to make sufficient academic growth by the end of grade three, including family-based early childhood programs that provide culturally relevant screening and referral and provide services to American Indian and Alaska Native children with developmental delays or disabilities;

**(d)** educational programs that are not usually available in sufficient quantity or quality, including remedial instruction, to close the achievement gap of American Indian and Alaska Native students in one or more of the subjects of English, mathematics, science, American Indian/Alaska Native tribal languages, foreign language, art, history, and geography;

**(e)** bilingual and bicultural programs and projects, including appropriate educational support for American Indian/Alaska Native English learner students;

**(f)** enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging state academic standards;

**(g)** programs designed to encourage and assist American Indian and Alaska Native students to work toward, and gain entrance into, post-secondary institutions;

**(h)** special compensatory and other programs and projects that are designed to assist and encourage American Indian and Alaska Native students to enter, remain in, or reenter school, and to increase the rate of high school graduation for American Indian and Alaska Native students;

**(i)** career preparation activities that enable, encourage, and support American Indian and Alaska Native students to participate in programs supported by the federal Carl D. Perkins Career and Technical Education Act of 2006, including programs for technology preparatory education, mentoring, and apprenticeship;

**(j)** partnership projects between public schools and local businesses for career preparation programs designed to provide American Indian and Alaska Native students with the knowledge and skills needed to make an effective transition from school to a high-skill career;

**(k)** rigorous and meaningful curricula and educational opportunities that will lead to lifelong success for all students; and

**(l)** any other academic programs identified by the historically defined Indian impacted school district or local Indian nations, tribes, and pueblos;

**(2)** culturally related activities that:

**(a)** support the academic program of the public school;

**(b)** support American Indian language programs and American Indian language restoration programs that may be taught by traditional leaders and that qualify for the state seal of bilingualism-biliteracy on a student's diploma of excellence as provided in Section 22-1-9.1 NMSA 1978;

**(c)** promote the incorporation of culturally responsive teaching and learning strategies into the public school's educational program;

**(d)** educate about the prevention of violence, suicide, and substance abuse;

**(e)** promote the incorporation of land-based learning, student identity development, and holistic wellness; and

**(f)** any other culturally related activities identified by the historically defined Indian impacted school district or local Indian nations, tribes, and pueblos; and

**(3)** additional educational services focused on the holistic well-being of the whole child, including:

- (a)** early interventions to help struggling students, such as:
  - (i)** after-school programs;
  - (ii)** tutoring and mentoring; and
  - (iii)** school and community interventions to prevent truancy and reduce dropout rates;
- (b)** comprehensive guidance and counseling services;
- (c)** integrated educational services in combination with other programs that meet the needs of American Indian and Alaska Native students and their families, including programs:
  - (i)** that promote parental involvement in school activities; and
  - (ii)** increase student achievement;
- (d)** special health- and nutrition-related services and other related activities that address the special health, social, and psychological concerns of American Indian and Alaska Native students and their families; and
- (e)** family literacy services, including:
  - (i)** New Mexico even start; and
  - (ii)** adult basic education programs; and
- (f)** any other educational services identified by the historically defined Indian impacted school district or local Indian nations, tribes, and pueblos.

[6.35.2.12 NMAC - N, 7/1/2020]

#### **6.35.2.13 TRIBAL EDUCATION STATUS REPORT (TESR):**

**A.** Beginning in school year 2020-2021, by September 30, each school district with tribal lands located within its boundaries shall provide an annual districtwide tribal education status report to all Indian nations, tribes, and pueblos located within the school district boundaries and to the assistant secretary.

**B.** Beginning in school year 2020-2021, by September 30, each school district adjacent to tribal lands may provide an annual districtwide tribal education status report to all Indian nations, tribes and pueblos with tribal lands adjacent to the school district's boundaries and to the assistant secretary.

**C.** A report provided in accordance with Subsections A or B of this section shall include the following information based upon data from the immediately preceding school year:

- (1)** student achievement as measured by a statewide test approved by the department, with results disaggregated by ethnicity; any cell with an n-size of 9 or fewer shall be masked;
- (2)** school safety;
- (3)** the graduation rate;
- (4)** attendance;
- (5)** parent and community involvement;
- (6)** educational programs targeting American Indian or Alaska Native students;
- (7)** financial reports;
- (8)** current status of federal Indian education policies and procedures;
- (9)** school district initiatives to decrease the number of student dropouts and increase attendance;
- (10)** public school use of variable school calendars;
- (11)** school district consultations with district Indian education committees, school-site parent advisory councils, and tribal, municipal, and Indian organizations;
- (12)** indigenous research and evaluation measures and results for effective curricula for American Indian and Alaska Native students; and
- (13)** access to native language programs.

**D.** The division shall submit a statewide tribal education report to all New Mexico Indian nations, tribes, and pueblos on or before November 15 of each year. The report will incorporate data submitted to the assistant secretary in accordance with Subsections A and B of this section and will further include reports by organizational units within the department regarding activities they are engaged in with Indian nations, tribes, and pueblos related to the education of American Indian and Alaska Native students.

#### **6.35.2.14 AWARDS:**

**A.** The fund shall consist of all appropriations, gifts, grants, donations, and income from investment of the fund.

**B.** Awards from the fund shall be used to support and advance the purposes of the act.

**C.** At least annually, the department will establish and disseminate procedures for submission of requests for information and applications for grants from the fund, including the requirements that:

**(1)** requests for information and applications identify the program and goal to be achieved relevant to the act;

**(2)** requests for information and applications describe how the program will be sustained beyond the fiscal years being funded; and

**(3)** requests for information and applications describe how the effectiveness of the programs supported by the grant will be measured and reported to the department.

**D.** The assistant secretary shall consult with the advisory committee regarding priorities for funding and the request for information and application process.

**E.** The recommendations of the advisory council, together with the recommendations of the assistant secretary, shall be provided to the secretary. The secretary shall make the final determination of projects approved for grant awards.

**F.** The grant agreements shall include provisions for periodic expenditure reports to the division, including a final expenditure report, and for reports measuring the effectiveness of the programs supported by the grants.

**G.** All activities shall be completed no later than June 30 of the fiscal year for which the award is made available. Recipients shall submit requests for reimbursement or invoices for accounts payable no later than July 7 following the close of the fiscal year for which the award is made available.

[6.35.2.14 NMAC - Rp, 6.35.2.12 NMAC, 7/1/2020]

## **CHAPTER 36-39: [RESERVED]**

## **CHAPTER 40: TRANSPORTATION - SCHOOL BUS EQUIPMENT**

## **PART 1: GENERAL PROVISIONS [RESERVED]**

## **PART 2: NM SCHOOL BUS STANDARDS AND SCHOOL BUS PHASE-OUT**

### **6.40.2.1 ISSUING AGENCY:**

The Public Education Department.

[7-01-96, 7-30-99; 6.40.2.1 NMAC - Rn, 6 NMAC 9.2.1 7-31-2000; A, 11-15-2005]

### **6.40.2.2 SCOPE:**

Provisions apply to the design and construction standards for school buses manufactured for use in New Mexico and school bus phase-out.

[7-01-96; 6.40.2.2 NMAC - Rn, 6 NMAC 9.2.2 & A, 7-31-2000]

### **6.40.2.3 STATUTORY AUTHORITY:**

Authority is Chapter 22, Article 16, Transportation of Students, Sections 22-16-2.A and B; 22-16-9; and 22-16-11.A, NMSA, 1978.

[7-01-96; 6.40.2.3 NMAC - Rn, 6 NMAC 9.2.3 7-31-2000]

### **6.40.2.4 DURATION:**

Permanent.

[7-01-96; 6.40.2.4 NMAC - Rn, 6 NMAC 9.2.4 7-31-2000]

### **6.40.2.5 EFFECTIVE DATE:**

July 1, 1996, unless a later date is cited at the end of a section.

[7-01-96; 6.40.2.5 NMAC - Rn, 6 NMAC 9.2.5 & A, 7-31-2000]

### **6.40.2.6 OBJECTIVE:**

The state transportation director shall maintain school bus construction standards that meet the needs for school operations that are consistent with national recommendations and design objectives.

**A.** To establish the parameters of school bus design and construction which provides a safe environment for student passengers.

**B.** The school bus construction standards shall be developed for the body and chassis of the school bus.

**C.** The school bus construction standards shall contain construction and design for transporting students with disabilities.

**D.** The school bus construction standards shall be developed to include design and construction to meet the needs of a unified transportation system.

**E.** To establish school bus construction costs for small, medium and large buses, and to establish a maximum useful life criteria for spare and activity buses.

[7-01-96; 6.40.2.6 NMAC - Rn, 6 NMAC 9.2.6, 6 NMAC 9.2.8 & A, 7-31-2000]

#### **6.40.2.7 DEFINITIONS:**

**A. Type A** - A Type "A" school bus is a van conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver's door. The entrance door is behind the front wheels. This definition includes two classifications: Type A-I, with a gross vehicle weight rating (GVWR) less than equal to 10,000 pounds; and Type A-II with a GVWR greater than 10,000 pounds. Type "A-I" school buses are not approved for use in New Mexico.

**B. Type B** - A Type "B" school bus is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B1, with GVWR less than or equal to 10,000 pounds; and Type B2, with a GVWR greater than 10,000 pounds. **Type "B" school buses are not approved for use in New Mexico.**

**C. Type C** - A Type "C" school bus is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels.

**D. Type D** - A Type "D" school bus is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.

**E. Commercial advertiser** - A person who advertises a product or services for profit or not for profit and has a permitted advertisement.

**F. School bus private owner** - A person who owns a school bus other than a local school district, the state public education department, the state or any other political subdivision of the state.

[7-01-96, 7-31-97; 6.40.2.7 NMAC - Rn, 6 NMAC 9.2.7 & A, 7-31-2000; A, 12-30-2010]

#### **6.40.2.8 SCHOOL BUS PHASE-OUT:**



**A.** All school buses including spare and activity buses shall not be operated for any purpose once they have become twenty (20) years of age, from the date of (body) manufacture.

**B.** School buses twenty (20) years of age, from the date of (body) manufacture shall be removed from service in accordance with Section 22-16-9, NMSA, 1978.

[7-01-96; 6.40.2.8 NMAC - Rn, 6 NMAC 9.2.9 & A, 7-31-2000]

#### **6.40.2.9 BUS CHASSIS STANDARDS:**

##### **A. AIR CLEANER**

**(1)** The engine intake air cleaner system shall be furnished and properly installed by the chassis manufacturer to meet engine manufacturer's specifications.

**(2)** All diesel engine air filters shall include a restriction indicator of the latching type that retains the maximum restriction developed during operation of the engine. The indicator should include a reset control so the indication can be returned to zero when desired.

##### **B. ALTERNATIVE FUELS**

**(1)** Chassis shall meet all BUS CHASSIS STANDARDS.

**(2)** Chassis shall meet all applicable 49 CFR 571 federal motor vehicle safety standards (FMVSS).

**C. AXLES:** The front and rear ends, including suspension assemblies, shall have a gross axle weight rating at ground at least equal to that portion of the load as would be imposed by the chassis manufacturer's maximum gross vehicle weight rating.

##### **D. BRAKES**

**(1)** The braking system shall include the service brake and a parking emergency brake.

**(2)** Buses using air in the operation of the brake system shall be equipped with warning signals, readily audible and visible to the driver, that will give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less. An illuminated gauge shall be provided that will indicate to the driver the air pressure in pounds per square inch for the operation of the brakes.

**(3)** Any brake system with a dry reservoir shall be equipped with a check-valve or equivalent device to ensure that in the event of failure or leakage in its

connection to the source of compressed air, the stored dry air shall not be depleted by the leakage or failure.

(4) Buses using a hydraulic-assist brake shall be equipped with warning signals, readily audible and visible to the driver, that will provide continuous warning in the event of a loss of fluid flow from primary source and in the event of discontinuity in that portion of the vehicle electrical system that supplies power to the backup system.

(5) The brake lines and booster-assist lines shall be protected from excessive heat and vibration and installed in a manner, which prevents chafing.

(6) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis components.

(7) All type C and type D school buses shall be equipped with air brakes.

## **E. BUMPER, FRONT**

(1) All school buses shall be equipped with a front bumper. The front bumper shall be furnished by the chassis manufacturer as part of the chassis on all types of chassis unless there is a specific arrangement between the chassis manufacturer and body manufacturer that the body manufacturer will furnish the front bumper.

(2) Unless energy absorbing bumper is used, the front bumper shall be of pressed steel channel or equivalent material at least 3/16-inch thick and not less than 8-inch wide (high) and shall extend beyond forward-most part of the body, grille, hood, and fenders and shall extend to outer edges of the fenders at the bumper's top line.

(3) Front bumper, except breakaway bumper ends, shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight without permanent distortion to the bumper, chassis, or body.

(4) If tow eyes or hooks are furnished they shall be attached so as not to project beyond the front bumper. Tow eyes or hooks attached to the frame chassis **may** be furnished by the chassis manufacturer. This installation shall be in accordance with the chassis manufacturer's standards.

(5) The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow eyes. For the purpose of meeting this standard, the bus shall be empty and positioned on a level, hard surface and both tow eyes shall share the load equally.

(6) The exhaust system on vehicles equipped with a power lift unit may be routed to the left of the right frame rail to allow for the installation of a power lift unit on the right side of the vehicle.

## **F. CLUTCH**

- (1)** Clutch torque capacity shall be equal to or greater than the engine torque output.
- (2)** A starter interlock shall be installed to prevent actuation of the starter if the clutch is not depressed.

## **G. COLOR**

- (1)** Chassis, including wheels and front bumper, shall be black. Body cowl, hood, and fenders shall be in national school bus yellow. The flat top surface of the hood may be non-reflective national school bus yellow. Activity school buses may be team colors.
- (2)** Demountable rims, if used, may be, silver, gray or black as received from the wheel manufacturer. Wheels may be polished aluminum, chrome or of a team color on activity buses only.

**H. COOLING SYSTEMS (ENGINE):** Engine cooling system shall be sufficient capacity to properly maintain engine-operating temperature to manufactures specifications at the rated horsepower.

**I. DRIVE SHAFT:** Drive shafts shall be protected by a metal guard or guards around the circumference of the drive shafts to reduce the possibility of its whipping through the floor or dropping to the ground if broken.

## **J. ELECTRICAL SYSTEM**

### **(1) Battery**

**(a)** Storage battery shall have minimum cold cranking capacity rating equal to the cranking current required for 30 seconds at 0 degrees Fahrenheit (-17.8°C) and a minimum reserve capacity rating of 120 minutes at 25 amps. Higher capacities may be required depending upon optional equipment and local environmental conditions.

**(b)** Since all batteries are to be secured in a sliding tray in the body, chassis manufacturers shall temporarily mount the battery on the chassis frame, except that van conversion or cutaway front-section chassis may be manufacturer's standard configuration. In these cases, the final location of the battery and the appropriate cable lengths shall be according to the design objectives, or as mutually agreed upon by the chassis and body manufacturer. In all cases, however, the battery cable provided with the chassis shall have sufficient length to allow some slack. Battery storage area shall be secured with a locking system or release system that shall be accessible from the driver's compartment.

## **(2) Alternator**

**(a)** All type A-II buses up to 15,000 lbs. GVWR shall have a minimum 60-ampere alternator.

**(b)** Types A-II buses over 15,000 lbs. GVWR and all types C and D buses shall be equipped with a heavy-duty truck or bus-type alternator, having a minimum output rating of 130 amperes. Alternators of 130 through 145-ampere design shall produce a minimum of 50 percent amperes output at engine idle speed.

**(c)** All buses equipped with an electrical power lift shall have a minimum 130-ampere alternator.

**(d)** Direct-drive alternator is permissible in lieu of belt drive. Belt drive shall be capable of handling the rated capacity of the alternator with no detrimental effect on other driven components.

## **(3) Wiring**

**(a)** All wiring shall conform to current applicable recommended practices of the society of automotive engineers (SAE). All wiring shall use a standard color and number coding and each chassis shall be delivered with a wiring diagram that illustrates the wiring of the chassis.

**(b)** Chassis manufacturer shall install a readily accessible terminal strip or plug on the body side of the cowl, or in an accessible location in the engine compartment of vehicles designed without a cowl, that shall contain the following terminals for the body connections:

- (i) main 130 amp body circuit
- (ii) tail lamps
- (iii) right turn signal
- (iv) left turn signal
- (v) stop lamps
- (vi) back up lamps
- (vii) instrument panel lights (rheostat controlled by headlamp switch)

## **(4) Circuits**

(a) An appropriate identifying diagram (color and number coded) for electrical circuits shall be provided to the body manufacturer for distribution to the end user.

(b) Headlight system must be wired separately from the body-controlled solenoid.

#### **(5) Daytime running light**

(a) Exterior low-beam headlights and taillights may be provided with a switch to automatically operate said lamps when the vehicle's ignition is engaged. This switch, if furnished, shall not engage while the starter is engaged. If this switch designed to provide reduced illumination under normal operating conditions, a means whereby the headlights and taillights can be engaged at full power shall be provided.

(b) Chassis manufacturer shall provide a means for body manufacturer to include the taillights in the daytime running light (DRL) circuit.

**K. ENGINE FIRE EXTINGUISHER (optional equipment):** Manufacturer may provide an automatic fire extinguisher system in the engine compartment.

#### **L. EXHAUST SYSTEM**

(1) Exhaust pipe, muffler and tailpipe shall be outside the bus body compartment and attached to the chassis so as not to damage any other chassis component.

(2) Tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16-gauge steel tubing.

(3) Chassis manufacturers shall furnish an exhaust system with tailpipe of sufficient length to exit the rear of the bus at the left side of the bus body no more than 18-inches forward of the front edge of the rear wheelhouse opening. If designed to exit at the rear of the bus, the tailpipe shall extend at least five inches beyond the end of the chassis frame. If designed to exit to the side of the bus, the tailpipe shall extend at least 48.5-inches (51.5-inches if the body is to be 102-inches wide) outboard from the chassis centerline.

(a) On types C and D vehicles, the tailpipe shall not exit beneath a fuel fill or emergency door exit.

(b) Type A chassis may be furnished with the manufacturer's standard tailpipe configuration.

(4) Exhaust system on a chassis shall be properly insulated from the fuel tank connections by securely attached metal shield at any point where it is 12-inches or less from tank or tank connection.

(5) Muffler shall be constructed of corrosion-resistant material.

(6) The exhaust system on vehicles equipped with a power lift unit may be routed to the left of the right frame rail to allow for the installation of a power lift unit on the right side of the vehicle.

#### **M. FENDERS, FRONT-TYPE C VEHICLES**

(1) Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position.

(2) Front fenders shall be properly braced and free from any body attachments.

#### **N. FRAME**

(1) Frame or equivalent shall be of such design and strength characteristics as to correspond at least to standard practice for trucks of the same general load characteristics which are used for highway service.

(2) Any secondary manufacturer that modifies the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification.

(3) Frames shall not be modified for the purpose of extending the wheelbase.

(4) Holes in top or bottom flanges or side units of the frame, and welding to the frame, shall not be permitted except as provided or accepted by chassis manufacturer.

(5) Frame lengths shall be provided in accordance with design objectives, except where body and chassis manufacturer are the same or have established mutual design criteria for the vehicle.

#### **O. FUEL TANK**

(1) Fuel tank or tanks having a minimum 30-gallon capacity with a 25-gallon actual draw shall be provided by the chassis manufacturer. The tank shall be filled and vented to the outside of the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system. Vehicles with a wheel base of 193-inches and larger shall be equipped with fuel tank or tanks of minimum 60-gallon capacity with a 50-gallon actual draw.

(2) No portion of the fuel system, which is located outside the engine compartment, except the filler tube, shall extend above the top of the chassis frame rail.

Fuel lines shall be mounted to obtain maximum possible protection from the chassis frame.

(3) Fuel filter with replaceable element shall be installed between the fuel tank and engine.

(4) Fuel tank installation shall be in accordance with design objectives and all federal motor vehicle safety standards in effect on the date of manufacture of the bus. Fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle.

(5) The actual draw capacity of each fuel tank shall be 83% of the tank capacity.

(6) Unless specific agreement has been made between the body and chassis manufacturers, fuel tanks and filler spouts shall not be located in spaces restricted by design objectives.

(7) Installation of alternative fuel systems, including fuel tanks and piping from tank to engine, shall comply with all applicable fire codes and applicable federal motor vehicle safety standards in effect on the date of manufacture of the bus. Installation of LPG tanks shall comply with national fire protection association (NFPA) 58.

**P. HEATING SYSTEM:** The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The openings shall be suitable for attaching 3/4-inch pipe thread/hose connector. The engine shall be capable of supplying water having a temperature of at least 170 degrees Fahrenheit at a flow rate of 50 pounds/per minute at the return end of 30 feet of one inch inside diameter automotive hot water heater hose. (School Transportation Manufacturing Technical Committee Standard No. 001 - Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment.)

**Q. HORN:** Bus shall be equipped with horn or horns of standard make with each horn capable of producing a complex sound in bands of audio frequencies between 250 and 2,000 cycles per second and tested in accordance with SAE J-377.

## **R. INSTRUMENTS AND INSTRUMENT PANEL**

(1) Chassis shall be equipped with the following instruments and gauges. (lights in lieu of gauges are not acceptable, except as noted):

(a) speedometer;

(b) odometer which will give accrued mileage (to seven digits), including tenths of miles;

(c) voltmeter; ammeter with graduated charge and discharge, with ammeter and its wiring compatible with generating capacities, is permitted in lieu of voltmeter;

(d) oil pressure gauge;

(e) water temperature gauge;

(f) fuel gauge;

(g) upper beam headlight indicator light;

(h) brake indicator gauge light indicator in lieu of gauge is permitted on vehicle equipped with hydraulic-over-hydraulic brake system;

(i) turn signal indicator light;

(j) start indicator light where appropriate.

(2) All instruments shall be easily accessible for maintenance and repair.

(3) Instruments and gauges shall be mounted on the instrument panel so that each is clearly visible to the driver while seated in a normal driving position.

(4) Instrument panel shall have lamps of sufficient candlepower to illuminate all instruments and gauges and shift selector indicator for automatic transmission.

**(5) Multi-function gauge (MFG)**

(a) The driver must be able to manually select any displayable function of the gauge on a MFG whenever desired.

(b) Whenever an out-of-limits conditions occurs, which would be displayed on one or more functions of a MFG, then the MFG controller should automatically display this condition on the instrument cluster. This should be in the form of an illuminated tell-tale warning light as well as having the MFG automatically display the out-of-limits indications. Should two or more functions displayed on the MFG go out-of-limits simultaneously, then the MFG should automatically sequence between those functions continuously until the condition(s) is corrected.

(c) The use of a MFG does not relieve the requirements for audible warning devices, where required.

**S. OIL FILTER:** An oil filter with a replaceable element shall be provided and connected by flexible oil lines if not a built-in or an engine-mounted design. The oil filter shall have a capacity of at least one (1) quart.



**T. OPENINGS:** All openings in the floorboard or firewall between chassis and passenger compartment, such as for gearshift selector and parking brake lever, shall be sealed.

#### **U. PASSENGER LOAD**

(1) Actual gross vehicle weight (GVW) is the sum of the chassis weight, plus the body weight, plus the driver's weight, plus total seated pupil weight.

(a) For purposes of calculation, the driver's weight is 150 pounds.

(b) For purposes of calculation, the pupil weight is 120 pounds per pupil.

(2) Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's GVWR for the chassis nor shall the actual weight carried on any axle exceed the chassis manufacturer's GVWR.

(3) Manufacturer's (GVWR) shall be furnished in duplicate (unless more are requested) by manufacturers to the state agency having pupil transportation jurisdiction. The state agency shall, in turn, transmit such ratings to other state agencies responsible for development or enforcement of state standards for school buses.

**V. POWER AND GRADE ABILITY:** Shall not exceed the manufacturer's recommended standards for the vehicle size. A maximum speed limiter shall be set at 75 miles per hour. A lower setting is permissible at the request of the school bus owner. A cruise control mechanism may be installed on school activity buses only.

**W. RETARDER SYSTEM (OPTIONAL EQUIPMENT):** Retarder system, if used, shall maintain the speed of the fully loaded school bus at 19.0 mph or 30 km/hr on a 7% grade for 3.6 miles or 6 km.

**X. SHOCK ABSORBERS:** The bus shall be equipped with double-action shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

#### **Y. STEERING GEAR**

(1) The steering gear shall be approved by the chassis manufacturer and designed to ensure safe and accurate performance when the vehicle is operated with maximum load and at maximum speed.

(2) If external adjustments are required, steering mechanism shall be accessible to accomplish same.

(3) No changes shall be made in the steering apparatus, which are not approved by the chassis manufacturer.

(4) There shall be a clearance of at least 2-inches between the steering wheel and cowl, instrument panel, windshield, or any other surface.

(5) Power steering is required and shall be of the integral type with integral valves.

(6) The steering system shall be designed to provide a means for lubrication of all wear-points, if wear-points are not permanently lubricated.

**Z. SUSPENSION SYSTEM:** A soft ride suspension system, (taper leaf) low friction parabolic springs, vari-rate and two stage steel leaf rear springs shall be provided on type C and D buses where lift equipment is required.

(1) The capacity of springs or suspension assemblies shall be commensurate with chassis manufacturer's GVWR rating.

(2) Leaf rear springs shall be a progressive rate or multi-stage design. Front leaf springs shall have a stationary eye at one end and shall be protected by wrapped leaf in addition to the main leaf.

**AA. THROTTLE:** The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.

## **BB. TIRES AND RIMS**

(1) Tires and rims of the proper size and tires with a load rating commensurate with chassis manufacturer's gross vehicle weight rating shall be provided. The use of multi-piece rims and/or tube-type tires shall not be permitted on any school bus ordered after the effective date of these standards. Rims on activity buses may be chrome or of a team color.

(2) Dual rear tires shall be provided on type A-II, type C, and type D school buses.

(3) All tires on a vehicle shall be of the same size, and the load range of the tires shall meet or exceed the GVWR as required by 49 CFR 571.120 (FMVSS).

(4) If the vehicle is equipped with a spare tire and rim assembly, it shall be the same size as those mounted on the vehicle.

(5) If a tire carrier is required, it shall be suitably mounted in an accessible location outside the passenger compartment. Exception: On type A vehicles, spare tire and carrier may be mounted behind the last seat at the rear of the bus if adequately secured and mounted in such a way as not to interfere with the emergency exit.

## **CC. TRANSMISSION**

(1) Automatic transmissions shall have no fewer than three forward speeds and one reverse speed. The shift selector shall provide a detent between each gear position when the gear selector quadrant and shift selector are not steering column mounted.

(2) In manual transmissions, second gear and higher shall be synchronized except when incompatible with engine power. A minimum of three forward speeds and one reverse speed shall be provided.

(3) An electronic control or similar device may be installed to ensure that automatic transmissions cannot accidentally be moved out of the neutral or park gear position while the driver is not in the driver's seat.

(4) A two-speed axle is not permitted.

#### **DD. TURNING RADIUS**

(1) A chassis with a wheelbase of 264-inches or less shall have a right and left turning radius of not more than 42 1/2 feet, curb to curb measurement.

(2) A chassis with a wheelbase of 265-inches or more shall have a right and left turning radius of not more than 44 1/2 feet, curb to curb measurement.

**EE. UNDERCOATING:** The chassis manufacturers or their agent shall coat the undersides of steel or metallic-constructed front fenders with a rust-proofing compound for which compound manufacturers have issued notarized certification of compliance to chassis builder that the compound meets or exceeds all performance and qualitative requirements using modified tests.

**FF.VEHICLE INTERLOCK SYSTEM:** School buses equipped with a power lift shall meet 49 CFR 571.403 and 571.404 (FMVSS).

[7-01-96; 6.40.2.9 NMAC - Rn, 6 NMAC 9.2.10 & A, 7-31-2000; A, 07-15-2003; A, 11-15-2005; A, 12-30-2010]

#### **6.40.2.10 BUS BODY STANDARDS:**

**A. AIR CONDITIONING (optional equipment):** Air conditioning systems must meet manufacture standards.

#### **B. AISLE**

(1) All emergency doors shall be accessible by a 12-inches minimum aisle. Aisle shall be unobstructed at all times by any type of barrier, seat, wheelchair or tie down, unless a flip seat is installed and occupied. A flip seat in the unoccupied (up) position shall not obstruct the 12-inches minimum aisle to any side emergency door.

(2) The seat backs shall be slanted sufficiently to give aisle clearance of 15-inches at tops of seat backs.

(3) All school buses equipped with a power lift shall provide a 30" aisle leading from any wheelchair/mobility aid position to at least one emergency door and the lift area.

**C. BACK-UP WARNING ALARM (optional equipment):** An automatic audible alarm may be installed behind the rear axle and shall comply with the published backup alarm standards (SAE 994), providing a minimum of 112 dBA for rubber- tired vehicles.

#### **D. BATTERY**

(1) Battery is to be furnished by chassis manufacturer.

(2) When the battery is mounted as described in the chassis section, the body manufacturer shall attach the battery securely on a slide-out or swing-out tray in a closed, vented compartment in the body skirt, so that the battery is accessible for convenient servicing from the outside. Battery compartment door or cover shall be hinged at front or top, and secured by a locking system. On all type A buses, one or both batteries may be mounted in the engine compartment in an accessible location.

(3) Buses may be equipped with a battery shut-off switch. The switch is to be placed in a location not readily accessible to the driver or passengers. (optional equipment)

**E. BUMPER (FRONT):** On a type "D" school bus, if the chassis manufacturer does not provide a bumper, it shall be provided by the body manufacturer. The bumper will conform to the standards in the chassis section.

#### **F. BUMPER (REAR)**

(1) Bumper shall be pressed steel channel or equivalent material, at least 3/16-inches thick, and shall be a minimum of 9 1/2-inches wide (high) on types A-II, C and D buses and of sufficient strength to permit being pushed by another vehicle without permanent distortion.

(2) Bumper shall be wrapped around back corners of the bus. It shall extend forward at least 12-inches, measured from the rear-most point of the body at the floor line and shall be flush mounted to body side or protected with an end panel.

(3) Bumper shall be attached to the chassis frame in such a manner that it may be easily removed. It shall be so braced as to withstand impact from a rear or side impact. It shall be so attached as to discourage hitching of rides.

(4) Bumper shall extend at least 1-inch beyond rear-most part of body surface measured at the floor line.

**G. CHAINS (TIRE) (optional equipment):** See wheel housing

#### **H. COLOR**

(1) The school bus body shall be painted national school bus yellow (NSBY).

(2) The body exterior paint trim shall be black.

(3) The roof of the bus shall be painted white extending down to the drip rails on the sides of the body, except that front and rear roof caps shall remain national school bus yellow.

**I. COMMUNICATIONS:** All school buses may be equipped with a two-way electronic voice communications system, which can be used at any point in the vehicle's route.

#### **J. CONSTRUCTION:**

(1) **Side intrusion test:** The bus body shall be so constructed to withstand an intrusion force equal to the curb weight of the vehicle; but not to exceed twenty thousand (20,000) pounds, whichever is less. Each vehicle shall be capable of meeting this requirement when tested in accordance with the procedures set forth below. The complete body structure, or a representative seven (7) body section mock up, with seats installed shall be load tested at a location twenty-four inches (24") plus or minus two inches (2") above the floor line, with a maximum 10-inch diameter cylinder, forty-eight inches (48") long, mounted in a horizontal plane. The cylinder shall be placed as close as practical to the mid point of the tested structure, spanning two internal vertical structural members. The cylinder shall be statically loaded to the required force of the curb weight or twenty thousand (20,000) pounds, whichever is less, in a horizontal plane with the load applied from the exterior toward the interior of the test structure. Once the minimum load has been applied, the penetration of the loading cylinder into the passenger compartment shall not exceed a maximum of ten inches (10") from its original point of contact. There can be no separation of lapped panels or construction joints. Punctures, tears, or breaks in the external panels are acceptable; but are not permitted on any adjacent interior panel. Body companies shall certify compliance with this intrusion requirement; including test results, if requested.

(2) Construction shall be reasonably dust-proof watertight.

**K. CROSSING CONTROL ARM:** A crossing control arm if equipped shall be placed on the front bumper and shall have a positive locking device. The operation of the crossing control arm shall be equipped with a shut off control switch located in the driver compartment.

(1) Buses equipped with a crossing control arm shall be mounted on the right side of the front bumper, and shall open to a 90° angle.

(2) All components of the crossing control arm and all connections shall be weatherproofed.

(3) The crossing control arm shall incorporate system connectors (electrical, vacuum, or air) at the gate and shall be easily removable to allow for towing of the bus.

(4) The crossing control arm shall meet or exceed SAE Standard J1133.

(5) The crossing control arm shall be constructed of noncorrosive or nonferrous material or treated in accordance with the body sheet metal standard, See METAL TREATMENT Section 11 (29).

(6) There shall be no sharp edges or projections that could cause hazard or injury to students.

(7) The crossing control arm shall extend approximately 72-inches from the front bumper when in the extended position.

(8) The crossing control arms shall extend simultaneously with the stop arm(s) by means of the stop arm controls.

## **L. DEFROSTERS**

(1) Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

(2) The defrosting system shall conform to SAE standards J381 and J382.

(3) The defroster and defogging system shall be capable of furnishing heated outside ambient air, except the part of the system furnishing additional air to the windshield, entrance door and step well may be of the re-circulating air type.

(4) Auxiliary fans are not considered defrosting or defogging systems.

(5) Portable heaters shall not be used.

## **M. DOORS**

(1) Service door

**(a)** Service door shall be in the drivers control, and designed to afford easy release and provide a positive latching device. An air or electric assist system shall be provided.

**(b)** Service door shall be located on the right side of the bus, opposite and within direct view of driver.

**(c)** Service door shall have a minimum horizontal opening of 24-inches and a minimum vertical opening of 68-inches.

**(d)** Service door shall be a split-type, sedan-type, or jack-knife type. (Split-type door includes any sectioned door, which divides and opens inward or outward.) If one section of a split-type door opens inward and the other opens outward, the front section shall open outward.

**(e)** Lower as well as upper door panels shall be of approved safety glass. Bottom of each lower glass panel shall not be more than 10-inches from the top surface of bottom step. Top of each upper glass panel shall not be more than 3-inches from the top of the door. Type A vehicles shall have an upper panel (windows) of safety glass with an area of at least 350 square inches.

**(f)** Vertical closing edges on split-type or folding-type entrance doors shall be equipped with flexible material to protect children's fingers.

**(g)** There shall be no door to left of driver on type C or D vehicles. All type A vehicles may be equipped with chassis manufacturer's standard door.

**(h)** All doors shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3-inches wide and 1-inch thick and extend the full width of the door opening.

**(i)** On power operated service doors the emergency release valve, switch or device to release the service door must be placed above or to the immediate left or right of the service door and clearly labeled.

## **(2) [RESERVED]**

### **N. DRIVER COMPARTMENT**

**(1)** Driver seat supplied by the body company shall be a high back six way adjustable seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile adult male, as defined in 49 CFR 571.208 (FMVSS). The driver seat shall be secured with nuts, bolts, and washers or flanged-headed nuts.

**(2)** Driver seat positioning and range of adjustments shall be designed to accommodate comfortable actuation of the foot control pedals by 95% of the male/female adult population.

**(3)** Exception: Type A bus standard high back seat.

**(4)** A type 2 lap belt/shoulder harness shall be provided for the driver. The lap belt and shoulder harness shall be integrated into the seat design and not anchored to the side of the bus body or the floor. The assembly shall be equipped with an emergency locking retractor (ELR) for the continuous belt system. On all buses except type A equipped with standard chassis manufacturer's driver seat, the lap portion of the belt shall be guided or anchored to prevent the driver from sliding sideways under it. The lap belt/shoulder harness shall be designed to allow for easy adjustment in order to fit properly and effectively protect drivers varying from 5th percentile female to 95th percentile male.

## **O. EMERGENCY EXITS**

**(1)** Emergency door(s) and other emergency exits shall comply with the requirements of 49 CFR 571.217 (FMVSS) and any of the requirements of these standards that exceed 49 CFR 571.217 (FMVSS).

**(2)** Emergency door requirements

**(a)** Upper portion of the emergency door shall be equipped with approved safety glazing, exposed area of which shall be at least 400 square inches. The lower portion of the rear emergency doors on types A-II, C, and D vehicles shall be equipped with a minimum of 350 square inches of approved safety glazing.

**(b)** There shall be no steps leading to an emergency door.

**(c)** The words "EMERGENCY DOOR," in letters at least 2-inches high, shall be placed at the top of or directly above the emergency door, or on the door in the metal panel above the top glass, both inside and outside the bus.

**(d)** The emergency door(s) shall be equipped with padding at top edge of each door opening. Padding shall be at least 3-inches wide and 1-inch thick, and extend the full width of the door opening.

**(e)** The side emergency door, if installed, must meet the requirements as set forth in 49 CFR 571.217 (FMVSS), regardless of its use with any other combination of emergency exits.

**(f)** There shall be no obstruction higher than 1/4-inch across the bottom of any emergency door opening.



**(g)** The rear emergency window shall have an assisted lifting device that will aid in lifting and holding the rear emergency window open.

**(3)** Emergency exit requirements shall comply with 49 CFR 571.217 (FMVSS).

## **P. EMERGENCY EQUIPMENT**

### **(1) Fire extinguisher**

**(a)** The bus shall be equipped with at least one UL-approved pressurized, dry chemical fire extinguisher. Extinguisher shall be mounted in a bracket, located in the driver compartment and readily accessible to the driver and passengers. A pressure gauge shall be mounted on the extinguisher and be easily read without moving the extinguisher from its mounted position.

**(b)** The fire extinguisher shall have a total rating of 2A10BC or greater. The operating mechanism shall be sealed with a type of seal, which will not interfere with the use of the fire extinguisher.

### **(2) First-aid kit**

**(a)** The bus shall have a removable moisture-proof and dust-proof first aid kit in an accessible place in the driver compartment. It shall be properly mounted and identified as a first aid kit. The location for the first aid kit shall be marked. Contents of first aid kit shall be in compliance with the following standards.

**(b)** A first-aid kit for all school buses is described as follows: 2 - 1 inch x 2 1/2 yards adhesive tape rolls, 24 - sterile gauze pads 3 inches x 3 inches, 100 - 3/4 inches x 3 inches adhesive bandages, 8 - 2 inches bandage compress, 10 - 3 inches bandage compress, 2 - 2 inches x 6 yds. sterile gauze roller bandages, 2 - non-sterile triangular bandages approximately 40 inches x 36 inches x 54 inches with 2 safety pins, 3 - sterile gauze pads 36 inches x 36 inches, 3 - sterile eye pads, 1 - rounded-end scissors, 1 - pair of medical examination gloves, 1 - mouth-to-mouth airway.

**(3)** Body fluid clean-up kit: Each bus shall have a removable and moisture-proof body fluid clean-up kit accessible to the driver. It shall be properly mounted and identified as a body fluid clean-up kit. Contents of body fluid clean-up kit shall include: 1 - Disposable bag with securement device, 1 - Scoop, 1- Scraper, 1- Disinfectant, 1- Surface wipe, 1- Pair of medical examination gloves.

**(4)** Warning devices: Each school bus shall contain at least three (3) reflectorized triangle road-warning devices mounted in an accessible place. These devices must meet requirements in 49 CFR 571.125 (FMVSS) and must be mounted in an accessible location in the driver compartment.

(5) Any of the emergency equipment may be mounted in an enclosed compartment, provided the compartment is labeled in not less than one inch letters, stating the piece(s) of equipment contained therein. The enclosed compartment shall be located in the driver compartment.

(6) Fuses are not permitted.

## **Q. FLOORS**

(1) Floor in under-seat area, including tops of wheel housing, driver compartment and toeboard, shall be covered with rubber floor covering or equivalent, having a minimum overall thickness of .125-inches. The driver area on all type A buses may be manufacturer's standard flooring and floor covering.

(2) Floor covering in aisles shall be of aisle-type rubber or equivalent, wear-resistant and ribbed. Minimum overall thickness shall be .187-inches measured from tops of ribs.

(3) Floor covering must be permanently bonded to floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be a type recommended by the manufacturer of floor-covering material. All seams must be sealed with waterproof sealer.

(4) On types C and D buses a flush-mounted screw-down plate that is secured and insulated shall be provided to access the fuel tank sending unit or fuel pump.

**R. GLAZING:** Glazing shall not exceed 28% and shall be installed in all doors, windows, and windshields consistent with federal, state, and local regulations.

**S. HANDRAILS:** At least one handrail shall be installed. The handrail(s) shall assist passengers during entry or egress, and be designed to prevent entanglement, as evidenced by passage of the NHTSA string and nut test.

## **T. HEATING AND AIR CONDITIONING SYSTEMS**

(1) Heater shall be hot-water and/or combustion type.

(2) If only one heater is used, it shall be fresh-air or combination fresh-air and recirculation type.

(3) If more than one heater is used, additional heaters may be re-circulating air type.

(4) The heating system shall be capable of maintaining bus interior temperatures as specified in SAE test procedure J2233.

(5) Auxiliary fuel-fired heating systems are not permitted.

(6) All heaters installed by body manufacturers shall bear a nameplate that indicates the heater rating in accordance with SBMTC Standard No. 001. The plate shall be affixed by the heater manufacturer and shall constitute certification that the heater performance is as shown on the plate.

(7) Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or any sharp edges and shall not interfere with or restrict the operation of any engine function. Heater hoses shall conform to SAE Standard J20. Heater lines on the interior of bus shall be shielded to prevent scalding of the driver or passengers.

(8) Each hot water system installed by a body manufacturer shall include one shut-off valve in the pressure line and one shut-off valve in the return line with both valves at the engine in an accessible location, except that on all type A buses, the valves may be installed in another accessible location.

(9) There shall be a water flow regulating valve installed in the pressure line for convenient operation by the driver while seated.

(10) All combustion heaters shall be in compliance with current federal motor carrier safety regulations.

(11) Accessible bleeder valves shall be installed in an appropriate place in the return lines of body company-installed heaters to remove air from the heater lines.

(12) Access panels shall be provided to make heater motors, cores, and fans readily accessible for service. Outside access panel may be provided for the driver heater.

(13) Air conditioning (optional) may be equipped.

**U. HINGES:** All exposed metal door hinges subject to corrosion shall be designed to allow lubrication to be channeled to the center 75% of each hinge loop without disassembly.

## **V. IDENTIFICATION**

(1) Body shall bear words "SCHOOL BUS" in black letters at least 8-inches high on both front and rear of body or on signs attached thereto. Lettering shall be placed as high as possible without impairment of visibility. Letters shall conform to "Series B" of standard alphabets for highway signs. "SCHOOL BUS" lettering shall have a reflective background, or as an option, may be illuminated by backlighting.

(2) The name of the school district shall be displayed in the belt line.

**(3)** Optional lettering may be displayed as follows:

**(a)** The name of the owner or operator identification may be displayed on the side of the bus but cannot be more than 10X10 inches.

**(b)** The location of the battery(ies) may be identified by the word "BATTERY" or "BATTERIES" on the battery compartment door in 2-inch lettering.

**(c)** Manufacturer, dealer or school identification or logos. Team logos of team colors may be painted on the sides of the school bus, not to interfere with driver(s) visibility.

**(d)** Symbols identifying the bus as equipped for or transporting students with special needs may display (on the front and/or side of the bus as close to the special service entrance where it is visible when the door is in it's open position) the international symbol of accessibility. Such emblems shall be white on blue background, shall not exceed 12-inches in size, and shall be of a high-intensity reflectorized material meeting U.S. department of transportation FHA FP-85 standards.

**(e)** Lettering on the rear of the bus relating to school bus flashing signal lamps, railroad stop procedures and no right turn.

**(f)** Identification of fuel type shall be in 2-inch lettering adjacent to the fuel filler opening.

**(4)** A school bus numbering system is required.

**(a)** Location: Side-on the panel immediately below the first passenger window on each side; or on the first passenger window if there is a need for changing numbers; or placed above the service door on the right side and above the driver window on the left side. Front and rear - on each bumper or other location that would be readily visible; or in the right-hand corner of the windshield and right-hand rear window so as not to obstruct driver vision, if there is need for changing numbers.

**(b)** Size: Numbers a minimum of five inches (5") in height.

**(c)** Color: Black on national school bus yellow background or national school bus yellow on black background. In addition the operator may have a vehicle control # displayed on the front and/or back of the bus, but not larger than 1-inch black lettering. Buses purchased exclusively for activities may be of a team color and have school district logo on the side or the roofline of the bus. A school bus identified as an "activity bus" may have a lighted front sign, which may allow for a "logo" or team name in lieu of school bus. These buses are prohibited from use for to and from school. Logos may be school district team colors.

**W. INSIDE HEIGHT:** Inside body height shall be 72-inches or more, measured metal to metal, at any point on longitudinal center line from front vertical bow to rear vertical bow.

## **X. INSULATION**

**(1)** Ceiling and walls shall be insulated with the proper material to deaden sound and to reduce vibration to a minimum. If thermal insulation is specified, it shall be fire-resistant, UL approved, and approximately 1-1/2-inch thick with minimum R-value of 5.5. Insulation shall be installed to prevent sagging and shall not be of an animal origin.

**(2)** Floor insulation is required and shall be either 5 ply nominal 5/8-inch thick plywood, or a material of equal or greater strength and insulation R value, and it shall equal or exceed properties of the exterior-type softwood plywood, C-D grade as specified in standard issued by U.S. department of commerce. When plywood is used, all exposed edges shall be sealed.

## **Y. INTERIOR**

**(1)** Interior of bus shall be free of all unnecessary projections, which include luggage racks and attendant handrails, to minimize the potential for injury. (Attendant rails may be permitted in wheelchair lift equipped buses) This standard requires inner lining on ceilings and walls. If ceiling is constructed to contain lapped joints, forward panel shall be lapped by rear panel and exposed edges shall be beaded, hemmed, flanged, or otherwise treated to minimize sharp edges. Buses may be equipped with a storage compartment for tools, tire chains, and/or tow chains (See storage compartment section WW).

**(2)** Interior overhead storage compartments may be provided on an activity school bus if they meet the following criteria:

**(a)** meet head protection requirements of 49 CFR 571.222 (FMVSS), where applicable;

**(b)** have a maximum rated capacity displayed for each compartment;

**(c)** have all corners and edges rounded with a minimum radius of 1-inch or padded equivalent to door header padding;

**(d)** must be attached to the bus sufficiently to withstand a force equal to twenty (20) times the maximum rated capacity;

**(e)** shall have no protrusions greater than 1/4-inch.

**(3)** The driver area forward of the foremost padded barriers will permit the mounting of required safety equipment and vehicle operation equipment.

**(4)** Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dBA when tested.

## **Z. LAMPS AND SIGNALS**

**(1)** Interior lamps shall be provided which adequately illuminate aisle and step well. Step well light shall be illuminated by a service door operated switch, to illuminate only when headlights and/or clearance lights are on and service door is open.

**(2)** Body instrument panel lights shall be controlled by an independent rheostat switch.

**(3)** School bus alternately flashing signal lamps:

**(a)** Bus shall be equipped with two light emitting diodes (LED) red lamps at the rear of vehicle and two LED red lamps at the front of the vehicle.

**(b)** In addition to the four red lamps described above, four LED amber lamps shall be installed so that one amber lamp is located near each red signal lamp, at same level, but closer to vertical centerline of bus. The system of red and amber signal lamps shall be wired so that amber lamps are energized manually, and red lamps are automatically energized (with amber lamps being automatically de-energized) when stop signal arm is extended or when bus service door is opened. An amber pilot light and a red pilot light shall be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

**(c)** Area around lens of each alternately flashing signal lamp and extending outward approximately 3-inches shall be black in color. In installations where there is no flat vertical portion of body immediately surrounding entire lens of lamp, a circular or square band of black approximately 3-inches wide, immediately below and to both sides of the lens, shall be black in color on body or roof area against which signal lamp is seen (from distance of 500 feet along axis of vehicle). Visors or hoods, black in color, with a minimum depth of 4-inches shall be provided.

**(d)** Red lamps shall flash at any time the stop signal arm is extended. An optional headlight wig-wag warning system may be installed to operate only when the red lamps are flashing.

**(e)** All flashers for alternately flashing red and amber signal lamps shall be enclosed in the body in a readily accessible location.

**(4)** Turn signal and stop/tail lamps:

**(a)** Bus body shall be equipped with amber rear turn signal LED lamps that are at least 7-inches in diameter or if a shape other than round, a minimum 38 square

inches of illuminated area and meet SAE specifications. These signal lamps must be connected to the chassis hazard warning switch to cause simultaneous flashing of turn signal lamps when needed as vehicular traffic hazard warning. Turn signal lamps are to be placed as wide apart as practical and their centerline shall be approximately 8 inches below the rear window.

**(b)** Buses shall be equipped with amber side-mounted turn signal lights. The turn signal lamp on the left side shall be mounted rearward of the stop signal arm and the turn signal lamp on the right side shall be mounted rearward of the service door.

**(c)** Buses shall be equipped with four combination red stop/tail lamps: Two combination lamps with a minimum diameter of 7-inches, or if a shape other than round, a minimum 38 square inches of illuminated area shall be mounted on the rear of the bus just inside the turn signal lamps. Two combination lamps with a minimum diameter of 4-inches, or if a shape other than round, a minimum 12 square inches of illuminated area shall be placed on the rear of the body between the beltline and the floor line. Rear license plate lamp may be combined with one lower tail lamp. Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated. Type A-II buses with bodies supplied by chassis manufacturer may have manufacturer's standard stop and tail lamps.

**(5)** On buses equipped with a monitor for the front and rear lamps of the school bus, the monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

**(6)** An optional white flashing strobe light may be installed on the roof of a school bus, not to exceed 1/3 the body length forward from the rear of the roof edge. Light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than maximum legal height. A manual switch and a pilot light shall be included to indicate when light is in operation. Optionally, the strobe light may be mounted on the roof in the area directly over the driver side crash barrier, and may be wired to activate with the amber alternately flashing signal lamps, continuing through the full loading or unloading cycle, with an override switch to allow activation of the strobe at any time for use in inclement weather.

**(7)** Backup lamps: Bus body shall be equipped with two white rear backup lamp signals that are at least 4-inches in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area, meeting SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they shall be to the inside.

## **AA. METAL TREATMENT**

**(1)** All metal used in construction of bus body shall be zinc-coated or aluminum-coated or treated by equivalent process before bus is constructed. Included

are such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

(2) All metal parts that will be painted shall be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate-coat and zinc-chromate or epoxy primed or conditioned by equivalent process.

(3) In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas and surfaces subjected to abrasion during vehicle operation.

(4) As evidence that above requirements have been met, samples of materials and sections used in construction of the bus body subjected to 1,000-hour salt spray test and shall not lose more than 10 percent of material by weight.

## **BB. MIRRORS**

(1) Interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing, which retains the glass in the event of breakage. Mirror shall have rounded corners and protected edges. All type A buses shall have a minimum of 6-inches x 16-inches mirror and types C and D buses shall have a minimum of 6-inches x 30-inches mirror.

(2) Each school bus shall be equipped with exterior mirrors meeting the requirements of 49 CFR 571.111 (FMVSS) Exterior rearview mirrors shall be mounted to the school bus body. Mirrors shall be electrical remote, but shall be braced with up to one (1") inch mounting brace so as to reduce vibration. The mirror system shall be an independent system consisting of one (1) flat glass mirror assembly and one (1) convex mirror assembly separated by a minimum of two inches per side of the vehicle.

(3) The cross view mirror, reflective surface shall be of a type for maximum, low light, visibility. The lens shall present the driver with a flat, horizontal top surface, which limits the upward view of the sky and solar glare and shall provide for lateral adjustment only.

(4) Heated external mirrors may be used.

## **CC. MOUNTING**

(1) Chassis frame shall support rear body cross member. Bus body shall be attached to chassis frame at each main floor sill, except where chassis components interfere, in such manner as to prevent shifting or separation of the body from the chassis under severe operating conditions.



**(2)** Insulation material shall be placed at all contact points between body and chassis frame on types A-II, C, and D buses, and shall be so attached to the chassis frame or body that it will not move under severe operating conditions.

**DD. OVERALL LENGTH:** Overall length of bus shall not exceed 45 feet, excluding accessories.

**EE. OVERALL WIDTH:** Overall width of bus shall be a minimum of 95 inches and shall not exceed 102-inches excluding accessories.

**FF.PASSENGER CAPACITY RATING:** In determining the passenger capacity of a school bus for purposes other than actual passenger load (i.e., vehicle classification, or various billing/reimbursement models), any location in a school bus intended for securement of an occupied wheelchair/mobility aid during vehicle operations may be regarded as four designated seating positions. Similarly, each lift area may be regarded as four designated seating positions.

**GG. POWER LIFTS AND RAMPS:** Power lift shall be located on the right rear side of the bus body and shall comply with the requirements of the implementing regulation to the Americans with Disability Act (ADA) as found in 36 CFR 1192.23. Exception: Buses exclusively used for special education may place lift on front side of the bus. The lift may be located on the left side of the bus if, and only if, the bus is primarily used to deliver students to the left side of the one way streets.

**(1)** A ramp device may be used in lieu of a mechanical lift if the ramp meets all the requirements of the Americans with Disability Act (ADA) as found in 36 CFR 1192.23 (c) Vehicle ramp.

**(2)** A ramp device which does not meet the specifications of ADA but does meet the specifications of paragraph C3 of this section may be installed and used, when, and only when a power lift system is not adequate to load and unload students having special and unique needs. A readily accessible ramp may also be installed for emergency exit use. If stowed in the passenger compartment, the ramp must be properly secured and located away from general passenger contact. It must not obstruct or restrict any aisle or exit while in its stowed or deployed position.

**(3)** All vehicles covered by this specification shall provide a level-change mechanism or boarding device (e.g., lift or ramp) complying with (b) or (c) of 36 CFR 1192.23 and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location.

**HH. PUBLIC ADDRESS SYSTEM (optional equipment)**

**(1)** Buses may be equipped with an AM/FM/Audio and/or public address system having interior and exterior speakers.

(2) No internal speakers, other than driver's communication systems may be installed within four feet of the driver's seat back in its rearmost upright position.

## **II. REFLECTIVE MATERIAL**

(1) Front and/or rear bumper may be marked diagonally 45 degrees down to centerline of pavement with 2-inches "1/4-inch wide strips of non-contrasting reflective material.

(2) Rear of bus body shall be marked with strips of reflective NSBY material to outline the perimeter of the back of the bus using material which conforms with the requirements of 49 CFR 571.571 (FMVSS). The perimeter marking of rear emergency exits per 49 CFR 571.217 (FMVSS) and/or the use of reflective "SCHOOL BUS" signs below partially accomplishes the objective of this requirement. To complete the perimeter marking of the back of the bus, strips of at least 1 3/4-inches reflective NSBY material shall be applied horizontally above the rear windows and above the rear bumper extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus; and vertical strips shall be applied at the corners connecting these horizontal strips.

(3) "SCHOOL BUS" signs, if not of lighted design, shall be marked with reflective NSBY material comprising background for lettering of the front and/or rear "SCHOOL BUS" signs.

(4) Sides of bus body shall be marked with reflective NSBY material at least 1 3/4-inches in width, extending the length of the bus body and located (vertically) between the floor line and the beltline. Reflectivity of stop signal arm is to be addressed under stop signal arm section. Signs, if used, placed on the rear of the bus relating to school bus flashing signal lamps or railroad stop procedure may be of reflective material.

**JJ. REGULAR SERVICE ENTRANCE:** On power-lift equipped vehicles, step shall be full width of the step well, excluding the thickness of doors in open position.

## **KK. RESTRAINING DEVICES**

(1) Seat frames may be equipped with attachments or devices to which belts, restraining harnesses or other devices may be attached. Attachment framework or anchorage devices, if installed, shall conform with 49 CFR 571.210 (FMVSS).

(2) Seat belt assemblies, if installed, shall conform to 49 CFR 571.209 (FMVSS).

(3) Child restraint systems, which are used to facilitate the transportation of children who in other modes of transportation would be required to use a child, infant, or booster seat, shall conform to 49 CFR 571.213 (FMVSS).

**(4)** School buses designated for transporting children weighing less than 50 pounds shall be equipped with the appropriate number of child safety restraint system (CSRS) anchorage's in accordance with applicable federal motor vehicle safety standards (FMVSS).

**(a)** School bus seats designated for child safety restraint systems shall be located at the front of the bus. If seats are shared with a child safety restraint system the child safety restraint system shall be placed in the window seating position.

**(b)** The maximum spacing specified under FMVSS No. 222, school bus passenger seating and crash protection is recommended for seats designated for child safety restraint systems.

**(c)** Instructions shall be provided by the school bus or seat manufacturer on how to install the restraint systems.

**(5)** (Optional equipment). Integrated child restraint seats may be provided which are rated for children 20 - 85 lbs and must contain; two separate shoulder belt adjustment slots to allow shoulder belt to be adjusted higher for taller children and lower for shorter children; a two piece fold under insert pad for "booster seat" style cushion; a seat back maximum width of 3.5 inches; and an insert and complete three or four point belt assembly that is easily removable for maintenance or replacement by removing a maximum of 4 anchors in the front of the insert without having to unfasten or remove the cover or foam.

## **LL.RUB RAILS**

**(1)** There shall be one rub rail located on each side of bus approximately at seat level which shall extend from rear side of entrance door completely around bus body (except emergency door or any maintenance access door) to point of curvature near outside cowl on left side.

**(2)** There shall be one rub rail located approximately at floor line which shall cover the same longitudinal area as upper rub rail, except at wheel housing, and shall extend only to radii of right and left rear corners.

**(3)** Both rub rails shall be attached at each body post and all other upright structural members.

**(4)** Both rub rails shall be 4-inches or more in width in their finished form, shall be of 16-gauge steel or suitable material of equivalent strength.

**(5)** Both rub rails shall be applied outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For types A-II, C and D buses using rear luggage or rear engine compartment, rub rails need not extend around rear corners.

(6) There shall be a rub rail or equivalent bracing located horizontally at the bottom edge of the body side skirts.

**MM. SEATING ARRANGEMENTS:** Flexibility in seat spacing to accommodate special devices shall be permitted to meet passenger requirements. All seating shall be forward-facing. No seating position shall be placed within an aisle and no seating position shall be placed in front of an emergency door.

**NN. SEAT AND CRASH BARRIERS**

(1) All seat frames shall be of the type and construction adaptable for seat belts and other adaptive assistive equipment.

(2) All seats shall have a minimum depth of 15-inches. All seat backs shall be a minimum of 28 inches high and a minimum 20-inches from seating reference point.

(3) In determining seating capacity of bus, allowable average rump width shall be:

(a) 13-inches where 3-3 seating plan is used.

(b) 15-inches where 3-2 seating plan is used.

(4) All restraining barriers and passenger seats shall be constructed with materials that enable them to meet the criteria contained in the school bus seats upholstery fire block test.

(5) Each seat leg shall be secured to the floor by a minimum of two (2) bolts, washers, and nuts. Flange-head nuts may be used in lieu of nuts and washers, or seats may be track-mounted in conformance with 49 CFR 571.222 (FMVSS). If track seating is installed, the manufacturer shall supply minimum and maximum seat spacing dimensions applicable to the bus, which comply with 49 CFR 571.222 (FMVSS). This information shall be on a label permanently affixed to the bus.

(6) All seat frames attached to the seat rail shall be fastened with two (2) bolts, washers and nuts or flange-headed nuts.

(7) Type A-II school bus bodies shall be equipped with restraining barriers conforming to 49 CFR 571.222 (FMVSS).

(8) A flip seat is not permitted, with the exception of the activity vehicle.

**OO. SECUREMENT AND RESTRAINT SYSTEM FOR WHEELCHAIR/MOBILITY AID AND OCCUPANT:** Track seating is required. For purposes of better understanding the various aspects and components of this section, the term securement or phrase securement system is used exclusively in reference to

the device(s) which secure the wheelchair/mobility aid. The term restraint or phrase restraint system is used exclusively in reference to the device(s) used to restrain in the occupant of the wheelchair/mobility aid. The phrase securement and restraint system is used to refer to the total system, which secures and restrains of the wheelchair/mobility aid and the occupant.

**(1) Securement and restraint system--general**

**(a)** The wheelchair/mobility aid securement and occupant restraint system shall be designed, installed, and operated to accommodate passengers in a forward-facing orientation within the bus and shall comply with all applicable requirements of 49 CFR 571.222 (FMVSS). Gurney type devices shall be secured parallel to the side of each bus.

**(b)** The securement and restraint system, including the system track, floor plates, pockets, or other anchorages shall be provided by the same manufacturer, or be certified to be compatible by manufacturers of all equipment/systems used.

**(c)** When a wheelchair/mobility aid securement device and an occupant restraint share a common anchorage, including occupant restraint designs that attach the occupant restraint to the securement device or the wheelchair/mobility aid, the anchorage shall be capable of withstanding the loads of both the securement device and occupant restraint applied simultaneously.

**(d)** When a wheelchair/mobility aid securement device (webbing or strap assembly) is shared with an occupant restraint, the wheelchair/mobility aid securement device webbing or strap assembly shall be capable of withstanding a force twice the amount as specified in 49 CFR 571.209 (FMVSS).

**(e)** The bus body floor and sidewall structures where the securement and restraint system anchorages are attached shall have equal or greater strength than the load requirements of the system(s) being installed.

**(f)** The occupant restraint system shall be designed to be attached to the bus body either directly or in combination with the wheelchair/mobility aid securement system, by a method which prohibits the transfer of weight or force from the wheelchair/mobility aid to the occupant in the event of an impact.

**(g)** When an occupied wheelchair/mobility aid is secured in accordance with the manufacturer's instructions, the securement and restraint system shall limit the movement of the occupied wheelchair/mobility aid to no more than 2-inches in any direction under normal driving conditions.

**(h)** The securement and restraint system shall incorporate an identification scheme, which will allow for the easy identification of the various components and their functions. It shall consist of one of the following, or combination thereof:

**(i)** The wheelchair/mobility aid securement (webbing or strap assemblies) and the occupant restraint belt assemblies shall be of contrasting color or color shade when available.

**(ii)** The wheelchair/mobility aid securement device (webbing or strap assemblies) and occupant restraint belt assemblies shall be clearly marked to indicate the proper wheelchair orientation in the vehicle, and the name and location for each device or belt assembly, i.e., front, rear, lap belt, shoulder belt, etc.

**(i)** All attachment or coupling devices designed to be connected or disconnected frequently shall be accessible and operable without the use of tools or other mechanical assistance.

**(j)** All securement and restraint system hardware and components shall be free of sharp or jagged areas and shall be a non-corrosive material or treated to resist corrosion in accordance with 49 CFR 571.209 (FMVSS).

**(k)** The securement and restraint system shall be located and installed such that when an occupied wheelchair/mobility aid is secured, it does not block access to the lift door.

**(l)** A device for storage of the securement and restraint system shall be provided. When the system is not in use, the storage device shall allow for clean storage of the system, shall keep the system securely contained within the passenger compartment, shall provide reasonable protection from vandalism, and shall enable the system to be readily accessed for use.

**(m)** The entire securement and restraint system, including the storage device, shall meet the flammability standards established in 49 CFR 571.302 (FMVSS).

**(n)** Each securement device (webbing or strap assembly) and restraint belt assembly shall be permanently and legibly marked or incorporate a non-removable label or tag which states that it conforms to all applicable 49 CFR 571 (FMVSS) requirements, as well as the current national recommendations for school buses. In addition, the system manufacturer, or an authorized representative, upon request by the original titled purchaser, shall provide a notarized certificate of conformance, either original or photocopied, which states that the wheelchair/mobility aid securement and occupant restraint system meets all of the requirements as specified in 49 CFR 571.222 (FMVSS).

**(o)** The following information shall be provide with each vehicle equipped with a securement and restraint system:

**(i)** A phone number where information can be obtained about installation, repair, and parts. Detailed written instructions and a parts list shall be available upon request.

(ii) Detailed instructions regarding use, including a diagram showing the proper placement of the wheelchair/mobility aids and positioning of securement devices and occupant restraints, including correct belt angles.

(p) The system manufacturer shall make available training materials to ensure the proper use and maintenance of the wheelchair/mobility aid securement and occupant restraint system. These may include instructional videos, classroom curriculum, system test results, or other related materials.

**(2) Wheelchair/mobility aid securement system**

(a) Each securement system location shall consist of a minimum of four anchorage points. A minimum of two anchorage points shall be located in front of the wheelchair/mobility aid and a minimum of two anchorage points shall be located in the rear. The securement anchorages shall be attached to the floor of the vehicle and shall not interfere with passenger movement or present any hazardous condition.

(b) Each securement system location shall have a minimum clear floor area of 30-inches by 48-inches. Additional floor area may be required for some applications. Consultation between the user and the manufacturer is recommended to ensure adequate area is provided.

(c) The securement system shall secure common wheelchair/mobility aids and shall be able to be attached easily by a person having average dexterity and who is familiar with the system and wheelchair/mobility aid.

(d) As installed, each securement anchorage shall be capable of withstanding a minimum force of 3,000 pounds (13.344 Newtons) when applied as specified in 49 CFR 571.222 (FMVSS). When more than one securement device share a common anchorage, the anchorage shall be capable of withstanding the force indicated above, multiplied by the number of securement devices sharing that anchorage.

(e) Each securement device, if incorporating webbing or a strop assembly, shall comply with the requirements for type 1 safety belt systems, in accordance with 49 CFR 571.209 (FMVSS).

(f) The securement system shall secure the wheelchair/mobility aid in such a manner that the attachments or coupling hardware will not become detached when any wheelchair/mobility aid component deforms, when one or more tires deflate, and without intentional operation of a release mechanism (e.g., a spring clip on a securement hook).

(g) Each securement device (webbing or strap assembly) shall be capable of withstanding a minimum force of 2,500 pounds when tested in accordance with 49 CFR 571.209 (FMVSS).

(h) Each securement device (webbing or strap assembly) shall provide a means of adjustment, of manufacturer's design, to remove slack from the device or assembly.

**(3) Occupant restraint system**

(a) A type 2A occupant restraint system which meets all applicable requirements of 49 CFR 571.209 and 571.210 (FMVSS) shall provide for restraint of the occupant.

(b) The occupant restraint system shall be made of materials, which do not stain, soil, or tear an occupant's clothing, and which are resistant to water damage and fraying.

(c) Each restraint system location shall have not less than one anchorage, of manufacturer's design, for the upper end of the upper torso restraint. Each anchorage for each occupant's upper torso restraint shall be capable of withstanding a minimum force of 1,500 pounds (6,672 Newtons) when applied as specified in 49 CFR 571.222 (FMVSS).

(d) Each wheelchair/mobility aid location shall have not less than two floor anchorages for the occupant pelvic and the connected upper torso restraint.

(i) Each floor anchorage shall be capable of withstanding a minimum force of 3,000 pounds (13,344 Newtons) when applied as specified in 49 CFR 571.222 (FMVSS).

(ii) When more than one occupant restraint share a common anchorage, the anchorage shall be capable of withstanding a minimum force of 3,000 pounds (13,344 Newtons) multiplied by the number of occupant restraints sharing the common anchorage in accordance with 49 CFR 571.222 (FMVSS).

(e) Each floor and wall anchorage which secures the occupant restraint to the vehicle and which is not permanently attached, shall be of a "positive latch" design, and shall not allow for any accidental disconnection.

**PP. SPECIAL LIGHT:** Doorways in which lifts are installed, shall have, when lift is to be used, at least 2 foot-candles of illumination measured on the floor of the bus immediately adjacent to the lift, and on the lift, when deployed at the vehicle floor level.

**QQ. SPECIAL SERVICE ENTRANCE**

(1) Power lift equipped bodies shall have a special service entrance to accommodate the power lift. Exception: If the lift is designed to operate within the regular service entrance, and is capable of stowing such that the regular service



entrance is not blocked in any way, and that persons entering or exiting the bus are not impeded in any way, a special service entrance shall not be required.

**(2)** The special service entrance and door shall be located on the right side of the bus and shall be designed not to obstruct the regular service entrance. Exception: A special service entrance and door may be located on the left side of the bus if, and only if, the bus is primarily used to deliver students to the left side of one way streets and its limited to that function.

**(3)** The opening may extend below the floor through the bottom of the body skirt. If such an opening is used, reinforcements shall be installed at the front and rear of the floor opening to support the floor and give the same strength as other floor openings.

**(4)** A drip molding shall be installed above the opening to effectively divert water from entrance.

**(5)** Door posts and headers from entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for special service entrance.

## **RR. SPECIAL SERVICE ENTRANCE DOORS**

**(1)** A single door shall be used for the special service entrance.

**(2)** A single door shall be hinged to the forward side of the entrance unless doing so would obstruct the regular service entrance. If, due to the above condition, the door is hinged to the rearward side of the doorway, the door shall utilize a safety mechanism which will prevent the door from swinging open should the primary door latch fail.

**(3)** All doors shall have positive fastening devices to hold doors in the open position.

**(4)** All doors shall be weather sealed.

**(5)** Door materials, panels and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering, and other exterior features shall match adjacent sections of the body.

**(6)** Each door shall have windows set in rubber which are visually similar in size and location to adjacent non-door windows. Glazing shall be of same type and tinting (if applicable) as standard fixed glass in other body locations.

(7) Door(s) shall be equipped with a device that will actuate an audible or flashing signal located in the driver's compartment when door(s) is not securely closed and ignition is in "on" position.

(8) A switch shall be installed so that the lifting mechanism will not operate when the lift platform door(s) is closed.

(9) Special service entrance doors shall be equipped with padding at the top edge of the door opening. Pad shall be at least three inches wide and one inch thick and extend the full width of the door opening.

## **SS. STEPS**

(1) First step at service door shall be not less than 10" and not more than 14" from the ground when measured from top surface of the step to the ground, based on standard chassis specifications, except on type D vehicles, the first step at the service door shall be 12" to 16" from the ground.

(2) Step risers shall not exceed a height of 10-inches. When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.

(3) Steps shall be enclosed to prevent accumulation of ice and snow.

(4) Steps shall not protrude beyond the side body line.

## **TT.STEP TREADS**

(1) All steps, including floor line platform area, shall be covered with 3/16-inch rubber floor covering or other materials equal in wear and abrasion resistance to top grade rubber.

(2) Metal back of tread, minimum 24-gauge cold roll steel, shall be permanently bonded to ribbed rubber; grooved design shall be such that said grooves run at 90-degree angles to long dimension of step tread.

(3) 3/16 inch ribbed step tread shall have a 1 1/2-inches white nosing as an integral piece without any joint.

(4) Rubber portion of step treads shall have the following characteristics:

(a) Special compounding for good abrasion resistance and high coefficient of friction.

(b) Flexibility so that it can be bent around a 2-inch mandrel both at 130 degrees fahrenheit and 20 degrees fahrenheit without breaking, cracking, or crazing.

(c) Show adurometer hardness 85 to 95.

**UU. STIRRUP STEPS:** Unless the windshield and lamps are not easily accessible from the ground, there may be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning. Steps are permitted in or on the front bumper, in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position.

**VV. STOP SIGNAL ARM:** All stop signal arm(s) shall comply with the requirements of 49 CFR 571.131 (FMVSS) and shall be double faced except for the rear stop arm. Stop arm signals shall be equipped with red flashing LED lamps connected to the alternating red flashing signal lamp circuits and visible to the front and rear.

**WW. STORAGE COMPARTMENT:** A storage container for tools, tire chains, and/or tow chains may be located either inside or outside the passenger compartment but, if inside, it shall have a cover (seat cushion may not serve this purpose) capable of being securely latched and fastened to the floor, convenient to either the service or emergency door.

**XX. SUN SHIELD**

(1) Interior adjustable transparent sun shield not less than 6-inches X 30-inches for types C, and D vehicles, with a finished edge, shall be installed in a position convenient for use by driver.

(2) On all type A buses the sun shield shall be manufacturer's standard.

**YY. SUPPORT EQUIPMENT AND ACCESSORIES**

(1) Each bus shall contain at least one belt cutter properly secured in a location within reach of the driver while belted into his/her driver's seat. The belt cutter shall be durable and designed to eliminate the possibility of the operator or others being cut during use.

(2) Special equipment or supplies which are used on the bus for mobility assistance, health support, or safety purposes shall meet all local, federal, or engineering standards which may apply, including proper identification. Equipment which may be used for these purposes includes, but is not limited to:

(a) wheelchairs and other mobile seating devices (see section on securement system for mobile seating devices/occupant);

(b) crutches, walkers, canes, and other ambulating devices;

(c) medical support equipment; this may include respiratory devices such as oxygen bottles (which should be no larger than 22 cubic feet for liquid oxygen and 38 cubic feet for compressed gas), or ventilators; tanks and valves should be located and positioned to protect them from direct sunlight, bus heater vents, or other heat sources; other equipment may include intravenous, and fluid drainage apparatus.

(3) All portable equipment and special accessory items, including the equipment listed above, shall be secured at the mounting location to withstand a pulling force of five times the weight of the item, or shall be retained in an enclosed, latched compartment. The compartment shall be capable of withstanding forces applied to its interior equal to five times the weight of its contents without failure to the box's integrity and securement to the bus. Exception: If these standards provide specific requirements for securement of a particular type of equipment, the specific standard shall prevail (i.e., wheelchairs).

## **ZZ.TAILPIPE**

(1) Tailpipe shall extend out to but not more than 1-inch beyond perimeter of the body or the bumper.

(2) Tailpipe shall exit to the left of the emergency exit door in the rear of vehicle or to the left side of the bus. Tailpipe shall not exit beneath any fuel filler location or beneath any emergency door. All type A buses may be manufacturer's standard.

**AAA. TECHNOLOGY AND NEW EQUIPMENT:** It is the intent of these standards to accommodate new technologies and equipment, which will better facilitate the transportation of students. When a new technology, piece of equipment, or component is desired to be applied to the school bus, and it meets the following criteria, it may be acceptable.

(1) The technology, equipment or component shall not compromise the effectiveness or integrity of any major safety system, unless it completely replaces the system. (Examples of safety systems include, but are not limited to, compartmentalization, the eight light warning system, emergency exit opportunity, and the uncluttered yellow color scheme.)

(2) The technology, equipment or component shall not diminish the safe environment of the interior of the bus.

(3) The technology, equipment or component shall not create additional risk to students who are boarding or exiting the bus or are in or about the school bus loading zone.

(4) The technology, equipment or component shall not create undue additional activity and/or responsibility for the driver.

(5) The technology, equipment or component shall generally increase efficiency and/or safety of the bus, or generally provide for a safer or more pleasant experience for the occupants and pedestrians in the vicinity of the bus, or generally assist the driver or make his/her many tasks easier to perform.

(6) The inspection technology sensory equipment including the GPS and emergency notification systems shall be provided which meets the standard established by previous state procurement.

(7) An electronic child check system shall be provided which will provide for notification when a school bus is not inspected for any students being left unattended inside the school bus at the end of the school bus route.

(8) All doors shall be equipped when manufacturing technology becomes available with a keyless remote locking device, to include primarily the emergency and service doors.

**BBB. TOW EYES OR HOOKS:** Optional tow eyes or hooks may be furnished on the rear and attached so they do not project beyond the rear bumper. Tow eyes or hooks attached to the chassis frame may be furnished by either the chassis or body manufacturer. The installation shall be in accordance with the chassis manufacturer's specifications.

**CCC. TRACTION ASSISTING DEVICES (optional equipment)**

(1) Where required or used, sanders shall:

(a) be of hopper cartridge-valve type;

(b) have metal hopper with all interior surfaces treated to prevent condensation of moisture;

(c) be of at least 100 pound (grit) capacity;

(d) have cover on filler opening of hopper, which screws into place, sealing unit airtight;

(e) have discharge tubes extending to front of each rear wheel under fender;

(f) have no-clogging discharge tubes with slush-proof, non-freezing rubber nozzles;

(g) be operated by an electric switch with telltale pilot light mounted on the instrument panel;

(h) be exclusively driver controlled;

(i) have gauge to indicate that hopper needs refilling when it is down to one-quarter full.

(2) Automatic traction chains may be installed.

**DDD. TRASH CONTAINER AND HOLDING DEVICE:** A trash container shall be required that meets the following requirements:

(1) be no greater than 14-quart capacity;

(2) be secured by a holding device that is designed to prevent movement and to allow easy removal and replacement;

(3) be installed in an accessible location in the driver compartment, not obstructing passenger use of the service door.

#### **EEE. UNDERCOATING**

(1) Entire underside of bus body, including floor sections, cross member and below floor line side panels, shall be coated with rust-proofing compound for which compound manufacturer has issued notarized certification of compliance to the bus body builder that compound meets or exceeds all performance and qualitative requirements of paragraph 3.4 of Federal Specification TT-C-520b using modified test procedures\* for following requirements:

(a) salt spray resistance-pass test modified to 5% salt and 1000 hours;

(b) abrasion resistance-pass;

(c) fire resistance-pass.

(2) \*Test panels to be prepared in accordance with paragraph 4.6.12 of TT-C-520b with modified procedure requiring that test be made on a 48-hour air cured film at thickness recommended by compound manufacturer.

(3) Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommend film thickness and shall show no evidence of voids in cured film.

#### **FFF. VENTILATION**

(1) Auxiliary fans shall meet the following requirements.

(a) All fans shall be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror.

**(b)** Fans shall be a nominal 6-inches diameter.

**(c)** Fan blades shall be covered with a protective cage; each fan shall be controlled by a separate switch.

**(2)** Body shall be equipped with a suitably controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions, without having to open windows except in extremely warm weather.

**(3)** Static-type non-closeable exhaust ventilation shall be installed in low-pressure area of roof.

**(4)** Roof hatches designed to provide ventilation shall be provided with an escape hatch/roof ventilator with a minimum 10 year warranty.

### **GGG. WHEELHOUSING**

**(1)** The wheel housing opening shall allow for easy tire removal and service.

**(2)** The wheel housing shall be attached to floor sheets in such a manner as to prevent any dust, water or fumes from entering the vehicle body. Wheel housing shall be constructed of at least 16-gauge steel.

**(3)** The inside height of the wheel housing above the floor line shall not exceed 12-inches.

**(4)** The wheel housing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels.

**(5)** No part of a raised wheel housing shall extend into the emergency door opening.

### **HHH. WINDOWS**

**(1)** Each full side window, other than emergency exits designated to comply with 49 CFR 571.217 (FMVSS), shall provide an unobstructed emergency opening of at least 9-inches but not more than 13-inches high and 22-inches wide, obtained by lowering window. One side window on each side of the bus may be less than 22-inches wide.

**(2)** Glazing shall be installed in all doors, windows, and windshields consistent with federal and state motor vehicle code.

**(3)** The driver's side windows shall consists of transition glass when manufacturing technology becomes available that darkens in daylight conditions and clears in dark conditions consistent with the glazing standard.

**III. WINDSHIELD:** Option - A multi-piece windshield shall be provided.

**JJJ. WINDSHIELD WIPERS**

(1) A windshield wiping system, two-speed or variable speed, with an intermittent feature, shall be provided. A windshield washer system shall be provided.

(2) The wipers shall be operated by one or more air or electric motors of sufficient power to operate wipers. If one motor is used, the wipers shall work in tandem to give full sweep of windshield to allow for full visibility of the driver view and outside mirrors.

**KKK. WIRING**

(1) All wiring shall conform to current SAE requirements.

(2) Circuits: Two (2) additional circuits shall be provided for a two-way radio communication system and video camera surveillance equipment.

(a) Wiring shall be arranged in circuits, as required, with each circuit protected by a fuse or circuit breaker. A system of color and number coding shall be used and an appropriate identifying diagram shall be provided to the end user along with the wiring diagram provided by the chassis manufacturer. The wiring diagrams shall be specific to the bus model supplied and include any changes to wiring made by the body manufacturer. Chassis wiring diagrams shall also be supplied to the end user. A system of color and number coding shall be used on buses. The following body interconnecting circuits shall be color coded as noted: The color of cables shall correspond to SAE J 1128.

FUNCTION	COLOR
Left Rear Directional Light	Yellow
Right Rear Directional Light	Dark Green
Stoplights	Red
Back-up Lights	Blue
Taillights	Brown
Ground	White
Ignition Feed, Primary Feed	Black

(b) Wiring shall be arranged in at least six regular circuits as follows:

- (i) head, tail, stop (brake) and instrument panel lamps;
- (ii) clearance and step well lamps (step well lamp shall be actuated when service door is opened);



- (iii) dome lamp;
- (iv) ignition and emergency door signal;
- (v) turn signal lamps;
- (vi) alternately flashing signal lamps.

**(c)** Any of the above combination circuits may be subdivided into additional independent circuits.

**(d)** Whenever heaters and defrosters are used, at least one additional circuit shall be installed.

**(e)** Whenever possible, all other electrical functions (such as sanders and electric-type windshield wipers) shall be provided with independent and properly protected circuits.

**(f)** Each body circuit shall be coded by number or letter on a diagram of circuits and shall be attached to the body in a readily accessible location.

**(3)** The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.

**(4)** All wiring shall have an amperage capacity exceeding the design load by at least 25%. All wiring splices are to be done at an accessible location and noted as splices on wiring diagram.

**(5)** A body wiring diagram, of a size which can be easily read, shall be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel.

**(6)** The body power wire shall be attached to a special terminal on the chassis.

**(7)** All wires passing through metal openings shall be protected by a grommet.

**(8)** Wires not enclosed within body shall be fastened securely at intervals of not more than 18-inches. All joints shall be soldered or joined by equally effective connectors, which shall be water-resistant and corrosion-resistant.

[7-01-96; 6.40.2.10 NMAC - Rn, 6 NMAC 9.2.11 & A, 7-31-2000; A, 07-15-2003; A, 11-15-2005; A, 12-30-2010]

#### **6.40.2.11 SCHOOL BUS ADVERTISEMENTS:**

## **A. SCHOOL BUS ADVERTISEMENT ADMINISTRATION**

**(1)** The right to sell advertising space on school buses shall be within the sole discretion of the local school board, except as required by Paragraph (4) of Subsection A of 6.40.2.11 NMAC.

**(2)** Local school boards may sell advertising space on the interior and exterior of school buses. The local board shall develop guidelines for the type of advertisements that will be permitted.

**(3)** No advertisement shall involve obscenity, sexual material, gambling, tobacco, alcohol, political campaigns or causes, religion or promoting the use of drugs; or general content that is harmful or inappropriate for school buses as determined by the local board of education.

**(4)** All school bus private owners that have legal title to school buses used and operated pursuant to an existing bus service contract with a school district may lease space on their buses to the school district for the purpose of selling commercial advertisements. In exchange for leasing the space, the school bus owner-operators shall receive ten percent of the total value of the amount of the contract between the school district and the commercial advertiser.

**(5)** A school district shall be permitted to solicit offers from commercial advertisers for the use of space on the school buses that services its school district. The school district may enter into a lease agreement with a commercial advertiser for the use of any designated advertising space on a school bus that services the school district.

**(6)** The contract must include the time schedule permitted for placement and removal of the advertisement, the term of the agreement, the rental amount and the signatures of authorized parties. These agreements must be filed and maintained for a period of five years from the expiration date of the advertisement contract.

## **B. ADVERTISEMENT TERM**

**(1)** In a lease agreement with a commercial advertiser, the school district shall establish the rental amount, schedule and term. The term of any lease agreement shall not be for a period longer than the time remaining on the school district's bus service contract with a school bus operator who owns the bus that is the subject of the lease agreement.

**(2)** A school district shall not enter into a lease agreement with a commercial advertiser that seeks to display an advertisement that is prohibited by local school board guidelines or by Paragraph (3) of Subsection A of 6.40.2.11 of this regulation.

### **C. EXTERIOR ADVERTISEMENT SPACE REQUIREMENTS AND RESTRICTIONS**

(1) All school bus advertisements shall be painted or affixed by decal on the bus in a manner that does not interfere with national and state requirements for school bus markings, lights and signs. The commercial advertiser that contracts with the school district for the use of the space for advertisements shall be required to pay the cost of painting or affixing a decal for the advertisements on the bus and shall pay for its removal after the term of the contract has expired.

(2) No advertisements shall be displayed on the front, rear or left (driver) side of the school bus.

(3) No advertisement shall interfere with national and state requirements for school bus markings, lights, signs, emergency exits, service doors, windows and ventilation area of rear engines.

(4) The amount of space that will be permitted for commercial advertisements on the exterior portion of a school bus will be limited to 18-inches from the rear most portion of the bus and 6-inches from the window base line, service door(s), wheel well opening, required lettering or bus body reflectors. Advertisements will be permitted above the window drip rail leading toward the roof of the school bus.

### **D. INTERIOR ADVERTISEMENT SPACE REQUIREMENTS AND RESTRICTIONS**

(1) The amount of space that will be permitted for commercial advertisements on the interior portion of school buses will be limited to the area above every other window not to exceed 24-inches wide by 12-inches in height.

(2) No advertisement shall interfere with national and state requirements for school bus markings, lights, signs, emergency exits, service doors and windows.

(3) No advertisements shall be displayed on the front or rear of the school bus.

(4) Advertisements shall be limited to health and safety related messages.

### **E. DISTRIBUTION OF FUNDS**

(1) Funds raised from commercial advertisement shall be distributed from the school bus advertising fund after the required payment is made to school bus private owners.

(2) Sixty percent of the proceeds raised shall be distributed to each school district to use in accordance with the school district's technology plan in amounts

proportionate to the amount that each school district contributed to the school bus advertising fund.

**(3)** Forty percent of the proceeds raised shall be distributed on a per membership basis of middle and junior high schools by the secretary of education to school districts for extracurricular activities. If a school district does not expend money from the school bus advertising fund for extracurricular activities, it shall revert to the fund.

## **F. REPORTING AND ACCOUNTABILITY**

**(1)** Funds raised by a school district from lease agreements relating to the use of advertising space on school buses by commercial advertisers shall be remitted to the public education department, accounted for and subject to review and examination.

**(2)** School districts shall report to the public education department on how the funds were used in the technology plans and for extracurricular activities.

[7-01-96, 7-31-97; 6.40.2.11 NMAC - Rn, 6 NMAC 9.2.12 & A, 7-31-2000; A, 11-15-2005]

# **CHAPTER 41: TRANSPORTATION - SCHOOL BUS SAFETY**

## **PART 1: GENERAL PROVISIONS [RESERVED]**

## **PART 2: SCHOOL BUS INSPECTIONS**

### **6.41.2.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.41.2.1 NMAC - Rn, 6 NMAC 9.5.1.1, 07-31-01; A, 11-13-09]

### **6.41.2.2 SCOPE:**

Provisions of this rule apply to public school districts and governs the standards for inspection and safety of school buses used to transport public school children under the jurisdiction of the department. This rule establishes that school districts are responsible for the safe transportation of their students and if districts contract for transportation services, requires that school districts hold their contractor(s) accountable for safety of the contracted buses.

[12-31-98; 6.41.2.2 NMAC - Rn, 6 NMAC 9.5.1.2, 07-31-01; A, 11-13-09]

#### **6.41.2.3 STATUTORY AUTHORITY:**

This rule is adopted by the department pursuant to Section 22-16-2, NMSA, 1978 which stipulates the state transportation division of the department shall: establish standards and certify for safety, vehicles that are defined as school buses by the Motor Vehicle Code [Chapter 66, Articles 1 to 8, except 66-7-102.1 NMSA, 1978].

[12-31-98; 6.41.2.3 NMAC - Rn, 6 NMAC 9.5.1.3, 07-31-01; A, 11-13-09]

#### **6.41.2.4 DURATION:**

Permanent.

[12-31-98; 6.41.2.4 NMAC - Rn, 6 NMAC 9.5.1.4, 07-31-01]

#### **6.41.2.5 EFFECTIVE DATE:**

December 31, 1998

[12-31-98; 6.41.2.5 NMAC - Rn, 6 NMAC 9.5.1.5, 07-31-01]

#### **6.41.2.6 OBJECTIVE:**

To establish a school bus safety maintenance program in school districts and to institute a safety audit program which is conducted by the school transportation division in cooperation with other agencies and entities.

[12-31-98; 6.41.2.6 NMAC - Rn, 6 NMAC 9.5.1.6, 07-31-01]

#### **6.41.2.7 DEFINITIONS:**

**A. "Department"** means the public education department.

**B. "State transportation division"** means the program support and student transportation division.

[12-31-98; 6.41.2.7 NMAC - Rn, 6 NMAC 9.5.1.7, 07-31-01; A, 11-13-09]

#### **6.41.2.8 REQUIREMENTS OF THE PUBLIC EDUCATION DEPARTMENT:**

The department, working cooperatively with other agencies and entities, will establish a safety audit program. The department, or its authorized representatives, will be required to:

A. randomly audit district school bus maintenance and inspections records;

B. conduct random school bus inspections as a division, or through joint power agreements with other agencies, or contract with other entities;

C. conduct random school bus inspections in compliance with the department's guide for school bus maintenance and safety audit program;

D. maintain records of the school districts inspection and safety audits.

[12-31-98; 6.41.2.8 NMAC - Rn, 6 NMAC 9.5.1.8 & A, 07-31-01; A, 11-13-09]

#### **6.41.2.9 REQUIREMENTS OF SCHOOL DISTRICTS:**

School districts shall ensure that all school buses are inspected semi-annually in accordance with the guide for school bus maintenance and safety audit program.

A. School districts must maintain the following:

(1) maintenance records in accordance with the department's guide for school bus maintenance and safety audit program;

(2) semi-annual inspection records completed by the contractor or in the case of owned operations, the local school district superintendent;

(3) pre-and-post trip records of daily inspections for the school year completed by the contractor or school district transportation director;

(4) inspection records of random inspections conducted by inspectors or auditor authorized by the department.

B. School districts must certify to the department that semi-annual inspections and daily driver inspections have been conducted and are on file.

[12-31-98; 6.41.2.9 NMAC - Rn, 6 NMAC 9.5.1.9 & A, 07-31-01; A, 11-13-09]

### **PART 3: STANDARDS FOR DETERMINING HAZARDOUS WALKING CONDITIONS**

#### **6.41.3.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.41.3.1 NMAC - Rn, 6 NMAC 9.5.2.1, 05-31-01; A, 11-13-09]

#### **6.41.3.2 SCOPE:**

Provisions of this rule apply to public school districts to provide general standards pursuant to statute to allow for exceptions to subsection B of Section 22-16-4 NMSA 1978, which establishes the distance from the attendance center that a school bus route may be approved or maintained.

[12-31-98, 6.41.3.2 NMAC - Rn, 6 NMAC 9.5.2.2, 05-31-01; A, 11-13-09]

#### **6.41.3.3 STATUTORY AUTHORITY:**

This rule is adopted by the department pursuant to Section 22-16-2, NMSA 1978 which stipulates that the state transportation division shall enforce those rules adopted by the department relating to school bus transportation and subsection B of Section 22-16-4, NMSA 1978 which stipulates that no school bus route shall be maintained for lesser distance than: (1) one mile one way for students in grades kindergarten through six; (2) one and one-half miles one way for students in grades seven through nine; and (3) two miles one way for students in grades ten through twelve.

[12-31-98; 6.41.3.3 NMAC - Rn, 6 NMAC 9.5.2.3, 05-31-01; A, 11-13-09]

#### **6.41.3.4 DURATION:**

Permanent.

[12-31-98; 6.41.3.4 NMAC - Rn, 6 NMAC 9.5.2.4, 05-31-01]

#### **6.41.3.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.41.3.5 NMAC - Rn, 6 NMAC 9.5.2.5 & A, 05-31-01]

#### **6.41.3.6 OBJECTIVE:**

In school districts having hazards walking conditions as determined by the local school board and confirmed by the state transportation director, students of any grade may be transported a lesser distance than that provided in subsection B of Section 22-16-4, NMSA 1978. The standards shall be flexible and not rigidly applied by the local school board and the state transportation director to prevent accidents and help ensure student safety.

[12-31-98; 6.41.3.6 NMAC - Rn, 6 NMAC 9.5.2.6 & A, 05-31-01]

#### **6.41.3.7 DEFINITIONS:**

**A.** Regulated - A crossing site where, for the street or roadway being crossed, a crossing guard, traffic enforcement officer, stop sign, or traffic control signal is present

or the crossing site is designated and marked as a reduced speed school crossing zone.

**B.** Unregulated - A crossing site where, for the street or roadway being crossed, no crossing guard, traffic enforcement officer, stop sign, or traffic control signal is present, or the crossing site is not designated or marked as a reduced speed school crossing zone.

**C.** High speed - 40 miles per hour (MPH) or higher posted speed limit.

**D.** Department - The public education department.

**E.** State transportation division - The program support and student transportation division.

[12-31-98; 6.41.3.7 NMAC - Rn, 6 NMAC 9.5.2.7 & A, 05-31-01; A, 11-13-09]

#### **6.41.3.8 REQUIREMENTS:**

In school districts having hazardous walking conditions, as determined by the local school board and confirmed by the state transportation director, students of any grade may be transported a lesser distance than that provided by law.

**A.** The local board of education and the state transportation director must approve any costs incurred for implementing transportation due to the qualification of the hazardous walking standards prior to implementation. The costs must be within the available resources of the categorical transportation appropriation.

**B.** The school district shall justify that an attempt has been made to improve or eliminate hazardous walking conditions and/or establish properly posted signs or supervised school crossings in those cases where such crossings would eliminate hazardous walking conditions.

**C.** The district must also show effort to utilize the existence of available pedestrian crossings at controlled intersections within the statutory walking distance to the specific attendance center, which may require students to walk an increased distance before crossing the street.

**D.** Traffic volume shall be determined by the most current traffic engineering study conducted by a state or local agency.

[12-31-98; 6.41.3.8 NMAC - Rn, 6 NMAC 9.5.2.8, 05-31-01]

#### **6.41.3.9 STANDARDS FOR HAZARDOUS WALKING CONDITIONS:**



Transportation may be provided for students in grades K through 12 who reside within the statutory walking distance from their attendance center pursuant to Section 22-16-4 NMSA 1978 supra, if the following criteria are met:

**A.** Walking parallel to (along side of) roadway. If the total volume on roads exceeds a rate of 120 vehicles per hour or on roads with little or no walking space is available (shoulder or path) and the traffic volume exceeds sixty (60) vehicles per hour during the times when children are en route to or from school and at least one of the following exists:

(1) less than four (4) feet of walking space outside of a curbed roadway for a continuous distance of 75 feet or more on at least one side of the roadway;

(2) less than five (5) feet of walking space outside of the traveled portion of an uncurbed roadway for a continuous distance of 75 feet or more on at least one side of the roadway;

(3) a physical or visual obstruction on the walking space that obstructs for a distance of 75 feet or more.

**B.** Walking across roadway and/or intersection.

(1) If the traffic volume of the street or roadway being crossed exceeds a rate of 180 vehicles per hour through an unregulated crossing site, which exceeds forty (40) feet in width during the times when children are en route to or from school.

(2) If the total traffic volume of the intersection in all directions exceeds the following vehicle rates as applicable:

(a) secondary school children - a rate of 70 vehicles per minute;

(b) elementary school children - a rate of 55 vehicles per minute through a regulated intersection during the times when children are en route to or from school, unless crossing guards or other traffic enforcement officers are present.

(3) If roadways that students must cross are major traffic arteries for high volume movement of traffic with five lanes or greater, high speed and high accident frequency, during the times when children are en route to or from school, and where it is determined that traffic lights and traffic guards are not adequate. If a turn bay is present at a traffic control signal, it is not considered a lane. High speed is 40 M.P.H. or higher posted speed limit.

**C.** Railroad crossings. Hazardous walking conditions shall automatically apply to students required to walk across a main lane, at grade, railroad crossing. (This does not include industrial, spur or exempt railroad crossings.)

[12-31-98; 6.41.3.9 NMAC - Rn, 6 NMAC 9.5.2.9 & A, 05-31-01]

**6.41.3.10 TEMPORARY HAZARDOUS WALKING CONDITIONS:**

Temporary transportation service may be provided in cases involving conditions such as construction, dams, drainage ditches, etc., which have been determined to be hazardous by the local board of education. The superintendent of the local district must provide justification to the state transportation director to show that efforts have been made with local government entities to eliminate the hazardous conditions or show that efforts are underway to eliminate the conditions.

[12-31-98; 6.41.3.10 NMAC - Rn, 6 NMAC 9.5.2.10, 05-31-01]

**6.41.3.11 APPLICATION FOR TRANSPORTATION DUE TO HAZARDOUS WALKING CONDITIONS:**

The determination of hazardous walking conditions shall be made on a case by case basis by a local board of education and approved by the state transportation director in accordance with the application format. Where additional transportation services are requested by official action of the local board of education due to the determination of hazardous walking conditions, the request shall have the recommendation of the police agency having jurisdiction and shall have the necessary back-up data, cost impact and method for implementation submitted by the administration of the local public school prior to approval.

[12-31-98; 6.41.3.11 NMAC - Rn, 6 NMAC 9.5.2.11, 05-31-01]

**6.41.3.12 DISCONTINUANCE OF TRANSPORTATION:**

In the event that transportation is approved under any of the foregoing exceptions, such transportation will be discontinued immediately upon the improvement of the conditions for which the transportation has been provided. It shall be the responsibility of the local school district administration to notify the state transportation director and all affected parties as soon as walking conditions are improved and temporary transportation is terminated.

[12-31-98; 6.41.3.12 NMAC - Rn, 6 NMAC 9.5.2.12, 05-31-01]

**6.41.3.13 APPEAL:**

If a local board of education does not agree with the final determination of the state transportation director, the board may appeal to the department.

[12-31-98; 6.41.3.13 NMAC - Rn, 6 NMAC 9.5.2.13, 05-31-01; A, 11-13-09]

**6.41.3.14 FLEXIBLE APPLICATION OF THIS RULE:**

In accordance with subsection C of Section 22-16-4 NMSA 1978, supra, the local school board and the state transportation director to prevent accidents and help ensure student safety shall flexibly and not rigidly apply the standards for hazardous walking conditions. Local boards of education therefore, may choose to adopt hazardous walking standards that exceed those outlined under Section 6.41.3.10 NMAC. The requirements for the application of the hazardous walking standards that exceed Section 6.41.3.9 NMAC are:

**A.** the local board of education shall adopt a written policy which includes the standards for hazardous walking within the local district that exceed those outlined in Section 6.41.3.9 NMAC; and

**B.** any additional costs incurred due to the local school district's policy which exceed the standards established in Section 6.41.3.9 NMAC shall be the responsibility of the local district unless a legislative appropriation has been approved for this purpose.

[12-31-98; 6.41.3.14 NMAC - Rn, 6 NMAC 9.5.2.14, 05-31-01; A, 11-13-09]

#### **6.41.3.15 CLARIFYING THE LIMITATION ON QUALIFICATION FOR TRANSPORTATION:**

Where the educational program of a school district is structured on a basis other than grades one through six, seven through nine, and ten through twelve, the highest limitations of Section 22-16-4, NMSA 1978, shall be applied for all students attending each attendance center served by the school bus route. The walking distance for each attendance center is based on the highest-grade level served.

[12-31-98; 6.41.3.15 NMAC - Rn, 6 NMAC 9.5.2.15, 05-31-01]

### **PART 4: STANDARDS FOR PROVIDING TRANSPORTATION FOR ELIGIBLE STUDENTS**

#### **6.41.4.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.41.4.1 NMAC - Rp, 6.41.4.1 NMAC, 3/27/2018]

#### **6.41.4.2 SCOPE:**

Provisions of Chapter 41, Part 4 apply to local education agencies (LEA). This regulation governs LEAs. If an LEA chooses to provide transportation services by contracting with a transportation service provider instead of through LEA employed personnel, it may do so. The LEA, however, is responsible for ensuring that the provisions of transportation services comply with all pertinent state and federal

regulations including 49 Code of Federal Regulations Part 382 and statutes and department regulations.

[6.41.4.2 NMAC - Rp, 6.41.4.2 NMAC, 3/27/2018; A, 1/16/2024]

#### **6.41.4.3 STATUTORY AUTHORITY:**

This regulation is promulgated pursuant to Sections 1111g(1)(E) and 1112c(5)(B) of ESEA, Section 722g(J)(iii) of the McKinney-Vento Act, and Sections 22-2-1, 22-2-2, 22-8-26, 22-10A-5, 22-16-2, 22-16-4, and Subsection D of Section 9-24-8 NMSA 1978.

[6.41.4.3 NMAC - Rp, 6.41.4.3 NMAC, 3/27/2018]

#### **6.41.4.4 DURATION:**

Permanent.

[6.41.4.4 NMAC - Rp, 6.41.4.4 NMAC, 3/27/2018]

#### **6.41.4.5 EFFECTIVE DATE:**

March 27, 2018, unless a later date is cited at the end of a section.

[6.41.4.5 NMAC - Rp, 6.41.4.5 NMAC, 3/27/2018]

#### **6.41.4.6 OBJECTIVE:**

To establish a safe, timely, and efficient system of transportation responsive to the needs of eligible public school students, hereinafter students, including children and youth in foster care and homeless children and youth, and to guide the provision of school transportation and transportation as a related service to students with an Individualized Education Program (IEP). LEAs, therefore, shall ensure that all eligible students are served within the requirements of current federal and state laws and department regulations.

[6.41.4.6 NMAC - Rp, 6.41.4.6 NMAC, 3/27/2018]

#### **6.41.4.7 DEFINITIONS:**

**A. "Activity driver"** means an individual who is employed by an LEA or a transportation service provider and has completed all federal, state, and department certifications, licensing requirements, and LEA criteria to drive students on school-sponsored activities.

**B. "Child welfare agency"** means the children youth and families department.

**C. "Children in foster care"** means 24 hour substitute care for children and youth who are placed away from their parents or guardians and who are in custody of state or tribal welfare agencies.

**D. "Conviction"** means an adjudication of guilt, and includes a guilty plea, judgment, or verdict, no contest, nolo contendere, conditional plea of guilty, or any other plea that would result in an adjudication of guilt in any court of competent jurisdiction. A conviction includes a deferred sentence and a conditional discharge prior to satisfaction of the conditions and after satisfaction of conditions where required by the act.

**E. "Driver"** means school bus driver, substitute school bus driver, activity bus driver, school-owned activity vehicle driver, and sport utility vehicle (SUV) driver.

**F. "Eligible student"** means:

(1) Students eligible for transportation services under federal and state statute or under the department's standard for determining hazardous walking conditions pursuant to 6.41.3 NMAC. Students are eligible for transportation services in accordance with Section 22-16-4 NMSA 1978 if school bus routes are:

(a) one mile one way for students in grades kindergarten through six;

(b) one and one-half miles one way for students in grades seven through nine, and;

(c) two miles one way for students in grades 10 through 12.

(2) Students with an IEP are entitled to transportation pursuant to Subparagraphs A through C of Paragraph (1) of Subsection F of 6.41.4.7 NMAC, or transportation as a related service pursuant to Subsection EE of 6.41.4.7 NMAC.

**G. "Employer"** means an LEA or transportation service provider.

**H. "Homeless children and youth"** as defined by section 725(2) of the McKinney-Vento Act means individuals who lack a fixed, regular, and adequate nighttime residence. The term includes:

(1) children and youth who are:

(a) sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;

(b) living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;

(c) living in emergency or transitional shelters;

(d) abandoned in hospitals;

(2) children and youth who have a primary nighttime address that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;

(3) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; or

(4) migratory children under Title I Part C migrant education program.

I. **"Individualized education program (IEP)"** means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Sections 300.320 through 300.324 of 34 CFR.

J. **"IEP team"** means individuals who are involved in writing a student's IEP. In accordance with Section 300.321 of 34 CFR, Individuals with Disabilities Education Act, this team may include:

(1) the student's parents or legal guardian;

(2) at least one of the student's general education teachers;

(3) the student's special education teacher;

(4) an individual who can interpret the instructional implications of a student's evaluation;

(5) an individual representing the school system;

(6) individuals with knowledge or special expertise about the student;

(7) representatives from transition service agencies, if applicable; or

(8) the student, if appropriate.

K. **"Local education agency" or "LEA"** means a local public school district or a state-chartered charter school.

L. **"On-duty time"** means time related to the driving, servicing, or operation of the vehicle, or those duties assigned or necessary that are related to a specific LEA-sponsored activity trip such as staying with the vehicle for security purposes or assisting with supervision of students. On-duty time also includes performing any compensated work for an entity that is not a motor carrier.

**M. "Planned school-sponsored activity trip"** means transportation of school groups when the activity is approved according to the LEA's policy. Activity trips do not include recurring transportation that is part of the school day.

**N. "Roadway"** means that portion of a highway improved, designed, or ordinarily used for vehicular traffic, exclusive of berm or shoulder.

**O. "School bus"** means a commercial motor vehicle used to transport preprimary, primary or secondary school students from home to school, from school to home or to and from school-sponsored events, but not including a vehicle:

(1) operated by a common carrier, subject to and meeting all requirements of the public regulation commission but not used exclusively for the transportation of students;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the public regulation commission but is not used exclusively for the transportation of students;

(3) operated as a per capita feeder as provided in Section 22-16-6 NMSA 1978; or

(4) that is a minimum six-passenger, full-size, extended-length, sport utility vehicle operated by a school district employee pursuant to Subsection D of Section 22-16-4 NMSA 1978.

**P. "School bus assistant"** means an individual employed by an LEA or a transportation service provider to help the school bus driver and students. A school bus assistant shall be provided on school buses when necessary, when required by law or regulation, or when required by a student's IEP.

**Q. "School bus driver"** means an individual employed by an LEA or a transportation service provider that has completed all federal, state, and department certification and licensing requirements and LEA criteria and is assigned to drive a school bus on an LEA-approved school bus route or on a planned LEA-sponsored activity trip in a school bus that meets requirements pursuant to 6.40.2 NMAC.

**R. "School bus driver instructor (SBDI)"** means a person certified by the department to provide mandatory pre-service training to applicants who want to drive a school bus in New Mexico.

**S. "School bus route"** means a designated course regularly traveled by a school bus for to-and-from transportation to pick up students and take them to school or to deliver students from school to their homes or to designated school bus stops that are approved by the LEA. Should the typical number of students on a school bus route drop

below the number of 10, it shall be the responsibility of the LEA to notify the department transportation director by phone or email immediately.

**T. "School of origin"** means the school in which the child or youth is enrolled at the time of placement in foster care or prior to becoming homeless.

**U. "School-owned activity vehicle"** means a vehicle other than a school bus that is used to transport students to and from planned LEA-sponsored activity trips.

**V. "School-owned activity vehicle driver"** means an individual who meets all qualifications, licensing requirements and LEA criteria to drive students on LEA-sponsored activities in school-owned vehicles other than school buses.

**W. "School-owned activity vehicle instructor" or "AVI"** means a person certified by the department to provide mandatory pre-service training to driver applicants for school-owned activity vehicles.

**X. "Serious traffic offense"** means any of the following offenses contained in Sections 66-1-1 through 66-8-141 NMSA 1978:

- (1) speeding in excess of 15 miles above any posted speed limit;
- (2) reckless driving;
- (3) careless driving;
- (4) passing a school bus;
- (5) following too closely;
- (6) operating a commercial motor vehicle without holding a valid commercial driver's license (CDL) along with any endorsements;
- (7) racing on a highway;
- (8) homicide or great bodily harm by vehicle;
- (9) injury to a pregnant woman;
- (10) failing to stop after an accident involving death or personal injury; or
- (11) operating a vehicle after suspension or revocation of a driver's license.

**Y. "Sponsor"** means an individual, such as a coach, teacher, or parent who accompanies students on a planned LEA-sponsored activity trip.



**Z. "Substitute school bus assistant"** means an individual employed by an LEA or transportation service provider to help the school bus driver and students when the assigned school bus assistant is absent.

**AA. "Substitute school bus driver"** means an individual employed by an LEA or transportation service provider to operate a school bus on a school bus route when the assigned school bus driver is absent. The substitute school bus driver shall meet all certification and licensing requirements of a school bus driver.

**BB. "Sport Utility Vehicle (SUV)"** means a sport utility vehicle or a crew cab pickup truck. This type of vehicle differs from a typical four-door sedan due to being constructed on a light or medium truck chassis, making it more rugged and giving it higher ground clearance. It must have four full-size doors and seat six to nine passengers. Vans and mini-vans are excluded from this definition.

**CC. "To-and-from route serviced by an SUV"** means a designated course regularly traveled to pick up designated students at their designated pick-up location to take them to school or to deliver designated students from school to a designated drop-off location.

**DD. "Transportation administrator"** means an individual employed by the LEA or transportation service provider who has responsibility to monitor and guide the transportation program, drivers, and assistants and who is required to make daily observations to detect reasonable suspicion for alcohol or substance use or both.

**EE. "Transportation as a related service"** means specific modifications or support services or both that are required for transportation of a student with an IEP.

**FF. "Transportation service provider"** means an individual or business that has entered into a binding agreement with the LEA to provide school transportation services.

[6.41.4.7 NMAC - Rp, 6.41.4.7 NMAC, 3/27/2018; A, 1/16/2024]

#### **6.41.4.8 RESPONSIBILITIES OF THE LOCAL BOARD OF EDUCATION OR CHARTER SCHOOL ADMINISTRATOR:**

Each local board of education or charter school administrator is responsible for adopting transportation policies, which ensure a safe, timely, and efficient system of transportation for all eligible students, including children in foster care and homeless children and youth, within its jurisdiction. School transportation services for eligible students shall be provided by use of a school bus, per capita feeder route, or SUVs or a combination of school bus, per capita feeder route, or SUVs. Additional options for transportation of children in foster care or homeless children and youth may be explored while ensuring the safety of students. Therefore, each local board of education or charter school administrator shall establish policies in the following areas.

**A. Community, parent and staff involvement:** Each LEA shall:

- (1)** provide a platform for adequate community, parent, staff, and transportation service provider participation in the development of policies and procedures for providing transportation services to eligible students;
- (2)** approve a policy defining the responsibilities of parents, students, teachers, staff, and transportation service providers;
- (3)** provide a platform for adequate information and training provided to the community, parents, and school personnel so that each understands the rights and responsibilities associated with transportation services;
- (4)** approve a policy concerning complaints from parents, students, transportation providers, and others regarding school transportation;
- (5)** approve a policy concerning transportation as a related service for a student with an IEP as the IEP requires. The transportation administrator or designee, or transportation service provider shall be afforded the opportunity to participate in the development of the IEP as it relates to transportation;
- (6)** approve disciplinary procedures, including an appeal process, applicable to all students being transported. The procedures shall comply with all applicable federal and state law and department regulation. Information regarding disciplinary procedures shall be provided to parents and students;
  - (a)** the procedures shall include the process for emergency removal of a student from a school bus;
    - (i)** if emergency removal of a student is necessary, the driver shall report the incident or behavior to the transportation administrator within 24 hours of the incident; and
    - (ii)** a written behavioral report shall be filed with the school and a copy of the report provided to the parents;
  - (b)** nothing contained herein or in local board of education policy shall prevent the emergency removal of any student from a school bus if the student endangers or reasonably appears to endanger the health, welfare, or safety of themselves, any other student, teacher, or employee;
- (7)** approve disciplinary procedures including an appeal process applicable to students with an IEP being transported. The procedures shall comply with all applicable federal and state law and department regulation governing students with disabilities. Information regarding disciplinary procedures shall be provided to parents, students, and IEP teams;

(a) disciplinary procedures for a student with an IEP shall be specified in the student's IEP;

(b) the procedures shall include the process for emergency removal of a student with an IEP from a school bus;

(i) if emergency removal of a student is necessary, the driver shall report the incident or behavior to the transportation administrator within 24 hours of the incident; and

(ii) the transportation administrator shall report each incident or behavior in writing to the LEA's special education director within 24 hours of receiving the driver's report;

(c) nothing contained herein or in local school board policy shall prevent the emergency removal of any student from a vehicle if the student endangers or reasonably appears to endanger the health, welfare, or safety of themselves, any other student, teacher, or employee; and

(d) suspension of transportation service for a student with an IEP for more than ten cumulative days requires a change in transportation service in that student's IEP; and

(8) adopt and approve policies in specialized areas affected by federal regulations, state law, and new legislative initiatives related to school transportation.

**B. Student services:** Transportation is provided to students who are eligible for transportation pursuant to Sections 22-16-2 and 22-16-4, NMSA 1978. Students who do not obey the state and local LEA regulations governing student transportation may have their transportation services revoked by the LEA. Each LEA shall adopt:

(1) a student disciplinary policy for school transportation, including procedures for suspending a student's transportation privilege and for holding parents responsible for any malicious destruction to the vehicle or assault on a driver or others. Policies shall be in agreement with and subject to procedural safeguards and protections specified in federal, state, and department regulations;

(2) a comparable travel time policy that shall:

(a) ensure that transportation time for a student with an IEP is comparable to transportation time provided to neighborhood students who do not have an IEP;

(b) consider the least distance from a student with an IEP's home to the school site as compared to the least distance from the homes of neighborhood students who do not have an IEP to the school site;

(c) consider the time for other transportation services identified in the IEP. Any variance from the comparable travel time policy shall be determined on a case-by-case basis by the IEP team and shall be clearly stated in the IEP;

(3) a policy regarding the transportation of specialized personnel, such as licensed nurses and special education assistants, or other designated persons;

(4) a policy regarding the transportation of animals that accompany a student with an IEP and shall ensure that the certification, training, and immunization requirements for the animal are completed and current;

(5) a policy outlining acceptable procedures for medicine transport. The policy shall include the designated place for transport and the personnel authorized to administer medication during transport when necessary;

(6) a policy regarding the maintenance of a roster or seating chart for students who ride school buses;

(7) a policy for providing transportation services for students eligible under Section 504 of the Rehabilitation Act of 1973 when such services are specified in the student's accommodation plan; and

(8) a policy covering a do not resuscitate request from the parents or guardians specific to the student while the student is being transported on a school bus, school-owned activity vehicle, or SUV.

**C. Relationship with transportation providers.** When a transportation service provider is contracted to provide school transportation services, each local board of education or charter school administrator shall:

(1) approve all contracts and contract amendments with a transportation service provider in accordance with state law and department regulation;

(2) approve a policy governing the termination of a contract with a transportation service provider in accordance with state law and department regulation;

(3) include as a part of each contract a scope of work which ensures that this regulation and all other applicable state and federal regulations and state statutes and department regulations are adhered to; and

(4) develop policy involving finger-print based background checks in accordance with state law.

**D. Planned LEA-sponsored activities:** Each local board of education or charter school administrator shall adopt policies and procedures concerning the safety and welfare of students who are transported to and from planned LEA-sponsored activities.

Policies and procedures shall comply with all applicable federal, state, and department regulations.

**(1)** Vehicles used for school-sponsored activities shall be school-owned, leased, or private vehicles that meet the following department requirements:

**(a)** vehicles shall not be vans or mini-vans;

**(b)** excluding buses, vehicles shall not seat less than six or more than nine people including the driver;

**(c)** excluding buses, vehicles shall have seat belts available for all occupants and all occupants are required to wear them while the vehicle is in motion;

**(d)** vehicles shall have available secure cargo storage or other adequate tie-down for securing items in the vehicle, excluding hitched trailers; and

**(e)** trailers shall not be hitched to vehicles while the vehicle is transporting students.

**(2)** Policies and procedures shall include provision for the use of commercial common carrier buses, taking into account that commercial common carrier buses do not meet current New Mexico school bus construction standards and school bus phase-out pursuant to 6.40.2 NMAC.

**(3)** Policies and procedures shall include provisions for rest and relaxation for students and the driver(s) during the trip.

**(4)** Policies and procedures shall include procedures for releasing students on the planned activity trip to parents or guardians.

**(5)** Policies shall explicitly state that prior to and during work periods all drivers, school bus assistants, and substitute school bus assistants have not used and do not use alcoholic beverages, illegal substances, or legal substances which would impair the driver's or the assistant's ability to perform required duties.

[6.41.4.8 NMAC - Rp, 6.41.4.8 NMAC, 3/27/2018]

#### **6.41.4.9 RESPONSIBILITIES OF THE LEA:**

##### **A. General requirements:**

**(1)** The LEA shall designate a transportation administrator.

(2) The LEA shall observe all federal and state laws, department regulations, and local board of education policies and procedures. The LEA shall follow the New Mexico guide for school vehicle maintenance and safety audit program.

(3) Prior to providing services, the LEA shall ensure that each transportation service provider has a properly executed contract on a form approved by the department.

(4) The LEA shall direct drivers, school bus assistants, and substitute school bus assistants on meeting all transportation requirements of students' IEPs.

(5) The LEA shall, in accordance with applicable federal and state law and department regulation:

(a) verify qualifications which include fingerprint-based background checks and reference checks made and completed for the following positions:

- (i) school bus driver;
- (ii) substitute school bus driver;
- (iii) activity school bus driver;
- (iv) school-owned activity vehicle driver;
- (v) SUV driver;
- (vi) school bus assistant; and
- (vii) substitute school bus assistant;

(b) ensure proper training is provided by a qualified trainer and documented on the applicable pre-service training record as provided by the department. The training shall be completed prior to the drivers, school bus assistants, and substitute school bus assistants performing assigned duties; and

(c) ensure ongoing training is provided and continuing requirements for drivers, school bus assistants, and substitute school bus assistants are met pursuant to 6.41.4.13 NMAC.

(6) The LEA shall establish and provide to all drivers written procedures to be followed:

(a) for immediate replacement of a vehicle when a vehicle fails pre-trip inspection;

(b) during inclement weather; and

(c) during school bus evacuation drills.

(7) The LEA shall provide to transportation service providers and drivers vital emergency information for all students with an IEP or special medical conditions. All vital emergency information shall be treated as a confidential record as provided by law.

(8) The LEA, shall be available until all school bus drivers have completed their trips and all students have been properly delivered.

(9) The LEA shall develop and implement a school transportation safety curriculum for students who ride school buses to and from planned LEA-sponsored activity trips.

(10) The LEA shall review for safety each student walk zone for each school on an LEA approved cycle. The review cycle shall not exceed five years.

(11) The LEA shall ensure that school bus evacuation drills are performed and documented once per semester.

(12) All school buses, activity school buses, and school-owned activity vehicles shall be alcohol, drug, and tobacco free areas. The LEA shall ensure that, prior to or during work periods, all drivers, school bus assistants, and substitute school bus assistants shall not use alcoholic beverages, illegal substances, or legal substances which would impair the driver's or the assistant's ability to perform required duties.

(13) The transportation administrator shall ensure compliance with 49 CFR Part 382 by maintaining documentation including proof of contract and pools of driver names. Drivers who possess a CDL shall constitute a pool of names and the school-owned activity vehicle drivers shall constitute a separate pool of names for random drug and alcohol testing.

(14) The LEA shall arrange for and document in-service training that meets the department's required hours for applicable staff.

**B. Accidents:** In the event of a school bus accident or emergency, the LEA shall:

(1) promptly notify the department by telephone if a school bus is involved in an accident that results in the death, serious injury or hospitalization of any occupant of the school bus or other motor vehicle or a pedestrian;

(2) promptly notify the department if a school bus is involved in an accident in which possible mechanical failure may have been a contributing factor; and

(3) submit the uniform school bus accident and adjudication report to the department within seven calendar days of any accident.

**C. Plan of action for emergencies:**

(1) The LEA or the transportation service provider shall provide to each driver a written plan of action in case of an emergency covering:

- (a) vehicle trouble requiring evacuation;
- (b) vehicle trouble not requiring evacuation;
- (c) passenger trouble requiring transportation personnel intervention;
- (d) passenger trouble requiring police intervention; and
- (e) passenger trouble requiring medical intervention.

(2) Student evacuation drills or adequate alternate instruction as provided in Paragraph (4) of Subsection C of 6.41.4.9 NMAC for to-and-from transportation services in a school bus shall:

- (a) be documented;
- (b) be conducted once per semester;
- (c) include all school bus drivers and substitute school bus drivers;
- (d) include all school bus assistants and substitute school bus assistants;
- (e) exempt students when they are limited in their capability to participate;

and

(f) include the following types of evacuation drills:

- (i) occupants exit through the rear emergency door;
- (ii) occupants exit through the front service door;
- (iii) occupants in the front half of the school bus exit through the front service door and occupants in the back half of the school bus exit through the rear emergency door. If any emergency door is located mid-bus, it shall be considered the rear emergency door; and
- (iv) occupants receive instructions on the proper use of roof hatches.



(3) Student evacuation drills or adequate alternate instruction as provided in Paragraph (4) of Subsection C of 6.41.4.9 NMAC for to-and-from transportation services in an SUV shall:

- (a) be documented;
  - (b) be conducted once per semester;
  - (c) include all SUV drivers and assistants;
  - (d) exempt students when they are limited in their capability to participate;
- and
- (e) include the following types of evacuation drills:
    - (i) occupants exit through the nearest door;
    - (ii) occupants exit through driver-side doors only; and
    - (iii) occupants exit through passenger-side doors only.

(4) Adequate alternate instruction shall be verbal instruction on the location and operation of emergency exits and shall be presented by the driver to all vehicle occupants.

**D. School bus routes:** The LEA shall follow department regulations and procedures for the establishment and monitoring of school bus routes.

(1) Loading and unloading shall occur, whenever possible, off the roadway and so that students do not have to cross the roadway. When it is impossible for a school bus to completely pull off the roadway, the driver shall remain on the roadway and use procedures provided in Subsection D of 6.41.4.11 NMAC.

(2) LEAs shall establish written procedures regarding adherence to school bus route pick-up and delivery times by both drivers and students. This information shall be available to parents and guardians of the students.

(3) The LEA shall review each school bus route on a district- approved cycle for safety and economy. The review cycle shall not exceed five years.

(4) The LEA shall comply with local board of education policy regarding the number of days allowed to re-configure a school bus route when a student's IEP has been modified and requires an adjustment to the student's transportation.

(5) The LEA shall establish a policy for the minimum time required for the school bus driver to wait for a student with an IEP who is receiving transportation as a

related service to arrive at the school bus stop to be picked up. The policy shall also include information regarding the unloading of that student when returning the student to their school bus stop when a parent or guardian is not present to receive the student.

#### **E. Loading and unloading students at schools:**

- (1) All school bus loading and unloading zones shall be properly marked by use of signs and pavement markings.
- (2) The school bus loading and unloading zones shall be adequately staffed with designated personnel to monitor the loading and unloading of students.
- (3) When loading and unloading, school buses shall be parked in a single file as close as possible to avoid students and other people from going between the school buses.
- (4) Whenever possible, loading and unloading shall be done on school premises and separated from general vehicular traffic areas and playground areas.
- (5) If loading or unloading must occur on the roadway, the school bus shall be stopped on the side of the roadway nearest the school. Alternating red flasher lights shall be activated when the school bus is stopped on the roadway.
- (6) When loading, school buses shall be parked prior to dismissal time, if possible. School buses shall be parked in the order in which they arrive at the school.
- (7) When loading or unloading students, the school bus parking brake shall be activated, the transmission shall be in neutral or in park, if equipped, and the engine off.
- (8) For LEA's in counties where a heat advisory or excessive heat warning issued by the National Weather Service is in effect, the LEA may elect to review the circumstances and make their own determination as to whether a bus equipped with air conditioning shall remain on for the duration of the heat advisory or excessive heat warning when loading or unloading students. The LEA shall first consider alternatives that may be available taking into consideration best practices and implementing those other alternatives if practicable. The LEA may also reference any guidance or resource documents issued by the department involving best practices for maintaining student safety during heat advisories or excessive heat warnings.
- (9) When loading and unloading students, if the driver is required to leave the driver's seat, the keys shall be removed from the ignition switch. Exceptions to removing the key from the ignition switch include:
  - (a) school buses built after July 1, 2003 that are equipped with an interlock for wheel chair lifts; and

(b) school buses equipped with a child check safety system. In buses equipped with this system, the service door shall be closed when the driver leaves the driver's seat.

(10) The LEA shall review each school bus loading and unloading area at each school for safety on an LEA-approved cycle. The review cycle shall not exceed five years.

**F. School bus stops:** LEAs shall establish all school bus stops and, when appropriate, include involvement from a student's IEP team. The local public safety organization having jurisdiction shall also be included whenever necessary. Services shall be designed that safely, efficiently, and economically transport students.

(1) The LEA shall review each school bus stop for safety on an LEA approved cycle. The review cycle shall not exceed five years.

(2) School bus stops shall not be established where the view is obstructed to motorists for 500 feet in either direction. If, because of natural conditions, a stop must be established with a view of less than 500 feet, the LEA shall contact the state highway department or other agency having jurisdiction and request the installation of highway signage.

(3) School bus stops shall not be established on any interstate highway. If necessary, school bus stops shall be established on service or frontage roads adjacent to the interstate highway.

(4) School bus stops shall, whenever possible, be established so that students do not have to cross the roadway.

(5) School bus stops shall not be made:

(a) within 25 feet of any intersection.

(b) at a railroad grade crossing where a stop-and-go traffic light controls movement of traffic;

(c) at an abandoned railroad grade crossing which is marked with a sign indicating that the railroad is abandoned;

(d) at an industrial or spur line railroad grade crossing marked with a sign reading "EXEMPT CROSSING"; or

(e) at a railroad grade crossing used exclusively for industrial switching purposes within a business district or a streetcar crossing.

**G. Identification of transportation needs for students with disabilities:**

(1) Transportation needs for students with an IEP who require transportation as a related service is determined by each student's IEP team and shall be included in the IEP.

(2) When modifications to standard transportation are necessary, transportation personnel shall be afforded the opportunity to participate in the development of the IEP. The IEP document shall clearly state the transportation needs or modification or both identified by the IEP team and, if applicable, transportation personnel. If circumstances require changes in services, any team member may request that the team reconvene to consider the student's transportation needs.

#### **H. Provisions for transportation of students with disabilities:**

(1) In providing transportation as a related service to a student with an IEP, the LEA shall ensure:

(a) all alternatives are considered if, due to serious health or safety considerations, an IEP team determines that a student with an IEP cannot be transported with neighborhood peers who are not disabled;

(b) time transporting a student with an IEP is comparable to that provided for non-disabled neighborhood peers, unless otherwise specified in the student's IEP;

(c) access to and from the designated pickup and drop-off point; and

(d) access to other educational and related services specified in the student's IEP.

(2) Confidentiality of IEP and student medical information shall apply when transportation as a related service is provided to a student with an IEP.

#### **I. Provisions of transportation for children and youth in foster care:**

(1) The LEA shall 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. The procedures shall:

(a) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with Section 475(4)(A) of the Social Security Act;

(b) ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their school of origin, the LEA will provide transportation to the school of origin if:

(i) the local child welfare agency agrees to reimburse the LEA for the cost of such transportation;

(ii) the LEA agrees to pay for the cost of such transportation; or

(iii) the LEA and the local child welfare agency agree to share the cost of such transportation; and

(c) include, in addition to state and local funds that may be available for transportation, certain federal funds, if allowable under the grants, may be available to cover additional transportation costs to maintain children in foster care in their schools of origin.

(2) LEAs shall provide transportation to maintain children in foster care in their school of origin even if it does not provide transportation for children that are not in foster care.

(3) LEAs shall provide or arrange for adequate and appropriate transportation of children in foster care to and from the school of origin while any disputes are being resolved.

#### **J. Provisions of transportation for homeless children and youth:**

(1) LEAs are responsible for reviewing and revising transportation policies that may act as barriers to the identification, enrollment, attendance or success in schools of homeless children and youth.

(2) McKinney-Vento Act requires homeless children and youth to receive transportation that is comparable to what is available to non-homeless students.

(3) LEAs shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian or in the case of the unaccompanied youth, the liaison, to and from the school of origin in accordance with the following requirements.

(a) If the child or youth continues to live in the area served by the LEA in which the school of origin is located, that LEA shall provide or arrange for the child's or youth's transportation to and from the school of origin.

(b) If the child or youth continues their education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to apportion the responsibility and costs for providing the child or youth with transportation to and from the school of origin. If the LEAs cannot agree upon a method, the responsibility and costs for transportation are to be shared equally, pursuant to 6.42.2 NMAC.

(4) LEAs may use McKinney-Vento subgrant funds or Title I funds to defray the excess costs of transporting homeless children and youth to and from their school of origin.

(5) LEAs are required to provide adequate and appropriate transportation for homeless children and youth to and from the school of origin while enrollment disputes are being resolved.

(6) LEAs shall continue to provide transportation to and from the school of origin to formerly homeless children and youth who have become permanently housed for the remainder of the academic year during which the child or youth becomes permanently housed.

**K. Dispute resolution regarding the transportation of children in foster care and homeless children and youth:**

(1) To the extent feasible and appropriate, LEAs must ensure children in foster care remain in their school of origin while disputes are being resolved to minimize disruptions and reduce the number of moves between schools.

(2) Homeless children and youth shall be provided adequate and appropriate transportation to and from the school of origin while disputes are being resolved.

(3) LEAs shall work with child welfare agencies, unaccompanied youth liaisons, and parents and guardians to resolve disputes at the lowest level possible.

(4) If disputes are unable to be resolved at the local level, applicable parties may access dispute resolution procedures available at the department including those pursuant to 6.10.3 NMAC.

**L. Student behavior:**

(1) When a student's behavior on a school bus or at a designated school bus stop endangers the safety of others, the student shall be suspended from being transported according to LEA policies and department regulations.

(2) If an incident or behavior occurs involving a student with an IEP, the driver shall report each incident or behavior to the transportation administrator within 24 hours of the incident. Provisions for removal and reinstatement of transportation services for students with disabilities shall be specified in the LEA's policies and in the student's IEP. Any change in transportation as a related service must be made through the IEP process, and the procedural safeguards specified in department regulations shall apply. The transportation administrator shall report each incident or behavior within 24 hours of receiving the driver's report to the LEA's special education director or appropriate administrator. The incident or behavior shall be addressed by the student's IEP team.

**M. Process for pre-employment screening of initial commercial driver's license (CDL) driver applicants:** The employer shall adhere to all applicable federal, state, and department employment requirements.

(1) The employer shall verify the following documentation is in each driver applicant's file:

(a) a complete LEA-approved application form that meets or exceeds federal, state and department requirements;

(b) a copy of the driver applicant's current and valid driver's license, verified by the employer;

(c) a fingerprint-based background check. A person applying for full or part-time employment with an LEA or transportation service provider to operate a vehicle for the purpose of transporting students shall, at the person's own expense, submit to a fingerprint-based background check pursuant to Section 22-10A-5 NMSA 1978;

(i) the finger-print based background check shall be conducted prior to employment;

(ii) the applicant shall not qualify if there is a conviction of any violation of the Controlled Substances Act;

(iii) the applicant shall not qualify if there is a conviction of child abuse pursuant to Section 30-6, NMSA 1978, Crimes Against Children and Dependents;

(iv) the applicant shall not qualify if there is a conviction of any other criminal offense in which a child was a victim as defined or prescribed by the offense;

(v) the employer shall maintain on file an agreement, authorization, and waiver and release form in addition to a criminal history affidavit on any newly-hired employee employed to operate a vehicle for the purpose of transporting students; and

(vi) the fingerprint-based background check requirement does not apply to any person who, as of January 1, 2006 was already engaged in full or part-time employment to operate a vehicle used to transport students, unless the employer's policies require it;

(d) a department of transportation (DOT) medical examiner's certificate indicating that a DOT physical examination was passed in accordance with DOT and federal motor carrier safety administration requirements. The DOT physical examination form that is current on the date of the examination must be used. The transportation administrator or the department may require a DOT physical examination be performed at any time, and the medical examiner's certificate shall be provided to all appropriate parties;

(e) a completed New Mexico school bus driver pre-service training record per the current SBDI manual provided by the department;

(i) an SBDI certified by the department shall conduct instruction using the current SBDI manual provided by the department;

(ii) all pre-service training shall be documented on the appropriate pre-service training record as per the SBDI manual provided by the department;

(iii) pre-service training shall be administered in a 65-71 passenger type C school bus. When the driver applicant is expected to operate more than one size and type of school bus, training shall be given on the specific handling characteristics of each size and type of school bus the driver applicant may be assigned to drive once all pre-service training has been completed;

(iv) all behind the wheel instruction shall be administered under the supervision of an SBDI and without student passengers or other persons on board except other school bus driver applicants;

(v) observation time shall include riding in a school bus with a licensed school bus driver driving on a school bus route or in observation of other school bus driver applicants driving under the supervision of an SBDI. Observation time shall also include actual school bus route orientation with a licensed school bus driver; and

(vi) if the school bus driver applicant has completed a department-approved first aid and cardiopulmonary resuscitation (CPR) course taught by a certified instructor and the certificate is current, the certificate shall be provided to the transportation administrator. This shall satisfy the requirement for first aid and CPR training on the school bus driver pre-service training record. On-line courses are not acceptable;

(f) a printout of the driver applicant's current driving record through the New Mexico motor vehicle division or the national driver register or other states' motor vehicle divisions. Verification includes the driver applicant's eligibility to be a driver. The driver applicant shall not be eligible if their driving record shows the driver applicant has:

(i) been convicted of driving while intoxicated (DWI) or driving under the influence (DUI) of intoxicating liquor or drugs within three years of the date of application for employment;

(ii) been convicted of a DWI or DUI between three years and 20 years prior to the date of application for employment unless the person provides written verification from a licensed counselor or physician that the person has successfully completed an alcohol or drug abuse program. On-line programs are not acceptable;



- (iii) been convicted two or more times for DWI or DUI;
- (iv) had their driver's license suspended or revoked within five years of the date of application for employment for any serious traffic offense;
- (v) been convicted of more than three serious traffic offenses within three years of the date of application for employment; or
- (vi) been convicted of any felony within the previous 10 years, or there exist other reasonable grounds related to the services of transporting students rendering the applicant ineligible;
- (g) a copy of the CDL test results, if available.

(2) The employer shall make available to each driver applicant at the time of hiring a current copy of 6.41.4 NMAC and any applicable LEA handbooks.

**N. Process for pre-employment screening of returning CDL driver applicants:**

The employer shall adhere to all applicable federal, state and department employment requirements.

- (1) A returning CDL driver applicant shall:
  - (a) provide a completed New Mexico school bus driver pre-service training record provided by the department or certificates of training conducted by the department prior to 2000; and
  - (b) complete the training as outlined on the New Mexico returning school bus driver pre-service training record per the current SBDI manual provided by the department.
- (2) A returning CDL driver applicant that cannot provide either a New Mexico school bus driver pre-service training record provided by the department or certificates of training conducted by the department prior to 2000 must complete the process for pre-employment screening of initial commercial driver's license (CDL) driver applicants pursuant to Subsection M of 6.41.4.9 NMAC.
- (3) The employer shall verify that the following is completed and in each returning driver applicant's file:
  - (a) documentation pursuant to the requirements listed in Paragraph (1) of Subsection M of 6.41.4.9 NMAC; and
  - (b) a completed New Mexico returning school bus driver pre-service training record.

(4) The employer shall make available documents pursuant to Paragraph (2) of Subsection M of 6.41.4.9 NMAC.

**O. Process for pre-employment screening of school-owned activity vehicle driver applicants:** The LEA shall adhere to all federal, state and department employment requirements when employing a school-owned activity vehicle driver.

(1) The LEA shall verify the following documentation is in each driver applicant's file:

(a) a completed employment application form that meets or exceeds federal, state and department requirements unless the applicant is currently employed by the LEA;

(b) documentation pursuant to requirements listed in Subparagraphs (b), (c) and (f) of Paragraph (1) of Subsection M of 6.41.4.9 NMAC;

(c) a current medical examiner's certificate indicating that a physical examination was passed using the DOT physical examination form that is current as of the date of the examination. The transportation administrator or the department may require a physical examination be performed at any time. The medical examiner's certificate shall be provided to all appropriate parties;

(d) a completed New Mexico school-owned activity vehicle driver pre-service training record per the current SBDI manual provided by the department;

(i) training shall be provided by an SBDI with activity vehicle (AV) certification by the department or an activity vehicle instructor (AVI) certified by the department using the current SBDI manual provided by the department;

(ii) as part of the pre-service training, the driver applicant must complete a defensive driving course (DDC) that is nationally recognized and approved by the department. In lieu of AV-certified SBDI or AVI DDC training, a certificate of completion of a DDC course that is approved by the department may be accepted. The certificate of completion shall be dated within four years of the driver applicant's date of application; and

(iii) as part of the pre-service training, the driver applicant must complete a department-approved first aid and CPR course taught by a certified instructor. A certificate from the completed course shall be provided to the transportation administrator. If the driver applicant has a current certificate from a department-approved complete first aid and CPR course, this shall satisfy the requirement. On-line courses are not acceptable.

(2) The employer shall make available documents pursuant to Paragraph (2) of Subsection M of 6.41.4.9 NMAC.

**P. Process for pre-employment screening of school bus assistant and substitute school bus assistant applicants:** The employer shall adhere to all applicable federal, state, and department employment requirements.

(1) The employer shall maintain the following documentation in each school bus assistant and substitute school bus assistant's file:

(a) a completed employment application form that meets or exceeds federal, state and department requirements unless the applicant is currently employed by the LEA;

(b) a fingerprint-based background check pursuant to the requirements listed in Subparagraph (c) of Paragraph (1) of Subsection M of 6.41.4.9 NMAC;

(c) a physical examination record;

(i) the physical examination shall be completed before the assistant begins performing duties; and

(ii) the transportation administrator or the department may require a new physical examination be performed at any time;

(d) a completed New Mexico school bus assistant pre-service training record in accordance with the SBDI manual as provided by the department; and

(e) a current first aid and CPR certificate. On-line first aid and CPR courses are not acceptable.

(2) The applicant shall not qualify if they have:

(a) been convicted of any felony within the previous 10 years, or there exist other reasonable grounds related to the services of transporting students rendering the applicant ineligible;

(b) a conviction for any violation of the Controlled Substances Act;

(c) been convicted of child abuse pursuant to Sections 30-6-1 through 30-6-4, NMSA 1978, Crimes Against Children and Dependents; or

(d) been convicted of any other criminal offense in which a child was a victim as defined or prescribed by the offense.

(3) The employer shall make available documents pursuant to Paragraph (2) of Subsection M of 6.41.4.9 NMAC.

**Q. Continuing standards for drivers:** Any individual who currently drives a vehicle transporting students shall no longer be eligible to transport students:

(1) for three years if they receive a conviction for DWI or DUI. They may requalify if a written verification from a licensed counselor or physician is provided that the person has successfully completed an alcohol or drug abuse program. On-line programs are not acceptable. They are permanently ineligible if they have two or more DWI or DUI convictions;

(2) for five years if they receive a suspension or revocation of driver's license for any serious traffic offense;

(3) for three years if they receive convictions for more than three serious traffic offenses; or

(4) if they receive any convictions pursuant to Paragraph (2) of Subsection P of 6.41.4.9 NMAC.

**R. Background check requirements for drivers, school bus assistants, and substitute school bus assistants:** The background check requirements pursuant to 6.41.4.9 NMAC, shall not apply to anyone who, as of January 1, 2006 was already engaged in full or part time employment to operate a vehicle to transport students. LEAs may require additional background check information.

**S. Required documentation for files:** In addition to the required pre-employment screening documentation pursuant to 6.41.4.9 NMAC, the documentation below shall be maintained in the employee's file.

(1) Employee files for school bus drivers, substitute school bus drivers and activity bus drivers shall include:

(a) a copy of current CDL;

(b) a current medical examiner's certificate for a DOT physical examination;

(i) a DOT physical examination shall be renewed every 24 months from the date of the last examination, or earlier as requested by a licensed medical professional;

(ii) the current DOT physical examination form must be used; and

(iii) additional DOT physical examinations may be requested by the employer or the department;

(c) a driving record printed annually then verified for eligibility. The driver's current driving record shall be obtained through the New Mexico motor vehicle division

or the national driver register or other states' motor vehicle division. The driver shall no longer be eligible:

(i) for three years if they receive a conviction for DWI or DUI. They may requalify if a written verification from a licensed counselor or physician is provided that the person has successfully completed an alcohol or drug abuse program. On-line programs are not acceptable. They are permanently ineligible if they have two or more DWI or DUI convictions;

(ii) for five years if they receive a suspension or revocation of their driver's license for any serious traffic offense;

(iii) for three years if they receive convictions for more than three serious traffic offenses; or

(iv) for 10 years if they receive a conviction for any felony or there exist other reasonable grounds related to the services of transporting students rendering the applicant ineligible;

(d) documented in-service training as per the department's requirements;

(i) in-service training shall be pro-rated for newly-hired school bus drivers, substitute school bus drivers, and activity bus drivers for their first year of employment for the number of quarters employed. Quarters during the calendar year are as follows: January 1 to March 31; April 1 to June 30; July 1 to September 30; and October 1 to December 31;

(ii) to remain qualified, school bus drivers, substitute school bus drivers, and activity bus drivers shall complete a total of eight hours in-service training per semester. Semesters during the calendar year are as follows: January 1 to June 30 and July 1 to December 31;

(iii) in-service training shall be documented by the transportation administrator or designee with the date of training, hours trained, trainer's name, printed and signed name of attendees, and topic or topics discussed. Such documents shall be stored in files maintained by the employer,

(iv) drivers who do not complete the required hours of in-service training per semester are disqualified from duty until those hours of in-service training are completed. The department may determine the in-service training topics.

(2) Employee files for school-owned activity vehicle drivers shall include:

(a) a copy of current driver's license;

(b) a current medical examiner's certificate indicating that a physical examination in accordance with DOT and federal motor carrier safety administration requirements was passed;

(i) the DOT physical examination form that is current on the date of the examination must be used; and

(ii) additional physical examinations on the DOT form may be requested by the employer or the department;

(c) a driving record printed annually then verified for eligibility pursuant to the requirements listed in Subparagraph (c) of Paragraph (1) of Subsection S of 6.41.4.9 NMAC.

(3) Employee files for school bus assistants and substitute school bus assistants shall include:

(a) a copy of current first aid and CPR certificate; and

(b) documented in-service training pursuant to the requirements listed in Subparagraph (d) of Paragraph (1) of Subsection S of 6.41.4.9 NMAC.

**T. Planned LEA-sponsored activity trips:** When a planned LEA-sponsored activity trip involves more than 18 people, including the drivers, or would require more than two school-owned activity vehicles to transport students during the same time frame to the same destination, the LEA shall use an activity school bus. Passenger management, as described in Paragraph (7) of Subsection T of 6.41.4.9 NMAC, shall not be an additional responsibility of the driver of the activity bus or a school bus assistant on a planned LEA-sponsored activity trip.

(1) When an activity bus is used for a planned LEA-sponsored activity trip:

(a) the activity bus shall meet the requirements pursuant to 6.40.2 NMAC;

(b) the activity bus shall not carry more than the manufacturer-rated seating capacity;

(c) the employer shall not use a school bus assigned to a school bus route to provide transportation for any planned LEA-sponsored activity trips if doing so will interfere with its operation on its assigned school bus route;

(d) the employer shall not temporarily reassign any students from one school bus route to another school bus route in order to free-up a school bus for a planned LEA-sponsored activity trip; and

(e) on an activity bus that includes transporting equipment:

- (i) items shall not occupy needed seating space;
- (ii) items shall not be placed in the driver's compartment;
- (iii) all items shall be properly secured; and
- (iv) aisle and exits shall not be blocked.

(2) When a school-owned activity vehicle is used on a planned LEA-sponsored activity trip:

(a) the school-owned activity vehicle shall meet applicable federal motor vehicle safety standards (FMVSS);

(b) the driver operating a school-owned activity vehicle shall meet all requirements for school-owned activity vehicle drivers, pursuant to Subsection O of 6.41.4.9 NMAC;

(c) the school-owned activity vehicle shall not carry more than the manufacturer-rated seating capacity;

(d) the school-owned activity vehicle shall meet the following criteria:

(i) the school-owned activity vehicle shall not be vans or mini-vans;

(ii) the school-owned activity vehicle shall not seat less than six and no more than nine people including the driver;

(iii) the school-owned activity vehicle shall have seat belts available for all occupants, and all occupants are required to wear them while the vehicle is in motion;

(iv) the school-owned activity vehicle shall have available a cargo net or other adequate tie-down for securing items in the vehicle; excluding hitched trailers;

(v) trailers shall not be hitched to school-owned activity vehicles while the vehicle is transporting students;

(vi) the school-owned activity vehicle shall not exceed the manufacturer's gross vehicle weight rating (GVWR) as specified on the vehicle license and registration form; the GVWR includes the weight of the passengers and luggage; and

(vii) the school-owned activity vehicle shall be in compliance with all applicable federal, state, and department regulations, and with child restraint guidelines from the national highway traffic safety administration (NHTSA);

(e) on a school-owned activity vehicle that includes transporting equipment shall transport equipment pursuant to the requirements listed in items (i), (ii), and (iii) of Subparagraph (e) of Paragraph (1) of Subsection T of 6.41.4.9 NMAC;

(f) the school-owned activity vehicle shall be replaced in accordance with the LEA's policy which defines the replacement cycle for school-owned activity vehicles.

(3) The following time limits shall apply to drivers of planned LEA-sponsored activity trips.

(a) A driver shall not have more than eight hours continuous driving time and no more than 10 hours total driving time.

(b) A driver shall not be permitted to be on-duty more than 15 hours in a 24-hour period.

(c) A driver shall have eight consecutive off-duty hours before resuming on-duty time.

(d) A driver is considered off-duty if relieved of all duties and responsibilities for the care and custody of the vehicle, its accessories, cargo, and passengers.

(4) An activity trip ticket that documents and authorizes the activity trip shall be prepared, signed by the LEA, and provided to the driver if the planned LEA-sponsored activity trip requires travel outside of the LEA's geographic boundary.

(5) LEAs are not required to have an activity trip ticket if a commercial common carrier is used to transport students on a planned LEA-sponsored activity trip. However, the LEA shall maintain a copy of the contract for the transportation services for the planned LEA-sponsored activity trip.

(6) Drivers shall be informed of and responsible for the following while driving on planned LEA-sponsored activity trips in addition to the applicable responsibilities of drivers pursuant to 6.41.4.11 NMAC:

(a) compliance with all federal, state, department and employer policies and regulations;

(b) care of and safe and efficient operation of the school bus or school-owned activity vehicle at all times;

(c) performance and documentation of a thorough pre-trip inspection of the vehicle and special equipment prior to departure, unless completed and documented by other qualified personnel;



(d) conducting an emergency evacuation drill or providing adequate alternate instruction to all passengers prior to departure. An LEA-approved document shall be provided to the driver for the driver and the sponsor to sign in evidence that such has been completed before beginning each planned LEA-sponsored activity trip;

(e) ensuring the safety of all passengers while they are in the school bus or school-owned activity vehicle;

(f) ensuring all passengers are properly seated with seat belts in use when the driver is operating a school-owned activity vehicle;

(g) maintaining an activity trip ticket when one is required. The driver shall, upon request, show the signed activity trip ticket to any state police officer or other law enforcement officer, DOT officer, or staff member of the department;

(h) notifying the transportation administrator or designee and obtaining their approval prior to incorporating a change if there are any changes in the route or itinerary;

(i) notifying the transportation administrator or designee of all emergencies that arise;

(j) maintaining and submitting to designated employer personnel all records pertinent to the planned LEA-sponsored activity trip including signed documentation that adequate emergency evacuation instruction was conveyed to all passengers;

(k) ensuring that prior to departure and the return journey, the school bus or school-owned activity vehicle is clean, completely serviced, and inspected, noting the condition of the vehicle in writing on the appropriate form and signing the form;

(l) ensuring the school bus or school-owned activity vehicle shall not be fueled while passengers are on board unless there are exceptional circumstances when it is impractical to unload;

(m) ensuring that no students remain on the school bus or school-owned activity vehicle unless the driver or a school sponsor is on board. At the conclusion of the planned LEA-sponsored activity trip, ensure that no one is on the school bus or school-owned activity vehicle; and

(n) ensuring that the sponsors are actively supervising students on the bus.

(7) School sponsors shall be notified of the following responsibilities for each planned LEA-sponsored activity trip:

(a) preparing and submitting activity trip requests in accordance with federal, state and department regulations as well as the LEA's policies;

- (b) ensuring there are an adequate number of disciplinary staff;
- (c) notifying the transportation administrator or designee of any schedule changes;
- (d) assuring that student(s) are at the departure point(s) at the appointed time;
- (e) supervising the loading and unloading of the vehicle;
- (f) maintaining a student roster and taking roll each time students load onto the vehicle;
- (g) assuring the orderly conduct and discipline of students on and off the vehicle;
- (h) supervising and maintaining control of student passengers in case of an emergency;
- (i) providing for adequate rest stops;
- (j) making all arrangements on overnight planned LEA-sponsored activity trips for meals and lodging, including the driver's meals and lodging.

(8) Planned LEA-sponsored activity trips shall be paid from budgeted LEA-sponsored activity funds and not from current fiscal year to-and-from transportation funds.

(9) The LEA shall adopt a policy that addresses out-of-state transportation for planned LEA-sponsored activity trips. LEAs shall use the guidelines for school-owned activity vehicles provided in 6.41.4 NMAC whenever possible

#### **U. Training:**

(1) Transportation administrators shall provide training for other LEA employees who are responsible for supervision of the school transportation program and school employed drivers.

(2) A minimum of two hours of in-service training is required annually. The contents of the training will be determined by the department.

[6.41.4.9 NMAC - Rp, 6.41.4.9 NMAC, 3/27/2018; A, 8/4/2023; A, 1/16/2024]

#### **6.41.4.10 REQUIREMENTS OF TRANSPORTATION SERVICE PROVIDERS:**

**A. General requirements:** The transportation service providers shall:

- (1) Cooperate with the LEA administration to provide safe and efficient transportation services for all eligible students;
- (2) keep all required vehicle maintenance records;
- (3) hire all school bus drivers, substitute school bus drivers, activity school bus drivers, school bus assistants, and substitute school bus assistants in accordance with LEA policies, federal, state, and department regulations, and Section 22-10-3.3 NMSA 1978;
- (4) maintain all school bus driver, substitute school bus driver, activity school bus driver, school bus assistant, and substitute school bus assistant files with required documentation in accordance with federal, state and department regulations;
- (5) hire mechanics and office support personnel;
- (6) provide to all drivers written procedures to be followed:
  - (a) during inclement weather; and
  - (b) during school bus evacuation drills;
- (7) provide to each driver an LEA-approved written plan of action in case of an emergency covering:
  - (a) vehicle trouble requiring evacuation;
  - (b) vehicle trouble not requiring evacuation;
  - (c) passenger trouble requiring transportation personnel intervention;
  - (d) passenger trouble requiring police intervention; and
  - (e) passenger trouble requiring medical intervention.
- (8) attend IEP meetings as necessary.

**B. Equipment:** The transportation service provider shall:

- (1) maintain all school buses to manufacturer specifications and all safety equipment on school buses to federal, state and department specifications;
- (2) report complete and accurate information required by the department's transportation director or designee and the LEA; and

(3) comply immediately with equipment recalls by taking a vehicle that has an equipment recall by a manufacturer, a distributor, a federal or state agency, or the department to an approved location as per the recall notification for modification or repair.

**C. Training:** The transportation service provider shall:

(1) provide pre-service and in-service training for all school bus drivers, substitute school bus drivers, activity bus drivers, and all school bus assistants and substitute school bus assistants in accordance with the department regulations;

(2) provide training for transportation service providers' employees who have supervisory responsibility of school bus drivers. A minimum of two hours of training is required annually. The contents of the training will be determined by the department transportation director.

[6.41.4.10 NMAC - Rp, 6.41.4.10 NMAC, 3/27/2018]

#### **6.41.4.11 RESPONSIBILITIES OF DRIVERS, SCHOOL BUS ASSISTANTS, AND SUBSTITUTE SCHOOL BUS ASSISTANTS:**

All drivers and, where applicable, all school bus assistants and substitute school bus assistants shall:

**A. Comply with the following.**

(1) Operate the vehicle in a safe and efficient manner in accordance with federal, state, local statutes and regulations, department regulations, and LEA policies.

(2) Cooperate with the transportation administrator's compliance with 49 CFR Part 382 as conducted by the LEA and transportation service provider.

**B. Perform a pre-trip inspection.**

(1) All school bus drivers shall perform and document a daily thorough pre-trip inspection of the school bus and special equipment, unless completed and documented by other qualified personnel. The inspection shall include, at minimum, inspection of the:

(a) outside of the vehicle:

(i) any fluid leaks, including oil, water, power steering, power brakes, transmission, or differential;

(ii) wheels, tires, lug bolts and nuts for serviceability;

(iii) all exterior lights for serviceability and operation;

(iv) all glass, mirrors, and windshields to be clean and unbroken and mirrors adjusted for the driver;

(v) exhaust system for leaks, looseness, and secure clamps, except for electric buses;

(vi) engine compartment for serviceability, hoses, belts, wiring, and proper fluid levels;

(vii) battery for secure connections and no corrosion;

(viii) fuel filler cap, except for electric buses;

(ix) lift system for those vehicles equipped;

(x) service door, emergency exits, and buzzers; and

(xi) stop arm and signs;

(b) inside of the vehicle:

(i) all seats and interior lights;

(ii) horn, windshield wipers, all gauges and indicators;

(iii) emergency equipment including a first aid kit, fire extinguisher, reflectors, body fluid clean-up kit, and seat belt cutter;

(iv) parking brake and service brake;

(v) interior mirror;

(vi) cleanliness of vehicle;

(vii) heaters and defrosters;

(viii) air or hydraulic brake check; and

(ix) emergency exits and buzzers.

(2) All school-owned activity vehicle drivers shall perform, at a minimum, a thorough pre-trip inspection for operational check of the vehicle and equipment unless completed by other personnel who have completed department-approved pre-service training. The inspection shall, at minimum, include inspection outside of the vehicle pursuant to the requirements listed in items (i) through (viii) of Subparagraph (a) of Paragraph (1) of Subsection B of 6.41.4.11 NMAC and inside of the vehicle pursuant to

the requirements listed in items (i) through (viii) of Subparagraph (b) of Paragraph (1) of Subsection B of 6.41.4.11 NMAC. All school-owned activity vehicle drivers shall inspect all gauges, seats, and interior lights of the school-owned activity vehicle.

**(3)** The driver shall not operate any school bus, activity school bus, or school-owned activity vehicle that does not meet the pre-trip inspection requirements. The driver shall immediately notify the transportation administrator or designee upon failure of the pre-trip inspection and document the reason for the failure.

**C. Use the following basic driving, loading, and unloading procedures for school bus routes.**

**(1)** Drivers shall obey all traffic laws, ordinances, and rules of the road and not drive the school bus faster than the posted speed limit.

**(2)** Loading and unloading shall occur, whenever possible, off of the traveled portion of the roadway and so that students do not have to cross the roadway.

**(3)** Drivers shall load or unload students only at established school bus stops unless an emergency dictates otherwise. School bus stops shall not be changed or the time schedules altered by the school bus driver or transportation service provider without the approval of the transportation administrator or designee. Drivers shall not grant permission for a student to load or unload except at the student's designated school bus stop without written approval from the transportation administrator or designee.

**(4)** Drivers shall use rear view mirrors to check traffic before arriving at the school bus stop.

**(5)** Drivers shall reduce the speed of the school bus when approaching the school bus stop.

**(6)** On morning school bus routes, drivers shall:

**(a)** bring the school bus to a complete stop eight to 10 feet before the school bus stop, set the parking brake and shift the transmission in neutral or, if equipped, park;

**(b)** make a complete stop at all established school bus stops whether students are present or not, unless a parent or guardian or the transportation administrator has notified the driver that the student will be absent;

**(c)** not wait for students unless they are observed making an effort to reach the school bus stop or unless otherwise specified in a student's IEP; and

**(d)** use rear view mirrors to check traffic.

**(7)** When loading, the driver shall check that all students are seated in the school bus before the school bus is put in motion.

**(8)** When unloading, the driver shall count the students that have exited the school bus. When students exit the school bus, drivers shall ensure the following.

**(a)** If students are required to cross the roadway, they shall walk eight to 10 feet in front of the school bus and be positioned perpendicular to the right front portion of the school bus where the driver can see them.

**(b)** The driver shall check rear view mirrors and all traffic lanes to ensure all required traffic is stopped before signaling students to cross the roadway to the left front portion of the school bus.

**(c)** Before signaling students to proceed the rest of the way, the driver shall check rearview mirrors and all traffic lanes again to ensure all required traffic is stopped.

**(d)** The driver shall check to be sure that all students have crossed the roadway safely by using the crossover mirrors and perform a final student count.

**(e)** The driver shall verify that all doors are free of obstructions then close all doors before the school bus is put in motion.

**(f)** The driver shall use rear view mirrors to check traffic before departing from the school bus stop.

**(9)** The driver shall not operate the school bus in such a manner as to cause on-board accidents by jerking, stopping suddenly or swerving unnecessarily.

**(10)** The driver shall not leave the driver's seat without setting the park brake, putting the transmission in neutral or, if equipped, park, stopping the engine, and removing the keys. Exceptions include the following:

**(a)** school buses with a wheelchair lift that meets 6.40.2 NMAC requiring a vehicle interlock system for school buses built after July 1, 2003, and to deactivate the child check safety system. The driver may leave the key in the ignition with the engine off when deactivating the child check safety system but the service door shall be closed;

**(b)** school buses equipped with a diesel engine and automatic transmission where the driver shall follow the manufacturer's recommendation for parking in gear.

**(11)** The driver shall keep the school bus clean, well ventilated, and, when necessary, properly heated.

**(12)** The driver, if traveling in a convoy, shall follow the lead school bus and shall maintain proper distance between vehicles.

**(13)** The driver shall report all hazards on the school bus route, whether potential or existing, and all causes for failure to operate on schedule to the transportation administrator or designee.

**(14)** The driver shall not use the school bus outside regular to-and-from transportation or a planned LEA-sponsored activity trip without the approval of the transportation administrator.

**D. In addition to requirements pursuant to Subsection C of 6.41.4.11 NMAC use the following if the school bus must be loaded or unloaded on the roadway.**

**(1)** If the school bus must be loaded or unloaded on the traveled portion of the roadway:

**(a)** The driver shall activate the alternating amber flasher lights not less than 100 feet nor more than 300 feet from a stop in urban areas or not less than 300 feet nor more than 1,000 feet from a stop in rural areas to warn motorists that the school bus is about to stop on the roadway.

**(b)** The alternating red flasher lights and stop arm shall be activated after the school bus is completely stopped and the service door is opened.

**(i)** If a school bus is approaching another school bus that has stopped to load or unload students with its alternating amber or red flasher lights activated, the approaching school bus shall mimic the other bus by activating its alternating amber or red flasher lights and shall not load or unload students.

**(ii)** Once the school bus loading or unloading students has deactivated its alternating amber or red flasher lights, the approaching school bus shall resume operations.

**(2)** If the school bus must be loaded or unloaded on the traveled portion of the roadway with multiple traffic lanes in each direction, highway, or a divided roadway:

**(a)** the school bus shall stop in the right-hand or outside traffic lane;

**(b)** students shall not be loaded or unloaded in a designated right-turn lane or in a lane immediately adjacent to a designated right-turn lane;

**(c)** loading and unloading shall occur only on the side of the roadway on which the student lives.

**(3)** The alternating red flasher lights shall be deactivated before the school bus is put in motion.



(4) The driver shall use good judgment when activating and deactivating the alternating flasher lights so as not to impede traffic unnecessarily.

**E. Load and unload students at schools using the following procedures.**

(1) If loading or unloading must occur on the street, alternating flasher lights shall not be activated unless the school bus is stopped on the traveled portion of the roadway.

(2) When loading or unloading, the school bus parking brake shall be activated, transmission shall be in neutral or, if equipped, in park, and the engine shall be off. Should the driver be required to leave the driver's seat, the keys shall be removed from the ignition switch. Exceptions to removing the key from the ignition switch:

(a) school buses built after July 1, 2003, that are equipped with an interlock for wheel chair lifts; or

(b) school buses equipped with a child check safety system. In buses equipped with this system, the service door shall be closed before the driver leaves the driver's seat.

(3) When loading, school buses may be parked in a single file as close as possible to avoid students or other people from going between the school buses.

(4) When loading, school buses shall be parked prior to dismissal time, if possible. School buses shall be parked in the order that they arrive at the school.

(5) The driver shall not back up a school bus on school grounds unless absolutely necessary and then only with assistance from an adult of the driver's choosing.

**F. Operate a school bus on an interstate highway using the following procedures.**

(1) All loading or unloading shall be done at points off the interstate highway either at an interchange, service, or frontage road.

(2) The school bus shall not cross over to the opposite roadway or make any other similar maneuver except at interchanges and then only in a manner consistent with the proper procedures at any given interchange unless directed otherwise by a law enforcement officer.

(3) School buses using portions of the interstate highway shall not stop on or adjacent to the roadway unless there is an emergency or as directed by a law enforcement officer.

(4) The school bus shall not stop on the interstate highway nor shall any students or other passengers load or unload on the interstate highway except in an emergency.

**G. Follow the procedures for school buses crossing railroad tracks:** The driver is always responsible for the safe movement of the school bus and in no instance shall a railroad signal, active or non-active, abrogate this precaution. The following procedures shall apply to school buses or activity school buses at railroad crossings.

(1) Before crossing any track or tracks of a railroad, the school bus driver shall activate the hazard warning lights and shall bring the school bus to a full and complete stop not less than 15 feet or more than 50 feet from the rail nearest the front of the school bus.

(2) On multiple lane roadways, the school bus shall be in the extreme right traffic lane whenever possible.

(3) If a stop and go traffic light controls the movement of traffic at the railroad crossing, the driver need not stop unless the traffic light indicates to stop.

(4) When approaching a railroad crossing, the driver shall carefully observe traffic and reduce the speed of the school bus in advance of stopping.

(5) While completely stopped prior to crossing and until completely across the railroad crossing, the driver shall:

(a) fully open the service door;

(b) fully open the window to the driver's immediate left;

(c) turn off all noisy equipment, radio, and fans;

(d) direct passengers to be silent if passengers are making noise;

(e) listen and look in both directions along the track or tracks for approaching trains or other vehicles; and

(f) keep the transmission of the school bus in first gear by maintaining a speed which does not cause the transmission to shift.

(6) The school bus driver shall not proceed through the railroad crossing or around crossing gates unless directed by law enforcement officer or railroad personnel if:

(a) there are operating flashing red lights;

- (b) there is an operating bell;
- (c) a crossing gate is closed or in the process of being opened or closed;
- (d) the rear portion of the school bus cannot be positioned more than 15 feet from the rail nearest the rear of the school bus; or
- (e) the view in either direction is unclear or is obstructed in any way until the driver has secured the school bus and performed a visual inspection to verify that no trains or other vehicles are approaching.

(7) After safely and completely crossing the railroad tracks, the driver shall:

- (a) fully close the service door;
- (b) turn off hazard warning lights;
- (c) adjust the window to the driver's immediate left;
- (d) resume use of any noisy equipment, radio, and fans; and
- (e) continue traveling safely.

(8) When traveling near railroad tracks, even if not crossing, the school bus driver shall be aware of hazardous circumstances on the railroad tracks that could present a danger to the school bus. In such situations, the driver shall remain aware and instruct the students to remain silent until there is no longer a danger.

#### **H. Address student safety.**

(1) The driver shall be responsible for the safety and orderly conduct of school bus passengers.

(2) The driver, school bus assistants and substitute school bus assistants shall meet all requirements of student IEPs when transportation is a related service.

(3) The driver shall report all serious discipline cases to the transportation administrator or designee in accordance with the department and the LEA's policies.

(4) The driver shall have the authority to assign any passenger to a seat.

(5) The driver shall not carry on any unnecessary conversations with passengers while driving.

(6) The driver shall not permit the transportation of firearms, knives, explosives, breakable glass, or other dangerous objects, reptiles, or animals, except a service animal authorized by an IEP.

(7) In transporting musical instruments, shop projects, or other school projects, items shall be transported pursuant to the requirements listed in Subparagraph (e) of Paragraph (1) of Subsection T of 6.41.4.9 NMAC.

(8) On the school bus, the driver shall not permit items to block the aisle or exits.

(9) While a school bus is in motion, the driver shall not permit any passengers to occupy any area in front of the passenger seating area. All passengers shall be properly seated.

**I. Perform a post-trip inspection.**

(1) The driver shall, as part of each post-trip inspection, ensure that no passengers remain on board.

(2) The driver shall submit a signed, LEA-approved form reporting all faulty or improperly functioning equipment to the transportation administrator or designee, or the transportation service provider.

**J. Participate in emergency evacuation drills for school buses.** All school bus drivers, substitute school bus drivers, activity bus drivers, school bus assistants, and substitute school bus assistants shall participate in the emergency evacuation drills or adequate alternate instruction scheduled by the transportation administrator.

**K. Be familiar with the location and use of the following emergency equipment:**

- (1) hazard warning lights;
- (2) fire extinguisher;
- (3) first aid kit;
- (4) body fluid cleanup kit;
- (5) triangular warning reflectors; and
- (6) seat belt cutter.

**L. Address emergency evacuations and accidents.**

**(1)** Emergency evacuations shall take place if there is a fire or danger of fire involving the vehicle. The vehicle shall be stopped and evacuated immediately. Passengers shall move a safe distance away from the vehicle and remain there until given further direction.

**(2)** Emergency evacuations may take place if the vehicle is stopped in an unsafe position. The driver shall immediately determine whether it is safer for passengers to remain in the vehicle or to evacuate the vehicle. The driver shall direct the passengers to evacuate the vehicle if:

**(a)** the vehicle has stopped in the path of a train;

**(b)** the position of the stopped vehicle may change, thus increasing the danger to passengers; or

**(c)** the position of the stopped vehicle is such that there is danger of another vehicle colliding into it.

**(3)** In the case of any accident, the driver's first responsibility is for the safety of the passengers. The driver shall:

**(a)** stop immediately;

**(b)** notify police and the LEA administrator and, if appropriate, the transportation service provider;

**(c)** remain calm and reassure passengers;

**(d)** if necessary to evacuate the vehicle, direct passengers to a safe place away from traffic and not permit passengers to leave the scene of the accident;

**(e)** render reasonable assistance to persons injured in the accident;

**(f)** remain at the scene of the accident and not move the vehicle unless required by local ordinance or a law enforcement officer;

**(g)** if possible, place reflectors appropriately to warn traffic;

**(h)** obtain information such as names, license numbers, registration numbers, location, time, road and weather conditions, and a listing of all passengers including their seating locations;

**(i)** make no admission as to liability nor assume responsibility for the accident;

(j) comply with federal, state, department regulation and LEA policy and procedures in reporting the accident; and

(k) adhere to any vital emergency medical information provided.

**M. Alternating flasher lights shall not be used when the school bus is:**

- (1) on school grounds to load or unload students;
- (2) completely off the traveled portion of the roadway;
- (3) at a railroad crossing; or
- (4) stopped, except when loading or unloading students on the roadway.

[6.41.4.11 NMAC - Rp, 6.41.4.11 NMAC, 3/27/2018; A, 1/16/2024]

**6.41.4.12 SCHOOL BUS SAFETY AND EQUIPMENT:**

All school buses used to transport students on school bus routes and LEA-sponsored activities shall meet requirements pursuant to 6.40.2 NMAC and the state of New Mexico guide for school bus maintenance and safety audit program, school bus inspection guide.

**A.** Each school bus shall be equipped with an operable seat belt for the driver that shall be used when the school bus is in motion.

**B.** Each school bus shall have seat belts or a seat harness as required on school buses when required in a student's IEP.

**C.** Each school bus shall have at least one seat belt cutter properly secured in a location within reach of the driver while the driver is belted into the driver's seat pursuant to Paragraph (1) of Subsection YY of 6.40.2.10 NMAC. The seat belt cutter shall be durable and designed to eliminate the possibility of the operator or others being cut during use.

**D.** Each school bus shall carry a first aid kit with contents pursuant to Paragraph (2) of Subsection P of 6.40.2.10 NMAC.

**E.** Each school bus shall carry a body fluid clean-up kit pursuant to Paragraph (3) Subsection P of 6.40.2.10 NMAC.

**F.** Each school bus shall be equipped with at least one UL-approved pressurized dry-chemical fire extinguisher complete with hose. The fire extinguisher shall have a total rating of 2A10BC or greater and meet the requirements of Paragraph (1) of

Subsection P of 6.40.2.10 NMAC. The extinguisher shall be securely mounted in the driver's compartment, fully charged and in working condition.

**G.** Each school bus shall be equipped with a minimum of three triangular warning reflectors pursuant to Paragraph (4) of Subsection P of 6.40.2.10 NMAC, and the driver shall be knowledgeable as to their proper placement. Drivers shall use reflectors in the event of prolonged stops on the roadway.

**(1)** On a two-lane road:

**(a)** a warning reflector shall be placed on the traffic side of the school bus 10 feet from the front or rear of the school bus, depending on traffic direction;

**(b)** a warning reflector shall be placed in the center of the traffic lane or shoulder occupied by the disabled school bus 100 feet from the rear of the school bus; and

**(c)** a warning reflector shall be placed in the center of the traffic lane or shoulder occupied by the disabled school bus 100 feet from the front of the school bus.

**(2)** On a one-way or divided highway, warning reflectors shall be placed on the traffic side of the school bus at 10, 100, and 200 feet from the rear of the school bus and placed so as to direct traffic away from the school bus.

**(3)** If the school bus is disabled within 500 feet of a curve, crest of a hill, or other obstruction:

**(a)** a warning reflector shall be placed on the traffic side of the school bus 10 feet from the rear of the school bus in the direction of the obstruction;

**(b)** a warning reflector shall be placed on the traffic side of the school bus 100 feet from the rear of the school bus in the direction of the obstruction; and

**(c)** a warning reflector shall be placed on the traffic side of the school bus up to 500 feet from the rear of the school bus in the direction of the obstruction.

**H.** The hazard warning lights shall be used only when it is necessary to stop the bus on the shoulder of the roadway or on the roadway. The hazard warning lights shall also be used when the speed of the school bus is less than one-half of the posted speed limit.

**I.** The emergency door(s), windows, and roof hatches shall not be fastened or wired so as to prevent opening from the inside or outside.

**J.** Loose items shall be properly stowed underneath in equipment compartments or securely fastened if carried inside the school bus.

**K.** Trailers shall not be attached to a school bus.

**L.** Trailers shall not be hitched to school-owned vehicles while the vehicle is transporting students.

[6.41.4.12 NMAC - Rp, 6.41.4.12 NMAC, 3/27/2018]

**6.41.4.13 CONTINUING REQUIREMENTS FOR DRIVERS, SUBSTITUTE DRIVERS, SCHOOL BUS ASSISTANTS, AND SUBSTITUTE SCHOOL BUS ASSISTANTS:**

**A. School bus drivers, substitute school bus drivers, and drivers of activity buses shall maintain and provide to the employer a copy of the following:**

- (1) a current CDL with appropriate class and endorsements;
- (2) a current DOT medical examiner's certificate in compliance with federal and state CDL licensing requirements;
- (3) a driving record obtained through the New Mexico motor vehicle division or the national driver register or other states' motor vehicle division and printed annually; and
- (4) a current first aid and CPR certificate which has been obtained from a course approved by the department.

**B. School-owned activity vehicle drivers shall maintain and provide to the employer a copy of the following:**

- (1) a current driver's license;
- (2) a current medical examiner's certificate from a physical recorded on the DOT form;
- (3) a driving record pursuant to requirements in Paragraph (3) of Subsection A of 6.41.4.13 NMAC; and
- (4) a current first aid and CPR certificate pursuant to the requirements in in Paragraph (4) of Subsection A of 6.41.4.13 NMAC.

**C. School bus assistants and substitute school bus assistants shall maintain and provide a copy to the employer of the following:**

- (1) a current first aid and CPR certificate pursuant to the requirements in Paragraph (4) of Subsection A of 6.41.4.13 NMAC; and



(2) a physical examination renewed every 24 months from the date of the last examination or before as specified by a licensed medical professional.

**D. In-service Training:** To remain qualified, school bus drivers, substitute school bus drivers, school bus assistants, and substitute school bus assistants shall complete a total of eight hours per semester of in-service training that has been approved by the transportation administrator. Persons who do not complete the required hours of in-service training are disqualified from duty until those hours of in-service training are completed.

[6.41.4.13 NMAC - Rp, 6.41.4.13 NMAC, 3/27/2018]

#### **6.41.4.14 USING SPORT UTILITY VEHICLES (SUVS) FOR TO-AND-FROM TRANSPORTATION:**

**A. General requirements. An LEA electing to transport students in an SUV on a to-and-from route shall:**

- (1) be limited to transport up to six students who are enrolled in the LEA;
- (2) only transport students whose residence is within the boundaries of the LEA, with the exception of those students in foster care or homeless children and youth as required as part of the best interest determination;
- (3) only transport students who live five or more miles from the student's or students' school, with the exception of those students in foster care or homeless children and youth as required as part of the best interest determination;
- (4) require that the SUV driver be an LEA employee certified as a school-owned activity vehicle driver;
- (5) require that the driver meet all federal, state, and department qualifications and licensing requirements. The driver shall:
  - (a) allow the LEA to obtain the driver's driving record through the New Mexico motor vehicle division, or the national driver register or other states' motor vehicle divisions;
  - (b) satisfactorily complete a physical examination using the current DOT physical examination form:
    - (i) physical examination shall be renewed every 24 months from the date of the last examination or before as specified by a licensed medical professional;
    - (ii) additional physical examinations shall be required at any other time at the request of the LEA or the department's transportation bureau;

**(iii)** all physical examinations shall be conducted by a licensed medical professional;

**(c)** meet the requirements of the Controlled Substances and Alcohol Use and Testing in accordance with 49 CFR Part 382;

**(6)** require that the driver complete pre-service training as outlined in department guidance. The pre-service training shall be provided only by a school bus driver instructor that has activity vehicle certification or an activity vehicle instructor that has been certified by the department;

**(7)** require the SUV driver transporting students on to-and-from routes to obtain two hours of in-service training per semester;

**(8)** be required to insure both the SUV and SUV driver through the public school insurance authority;

**(9)** establish written procedures for an immediate substitute SUV or school bus should an SUV fail to meet pre-trip inspection requirements; the substitute SUV or school bus shall meet all pre-trip requirements;

**(10)** require the SUV driver to immediately report in writing on the appropriate form(s) signed by the SUV driver any faulty or improperly functioning equipment to the transportation administrator or their designee;

**(11)** require all passengers to enter and exit on the passenger side of the SUV;

**(12)** require the SUV driver to ensure that no student remains in the SUV at the conclusion of the route;

**(13)** be required to have the vehicle inspected semi-annually by an authorized dealer including the manufacturer's recommended multi-point inspection. An inspection shall not occur within 90 days from the prior inspection. All inspections shall occur during the school year. Any defects found by the dealer shall be repaired prior to the vehicle being used to transport students. The vehicle shall be considered out of service until all defects are repaired by the dealer. The semi-annual inspections shall be submitted to the department's transportation bureau along with the documentation of all repaired defects;

**(14)** require the SUV driver to conduct a daily, thorough pre-trip operational check of the SUV and equipment; the pre-trip shall be documented and shall cover at a minimum:

**(a)** wheels, tires, lug bolts, and nuts for serviceability;

**(b)** all exterior lights for serviceability and operation;

**(c)** all glass, mirrors, windshields (clean, unbroken and mirrors adjusted for the driver);

**(d)** exhaust system for leaks and looseness of connections;

**(e)** fluid leaks under and in the front (oil, water, power steering, transmission, brakes) and in the rear (brakes and differential);

**(f)** engine compartment for serviceability (battery, belts, wiring, hoses, fan);

**(g)** engine compartment for fluid levels (oil, engine coolant, power steering, brake, windshield washer, transmission);

**(h)** fuel filler cap;

**(i)** all gauges, seats, and interior lights;

**(j)** horn and windshield wipers;

**(k)** emergency equipment;

**(l)** cleanliness of SUV;

**(m)** electronic locks; and

**(n)** heaters and defrosters;

**(15)** not allow the SUV driver to operate the SUV if it does not meet the pre-trip inspection requirements;

**(16)** not allow an employee to operate an SUV for to-and-from transportation if the person's driving record shows:

**(a)** a conviction for driving a vehicle while intoxicated (DWI) or driving under the influence of intoxicating liquor or drugs (DUI) within the previous three years;

**(b)** a conviction for DWI or DUI between three years and 20 years prior to the date of application for employment unless a written verification from a licensed counselor or physician has been provided that the person has successfully completed an alcohol or drug abuse program. On-line programs are not acceptable;

**(c)** a conviction two or more times for DWI or DUI;

**(d)** their driver's license has been suspended or revoked within the previous five years for any serious traffic offense;

(e) a conviction of more than three serious traffic offenses within the previous three years;

(f) a conviction of any felony within the previous 10 years, or there exist other reasonable grounds related to the services of transporting students rendering the applicant ineligible;

(17) not allow an employee to operate an SUV for to-and-from transportation if the person's fingerprint-based background check shows:

(a) a conviction for any violation of the Controlled Substances Act;

(b) a conviction of child abuse pursuant to Section 30-6, NMSA 1978, Crimes Against Children and Dependents; or

(c) conviction of any other criminal offense in which a child was a victim as required by the offense; and

(18) ensure all SUVs shall be alcohol, drug and tobacco free areas. Prior to or during work periods, all SUV drivers shall not use alcoholic beverages, illegal substances, or legal substances which would impair the driver's ability to perform required duties.

(19) ensure that student evacuation drills or adequate alternate instruction are conducted pursuant to Paragraph (3) of Subsection C of 6.41.4.9 NMAC.

(20) adopt a policy defining the replacement cycle for SUVs.

**B. Procedures and criteria to establish routes.** The local superintendent or charter school administrator shall demonstrate a need before providing to-and-from transportation in an SUV.

(1) Those students receiving to-and-from transportation through the use of an SUV must be approved by the superintendent or charter school administrator. The superintendent or charter school administrator must approve annually. In addition, the superintendent or charter school administrator must approve any changes to an SUV route that occur after the annual approval.

(2) On forms provided by the department, the local superintendent or charter school administrator shall submit the following information to the secretary of education or designee and to the department's transportation director or designee for approval before using an SUV to transport students on a to-and-from route:

(a) a description of the need to transport students in an SUV;

(b) a list of students to be transported in an SUV;

(c) the location of the school and location of the students' residence as shown on a map; and

(d) the local superintendent or charter school administrator must sign the form submitted to the department.

(3) A revised request for the SUV route must be submitted to the department for approval if there are any changes to the initial request.

(4) LEAs may count the students and miles for transportation funding who receive transportation services through the use of an SUV; however, only half of the miles will be counted through the funding formula.

(5) Written notification shall be given to the department's transportation director or designee immediately when the LEA is no longer providing transportation in an SUV to the student or students who had been previously approved.

(6) Students in foster care or homeless children and youth may be transported as otherwise prescribed and required by law or department rule.

**C. Construction standards.** To provide for the safety of students, all SUVs used to transport students on to-and-from routes shall adhere to construction standards requirements.

(1) All SUVs used to transport students on to-and-from routes shall:

(a) be LEA owned;

(b) be a minimum six-passenger, full-size, extended-length, SUV;

(i) the SUV shall not accommodate more than nine people including the driver; and

(ii) the SUV shall not include vans or mini-vans;

(c) meet applicable United States department of transportation federal motor vehicle safety standards;

(d) comply with all applicable state statutes and comply with child restraint recommendations from the national highway traffic safety administration;

(e) have operable seat belts which all occupants are required to wear while the SUV is in motion;

(f) bear the words "SCHOOL VEHICLE" and the name of the LEA in reflective letters at least eight inches high on both sides of the SUV;

(g) bear the words "SCHOOL VEHICLE" and the name of the LEA in reflective letters on the rear of the SUV;

(h) be marked with reflective material that is at least one and three-fourths inches in width, placed horizontal and centerline of the SUV extending the length of both sides and rear of the SUV;

(i) be equipped with red LED strobe lights on the front and back of the SUV that shall be used during loading and unloading; and

(j) be equipped with electronic locks and child safety locks on all doors; all locks shall be engaged when the SUV is in motion.

(2) All SUVs used to transport students on to-and-from routes may:

(a) be equipped with a maximum speed limiter and shall be set at 75 miles per hour;

(b) have a two-way radio communication system;

(c) have an operable recording video camera;

(d) be equipped with a back-up camera; and

(e) be painted national school bus glossy yellow, in accordance with the colorimetric specification of national institute of standards and technology (NIST) federal standards no. 595a, color 13432, except that the hood should be either that color or lusterless black, matching NIST federal standard no. 595a, color 37038.

**D. Safety equipment.** All SUVs used to transport students on to-and-from routes shall have:

(1) a first aid kit with contents pursuant to 6.40.2 NMAC, New Mexico School Bus Construction Standards;

(2) a seat belt cutter within the driver's reach while belted;

(3) operable seat belts available to all passengers;

(4) a fire extinguisher mounted inside the SUV;

(5) a reflective safety vest that must be worn by the driver when the driver is exiting the SUV;

(6) a cargo net to secure all items not under students' control; and

(7) a minimum of three triangular warning reflectors;

(a) the SUV driver shall be knowledgeable of the warning reflectors' operation and proper placement;

(b) the warning reflectors shall be used in the event of prolonged stops on the roadway as follows:

(i) one warning reflector at a distance of approximately 100 feet in front and one reflector approximately 100 feet in back of the disabled SUV in the center of the traffic lane occupied by the disabled SUV;

(ii) one warning reflector at the traffic side of the disabled SUV, not less than 10 feet from the front or rear of the disabled SUV;

(iii) if the SUV is disabled within 500 feet of a curve, crest of a hill, or other obstruction to view, the SUV driver shall place the warning reflector in that direction to afford ample warning. The warning reflector must in no case be less than 100 feet or more than 500 feet from the disabled SUV.

**E. Route requirements.** All to-and-from transportation shall adhere to route requirements.

(1) Loading and unloading shall occur, whenever possible, off of the roadway.

(2) Students shall not cross the roadway for loading or unloading purposes.

(3) The SUV driver shall load and unload at established route stops only unless an emergency dictates otherwise.

(4) The student shall load or unload only at the student's designated route stop unless the driver has written approval from the transportation administrator or designee.

(5) The SUV driver shall ensure all doors are closed and locked before putting the SUV in motion.

(6) The SUV driver shall keep the SUV clean, well ventilated, and properly heated when necessary.

(7) The SUV driver shall obey all traffic laws, ordinances, and rules of the road.

(8) The SUV driver shall report all hazards, whether potential or existing, on the route and all causes for failure to operate on schedule to the transportation administrator or designee.

**F. Loading and unloading on route.** All to-and-from transportation shall adhere to loading and unloading requirements.

(1) The SUV driver shall use mirrors to check traffic when approaching the stop.

(2) The SUV driver shall reduce the SUV's speed.

(3) The SUV driver shall activate the strobe lights not less than 100 feet nor more than 300 feet from a route stop in urban areas and not less than 300 feet nor more than 1,000 feet from a route stop in rural areas to warn motorists that the SUV is about to stop.

(4) On morning routes, a complete stop shall be made at all established route stops whether students are present or not, unless a parent or guardian or transportation administrator has notified the driver that the student will be absent. The SUV driver shall not wait for students unless they are observed making an effort to reach the route stop or unless otherwise specified in the student's IEP.

(5) When loading students, the SUV shall be brought to a complete stop, the transmission put in park and the emergency brake activated.

(6) When unloading students, the SUV shall be brought to a complete stop, the transmission put in park and the emergency brake activated.

(7) When the SUV driver leaves the driver's seat, the keys shall be removed from the ignition switch.

(8) When all students have been completely and safely loaded or unloaded, the strobe lights shall be turned off.

(9) The SUV driver shall check mirrors and make a thorough live sight inspection of all traffic before resuming travel.

**G. Loading and unloading at schools.** All to-and-from transportation shall adhere to requirements when loading and unloading at schools.

(1) The SUV driver shall load and unload students in the same location that loading and unloading of school buses occur.

(2) The SUV shall be parked in place for loading prior to dismissal of school. If loading or unloading on the street, the SUV shall be stopped parallel to the curb. Strobe lights shall not be activated unless the SUV is stopped on the traveled portion of the roadway.



(3) The vehicle shall be brought to a complete stop, the transmission put in park, and the emergency brake activated before loading or unloading students.

(4) When the SUV driver leaves the driver's seat, the keys shall be removed from the ignition switch.

(5) The driver shall not back up the SUV on school grounds unless absolutely necessary.

**H. Operating on interstate highways.** All to-and-from transportation shall adhere to operating requirements on interstate highways.

(1) The SUV driver shall not make any stop except in an emergency nor shall any student load or unload while the SUV is on the interstate. All loading or unloading shall be done at points off the interstate.

(2) The SUV driver shall not drive the SUV onto an opposite roadway or make any other similar maneuver except at interchanges and then only in a manner consistent with the proper procedures at any given interchange.

**I. Railroad crossings.** The driver shall use extreme caution when approaching and crossing highway-grade railroad crossings.

**J. Continuing standards for drivers:** An SUV driver shall no longer be eligible to transport students:

(1) for three years if they receive a conviction for DWI or DUI. They may requalify if a written verification from a licensed counselor or physician is provided that the person has successfully completed an alcohol or drug abuse program. On-line programs are not acceptable. They are permanently ineligible if they have two or more DWI or DUI convictions;

(2) for five years receive a suspension or revocation of their driver's license for any serious traffic offense;

(3) for three years receive convictions for more than three serious traffic offenses;

(4) if they receive any convictions pursuant to Paragraph (2) of Subsection P of 6.41.4.9 NMAC; or

(5) if they do not complete the previous semester's required in-service training; to become eligible again, they must complete the training.

**K. Driver files.** LEAs shall maintain SUV driver files that include the following:

- (1) annual driving record check;
- (2) copy of current medical examiner's certificate from the physical;
- (3) copy of current and valid driver's license;
- (4) pre-service training record;
- (5) documentation of required in-service training\_pursuant to item (iii) of Subparagraph (d) of Paragraph (1) of Subsection S of 6.41.4.9 NMAC and Paragraph 7 of Subsection A of 6.41.4.14 NMAC;
- (6) proof that the driver is enrolled in a random drug and alcohol testing program; and
- (7) a current first aid and CPR certificate pursuant to the requirements in in Paragraph (4) of Subsection A of 6.41.4.13 NMAC.

[6.41.4.14 NMAC - Rp, 6.41.4.14 NMAC, 3/27/2018]

## **CHAPTER 42: TRANSPORTATION - SCHOOL ATTENDANCE AND SERVICE AREAS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: TEMPORARY BOUNDARY AGREEMENTS**

#### **6.42.2.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.42.2.1 NMAC - Rn, 6 NMAC 9.3.1.1, 05-31-01; A, 11-13-09]

#### **6.42.2.2 SCOPE:**

Provisions of this rule apply to public school districts where temporary transportation boundaries are established to transport students from an adjoining districts within a specified geographic area where it is impractical to transport such students to school within the district where they live.

[12-31-98; 6.42.2.2 NMAC - Rn, 6 NMAC 9.3.1.2, 05-31-01; A, 11-13-09]

#### **6.42.2.3 STATUTORY AUTHORITY:**

This rule is adopted by the public education department pursuant to Section 22-2-1, 22-2-2, 22-16-2 and Section 22-8-26, NMSA, 1978, which stipulates that money in the transportation distribution of the public school fund shall be used only for the purpose of making payments to each school district for the to-and-from transportation of eligible students. Eligible students are those who live within the legal boundaries of the school district, who meet the statutory requirements for eligibility, and who utilize the transportation services on a regular basis. Only eligible students shall be counted for purposes of funding.

[12-31-98; 6.42.2.3 NMAC - Rn, 6 NMAC 9.3.1.3, 05-31-01; A, 11-13-09]

**6.42.2.4 DURATION:**

Permanent.

[12-31-98; 6.42.2.4 NMAC - Rn, 6 NMAC 9.3.1.4, 05-31-01]

**6.42.2.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.42.2.5 NMAC - Rn, 6 NMAC 9.3.1.5, 05-31-01]

**6.42.2.6 OBJECTIVE:**

To establish requirements related to the provision of transportation services to students who attend school in a district other than the district in which they live and to establish procedures pertaining to the resolution of transportation issues in areas where local school districts are engaged in school district boundary disputes.

[12-31-98; 6.42.2.6 NMAC - Rn, 6 NMAC 9.3.1.6, 05-31-01]

**6.42.2.7 DEFINITIONS:**

[RESERVED]

**6.42.2.8 TRANSPORTATION BOUNDARY AGREEMENTS:**

**A.** Districts are authorized to enter into transportation boundary agreements with an adjoining district or adjoining districts regarding students living within a specified geographic area where geographical conditions would otherwise make it impractical to transport such students to school within the district where they live.

**B.** A transportation boundary agreement must be approved by both local boards of education prior to a district crossing boundary lines to transport students.

**C.** A transportation boundary agreement shall not duplicate transportation services that are not required to effectuate the provision of this rule. If duplicate transportation services are so required, specific justification shall be provided within the agreement that the requirements of efficiency and economy are met.

**D.** Transportation boundary agreements are not authorized to provide services to students who attend school out-of-district as a matter of choice.

[12-31-98; 6.42.2.8 NMAC - Rn, 6 NMAC 9.3.1.8, 05-31-01; A, 11-13-09]

#### **6.42.2.9 PROCEDURES AND CRITERIA FOR TEMPORARY TRANSPORTATION BOUNDARY AGREEMENTS:**

**A.** A transportation boundary agreement must be approved by the local board of education representing the district in which the student(s) lives and the proposed attendance district.

**B.** The agreement shall include a legal description of the adjoining area outside the district's boundaries that transportation services will be provided under the terms of the agreement.

**C.** The temporary transportation boundary line(s) and the existing school district boundary line(s) must be shown and highlighted on U.S. geological survey maps (or their equivalent) which are attached to the agreement.

**D.** Both local boards of education must agree to the conditions, which are specified in the agreement.

**E.** The duration of the agreement is determined by both local boards of education based on the length of time that it is needed.

**F.** Both local school board presidents must sign the initial agreement and submit the original agreement to the state transportation director for approval.

**G.** Upon review and findings that the conditions of this rule and other applicable regulations and state and federal laws have been complied with, the state transportation director and the secretary of public education will approve the agreement.

**H.** The local boards of education must review the agreement annually. Any revisions in the terms of the agreement require approval by both local boards. The revised agreement must be submitted to the public education department for approval prior to the initiation of service. If no changes occur, the existing agreement may be continued.

**I.** The extended area of transportation service added to a district boundary through the agreement shall be counted in the square miles per student for purposes of funding.

**J.** Students who receive transportation services within the area approved through the agreement shall be counted for transportation funding by the district in which they attend school.

**K.** One or both districts can accomplish termination of the agreement. The public education department must be notified by both school districts when the agreement is terminated.

[12-31-98; 6.42.2.9 NMAC - Rn, 6 NMAC 9.3.1.9, 05-31-01; A, 11-13-09]

#### **6.42.2.10 NON-REIMBURSABLE TRANSPORTATION SERVICES:**

**A.** Students who attend an out-of-district school as a matter of choice are not eligible to be counted for the transportation distribution of the public school fund. Such students shall be counted on the fortieth day as non-eligible riders.

**B.** Districts shall establish local policies governing the transportation of non-eligible students who live outside the district boundaries. Any such policies shall be in accordance with applicable state and federal law and regulations.

**C.** Districts who, by local policy, elect to provide transportation services to ineligible students who live outside the district's boundaries, shall do so at no additional cost to the school transportation fund. Such students may board the bus at the last legal stop on an approved route if space is available. Additional services or equipment shall not be added to accommodate non-eligible students. Non-eligible students will not generate funding through the transportation formula.

[12-31-98; 6.42.2.10 NMAC - Rn, 6 NMAC 9.3.1.10, 05-31-01]

#### **6.42.2.11 TRANSPORTATION OF STUDENTS RESIDING ON RESERVATIONS:**

**A.** District administrators shall communicate with tribal leaders relative to transportation services.

**B.** Before the local boards of education enter into a transportation boundary agreement involving Native American students, district administrators shall consult with tribal representatives and shall review concerns or issues raised by representatives of the tribe when negotiating the terms of the agreement.

[12-31-98; 6.42.2.11 NMAC - Rn, 6 NMAC 9.3.1.11, 05-31-01]

#### **6.42.2.12 RESOLUTION PROCESS:**

**A.** When boundary disputes arise between local boards, which cannot be resolved, a resolution process is available through the public education department.

**B.** Local boards may request that public education department conduct a study of the issues relating to the boundary dispute and provide written recommendations for resolving the disputes.

**C.** A local board may file a written complaint with the public education department after all efforts to negotiate a resolution to the boundary dispute have failed.

**D.** The public education department, following a complete review of the issues related to a transportation boundary complaint, shall render an opinion in writing to the local boards of education. The opinion shall specify whether conditions exist which require a transportation boundary agreement based on the criteria set forth in this rule.

**E.** If local boards of education are unwilling or unable to negotiate a transportation boundary agreement consistent with the opinion of the public education department, the public education department shall develop a temporary transportation boundary amendment. The local boards of education shall comply with the requirements set forth in the temporary transportation boundary amendment. The temporary transportation boundary amendment shall be reviewed annually by the public education department. The temporary transportation boundary amendment shall be rescinded when the public education department determines that the conditions requiring the amendment no longer exist.

**F.** The decision of public education department shall be final.

[12-31-98; 6.42.2.12 NMAC - Rn, 6 NMAC 9.3.1.12, 05-31-01; A, 11-13-09]

## **CHAPTER 43: TRANSPORTATION - OPERATIONS AND FUNDING**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: REQUIREMENTS FOR SCHOOL BUS CONTRACTS AND PER CAPITA FEEDER AGREEMENTS**

#### **6.43.2.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.43.2.1 NMAC - Rn, 6 NMAC 9.4.1.1, 10-15-01; A, 11-13-09]

#### **6.43.2.2 SCOPE:**

Provisions of this rule apply to public school districts where school bus services are provided by private school bus operations.

[12-31-98; 6.43.2.2 NMAC - Rn, 6 NMAC 9.4.1.2, 10-15-01]

**6.43.2.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-16-2, 22-16-3, 22-16-6 and 22-8-27, NMSA 1978.

[12-31-98; 6.43.2.3 NMAC - Rn, 6 NMAC 9.4.1.3, 10-15-01]

**6.43.2.4 DURATION:**

Permanent.

[12-31-98; 6.43.2.4 NMAC - Rn, 6 NMAC 9.4.1.4, 10-15-01]

**6.43.2.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.43.2.5 NMAC - Rn, 6 NMAC 9.4.1.5 & A, 10-15-01]

**6.43.2.6 OBJECTIVE:**

To establish the parameters of school bus service contracts and to establish requirements for negotiating and awarding bus contracts and per capita feeder agreements.

[12-31-98; 6.43.2.6 NMAC - Rn, 6 NMAC 9.4.1.6, 10-15-01]

**6.43.2.7 DEFINITIONS:**

**[RESERVED]**

**6.43.2.8 SCHOOL BUS SERVICE CONTRACTS:**

**A.** A local board may provide transportation services to students through the use of school bus service contracts.

**B.** Local boards may enter into school bus service contracts with individual school bus owner-operators or with fleet owners or with both. A local board may not enter into any school bus fleet service contract with any person who is simultaneously employed by that local board as an individual one-bus owner/operator.

**C.** All individual owner operator equipment contracts and fleet service contracts shall be in writing on forms approved by the public education department.

**D.** For fleet contractors, the amount of the contract shall include recognition of fuel costs, operation and maintenance costs, and salary and benefits costs. For individual owner operator equipment contracts, the amount of the contract shall include recognition of fuel and operations and maintenance costs.

**E.** Local boards may request assistance from the public education department regarding contracts; however, the public education department shall not be a party to the contract and shall not participate in the negotiations.

**F.** The local board shall give preference to in-state providers and the use of multiple providers when awarding contracts.

**G.** The local board may agree to a five-year contract period. Any changes in the terms of the contract require that the contract be renegotiated/amended. At the end of the contract period the contract may be renewed annually on the same terms and conditions at the option of the local board.

**H.** The local board may terminate a school bus service contract in accordance with the provisions of state law and the school bus contract.

**I.** The contractor, may with the approval of the local school board, terminate a contract in accordance with state law and the school bus contract.

**J.** The contractor shall comply with the terms and conditions set forth in the public education department contract form. The contractor shall be subject to all federal and state laws and regulations, which govern school transportation.

**K.** The local board shall comply with the procedures established by the secretary of public education for the purchase and replacement of school buses.

**L.** The local board shall comply with all state laws and regulations governing school transportation. The local board shall negotiate contracts for the required services at a fair and reasonable price.

**M.** The school district shall ensure that a lien is filed in its name on every contractor-owned school bus under the contract. The school district shall also ensure that a lien is perfected in its name on each contractor-owned school bus with the motor vehicle division of the taxation and revenue department. The lien shall be recorded on the title of the school bus. The school district shall provide documentation to the state transportation director that the school district has filed a lien on each school bus authorized under contract with the school district. A school bus contractor shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the public education department. The school district shall release its lien on a school bus when:



(1) the public education department authorizes a replacement of the school bus; or

(2) the contractor has reimbursed the school district the amount calculated by the public education department; if the school district fails to take action to collect money owed to it when a school bus contract is terminated or not renewed, the public education department may deduct the amount from the school district's transportation distribution.

[12-31-98; 6.43.2.8 NMAC - Rn, 6 NMAC 9.4.1.8, 10-15-01; A, 11-13-09]

#### **6.43.2.9 INDIVIDUAL OWNER OPERATOR:**

A. An individual who owns only one bus and drives the bus on a full time basis is, as a driver, considered an employee of the district. The local board shall enter into an employment contract with the driver. The driver's salary shall be calculated on the local board's established salary schedule for bus drivers. Benefits shall be calculated on the salary amount according to the established benefit rates.

B. The local board shall negotiate an individual owner/operator equipment contract for the use of the bus to provide transportation services consistent with provisions of state law and public education department rules.

C. The local board shall ensure that the owner/operator meets training and drug testing requirements in compliance with federal and state laws and public education department rules.

D. The individual owner/operator shall have no ownership interest of any type or degree in any fleet service contract with the local board, including without limitation, an interest in the nature of legal or rightful title, possessory interest, or a beneficial, equitable, or pecuniary interest.

[12-31-98; 6.43.2.9 NMAC - Rn, 6 NMAC 9.4.1.9, 10-15-01; A, 11-13-09]

#### **6.43.2.10 FLEET SERVICE CONTRACT:**

A. The local board may contract with a person who owns one or more buses and who hires drivers to drive the bus. Such a person is considered self-employed and shall be contracted as a fleet operator.

B. The local board shall negotiate fleet service contracts consistent with the provisions of state law and public education department rules.

[12-31-98; 6.43.2.10 NMAC - Rn, 6 NMAC 9.4.1.10, 10-15-01; A, 11-13-09]

#### **6.43.2.11 PROCEDURES FOR AWARDING NEW CONTRACTS:**

**A.** A new contract shall be awarded because of:

- (1)** the retirement, resignation, or death of a current contractor;
- (2)** the determination by the local board to change from a school owned operation to a contract operation;
- (3)** the addition of a bus or buses to provide transportation services; unless, the local board elects to amend an existing contract in accordance with the provision of Section 22-16-3, NMSA, 1978;
- (4)** unsatisfactory services by the contractor;
- (5)** termination of an existing contract.

**B.** The local board shall publish notice of a request for proposal (RFP) for procurement of transportation services not less than ten calendar days prior to the date set for the receipt of the proposals. The RFP shall be published at least once in a newspaper of general circulation in the area in which the local board is located. If there is no newspaper of general circulation in the area, such other notice may be given as is reasonable.

**C.** A copy of the RFP and notice shall be available for public inspection at the district administration office.

**D.** The local board shall develop proposal criteria by which all offers shall be evaluated. The proposal criteria shall include:

- (1)** a current financial statement;
- (2)** if a corporation, the names, addresses, dates of birth, and social security numbers of all stockholders and officers;
- (3)** a minimum of three business or professional references;
- (4)** a proposal for the acquisition of buses and other equipment; the proposal shall indicate the year of manufacture and size of buses to serve each route and necessary spare equipment to provide uninterrupted service;
- (5)** a description of the proposed fleet maintenance program, garage or maintenance facilities, bus parking, mechanics, parts, and supplies; in the case of a one bus or small fleet operation, a description shall be submitted relative to garage services planned by the owner with an established automotive repair facility;
- (6)** the proposal shall indicate the method, in conformance with state and federal laws and regulations, by which drivers will be selected, trained and supervised;

(7) an amount for which the services will be rendered based on the length of the route(s), road conditions, number of buses and drivers, fuel, operation and maintenance requirements, and, for fleet contractor salaries and benefits;

(8) any other information that the local board may require.

E. The local board shall provide each proposed offerer with the following information:

(1) the proposal criteria;

(2) route information which includes the approximate distance, types of roadways, number of students to be transported, and the size of the buses required;

(3) a copy of the contract form approved by the public education department;

(4) a copy of, or access to, all public education department rules, and local board compliance manuals and policies, which govern the operation of school transportation services;

(5) a description of the insurance coverage that will be provided by the local board for buses to be operated under contract.

F. The local board shall consider all proposals submitted by the deadline recorded in the notice. The local board shall award the contract to the offerer whose proposal provides the most efficient, economical, and safe transportation services to meet the needs of the district. The negotiated amount shall not exceed available resources.

G. The local board may reserve the right to reject all proposals.

H. The local board shall provide notice of the award to the state transportation director on forms provided by the public education department. All proposals, including the established criteria for awarding the contract, copies of advertisements, copies of all proposals and the proposal evaluations shall be subject to audit by the public education department, the state auditor, or an independent auditor. Records shall be retained for a minimum of five years.

I. The local board shall conduct a background check on proposed contractors prior to approval of the contract.

[12-31-98; 6.43.2.11 NMAC - Rn, 6 NMAC 9.4.1.11, 10-15-01; A, 11-13-09]

#### **6.43.2.12 PROCEDURES FOR RENEWING EXISTING CONTRACTS:**

Prior to the contract renewal, the district shall request the following information from a current contractor:

**A.** A current financial statement.

**B.** If a corporation, the names, addresses, dates of birth, and social security numbers of all stockholders or partnerships.

**C.** The local board shall evaluate the services that have been rendered by the contractor on the basis of the terms of the contract. The local board shall determine whether the terms of the contract have been met and whether the contract shall be considered for renewal.

**D.** The contractor shall be apprised of the results of the evaluation and the determination of the board regarding renewal of the contract. If the contract is recommended for renewal, the terms of the contract shall ensure that any deficiencies identified in the evaluation are corrected.

**E.** The board shall provide the contractor with any proposed or anticipated changes in the school transportation program relative to boundary changes, route changes attendance center designations, or any other proposed or anticipated changes.

**F.** The local board shall not negotiate a contract award for transportation services, which exceeds available resources.

**G.** The local board shall provide notice of the contract renewal to the state transportation director on forms provided by the public education department.

[12-31-98; 6.43.2.12 NMAC - Rn, 6 NMAC 9.4.1.12, 10-15-01; A, 11-13-09]

#### **6.43.2.13 FLEET SERVICE CONTRACT (FORM):**

THIS AGREEMENT is made and entered into as this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (local board of education) hereinafter called "BOARD" and \_\_\_\_\_ (contractor) herein after referred to as "CONTRACTOR." WITNESETH: WHEREAS, BOARD has engaged CONTRACTOR to provide the pupil transportation services described herein; and WHEREAS, CONTRACTOR desires to provide such transportation services; NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:

**A. TERM:** The term of this agreement shall commence \_\_\_\_\_, 20\_\_\_\_ and shall continue through \_\_\_\_\_, 20\_\_\_\_. This contract may be renewed annually thereafter on the same terms and conditions at the option of the BOARD.

#### **B. SCOPE OF SERVICES**

**(1)** CONTRACTOR shall, during the term of the agreement supply the buses listed on Appendix A incorporated herein by reference and shall maintain such number

of school buses specified to provide transportation services to the BOARD consistent with the terms of this contract.

(2) CONTRACTOR shall, provide for the efficient management of the transportation services as set forth herein. CONTRACTOR shall advise the BOARD of the name(s), address(s), and phone number(s) of individual(s) designated as responsible for the management of services.

(3) CONTRACTOR shall provide for the to-and-from transportation of students in grades kindergarten through twelve who attend school within the school district, of three and four year old children who meet the public education department approved criteria and definition of developmentally disabled, and for the transportation of students to and from their regular attendance centers and vocational programs approved by the public education department.

(4) Transportation services shall be provided for\_\_\_\_\_ school days in accordance with bus routes and schedules agreed to under the terms of this contract. For each day that a bus is not operated, the compensation paid the CONTRACTOR shall be decreased by 1/\_\_\_\_th of the total compensation for services provided in Subsection C, Paragraph (1) of this contract.

(5) CONTRACTOR shall comply with all federal and state laws, regulations, policies and directives of the BOARD.

### **C. COMPENSATION**

(1) The BOARD shall pay CONTRACTOR all sums due and calculated in accordance with the conditions of this contract. The BOARD agrees to pay the CONTRACTOR \$\_\_\_\_\_for purchase allowance/rental fees, and \$\_\_\_\_\_for services herein for a total of \$\_\_\_\_\_to be paid in consecutive monthly installments as follows: \_\_\_\_\_equal installments of \$\_\_\_\_\_each, and a final installment of \$\_\_\_\_\_, commencing on the \_\_\_\_\_day of\_\_\_\_\_, 20\_\_\_\_\_.

(2) The compensation payable pursuant to this contract is subject to adjustment by the BOARD for route changes, the addition of to-and-from buses approved by the public education department, or changes in the provision of services. Contract amendments required; as a result of such adjustments shall be approved by the BOARD.

(3) This contract may be further adjusted or payments withheld where audits or investigations by the BOARD or public education department verify overpayments, underpayment, or expenditures in violation of state laws or rules or the terms of this contract.

(4) The terms of this contract are contingent upon sufficient legislative appropriations for to-and-from transportation and authorization of the appropriation.

**D. FUEL:** CONTRACTOR shall furnish all fuel to be used in its performance of this agreement.

**E. OPERATION AND MAINTENANCE**

(1) CONTRACTOR shall furnish buses of a type and with the equipment required by federal and state law and regulations, including applicable public education department rules.

(2) CONTRACTOR shall provide for all operation and maintenance of buses utilized for service under the terms of this agreement.

(3) CONTRACTOR shall ensure that buses operating under this contract meet established public education department safety inspection requirements.

**F. SALARIES:** CONTRACTOR shall provide for salaries and benefits of all employees providing service under the terms of this agreement.

**G. ROUTES AND SCHEDULES**

(1) CONTRACTOR shall operate the buses according to the routes approved by the BOARD. The BOARD on the basis of safety, efficiency and economy shall approve such routes.

(2) On the 40th day of the school year, CONTRACTOR shall furnish BOARD a complete route map and roster of eligible students who are transported. Additional reports shall be submitted as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) The BOARD reserves the right to modify the routes consistent with the terms of this contract, should circumstances require such modifications. The superintendent or designee may modify stops and time schedules as required. The CONTRACTOR shall be notified in writing by the BOARD's superintendent or designee when changes are necessary, and CONTRACTOR shall adjust its operations to incorporate such changes.

**H. RECORDS AND REPORTS**

(1) All records required by state law or rules shall be subject to inspections and audits by the public education department, the office of the state auditor, and any auditor designated to conduct such inspections or audits. The public education department and the state auditor shall have the right to audit both before and after payment, and payment under this contract shall not foreclose the right of the BOARD to recover excessive or illegal payments.

**(2)** The CONTRACTOR shall complete appendix B, incorporated herein by reference, and shall submit annually a final expenditure report for fuel, operation and maintenance, and salary and benefits on forms provided by the public education department.

**(3)** The CONTRACTOR shall make such reports as may be required by the BOARD or the public education department. Failure to make required reports on time and with accuracy shall be considered a breach of contract and shall be cause to adjust payments or withhold payments until reporting requirements are met.

**(4)** The CONTRACTOR shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the public education department.

**I. INDEMNIFICATION:** CONTRACTOR shall hold BOARD, its officers and employees harmless and does hereby indemnify the BOARD, its officers and employees from and against every claim or demand which may be made by any person, firm or corporation, or other entity arising from or caused by any act, neglect, default or omission of CONTRACTOR in the performance of this agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of BOARD, its agents or employees.

#### **J. INSURANCE**

**(1)** The BOARD shall provide automobile liability coverage to the CONTRACTOR, which includes bodily injury, property damage, and physical damage for all buses under contract to the BOARD. The terms, conditions and limits of coverage shall be in accordance with that provided by the New Mexico public schools insurance authority or any other coverage provided by the local BOARD and allowed by statute.

**(2)** The CONTRACTOR shall carry worker's compensation insurance as statutorily required by the state of New Mexico and shall provide evidence of insurance to the BOARD.

**K. INCLEMENT WEATHER AND SCHOOL CLOSINGS:** In the event of inclement weather or impassability of roads or whenever school is canceled, delayed or is dismissed early, BOARD shall notify CONTRACTOR not later than \_\_\_\_\_ hours before service.

**L. SAFETY:** CONTRACTOR shall be responsible for meeting all safety requirements established by local, state, or federal laws or regulations. A record of training and other safety reporting requirements shall be provided to the BOARD upon request.

#### **M. OPERATION/PERSONNEL/DRIVER QUALIFICATIONS**

(1) CONTRACTOR shall employ a sufficient number of drivers and support personnel to carry out the terms of this contract.

(2) CONTRACTOR shall ensure that employees meet training requirements set forth by federal and state law, public education department rules and BOARD policies and shall assume the cost of training for drivers and bus assistants.

(3) CONTRACTOR shall establish rules, which prohibit the driver from smoking on the bus or driving under the influence of drugs or alcohol while operating any bus.

(4) CONTRACTOR shall comply with federal laws and regulations for drug and alcohol testing and shall provide to the BOARD verification of compliance.

(5) CONTRACTOR shall be responsible for hiring and discharging personnel employed by CONTRACTOR to perform its obligations hereunder; provided, however, that the BOARD shall have the right to require CONTRACTOR to remove from service under this agreement any employee whose performance is, in good faith, deemed by the BOARD unsuitable to the provision of transportation services for BOARD; and provided further that BOARD shall provide the CONTRACTOR such notification in writing and provide justification for its determination.

(6) CONTRACTOR shall provide qualified drivers, trained and licensed in accordance with the laws of this state and the rules and regulations of BOARD.

**N. TERMINATION OF CONTRACT BY BOARD:** Subject to procedures hereinafter set forth, the BOARD may terminate this contract before its expiration date for violation of law, terms of the contract, or rules and policies of the public education department or BOARD. The procedures for termination of this contract are as follows:

(1) The BOARD shall serve notice upon the CONTRACTOR in person, or by registered or certified mail, specifying the charges against the CONTRACTOR under which the contract is sought to be terminated, with a copy of such notice provided to the state transportation director.

(2) The notice shall also specify a time and place at which the BOARD will hold a hearing on the charges made against the CONTRACTOR which hearing shall not be more than ten (10) calendar days after service of the notice upon the CONTRACTOR.

(3) The CONTRACTOR shall have the right to appear and be represented by legal counsel, to be heard, and to call witnesses in his/her own behalf.

(4) The BOARD shall have the power to suspend the CONTRACTOR pending a hearing on the charges.



(5) The decision of the BOARD shall be final and conclusive, subject only to the approval of the state transportation director.

(6) In the event that this contract is terminated or not renewed, the secretary of public education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the CONTRACTOR shall reimburse the DISTRICT an amount equal to the value calculated.

(7) In the event that this contract is terminated, the buses owned by the CONTRACTOR and used pursuant to the terms of this contract as set forth in appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the state transportation director. The operator succeeding to the contract shall purchase, with the approval of the CONTRACTOR, all said buses at their appraised value.

**O. TERMINATION OF CONTRACT BY CONTRACTOR:** Subject to procedures hereinafter set forth, the CONTRACTOR may cancel this contract before its expiration by the following procedures:

(1) The CONTRACTOR shall serve a written notice upon the BOARD in person or by registered or certified mail, with a copy of such notice provided to the state transportation director, specifying the reason for cancellation.

(2) The notice shall also specify the date at which such cancellation shall be effective, but not less than sixty (60) calendar days after the service of notice.

(3) Cancellation of the contract shall be effective only after the BOARD grants written consent and notice provided to the state transportation director.

(4) This contract shall not be assigned to another individual or corporation.

(5) In the event that this contract is terminated or not renewed, the secretary of public education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the CONTRACTOR shall reimburse the DISTRICT an amount equal to the value calculated.

(6) In the event that this contract is terminated or not renewed, the buses owned by the CONTRACTOR and used pursuant to the terms of this contract as set forth in appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the state transportation director. The operator succeeding to the contract shall purchase with the approval of the CONTRACTOR all said buses at their appraised value.

IN WITNESS WHEREOF we have set our hands and seals.

\_\_\_\_\_  
BY: \_\_\_\_\_ BOARD OF EDUCATION  
\_\_\_\_\_  
PRESIDENT ATTEST:  
\_\_\_\_\_  
SECRETARY  
\_\_\_\_\_  
CONTRACTOR

**P. Appendix A (Part I)**

**FLEET CONTRACT**

Bus #	Owner Code	Year	Model	Seating	Lift	Vehicle Identification	License Plate	Rental Fee

**Q. Appendix A (Part II)**

**FLEET CONTRACT**

Bus#	Route Mileage	Route Description (area served)

**R. APPENDIX B: FLEET CONTRACT PAYMENT SCHEDULE, 20 \_\_\_\_ 20**  
\_\_\_\_ SCHOOL YEAR This contract approved by the

\_\_\_\_\_ (BOARD) on \_\_\_\_/\_\_\_\_/\_\_\_\_ for  
\_\_\_\_\_ (CONTRACTOR) to operate \_\_\_\_\_  
buses/routes set forth in appendix A to provide school transportation services includes  
the following amounts deemed necessary for CONTRACTOR to carry out the terms of  
the contract safely, efficiently, and economically:

(1) BUS PURCHASE/RENTAL FEE: \$ \_\_\_\_\_

(2) TRANSPORTATION SERVICES: (estimated budget)

(a) fuel \$ \_\_\_\_\_

(b) operation & maintenance and all other expenses \$ \_\_\_\_\_

(c) salary and benefits \_\_\_\_\_

(3) total transportation services \$ \_\_\_\_\_

(4) total estimated budget \$ \_\_\_\_\_

[12-31-98; 6.43.2.13 NMAC - Rn, 6 NMAC 9.4.1.13 & A, 10-15-01; A, 11-13-09]

#### **6.43.2.14 INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT (Form):**

THIS AGREEMENT is made and entered into as this \_\_\_\_\_ day of \_\_\_\_\_.  
20\_\_\_\_\_, by and between \_\_\_\_\_ (local board of  
education) hereinafter called "BOARD" and \_\_\_\_\_ (owner/operator)  
herein after referred to as "OWNER/OPERATOR." WHEREAS, OWNER/OPERATOR  
desires to provide such transportation equipment, fuel, and operation and maintenance  
associated with the use of the equipment under the terms of this contract; NOW,  
THEREFORE, in consideration of the covenants hereinafter contained, the parties  
agree as follows:

**A. TERM:** The term of this agreement shall commence \_\_\_\_\_, 20\_\_\_\_\_  
and shall continue through \_\_\_\_\_, 20\_\_\_\_\_; This contract may be renewed annually  
thereafter on the same terms and conditions at the option of the BOARD.

#### **B. SCOPE OF SERVICES**

(1) OWNER/OPERATOR shall, during the term of the agreement supply and  
maintain the bus listed on Appendix A herein to provide transportation equipment to the  
BOARD consistent with the terms of this contract.

(2) OWNER/OPERATOR shall, provide for the efficient maintenance and  
operation of the equipment as set forth herein.

(3) OWNER/OPERATOR shall provide for the to-and-from transportation of students in grades kindergarten through twelve who attend school within the school district, of three and four year old children who meet the public education department approved criteria and definition of developmentally disabled, and for the transportation of students to and from their regular attendance centers and vocational programs approved by the public education department.

(4) Transportation services shall be provided for \_\_\_\_\_ school days in accordance with bus routes and schedules agreed to under the terms of this contract. For each day that a bus is not operated, the compensation paid the OWNER/OPERATOR shall be decreased by 1/\_\_\_\_th of the total compensation for services provided in Subsection C, Paragraph (1) of this contract.

(5) OWNER/OPERATOR shall comply with all federal and state laws, rules, policies and directives of the BOARD.

### C. COMPENSATION

(1) The BOARD shall pay to OWNER/OPERATOR all sums due and calculated in accordance with the conditions of this contract. The BOARD agrees to pay the OWNER/OPERATOR \$\_\_\_\_\_ for purchase allowance/rental fees, and \$\_\_\_\_\_ for fuel, operation and maintenance for a total of \$\_\_\_\_\_ to be paid in consecutive monthly installments as follows: \_\_\_\_\_ equal installments of \$\_\_\_\_\_ each, and a final installment of \$\_\_\_\_\_, commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(2) The operation and maintenance reimbursement payable pursuant to this contract is subject to adjustment by the BOARD for route changes, bus replacement approved by the public education department, or changes in the provision of services. Contract amendments required; as a result of such adjustments shall be approved by the BOARD.

(3) This contract may be further adjusted or payments withheld where audits or investigations by the district, hereinafter referred to as "DISTRICT" or public education department verify overpayments, underpayment, or expenditures in violation of state laws or rules or the terms of this contract.

(4) The terms of this contract are contingent upon sufficient legislative appropriations for to-and-from transportation and authorization of the appropriation.

D. FUEL: OWNER/OPERATOR shall furnish all fuel to be used in its performance of this agreement.

### E. OPERATION AND MAINTENANCE

(1) The bus furnished and maintained by the OWNER/OPERATOR shall be of a type and with the equipment required by federal and state law and regulations, including applicable public education department rules.

(2) OWNER/OPERATOR shall provide for all operation and maintenance of buses utilized for service under the terms of this agreement.

(3) OWNER/OPERATOR shall ensure that buses operating under this contract meet established public education department safety inspection requirements.

#### **F. ROUTES AND SCHEDULES**

(1) OWNER/OPERATOR shall operate the bus according to the routes approved by the BOARD. The BOARD based on safety; efficiency and economy shall approve such routes.

(2) On the 40th day of the school year, OWNER/OPERATOR shall furnish BOARD a complete route map and roster of eligible students who are transported. Additional reports shall be submitted as follows: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3) The BOARD reserves the right to modify the routes consistent with the terms of this contract, should circumstances require such modifications. The superintendent or designee may modify stops and time schedules as required. The OWNER/OPERATOR shall be notified in writing by the BOARD's superintendent or designee when changes are necessary, and OWNER/OPERATOR shall adjust its operations to incorporate such changes.

#### **G. RECORDS AND REPORTS**

(1) All records required by state law or rules shall be subject to inspections and audits by the public education department, the office of the state auditor, and any auditor designated to conduct such inspections or audits. The public education department and the state auditor shall have the right to audit both before and after payment, and payment under this contract shall not foreclose the right of the BOARD to recover excessive or illegal payments.

(2) The OWNER/OPERATOR shall complete appendix B, incorporated herein by reference, and shall submit annually a final expenditure report for fuel, operation and maintenance costs on forms provided by the public education department.

(3) The OWNER/OPERATOR shall make such reports as may be required by the BOARD or the public education department. Failure to make required reports on

time and with accuracy shall be considered a breach of contract and shall be cause to adjust payments or withhold payments until reporting requirements are met.

**(4)** The CONTRACTOR shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the public education department.

**H. INSURANCE:** The BOARD shall provide automobile liability coverage to the OWNER/OPERATOR, which includes bodily injury, property damage, and physical damage for the bus under contract to the BOARD. The terms, conditions and limits of coverage shall be in accordance with that provided by the New Mexico public schools insurance authority or any other coverage provided by the BOARD and allowed by statute.

**I. INCLEMENT WEATHER AND SCHOOL CLOSINGS:** In the event of inclement weather or impassability of roads or whenever school is canceled, delayed or is dismissed early, BOARD shall notify

OWNER/OPERATOR not later than \_\_\_\_\_ hours before service.

**J. SAFETY:** OWNER/OPERATOR shall be responsible for meeting all safety requirements established by local, state, or federal laws or regulations. A record of training and other safety reporting requirements shall be provided to the BOARD upon request.

**K. TERMINATION OF CONTRACT BY BOARD:** Subject to procedures hereinafter set forth, the BOARD may terminate this contract before its expiration date for violation of law, terms of the contract, or rules and policies of the public education department or BOARD. The procedures for termination of this contract are as follows:

**(1)** The BOARD shall serve notice upon the OWNER/OPERATOR in person, or by registered or certified mail, specifying the charges under which the contract is sought to be terminated, with a copy of such notice provided to the state transportation director.

**(2)** The notice shall also specify a time and place at which the BOARD will hold a hearing on the charges made against the OWNER/OPERATOR which hearing shall not be more than ten (10) calendar days after service of the notice.

**(3)** The OWNER/OPERATOR shall have the right to appear and be represented by legal counsel, to be heard, and to call witnesses in his/her own behalf.

**(4)** The BOARD shall have the power to suspend the OWNER/OPERATOR pending a hearing on the charges.

(5) The decision of the BOARD shall be final and conclusive, subject only to the approval of the state transportation director.

(6) In the event that this contract is terminated, the secretary of public education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the OWNER/OPERATOR shall reimburse the DISTRICT an amount equal to the value calculated.

(7) In the event that this contract is terminated or not renewed, the buses owned by the OWNER/OPERATOR and used pursuant to this contract as set forth in appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the state transportation director. The operator succeeding to the contract shall purchase, with the approval of the OWNER/OPERATOR, all said bus at its appraised value.

**L. TERMINATION OF CONTRACT BY OWNER/OPERATOR:** Subject to procedures hereinafter set forth, the OWNER/OPERATOR may cancel this contract before its expiration by the following procedures:

(1) The OWNER/OPERATOR shall serve a written notice upon the BOARD in person or by registered or certified mail, with a copy of such notice provided to the state transportation director, specifying the reason for cancellation.

(2) The notice shall also specify the date at which such cancellation shall be effective, but not less than sixty (60) calendar days after the service of notice.

(3) Cancellation of the contract shall be effective only after the BOARD grants written consent and notice provided to the state transportation director.

(4) This contract shall not be assigned to another individual or corporation.

(5) In the event that this contract is terminated or not renewed, the secretary of public education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the OWNER/OPERATOR shall reimburse the DISTRICT an amount equal to the value calculated.

(6) In the event that this contract is terminated or not renewed, the buses owned by the OWNER/OPERATOR and used pursuant to the terms of this contract as set forth in appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the state transportation director. The operator

succeeding to the contract shall purchase with the approval of the OWNER/OPERATOR all said bus at its appraised value.

IN WITNESS WHEREOF we have set our hands and seals.

\_\_\_\_\_  
BOARD OF EDUCATION, BY:

\_\_\_\_\_  
PRESIDENT, ATTEST:

\_\_\_\_\_  
SECRETARY, DECLARATION

OWNER/OPERATOR hereby declares that he/she has no ownership interest of any type or degree in any fleet service contract with the BOARD, including without limitation, an interest in the nature of legal or rightful title, possessory interest, or a beneficial, equitable or pecuniary interest.

\_\_\_\_\_  
OWNER/OPERATOR DATE

**M. Appendix A (Part I), INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT**

Bus #	Owner Code	Year	Model	Seating	Lift	Vehicle Identification	License Plate	Rental Fee

**N. Appendix A (Part II) INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT**

Bus #	Route Mileage	Route Description (area served)

**O. APPENDIX B INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT 20**  
\_\_\_\_ 20\_\_\_\_ SCHOOL YEAR This contract approved by the  
\_\_\_\_ (BOARD) on \_\_\_\_/\_\_\_\_/\_\_\_\_ for  
\_\_\_\_ (OWNER/OPERATOR) to operate \_\_\_\_  
buses/routes set forth in appendix A to provide school transportation services includes the following amounts deemed necessary for OWNER/OPERATOR to carry out the terms of the contract safely, efficiently, and economically:

(1) BUS PURCHASE/RENTAL FEE: \$\_\_\_\_

(2) TRANSPORTATION SERVICES: (estimated budget)



(a) fuel \$\_\_\_\_\_

(b) operation & maintenance and all other expenses \$\_\_\_\_\_

(3) total transportation services \$\_\_\_\_\_

(4) total estimated budget \$\_\_\_\_\_

[12-31-98; 6.43.2.14 NMAC - Rn, 6 NMAC 9.4.1.14 & A, 10-15-01; A, 11-13-09]

#### **6.43.2.15 PER CAPITA FEEDER REQUIREMENTS:**

**A.** The local board may provide per capita or per mile reimbursement to a parent or guardian in cases where regular school bus transportation services are not available or impractical because of distance, road conditions or sparseness of population or in cases where the local board has authorized a parent to receive reimbursement for travel costs incurred by having a child attend a school outside the child's attendance zone.

**B.** When per capita feeder services are utilized, the local board must approve an agreement with the parent or guardian, which defines the terms of the agreement for service, the contract amount, and the responsibilities of the parent.

**C.** The parent or guardian must provide proof of insurance and shall maintain the insurance for the term of the agreement.

**D.** The local board shall establish the mileage reimbursement rate.

**E.** The local board is responsible for developing a system of accountability to ensure that services are rendered according to the terms of the agreement. The local board shall ensure that payment is not made until services have been rendered.

**F.** The local board shall approve a per capita feeder policy which sets forth the terms and conditions under which per capita feeder agreements shall operate.

**G.** The mileage reimbursement rate for charter schools shall be at least equal to the amount established by the local board. This reimbursement will apply where regular school bus transportation services are not available or impractical because of distance, road conditions, sparseness of population or other conditions negotiated by the school district and charter school. When per capita feeder services are utilized, the governing body of the charter school must approve an agreement with the parent or guardian, which defines the terms of the agreement for service, the contract amount, and the responsibilities of the parent. The parent or guardian must provide proof of insurance and shall maintain the insurance for the term of the agreement.

**H.** The governing body of the charter school is responsible for developing a system of accountability to ensure that services are rendered according to the terms of the

agreement. The governing body shall ensure that payment is not made until services have been rendered.

[12-31-98; 6.43.2.15 NMAC - Rn, 6 NMAC 9.4.1.15 & A, 10-15-01]

### **PART 3: PUBLIC SCHOOL TRANSPORTATION OPERATIONAL FUNDING REPORTING REQUIREMENTS**

#### **6.43.3.1 ISSUING AGENCY:**

Public Education Department.

[07-30-99; 6.43.3.1 NMAC - Rn, 6 NMAC 9.4.3.1, 12-29-2000; A, 11-13-2009]

#### **6.43.3.2 SCOPE:**

Provisions of this rule apply to public school districts that receive transportation distributions in accordance with Sections 22-8-26, 22-8-29, 22-8-29.1, 22-8-29.4, and 22-8-29.6 NMSA, 1978.

[07-30-99; 6.43.3.2 NMAC - Rn, 6 NMAC 9.4.3.2, 12-29-2000; A, 11-13-2009]

#### **6.43.3.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-16-2, 22-8-26, and 22-8-29 NMSA 1978.

[07-30-99; 6.43.3.3 NMAC - Rn, 6 NMAC 9.4.3.3, 12-29-2000]

#### **6.43.3.4 DURATION:**

Permanent.

[07-30-99; 6.43.3.4 NMAC - Rn, 6 NMAC 9.4.3.4, 12-29-2000]

#### **6.43.3.5 EFFECTIVE DATE:**

July 30, 1999, unless a later date is cited at the end of a section.

[07-30-99; 6.43.3.5 NMAC - Rn, 6 NMAC 9.4.3.5, 12-29-2000]

#### **6.43.3.6 OBJECTIVE:**

To establish the parameters for the use of the public school transportation distributions and to establish requirements for reporting proper expenditures.

[07-30-99; 6.43.3.6 NMAC - Rn, 6 NMAC 9.4.3.6, 12-29-2000]

#### **6.43.3.7 DEFINITIONS:**

**A. Department** - The public education department.

**B. Transportation distribution** - An amount of funding that each school district receives as a result of the operational formula calculation established in Sections 22-8-29, 22-8-29.1, 22-8-29.4, and 22-8-29.6 NMSA, 1978.

**C. Other transportation related services** - Other transportation services that includes the actual transportation of students to such events as follows: ancillary services, school to work programs, educational activities, before and after school programs, and school sponsored athletic programs.

**D. To-and-from transportation** - Services provided from home to school and from school to home each day that school is in session for students in grades kindergarten through twelve attending public school within the school district and of three and four-year old children who meet the department approved criteria and definition of developmentally disabled and for transportation of students to and from their regular attendance centers and the place where approved vocational education programs are being offered.

**E. Remaining balance** - Unexpended balance at the end of any fiscal year that is not obligated or necessary to meet the to-and-from transportation services included in the school district budget.

[07-30-99; 6.43.3.7 NMAC - Rn, 6 NMAC 9.4.3.7, 12-29-2000; A, 11-13-2009]

#### **6.43.3.8 REQUIREMENTS OF THE PUBLIC EDUCATION DEPARTMENT:**

The department is responsible for determining the distribution for each school district in accordance with Sections 22-8-26, 22-8-29, 22-8-29.1, 22-8-29.4, and 22-8-29.6 NMSA 1978.

**A. The department shall** calculate the remaining balances for each school district and submit the amount to each school district that they are allowed to maintain and use for to-and -from operations and other transportation related services.

**B. The department shall** prepare budget and reporting forms for the remaining balances carried forward and provide them to each school district.

[07-30-99; 6.43.3.8 NMAC - Rn, 6 NMAC 9.4.3.8, 12-29-2000; A, 11-13-2009]

#### **6.43.3.9 REQUIREMENTS OF SCHOOL DISTRICTS:**

**A. Each school district** that receives transportation distributions in accordance with Sections 22-8-26, 22-8-29, 22-8-29.1, 22-8-29.4, and 22-8-29.6, NMSA, 1978 shall

report to the department their budget and expenditures on forms provided by the department.

**B. School districts shall** use their remaining balance as follows.

**(1)** At least twenty-five percent of the total remaining balance shall be used for to-and-from transportation-related services, excluding salaries and benefits.

**(2)** Up to twenty-five percent of the total remaining balance may be used for other transportation-related services, excluding salaries and benefits.

**(3)** The school district may use fifty percent of the total remaining balance for to-and-from transportation-related services, excluding salaries and benefits.

[07-30-99; 6.43.3.9 NMAC - Rn, 6 NMAC 9.4.3.9, 12-29-2000]

## **PART 4: REQUIREMENTS FOF SCHOOL BUS SERVICE NEGOTIATIONS WITH CHARTER SCHOOLS**

### **6.43.4.1 ISSUING AGENCY:**

Public Education Department.

[6.43.4.1 NMAC - N, 10-15-01; A, 11-13-09]

### **6.43.4.2 SCOPE:**

Provisions of this rule apply to public school districts and charter schools where to-and-from school bus services are negotiated.

[6.43.4.2 NMAC - N, 10-15-01]

### **6.43.4.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-16-2, 22-16-4 and 22-8B-4, NMSA 1978.

[6.43.4.3 NMAC - N, 10-15-01]

### **6.43.4.4 DURATION:**

Permanent

[6.43.4.4 NMAC - N, 10-15-01]

### **6.43.4.5 EFFECTIVE DATE:**

October 15, 2001, unless a later date is cited at the end of a section.

[6.43.4.5 NMAC - N, 10-15-01]

**6.43.4.6 OBJECTIVE:**

To establish the parameters of school bus service negotiations between school districts and charter schools.

[6.43.4.6 NMAC - N, 10-15-01]

**6.43.4.7 DEFINITIONS:**

**[RESERVED]**

**6.43.4.8 LOCAL SCHOOL DISTRICT AND CHARTER SCHOOL RESPONSIBILITIES:**

A local school district shall negotiate with a charter school to provide transportation to eligible students. Transportation services are confined within the limits established by the public school district, in conjunction with the charter school. The transportation limits shall be within the school district boundary or as adjusted in accordance with an approved school district transportation boundary agreement.

**A.** Charter schools shall negotiate to-and-from transportation services for eligible students by means of a school bus or a per capita feeder agreement only. The charter school may elect not to provide transportation services.

**B.** If the to-and-from transportation for the charter school can be provided by utilizing the existing to-and-from services or resources, the cost to the charter school shall not exceed the amount generated by the eligible student allocation. Additional cost for to-and-from services beyond that level shall be paid by the charter school as negotiated with the school district, unless the services can be provided at no additional cost to the school district or the school district chooses to cover the additional cost from the transportation allocation.

**C.** Should a school district establish a separate to-and-from transportation system, where such services are exclusively for charter school students, the costs associated are not considered additional to the charter school. The charter school would not generate any additional allocation for the separate to-and-from services and the school district shall be responsible for those costs from the transportation allocation.

**D.** A copy of the negotiated to-and-from school transportation service agreement between the school district and charter school shall be maintained on file with the school district and the charter school.

**E.** A separate transportation budget for the charter school shall be submitted to the public education department for review or approval.

**F.** The school district shall determine the routes and stops in accordance with section 22-16-4 NMSA 1978. A request may be made to the state transportation director for new equipment based upon need identified by the school district.

**G.** The charter school shall provide information required by the school district to meet the reporting requirements of the state transportation director. The school district is responsible for reporting to the state transportation director the information collected on transportation from the charter school.

[6.43.4.8 NMAC - N, 10-15-01; A, 11-13-09]

#### **6.43.4.9 PUBLIC EDUCATION DEPARTMENT RESPONSIBILITY:**

The state transportation director shall calculate and provide the operational amounts generated by formula for the charter school and the school district.

[6.43.4.9 NMAC - N, 10-15-01; A, 11-13-09]

## **CHAPTER 44-49: [RESERVED]**

## **CHAPTER 50: INSURANCE**

### **PART 1: GENERAL PROVISIONS**

#### **6.50.1.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.1.1 NMAC - Rp, 6.50.1.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

#### **6.50.1.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.1.2 NMAC - Rp, 6.50.1.2 NMAC, 9/1/2014]

### **6.50.1.3      STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.1.3 NMAC - Rp, 6.50.1.3 NMAC, 9/1/2014]

### **6.50.1.4      DURATION:**

Permanent.

[6.50.1.4 NMAC - Rp, 6.50.1.4 NMAC, 9/1/2014]

### **6.50.1.5      EFFECTIVE DATE:**

September 1, 2014, unless a later date is cited at the end of a section.

[6.50.1.5 NMAC - Rp, 6.50.1.5 NMAC, 9/1/2014]

### **6.50.1.6      OBJECTIVE:**

**A.** The first objective of this part is to set forth the general terms, definitions and conditions governing this chapter, Parts 1-18, and to set forth the general authority of the board of directors of the authority. This part also includes rules to encourage interaction with other state agencies, school districts, other educational entities, charter schools and with residents of New Mexico to better inform them of the operations of the board and to learn of their needs and concerns.

**B.** The second objective of this part is to establish a code of ethics that must be adhered to by those persons defined as public officials and to provide penalties for failure to comply. The proper operation of a democratic government requires that public officials and those attorneys, consultants, agents and employees on whom they rely for advice and opinions be independent, impartial, and responsible to the people. When a sound code of ethics is promulgated and enforced, the public has confidence in the integrity of its government. The objective of the code of ethics is to advance openness in government by requiring disclosure by public officials of their private interests that may be affected by their public acts; to set standards of ethical conduct; to minimize pressures on public officials and to establish a process for reviewing and settling alleged violations.

**C.** The third objective of this part is to insure, in the interests of public policy, that all meetings of a quorum of the authority's board of directors held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action delegated to the authority shall be open to the public unless otherwise provided by law.

**6.50.1.7 DEFINITIONS:**

The definitions listed below apply to all rules pertaining to the authority, the authority's risk-related and employee-benefit coverages and any rules issued by the authority concerning risk or loss prevention, except where other rules contain more specific definitions of the same term or additional terms.

**A. "Abatement"** means the elimination of a recognized risk-related hazard as the result of a recommendation by a risk management consultant or by the authority.

**B. "Affidavit of domestic partnership"** means a sworn, written statement, in a form, verified by the employer and approved by the authority, by which both members of a domestic partnership affirm, solely for the purpose of obtaining employee domestic partner benefits through the authority, that:

(1) the partners are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;

(2) the partners share a primary residence and have done so for 12 or more consecutive months;

(3) the partners are jointly responsible for each other's common welfare and share financial obligations;

(4) neither partner is married or a member of another domestic partnership;

(5) both partners are at least 18 years of age;

(6) both partners are legally competent to sign an affidavit of domestic partnership; and

(7) the partners are not related by blood to a degree of closeness that would prevent them from being married to each other in the state of New Mexico.

**C. "Affidavit terminating domestic partnership"** means a sworn, written statement, in a form approved by the authority, by which an employee notifies the authority that domestic partner benefits should be terminated because the employee's domestic partnership relationship is terminated.

**D. "Authority"** means the New Mexico public school insurance authority.

**E. "Board"** means the board of directors of the authority.



**F. "Change of status"** means the change of status of an eligible employee or eligible dependent by:

- (1) death;
- (2) divorce or annulment;
- (3) loss of employment;
- (4) loss of group or individual health insurance coverage through no fault of the person having the insurance coverage;
- (5) birth;
- (6) adoption or child placement order in anticipation of adoption;
- (7) legal guardianship;
- (8) marriage;
- (9) incapacity of a child;
- (10) establishment or termination through affidavit of domestic partnership or affidavit terminating domestic partnership; or
- (11) fulfilling the actively at work requirement and minimum qualifying number of hours through promotion to a new job classification with a salary increase or acceptance of a full-time position with a salary increase with the same participating entity.

**G. "Charter school"** means a school organized as a charter school pursuant to the provisions of the 1999 Charter Schools Act, Section 22-8B-1 et seq., NMSA 1978.

**H. "Contract period"** when applied to employee benefit or risk-related coverages means the established period of time over which the authority provides insurance to participating entities. The contract period shall be specified by the board as part of a memorandum of coverage, a group benefits policy, or administrative services agreement. The contract period may be different for different offerings, policies, or agreements.

**I. "Costs"** means the direct and indirect monetary and economic costs of insurance.

**J. "Coverage"** means insurance protection offered or provided by the authority to persons or entities entitled to participate in the authority's offerings.

**K. "Critical hazard"** means any risk-related exposure, hazardous condition, or other circumstance having an above average potential for immediate occurrence, but which is not immediately life threatening. A critical hazard is of less severity than an imminent hazard.

**L. "Deductible"** means the dollar amount that will be deducted from any payments made to or on behalf of a participating entity or employee or covered individual.

**M. "Domestic partner"** means an unrelated person living with and sharing a common domestic life with an employee of an entity offering domestic partner benefits, where the employee and the partner submit a properly executed affidavit of domestic partnership and where the employee and the partner presently:

- (1) are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;
- (2) share a primary residence and have done so for 12 or more consecutive months;
- (3) are jointly responsible for each other's common welfare and share financial obligations; and
- (4) are not married or in another domestic partnership.

**N. "Domestic partner benefits"** means dependent insurance coverage for a domestic partner offered to an employee as a benefit of employment pursuant to a written petition adopted by a member's governing body that:

- (1) states that the member's governing body has voted in an open, public meeting to offer domestic partner benefits to its employees;
- (2) sets forth the percentage contribution, if any, the member will make toward an employee's premium for domestic partner coverage;
- (3) describes any evidence (documentation or other) the member will require in support of an affidavit of domestic partnership; and
- (4) is received by the authority at its offices before the effective date the coverage is to begin.

**O. "Due process reimbursement"** means the reimbursement of a school district's or charter school's expenses as defined in Section 22-29-3 NMSA 1978 which are incurred as a result of a due process hearing as required pursuant to Section 22-29-12 NMSA 1978.

**P. "Eligible dependent"** means a person obtaining health care coverage from the authority based upon that person's relationship to the eligible employee as follows:

(1) a person whose marriage to the eligible employee is evidenced by a marriage certificate or who has a legally established common-law marriage in a state that recognizes common-law marriages and then moves to New Mexico;

(2) a person who is the domestic partner of an eligible employee, employed by an entity offering domestic partner benefits;

(3) a child under the age of 26 who is either:

(a) a natural child;

(b) a legally adopted child pursuant to the Adoption Act, Section 32A-5-1, et. seq. NMSA 1978 or by adoptive placement order, court order or decree;

(c) a stepchild who is primarily dependent on the eligible employee for maintenance and support;

(d) a natural or legally adopted child of the eligible employee's domestic partner or a child placed in the domestic partner's household as part of an adoptive placement, legal guardianship, or by court order and who is living in the same household and is primarily dependent on the eligible employee for maintenance and support;

(e) a child for whom the eligible employee is the legal guardian and who is primarily dependent on the eligible employee for maintenance and support, so long as evidence of the legal guardianship is evidenced in a court order or decree (notarized documents, powers of attorney, or conservatorships are not accepted as evidence);

(f) a foster child living in the same household as a result of placement by a state licensed placement agency, so long as the foster home is licensed pursuant to Section 40-7A-1, et. seq. NMSA, 1978;

(g) a child living in the same household after a petition for adoption of that child has been filed pursuant to the Adoption Act, Section 32A-5-1 et. seq. NMSA 1978 or a pre-placement study is pending for purposes of adoption of the child pursuant to Section 32A-5-1 et. seq. NMSA 1978; or

(h) a dependent child pursuant to a qualified medical support order;

(4) a dependent child over 26 who is wholly dependent on the eligible employee for maintenance and support and who is incapable of self-sustaining employment by reason of mental or physical disability, provided that proof of incapacity and dependency, with proper medical certification, must be provided within 31 days

before the child reaches 26 years of age; any child who becomes so incapacitated while covered shall be allowed to continue coverage thereafter during the period of incapacity, and such times thereafter as may be authorized by the board;

(5) no provision in Paragraphs (1) through (4) of Subsection P of 6.50.1.7 NMAC shall result in eligibility of any person adopted by an eligible member pursuant to the adult adoption provisions of Section 40-14-5 NMSA 1978;

(6) no provision in Paragraphs (1) through (4) of Subsection P of 6.50.1.7 NMAC shall result in eligibility of any person who has met the requirements of any such paragraph for the primary purpose of obtaining eligibility under this chapter; any denial of eligibility under this subsection may be submitted for dispute resolution to the director of the authority pursuant to Subsection F of 6.50.10.13 NMAC, and the director's decision may be appealed by following the procedures specified in 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations.

**Q. "Eligible participating entity board member, entity governing body member or authority board member"** means an active participating entity board member, entity governing body member or authority board member whose entity is currently participating in the authority employee benefits coverages or who is eligible as an active authority board member or as an eligible retiree (Subsection R of 6.50.1.7 NMAC).

**R. "Eligible retiree"** means:

(1) a closed class: a "non-salaried eligible participating entity governing authority member" who is a former board member, who has served without salary as a member of the governing body of an employer eligible to participate in the benefits coverages of the authority, and is certified to be such by the director of the authority and has continuously maintained group health insurance coverage through that member's governing body; "eligible retiree" also includes former members of the authority board who has continuously maintained authority group health insurance; with respect to authority and participating entity board members who begin service after January 1, 1997, may participate in the benefits coverages; coverage will end at the request of the member, death or for non-payment;

(2) a "retired employee" who is drawing an Educational Retirement Act pension or with respect to a retired authority employee, a Public Employee Retirement Act pension, and desires to participate in the authority's additional life coverage.

**S. "Eligible employee"** means an employee of an employer eligible to participate in the benefits coverages of the authority including eligible participating entity board members, entity governing body members and authority board members (Subsection Q of 6.50.1.7 NMAC), full-time employees (Subsection X of 6.50.1.7 NMAC), or eligible part-time employees (Subsection T of 6.50.1.7 NMAC).

**T. "Eligible part-time employee"** means a person employed by, paid by, and working for a participating entity less than 20 hours but more than 15 hours per week during the academic school term and is determined to be eligible for participation in authority employee benefits coverages by an annual resolution which, prior to May 1 of the previous year, is adopted by the participating entity governing body and approved by the authority board.

**U. "Employee benefits minimum standards"** means the minimum coverages, minimum limits and other factors as specified in authority rules for which insurance is offered.

**V. "Established enrollment period"** means the period of time and the dates for which an enrollment period is authorized by the authority.

**W. "Financial interest"** means an interest of ten percent or more in a business or exceeding \$10,000.00 in any business. For a board member, official, employee, agent, consultant or attorney this means an interest held by the individual, their spouse, their domestic partner, or their minor children.

**X. "Full-time employee"** means a person employed by, paid by and working for the participating entity 20 hours or more per week during the academic school term or terms. A full-time employee includes participating entity board members, entity governing body members and authority board members as defined in Subsections SS and TT of 6.50.1.7 NMAC.

**Y. "Fund"** means the authority account or accounts in which the money received by the authority is held.

**Z. "Governing body"** means the elected board or other governing body that oversees and makes the policy decisions for a school district, charter school or other educational entity. (See also Subsection UU of 6.50.1.7 NMAC)

**AA. "Imminent hazard"** means those conditions or practices which exist requiring suspension of activities or operations so as to avoid an occurrence which could reasonably be expected to result in death or serious physical harm immediately or before the imminence of such danger can be eliminated through the recommended abatement.

**BB. "Ineligible dependents"** means:

(1) common law relationships of the same or opposite sex which are not recognized by New Mexico law unless domestic partner benefits are offered by the employee's entity;

(2) parents, aunts, uncles, brothers and sisters of the eligible employee;

(3) grandchildren left in the care of an eligible employee without evidence of legal guardianship; or

(4) any other person not specifically referred to as eligible.

**CC. "Insider information"** means information regarding the authority which is confidential under law or practice or which is not generally available outside the circle of those who regularly serve the authority as board members, officials, employees, agents, consultants or attorneys.

**DD. "Insurance"** means basic insurance, excess insurance, re-insurance, retrospectively rated insurance, self-insurance, self-insured retention and all other mechanisms to provide protection from risks assumed by the authority.

**EE. "Insurance policy"** means one or more basic insurance policies, excess insurance policies, reinsurance policies, retrospectively rated insurance policies, or other insurance policies sought or obtained by the authority from one or more insurance companies to provide contractual protection against one or more risks or perils or which provide health related services.

**FF. "Line"** means insurance protection which protects against a specific category or set of perils.

**GG. "Loss prevention"** means a system for identification and reduction of risk-related exposures, hazardous conditions or other circumstances likely to produce a loss.

**HH. "Risk management consultant (RMC)"** means the employee of the contracted risk-related agency or the authority charged with the responsibility of providing loss prevention services to the authority.

**II. "Memorandum of coverage"** means the document which lists all terms and conditions of risk-related coverages.

**JJ. "Member" and "members"** means all public school districts and charter schools mandated by the New Mexico Public School Insurance Authority Act, Section 22-29-9 et seq. NMSA 1978 to be members of the authority and all other educational entities voluntarily participating in the authority.

**KK. "Occurrence"** means continuous and repeated exposures to substantially the same general harmful conditions, accidents or events. All such exposures to substantially the same general condition shall be considered as arising from one occurrence.

**LL. "Offering"** refers to any single line offering, multi-option or package offering made available by the authority.

**MM. "Other educational entity"** means an educational entity as defined in Section 22-29-3, NMSA 1978 which is an authority member pursuant to Section 22-29-9E NMSA 1978.

**NN. "Package offering"** means combining together of two or more lines of risk-related insurance.

**OO. "Participant"** means a person receiving employee benefit coverage from the authority.

**PP. "Participating entity"** means a school district, charter school or other educational entity receiving authority coverage.

**QQ. "Participating authority board member"** means a person that is appointed to serve and is serving as a member of the authority board.

**RR. "Participating entity board member" or "participating entity governing body member"** means a person that is elected or appointed to serve and is serving as a member of the governing board of a participating entity.

**SS. "Participating entity governing board"** means the elected or appointed board or other governing body that oversees and makes the policy decisions for the school board, charter school or educational entity.

**TT. "Part-time employee"** means a person employed by, paid by and working for the participating entity less than 20 hours per week during the academic school term or as determined by the employer.

**UU. "Public official"** means a person serving the authority as board member, official, employee, agent, consultant or attorney or as a member of an ad hoc or standing authority advisory committee.

**VV. "Recommendation"** means a method or means of risk-related corrective action suggested to a participating entity to eliminate a designated hazard.

**WW. "Request for waiver"** means a request for waiver of participation.

**XX. "Review board"** means the risk-related loss prevention review board. In the event a risk-related loss prevention review board is not designated by the authority board, "review board" means the risk advisory committee of the board.

**YY. "RFP"** means a request for proposals and consists of all papers including those attached to or incorporated by reference in a document used to solicit proposals for insurance policies or professional services.

**ZZ. "Risk-related coverage"** means any coverage required under the Tort Claims Act, Section 4-41-1 et seq. NMSA 1978, or any other state mandate and any coverage provided at the authority's discretion.

**AAA. "School district"** means any school district as defined in Section 22-29-3 NMSA 1978.

**BBB. "Self-insured retention"** means that dollar amount from the first dollar of loss up to a maximum amount for which the risk of loss is retained as determined by the authority.

**CCC. "Special events"** mean events that permit enrollment in employee-benefits coverages.

**DDD. "State"** means the state of New Mexico.

**EEE. "Waiver" or "waiver of participation"** means a written document issued by the authority to a school district or charter school excusing the school district or charter school from participation in an authority offering. A school district or charter school may submit a request for waiver of participation for each authority offering.

[6.50.1.7 NMAC - Rp, 6.50.1.7 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.1.8 COMMUNITY RELATIONS:**

**A.** The board recognizes its responsibility to the public to provide information concerning all of its actions, its policies, and details of its educational and business operations. In recognition of this responsibility the board shall:

(1) open to the public all regular, special and emergency meetings of the authority's board of directors and board standing committees with notice consistent with the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978 and the resolution adopted by the board governing open meetings;

(2) adopt an annual budget at an open public meeting announced publicly in advance;

(3) provide annual reports of financial and operational activities to members and to the public upon payment of reasonable copying costs pursuant to the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978; and

(4) inform the public of authority matters through appropriate public news media, authority publications and an informational website.



**B.** The board recognizes that constructive study, discussion and active participation by citizens are necessary to promote the best possible programs of insurance in the community. The board shall do the following to encourage this participation.

(1) The board shall invite participating entities to assist individually or in groups in matters of concern to the authority;

(2) The board shall select, from time to time, committees to serve as study groups to investigate concerns. Each committee shall be appointed by the board for a specific purpose and, after final reports have been completed, shall be dissolved. The function of such committees shall not extend beyond that of study and recommendation as the board shall not delegate its responsibility for discretionary action to any such group;

(3) The board shall encourage participation by school districts, charter schools, other educational entities, employees of educational institutions and interested citizens.

**C.** Members of the public are entitled to inspect and make copies of public documents of the authority in accordance with the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978.

[6.50.1.8 NMAC - Rp, 6.50.1.8 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.1.9 BOARD PROCEDURES AND GENERAL AUTHORITY:**

This section establishes procedures governing the board operations for conducting its business affairs and sets forth the general authority of the board.

**A.** The authority's board shall be composed of a total of 11 members as provided by Section 22-29-5 NMSA 1978. Solely for the purposes of board membership under Section 22-29-5 NMSA 1978, the term "participating educational entities" as used in that section is defined to mean those educational entities that participate in the authority employee benefits coverages or risk-related coverages or both.

**B.** Membership on the board shall be for a term not to exceed three years pursuant to Section 22-29-5, NMSA 1978. Members shall serve on the board at the pleasure of the party by which they have been appointed and may be removed by the appointing party for any reason at any time.

**C.** Alternate representatives to the board shall not be allowed. Voting by proxy also shall not be allowed.

**D.** A board member shall assume office at the time the appointing entity files written notification of the appointment of the board member at the office of the authority. The written notice shall contain the name, title, business address and business and home

telephone number of the board member. A board member shall serve until written notification of a change is filed with the authority or until the three-year term is expired. There is no limitation as to the number of terms a board member may serve.

**E.** The board shall hold an annual meeting no later than the end of August. At the option of the board the annual meeting may be scheduled to coincide with a regular meeting of the board.

**F.** The officers of the board shall be elected from the board membership. The officers shall consist of a president, a vice-president, and a secretary, and shall serve for a period of one year. An officer may be reelected to the same position or elected to fill another position as an officer of the board.

**G.** If an officer vacates their position on the board, the next lower officer shall automatically assume the duties of the higher officer. For example, if the presidency becomes vacant, the vice-president shall automatically assume the title and duties of president and the secretary shall automatically assume the title and duties of vice-president. After due notice, a new secretary will be elected by the board. In the alternative to the automatic progression to higher office, the board may call a special meeting for the purpose of conducting an election of officers in the event of any vacancy in a board office. Each of the new officers, however selected, shall serve until election of officers at the next annual meeting.

**H.** The regular meetings of the board shall normally be held monthly, in a place to be determined as necessary by the board. The date of any regular meeting may be changed by a majority vote of a quorum of the board. The president or vice-president may cancel a regularly scheduled meeting of the board by giving notice of the cancellation in advance of any regularly scheduled meeting.

**I.** Robert's Rules of Order are adopted by the board and shall be used for the conduct of all meetings to be held by the authority. Robert's Rules of Order shall be binding in all cases where they are not inconsistent with New Mexico statutes and rules adopted by the authority.

**J.** Meetings of the board other than regular meetings shall be called according to the following procedures.

(1) A special meeting of the board is a meeting other than a regular or emergency meeting and may be called by the president, vice-president or any three board members for the specific purposes specified in the call. The call shall be made in accordance with the Open Meetings Act requirements, Section 10-15-1 et seq. NMSA 1978, and board resolutions.

(2) An emergency meeting of the board is a meeting other than a regular or special meeting and may be called by the president, vice-president, or any two members of the board to consider a sudden or unexpected set of circumstances

affecting the authority for which time is of the essence. The call shall be made in accordance with the Open Meetings Act requirements, Section 10-15-1 et seq. NMSA 1978, and board resolutions.

**K.** A majority of all of the board members shall constitute a quorum for conducting the affairs of the authority. The president of the board shall be entitled to debate any issue and vote on any issue in the same manner as other members of the board. The president shall be considered to be a member of the board for purposes of a quorum. All matters will be determined by voice vote. Any member of the board may request a roll call vote on any issue. In the event of a roll call, it shall be in alphabetical order, by last name, with the president voting last.

**L.** The board shall be addressed according to the following procedures.

(1) An individual may speak on any item that appears on the adopted agenda, before a final vote is taken, by notifying and subsequently being recognized by the president or vice-president. The president or vice-president may, at their discretion, limit the time any individual or entity is allotted to make a presentation and the president or vice-president may, at their discretion, limit the time allotted for any subject.

(2) A person with a matter to present to the board shall submit the request in writing with appropriate supporting materials six working business days in advance of a regularly scheduled meeting, 24 hours in advance of a special meeting and five hours in advance of an emergency meeting.

**M.** The board retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the constitution of the state of New Mexico and statutes, including those prescribed by Sections 22-29-1 et. seq. NMSA 1978, and such other power and authority as may be conferred upon the board as necessary. In the execution of those powers and duties specifically provided by law, the board has the following general power and authority to:

(1) exercise general control and management of the authority, third party administrators, consultants retained by the authority and other agents, servants and employees;

(2) establish such programs, and provide such services as it deems necessary for the proper and efficient operation of the authority and the good of the participating entities;

(3) exercise control and management of all authority assets and use such assets to promote authority business in such ways as the board deems necessary and proper in accordance with law;

(4) make and adopt or amend rules and regulations for governance of the authority by a majority of the board membership;

(5) make and adopt or amend substantive rules and regulations by a majority vote of the board membership;

(6) repeal a substantive rule of the authority by a majority vote of the board membership, but the board has no power to suspend any substantive rule except by a two-thirds vote of the membership of the board;

(7) make provisions for interpreting the authority's programs for dissemination to the public and to seek the opinion and advice of the participating entities concerning the authority's insurance programs;

(8) work in a cooperative manner with interested citizens in a continuous effort to improve the authority's programs;

(9) appoint advisory committees, including a risk advisory committee and an employee benefits advisory committee, which are permanent standing committees of the board, as well as ad hoc advisory committees as needed;

(10) establish an executive committee, a permanent standing committee of the board, which shall be made up of the president, vice-president and secretary of the board and which shall serve as the agenda committee; and

(11) hire an executive director and to delegate to the executive director the day-to-day activities of the authority pursuant to board policy as developed in its open meetings.

**N.** The permanent risk advisory committee and the permanent employee benefits advisory committee shall be chaired by members of the board or if no board member is available, then by staff. The board shall name the advisory committee members from authority participating entities or covered individuals assuring a balance of large and small participating entities and a geographic balance. The board may also name an ex-board member to serve on the advisory committees as a voting member for a term not to exceed three years, with the option to renew the appointment for an additional three years.

**O.** An ad hoc advisory committee shall be established for a specific purpose or goal and shall be established for a stated period of time.

**P.** Members of advisory committees, including members of the loss prevention review board, shall be appointed by the president of the board with the advice and consent of the board and shall serve at the pleasure of the board. Minutes in compliance with Subsection R of 6.50.1.9 NMAC shall be kept by the authority. Advisory committee minutes shall be considered acted upon when the board acts on the advisory committee report.

**Q.** The authority shall pay per diem and mileage consistent with the Per Diem and Mileage Act, Section 10-8-1 et seq. NMSA 1978, as amended, and the applicable department of finance and administration rules. The per diem and mileage payments shall be limited to the following situations.

(1) Authority employees are entitled to receive per diem and mileage for travel incurred in the normal course and scope of their employment; provided however, that no employee shall be entitled to receive per diem and mileage for travel outside of the state without obtaining the board's prior approval for the travel.

(2) Authority board members are entitled to receive per diem and mileage for travel incurred for attending all regular, special and emergency board meetings, or any standing or ad hoc committee meetings of the board called pursuant to the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978 and the authority's open meetings resolution. In addition, the executive committee serving as the authority board agenda committee is entitled to receive per diem and mileage for travel incurred as necessary to conduct the business of the board. Authority board members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of the board.

(3) Authority advisory committee members named by the board to serve on advisory committees are entitled to receive per diem and mileage for travel incurred for attending authority advisory committee meetings which has been scheduled in writing by the board or by the executive director. Authority advisory committee members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of the board.

**R. Minutes of the board.**

(1) The authority shall keep written minutes of all its open meetings. The minutes shall include as a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered, if any, and a record, where appropriate, of any decisions and votes taken which show how each member voted. All minutes of meetings shall be open to public inspection at reasonable times. Draft minutes shall be prepared within 10 working days after the meeting. Minutes shall not become official until approved by the board. The minutes shall be kept on file as the permanent official record of the authority.

(2) It is the practice of the authority staff (but not a requirement by the authority board) that board meetings are recorded. Authority staff shall make notes of board meetings sufficient to reflect the information required in Paragraph (1) of Subsection R of 6.50.1.9 NMAC, and the tape recording shall be available to the secretary, any board member or member of the public for review with regard to the accuracy of draft minutes. However, 30 days after minutes have been adopted by the board, authority staff may dispose of recordings.

[6.50.1.9 NMAC - Rp, 6.50.1.9 NMAC, 9/1/2014; A, 10/1/2015; A, 12/10/2024]

#### **6.50.1.10 CODE OF ETHICS:**

##### **A. Registration and disclosure duties of public officials.**

(1) Upon becoming a public official, a person shall provide a financial disclosure to the secretary of state and a copy to the authority office as listed below. This information shall be updated by January 31 at midnight each year thereafter as long as the filer holds the same position and shall be available to the public at all times:

(a) name;

(b) address and telephone number;

(c) professional, occupational or business licenses;

(d) membership on boards of directors of corporations, public or private associations or organizations; and the nature, but not the extent or amount, of their financial interests as defined in Subsection X of 6.50.1.7 NMAC within one month of becoming a public official.

(2) A public official who has a financial interest which may be affected by an official act of the authority, ad hoc or advisory committee shall declare such interest prior to discussion, voting, advising or taking any other action and that declaration shall be entered in the official minutes of the authority. A public official shall abstain from voting, advising or taking any other action including discussion on that issue if the decision, in their opinion, may affect their financial interest in a manner different from its effect on the general public.

**B.** No public official shall request or receive a gift or loan for personal use or for the use of others from any person involved in a business transaction with the authority with the following exceptions:

(1) an occasional non-pecuniary gift of insignificant value;

(2) an award publicly presented in recognition of public service;

(3) a commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of the state to engage in the business of making loans; or

(4) a political campaign contribution, provided that such gift or loan is properly reported and actually used in a political campaign.

**C.** No public official shall personally represent private interests before the authority board or any ad hoc or standing committee.

**D.** No public official shall use or disclose insider information regarding the authority for their own or other's private purposes.

**E.** No public official shall use authority services, personnel or equipment for personal benefit, convenience or profit, except when such use is generally available to the public and when in accordance with policies of the authority board.

**F.** No public official shall acquire or negotiate to acquire a financial interest at a time when the official believes or has reason to believe that it will be substantially or directly affected by their official acts.

**G.** No public official shall enter into a contract or transaction with the authority or its public officials, unless the contract or transaction is made public by filing notice with the authority board.

**H.** No public official shall vote or otherwise participate in the negotiation or the making of any authority contract with any business or entity in which they have a direct financial interest.

**I.** No public official shall seek to be awarded a contract where such public official has participated in the process of preparation of the bid or request for proposals.

**J.** Any contract, approval, sale or purchase entered into or official action taken by a public official in violation of 6.50.1.10 NMAC may be voided by action of the authority board.

**K.** It is a violation of 6.50.1.10 NMAC for any public official knowingly, willfully or intentionally to conceal or fail to disclose any financial interest required to be disclosed by 6.50.1.10 NMAC or violate any of its provisions.

**L.** Any person may make a sworn, written complaint to the authority board of a violation by a public official of 6.50.1.10 NMAC. Such complaint shall be filed with the authority executive director or if it is a complaint against the executive director, then with the authority board. The complaint shall state the specific provision of 6.50.1.10 NMAC which has allegedly been violated and the facts which the complainant believes support the complaint. Within 15 days of receiving the complaint, the authority board in executive session shall appoint a hearing officer to review the complaint for probable cause. The hearing officer shall receive the written complaint and notify the person complained against of the charge. Persons complained against shall have the opportunity to submit documents to the hearing officer for review in determining probable cause. Within 15 days of undertaking the inquiry to determine probable cause, the hearing officer shall report findings to the authority board. In the event the hearing officer rejects a complaint as lacking in probable cause, they shall provide a written

statement of reasons for the rejection to the authority board and the complainant. Upon a finding of probable cause, within 30 days the hearing officer shall conduct an open hearing in accordance with due process of law. Within a time after the hearing, as specified by the authority board, the hearing officer shall report the findings and recommendations to the authority board for appropriate action based on those findings and recommendations. If the complaint is found to be frivolous, the authority board may assess the complainant the costs of the hearing officer's fees. Upon recommendation of the hearing officer, the authority board may issue a public reprimand to the public official; remove or suspend from office, employment or contract and refer complaints against public officials to the appropriate law enforcement agency for investigation and prosecution.

**M.** The executive director and the authority board shall maintain the confidentiality of the complaint and instruct the complainant that they are also required to keep the complaint confidential pursuant to Subsection L of 6.50.1.10 NMAC. Except for the hearing, the proceedings shall be kept confidential by all parties concerned, unless the accused public official requests that the process be open at any stage.

**N.** A separate hearing officer shall be appointed by the authority board for each complaint. The hearing officer may be an authority board member, agent or employee of the authority or another person. The complainant and the person complained against have the right to one disqualification of a designated hearing officer.

[6.50.1.10 NMAC - Rp, 6.50.1.10 NMAC, 9/1/2014; A, 12/10/2024]

## **PART 2: CONTRACTS FOR PURCHASE OF PROFESSIONAL SERVICES AND INSURANCE**

### **6.50.2.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.2.1 NMAC - Rp, 6 NMAC 50.2.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

### **6.50.2.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.2.2 NMAC - Rp, 6 NMAC 50.2.2, 9/1/2014]



### **6.50.2.3      STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.2.3 NMAC - Rp, 6 NMAC 50.2.3, 9/1/2014]

### **6.50.2.4      DURATION:**

Permanent.

[6.50.2.4 NMAC - Rp, 6.50.2.4 NMAC, 9/1/2014]

### **6.50.2.5      EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.2.5 NMAC - Rp, 6 NMAC 50.2.5, 9/1/2014]

### **6.50.2.6      OBJECTIVE:**

The objective of this part is to establish requirements for procurement of professional services, consulting and insurance services for the authority. The objective is to set out policies to stimulate maximum competition for provision of these services. It is not the objective of this part to restate the Procurement Code, Section 13-1-1 et seq., NMSA 1978, but only to supplement it where necessary.

[6.50.2.6 NMAC - Rp, 6 NMAC 50.2.6, 9/1/2014]

### **6.50.2.7      DEFINITIONS:**

As used in this part: "professional services" means the services of third party administrators, insurance consultants, banks, underwriters, brokers, agents, architects, archaeologists, artists, entertainers, auditors, engineers, clergymen, land surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, photographers, pilots, researchers, teachers, writers, interpreters, and persons or businesses providing similar services.

[6.50.2.7 NMAC - Rp, 6 NMAC 50.2.7, 9/1/2014]

### **6.50.2.8      CONTRACT APPROVAL:**

**A.** Every contract for professional services, consulting or insurance services shall be approved by the board only after its general legal counsel has reviewed it and has

affirmed it is in compliance with appropriate provisions of the Procurement Code, Section 13-1-1 et seq., NMSA 1978 and these rules.

**B.** All amendments to contracts for professional services, consulting or insurance services shall also be subject to review and approval by the board's general legal counsel as provided in these rules.

[6.50.2.8 NMAC - Rp, 6 NMAC 50.2.8, 9/1/2014]

#### **6.50.2.9 CONTRACT REQUIREMENTS:**

**A.** All contracts for professional services, consulting or insurance services shall be in a form and contain such provisions as may be required by the board and its general legal counsel.

**B.** Each contract for professional services, consulting or insurance services shall comply with the Governmental Conduct Act, Section 10-16-1 et seq. NMSA 1978. In particular the provisions of Sections 10-16-7, 10-16-8 and 10-16-9 NMSA 1978 regarding contracts between state agencies and public officers or employees of the state, with the family of the public officer or employee or with a business in which the public officer or employee or the family of the public officer or employee shall be strictly observed. When financial disclosure is required under the Financial Disclosure Act, Section 10-16A-1 et seq. NMSA 1978, the disclosure shall be filed with the secretary of state.

[6.50.2.9 NMAC - Rp, 6 NMAC 50.2.9, 9/1/2014]

#### **6.50.2.10 PROCEDURES FOR ENTERING INTO CONTRACTS:**

**A.** Contracts for professional services, consulting or insurance services shall be solicited, negotiated and awarded through a competitive sealed proposal process in accordance with the Procurement Code, Section 13-1-1 et seq., NMSA 1978. Sole source, emergency and small purchases shall also be solicited, negotiated and awarded in accordance with the Procurement Code, Section 13-1-1 et seq., NMSA 1978.

**B.** Proposals shall be evaluated based on the requirements set forth in the invitation for proposals, which requirements shall include criteria for evaluating proposals such as experience, both quantitative and qualitative, prior provision of similar services, client references, price and any other considerations the authority deems relevant. No criteria may be used in proposal evaluations that are not set forth in the invitation for proposals. The authority may provide that price is a factor, but that a contract need not be awarded to the vendor proposing the lowest price. The award shall be made to the responsible offeror or offerors whose proposal is most advantageous to the authority, taking into consideration the evaluation factors set forth in the request for proposals.

**C.** All prospective contractors shall submit to the board a signed completed original of a contract prepared by, reviewed and approved by the authority's general legal counsel. The contract form shall be submitted to and approved by the board prior to initiating any action with prospective contractors for contractual services and prior to beginning performance of any services pursuant to the contract.

**D.** There shall be no liability whatsoever by the authority, and there shall be no services rendered unless those services have commenced after approval of a contract for services by the board.

[6.50.2.10 NMAC-Rp, 6.50.2.10 NMAC, 9/1/2014]

#### **6.50.2.11 MULTI-TERM CONTRACTS:**

Any multi-term contract for services (including the furnishing of insurance) shall only be entered into pursuant to the provisions of the Procurement Code, Section 13-1-150 NMSA 1978 as amended and supplemented.

[6.50.2.11 NMAC - Rp, 6 NMAC 50.2.11, 9/1/2014]

#### **6.50.2.12 RIGHT TO PROTEST:**

Any offeror who is aggrieved in connection with a solicitation or award of a contract may protest to the executive director of the authority. The protest shall be submitted in writing within 15 calendar days after knowledge of the facts or occurrence giving rise to the protest.

[6.50.2.12 NMAC - Rp, 6 NMAC 50.2.12, 9/1/2014]

#### **6.50.2.13 FILING OF PROTEST:**

**A.** Protests must be in writing and addressed to the executive director.

**B.** The protest shall:

- (1)** include the name and address of the protestant;
- (2)** include the solicitation number;
- (3)** provide a statement of the grounds for protest;
- (4)** include supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time, in which case the expected availability date shall be indicated;
- (5)** a statement of the facts or occurrences giving rise to the protest; and

(6) specify the ruling requested from the director.

C. No formal pleading is required to initiate a protest, but protests shall be concise, logically arranged, and direct.

[6.50.2.13 NMAC - Rp, 6 NMAC 50.2.13, 9/1/2014]

#### **6.50.2.14 PROCUREMENTS AFTER PROTEST:**

A. In the event of a timely protest, as defined in 6.50.2.12 and 6.50.2.13 NMAC, the executive director shall not proceed further with the procurement unless the director makes a written determination that it is necessary to go forward with the award of the contract to protect substantial interests of the authority. Such written determination shall set forth the basis for the determination.

B. In no circumstance will a procurement be halted after a contract has been awarded merely because a protest has been filed.

C. The point in time in which a contract is awarded is that point at which a legally enforceable contract is created, unless the context clearly requires a different meaning.

[6.50.2.14 NMAC - Rp, 6 NMAC 50.2.14, 9/1/2014; A, 12/10/2024]

#### **6.50.2.15 PROCEDURE:**

A. Upon the filing of a timely protest, the burden is on the protestant to give notice of the protest to and to cause service to be made (as provided in the Rules of Civil Procedure) upon the contractor if award has been made or, if no award has been made, notice to and service upon all bidders and offerors who appear to have a substantial and reasonable prospect of receiving an award if the protest is upheld or denied.

B. The protestant and every business that receives notice pursuant to Subsection A of 6.50.2.15 NMAC will automatically be parties to any further proceedings before the executive director. In addition, any other person or business may move to intervene at any time during the course of the proceedings. Intervention will be granted upon a showing of a substantial interest in the outcome of the proceedings. Intervenors shall accept the status of the proceedings at the time of their intervention; in particular, they must abide by all prior rulings and accept all previously established time schedules.

C. The executive director and all employees and the general legal counsel of the authority are not parties to the proceedings.

[6.50.2.15 NMAC - Rp, 6 NMAC 50.2.15, 9/1/2014]

#### **6.50.2.16 AUTHORITY TO RESOLVE PROTEST:**

The executive director may take any action reasonably necessary to resolve a protest regarding risk-related coverages. Such actions include, but are not limited to, the following:

- A.** issue a final written determination summarily dismissing the protest;
- B.** obtain information from the staff of the state purchasing agent or state central purchasing office;
- C.** require the parties to produce information or witnesses under their control for examination;
- D.** require parties to express their positions on any issue in the proceeding;
- E.** require parties to submit legal briefs on any issues in the proceeding;
- F.** establish procedural schedules;
- G.** regulate the course of the proceedings and the conduct of any participants;
- H.** receive, rule on, exclude or limit evidence;
- I.** take official notice of any fact that is among the traditional matters of official or administrative notice;
- J.** conduct hearings; and
- K.** take any action reasonably necessary to compel discovery or control the conduct of parties or witnesses.

[6.50.2.16 NMAC - Rp, 6 NMAC 50.2.16, 9/1/2014]

#### **6.50.2.17 HEARINGS:**

**A.** Hearings are disfavored and will be held only when the executive director determines that substantial material factual issues are present that cannot be resolved satisfactorily through an examination of written documents in the record. Any party may request a hearing, but such requests shall be deemed denied unless specifically granted.

**B.** Hearings, when held, should be as informal as practicable under the circumstances, but the executive director has absolute discretion in establishing the degree of formality for any particular hearing. In no event is the executive director required to adhere to formal rules of evidence or procedure.

[6.50.2.17 NMAC - Rp, 6 NMAC 50.2.18, 9/1/2014]

#### **6.50.2.18 RESOLUTION:**

**A.** The executive director shall, within 30 days after receipt of all information or the date of any hearing, whichever is later, issue a written determination relating to the protest. The determination shall:

- (1)** state the reasons for the action taken; and
- (2)** inform the protestant of the right to judicial review of the determination pursuant to Section 13-1-183 N.M.S.A. 1978.

**B.** A copy of the written determination shall be sent immediately by certified mail, return receipt requested, to each of the parties.

[6.50.2.18 NMAC - Rp, 6 NMAC 50.2.19, 9/1/2014]

#### **6.50.2.19 RELIEF:**

**A.** If, prior to award of a contract, the executive director makes a determination that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be canceled.

**B.** If, after an award of a contract, the executive director makes a determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has not acted fraudulently or in bad faith:

**(1)** the contract may be ratified, affirmed and revised to comply with law, provided that a determination is made that doing so is in the best interests of the authority; or

**(2)** the contract may be terminated, and the business awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract plus a reasonable profit prior to termination.

**C.** If, after an award of a contract, the executive director makes a determination that a solicitation or award of a contract is in violation of law or that the business awarded the contract has acted fraudulently or in bad faith, the contract shall be canceled.

**D.** Except as provided in Paragraph (2) of Subsection B of 6.50.2.19 NMAC, the executive director shall not award money damages or attorneys' fees.

[6.50.2.19 NMAC - Rp, 6 NMAC 50.2.20, 9/1/2014]

#### **6.50.2.20 MOTION FOR RECONSIDERATION:**

**A.** A motion for reconsideration of a written determination issued pursuant to 6.50.2.18 NMAC, may be filed by any party involved in the procurement. The motion for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification of the determination is deemed warranted, specifying any errors of law made, or information not previously considered.

**B.** A motion for reconsideration shall be filed not later than 10 days after receipt of the written determination.

**C.** The executive director shall issue a written response within 10 business days to the motion for reconsideration. A copy of the written response shall be sent immediately by certified mail, return receipt requested, to each of the parties.

[6.50.2.20 NMAC - Rp, 6 NMAC 50.2.21, 9/1/2014]

**6.50.2.21     DESIGNEE:**

**A.** At any point during a protest proceeding the executive director or the board may appoint a designee, to act in place of the executive director. The designee will have all of the powers described in these rules regarding protest procedures except the power to issue a written determination under 6.50.2.18 NMAC. The designee only has authority to recommend a resolution to the executive director under that section.

**B.** The designee may be any person other than any person having made a proposal in response to the request for proposal.

**C.** A designee shall present a recommended written resolution to the executive director or the board and mail a copy to each of the parties. No party may appeal from the recommended resolution of the designee.

**D.** The executive director or the board shall approve, disapprove or modify the recommended resolution of the designee in writing. Such approval, disapproval or modification shall be the written determination required by 6.50.2.18 NMAC.

[6.50.2.21 NMAC - Rp, 6 NMAC 50.2.22, 9/1/2014]

**6.50.2.22     FINAL DETERMINATION:**

**A.** In those proceedings in which no motion for reconsideration is filed, the written determination issued pursuant to 6.50.2.18 NMAC shall be the final determination for purposes of the time limits for seeking judicial review under Section 13-1-183 NMSA 1978.

**B.** In those proceedings in which a motion for reconsideration is filed, the written response to the motion issued pursuant to Subsection C of 6.50.2.20 NMAC shall be

the final determination for purposes of the time limits for seeking judicial review under Section 13-1-183 NMSA 1978.

[6.50.2.22 NMAC - Rp, 6 NMAC 50.2.23, 9/1/2014]

#### **6.50.2.23 COPIES OF COMMUNICATIONS:**

**A.** Each party to a protest proceeding shall certify that it has provided every other party with copies of all documents or correspondence addressed or delivered to the executive director.

**B.** No party shall submit any material, evidence, explanation, analysis, or advice, whether written or oral, to the executive director or the board *ex parte*, regarding any matter at issue in a protest.

[6.50.2.23 NMAC - Rp, 6 NMAC 50.2.24, 9/1/2014]

#### **6.50.2.24 PROTESTS REGARDING HEALTH CARE CONTRACT PURCHASING:**

Protests concerning the authority's purchase of health care contracts shall be resolved by the procurement manager pursuant to the Health Care Purchasing Act, Section 13-7-1 et seq., NMSA 1978.

[6.50.2.24 NMAC - N, 9/1/2014]

#### **6.50.2.25 CONTRACTS - AUDITS:**

**A.** The authority has the primary responsibility for contract compliance monitoring. The board or its consultant if any, shall audit contracts on a random basis to determine:

- (1) if the tasks called for in the scope of services have been performed;
- (2) if the contract was completed in time and within budget; and
- (3) if the services were performed to the satisfaction of the authority.

**B.** For purposes of compliance with this provision, every contract shall require the contractor to maintain detailed time records which indicate the date, time and nature of services rendered.

[6.50.2.25 NMAC - Rp, 6 NMAC 50.2.25, 9/1/2014]

#### **6.50.2.26 VOUCHER APPROVAL -- PROFESSIONAL SERVICES:**

**A.** No voucher for payment of professional services will be approved by the board or its third-party administrators, other than a payroll voucher or travel voucher, unless the



contract and any amendments to the contract have been approved where required by these rules.

**B.** The board or its third-party administrators shall not approve any voucher for the payment of professional services unless the voucher certifies that the services have been rendered.

[6.50.2.26 NMAC - Rp, 6 NMAC 50.2.26, 9/1/2014; A, 12/10/2024]

### **PART 3: PROCUREMENT OF COVERAGE FOR RISK-RELATED EXPOSURES, EMPLOYEE BENEFITS PROGRAMS AND DUE PROCESS REIMBURSEMENTS**

#### **6.50.3.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.3.1 NMAC - Rp, 6 NMAC 50.3.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

#### **6.50.3.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.3.2 NMAC - Rp, 6 NMAC 50.3.2, 9/1/2014]

#### **6.50.3.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.3.3 NMAC - Rp, 6 NMAC 50.3.3, 9/1/2014]

#### **6.50.3.4 DURATION:**

Permanent.

[6.50.3.4 NMAC - Rp, 6 NMAC 3.4, 9/1/2014]

#### **6.50.3.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.3.5 NMAC - Rp, 6 NMAC 50.3.5, 9/1/2014]

**6.50.3.6 OBJECTIVE:**

The objective of this part is to delineate the powers of the authority to procure insurance or to self-insure risk-related exposures and to provide for employee-benefit programs and due process reimbursement coverage and the general methods by which these coverages will be offered.

[6.50.3.7 NMAC - Rp, 6 NMAC 50.3.6, 9/1/2014]

**6.50.3.7 DEFINITIONS:**

**[RESERVED]**

**6.50.3.8 AUTHORIZATION TO PROCURE INSURANCE OR TO SELF-INSURE RISK-RELATED, EMPLOYEE BENEFIT AND DUE PROCESS REIMBURSEMENT COVERAGES:**

The authority is authorized to provide for risk-related exposures, employee benefit programs and due process reimbursement coverage in the following ways.

**A.** Obtain basic, excess, reinsurance or retrospectively rated insurance policies for any combination of risk-related or employee-benefit coverages on behalf of all persons or entities authorized to participate in the authority's coverages in compliance with the Procurement Code, Section 13-1-1 et seq. NMSA 1978, the Health Care purchasing Act, Section 13-7-1 NMSA 1978, and the competitive sealed proposal process of Section 13-1-28 NMSA 1978.

**B.** Self-insure all or any part of risk-related, employee benefit and due process reimbursement coverages offered to persons or entities authorized to participate in the authority's coverages.

**C.** Establish pooling and participation arrangements to provide risk-related or employee-benefit coverages on behalf of all persons or entities authorized to participate in the authority's coverages.

**D.** Establish reasonable self-insured retention or self-insured liability levels.

**E.** Establish reasonable deductibles, stop loss, out of pocket, co-pays or other cost containment mechanisms.

**F.** Modify any basic, excess, reinsurance or retrospectively rated insurance policies, pooling or participation agreements or other insurance coverage.

**G.** Add or delete one or more risks, one or more perils, one or more benefits or one or more lines in any self- insurance, insurance contract, pooling or participation agreement.

[6.50.3.8 NMAC - Rp, 6 NMAC 50.3.8, 9/1/2014]

#### **6.50.3.9 AUTHORIZATION TO OFFER RISK RELATED COVERAGES:**

The authority is authorized to offer risk-related coverages to all school districts, charter schools, and other educational entities. The authority may offer risk-related coverages to individual other educational entities by special agreement.

[6.50.3.9 NMAC - Rp, 6 NMAC 50.3.9, 9/1/2014; A, 12/10/2024]

#### **6.50.3.10 AUTHORIZATION TO OFFER EMPLOYEE-BENEFIT COVERAGES:**

**A.** The authority is authorized to offer employee-benefit coverages to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents and persons or entities authorized to participate in the authority's coverage.

**B.** The authority is authorized to offer mandatory benefit coverages as follows: Basic non-contributory life insurance and medical benefit plans whether insured or self-insured.

**C.** The authority is authorized to offer optional benefit coverages as follows: dental, vision, disability, or additional life and such other line or lines of coverage as the board may determine from time to time.

[6.50.3.10 NMAC - Rp, 6 NMAC 50.3.10, 9/1/2014]

#### **6.50.3.11 AUTHORIZATION TO OFFER DUE PROCESS REIMBURSEMENT COVERAGE:**

**A.** The authority is authorized to include due process reimbursement coverage in its self-insured retention risk pool pursuant to Section 22-29-12 NMSA 1978, as amended and supplemented.

**B.** The board shall determine at the beginning of each fiscal year the amount available in the fund for reimbursements. The provisions for distribution of the fund amount shall be set forth in the general liability memorandum of coverage including the process for submitting claims and the method of distribution.

[6.50.3.11 NMAC - N, 9/1/2014]

## **PART 4: PARTICIPATION IN AUTHORITY COVERAGES BY OTHER EDUCATIONAL ENTITIES**

### **6.50.4.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.4.1 NMAC - Rp, 6 NMAC 50.4.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

### **6.50.4.2 SCOPE:**

This part applies to other educational entities.

[6.50.4.2 NMAC - Rp, 6 NMAC 50.4.2, 9/1/2014]

### **6.50.4.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.4.3 NMAC - Rp, 6 NMAC 50.4.3, 9/1/2014]

### **6.50.4.4 DURATION:**

Permanent.

[6.50.4.4 NMAC - Rp, 6 NMAC 50.4.4, 9/1/2014]

### **6.50.4.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.4.5 NMAC - Rp, 6 NMAC 50.4.5, 9/1/2014]

### **6.50.4.6 OBJECTIVE:**

The objective of this part is to set forth the procedures for other educational entities to join or exit the authority as well as rules and procedures concerning participation in authority coverages by other educational entities.

[6.50.4.6 NMAC - Rp, 6 NMAC 50.4.6, 9/1/2014]

#### **6.50.4.7 DEFINITIONS:**

**[RESERVED]**

#### **6.50.4.8 PROCEDURE FOR JOINING THE AUTHORITY BY OTHER EDUCATIONAL ENTITIES:**

**A.** Other educational entities who desire to join the authority shall provide the following to the authority:

- (1) an up-to-date employee census including for all employees their age, gender and classification;
- (2) a minimum of three years loss reports and claims experience for all lines of authority coverages the other educational entity wishes to participate in;
- (3) submission of financial and benefit information which meets standards set by the board;
- (4) a resolution of the governing body of the other educational entity stating that it is requesting authority membership and participation in the authority's offerings of risk-related and employee benefits coverages and a statement that the other educational entity will abide by the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978, and all authority rules and board policies and will keep in force all authority coverages for the duration of the then existing carrier agreements;
- (5) an agreement in a form acceptable to the authority whereby the governing body of the other educational entity agrees that it will abide by and be bound by the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978, and all other authority rules and board policies, including authority claims processing, settlement practices and the authority schedule for payment of premiums, late penalties and applicable interest, and will take, pay for and keep in force for the duration of the carrier agreements all applicable authority coverages; and
- (6) payment of the total first year premiums, however, if the entity joins after July 1st, a prorated premium would be charged for the coverages selected.

**B.** An other educational entity desiring to participate in only some of the authority's coverages shall apply for waivers as is required of school districts and charter schools pursuant to Subsections C and D of Section 22-29-9 NMSA 1978.

**C.** The authority may reject any application by any other educational entity with or without cause.

[6.50.4.8 NMAC - Rp, 6 NMAC 50.4.8, 9/1/2014; A, 12/10/2024]

#### **6.50.4.9 PROCEDURE FOR EXITING THE AUTHORITY BY OTHER EDUCATIONAL ENTITIES:**

**A.** Other educational entities can voluntarily exit the authority only at the expiration of the carrier agreements for the authority coverages they have selected.

**B.** Under no circumstances can other educational entities voluntarily exit the authority prior to having been a member for a minimum of three years.

**C.** An other educational entity desiring to exit the authority shall make a request to the board in writing stating the reasons why it desires to exit, with a provisional notice no later than one year prior to the expiration date and final notice will be provided no later than 180 days prior to the expiration date of the carrier agreements for the authority coverages the other educational entity has selected. The board shall vote whether to accept the resignation of the other educational entity at its next regular meeting following receipt of the other educational entity's request to exit.

**D.** The board shall reevaluate annually other educational entities who violate authority rules, regulations or board policies, which have poor loss histories or which evidence clear signs of fiscal irresponsibility and the board may at its discretion terminate the other educational entity's membership in the authority upon 90-day notice.

[6.50.4.9 NMAC - Rp, 6 NMAC 50.4.9, 9/1/2014; A, 12/10/2024]

#### **6.50.4.10 PENALTIES AGAINST OTHER EDUCATIONAL ENTITIES FOR FAILURE TO PARTICIPATE AFTER JOINING THE AUTHORITY:**

**A.** Other educational entities may not drop any authority coverages prior to the expiration of carrier contracts. However, should a successor governing body of a participating other educational entity drop participation by refusing continued premium payments, the other educational entity shall be terminated from all coverages by the authority upon 30-day notice and the following penalties shall be incurred.

(1) For risk-related coverages, the other educational entity shall forfeit to the authority any right to any reserves held on its behalf and shall pay to the authority the cost of any losses in excess of premium.

(2) For health and life employee benefits coverages, the other educational entity shall forfeit to the authority any right to any return premiums or reserves it may otherwise be entitled to. It shall pay to the authority any funds the authority has paid for or will pay for incurred claims related to the other educational entity in excess of premiums paid by the other educational entity as well as administrative expenses directly or indirectly related to claim payments including third party administrator costs and a reasonable percentage of the authority administrative costs.

**B.** If the other educational entity ceases to participate in authority coverages prior to expiration of the carrier contracts, it shall, in addition to any other penalties, pay to the authority any sums determined by the authority to be due in order to hold safe and harmless all other members of the authority from any adverse financial impact caused by its failure to participate.

[6.50.4.10 NMAC - Rp, 6 NMAC 50.4.10, 9/1/2014; A, 12/10/2024]

#### **6.50.4.11 DUE DATES FOR ACCOUNTING BY THE AUTHORITY:**

An accounting of funds and amounts owed by or to the other educational entity which has failed to participate, dropped coverages or exited the authority for any reason shall not be due from the authority any earlier than two years for employee benefits coverages and for risk-related coverages after the failure to participate, early exit or dropping of coverage by the other educational entity.

[6.50.4.11 NMAC - Rp, 6 NMAC 50.4.11, 9/1/2014]

### **PART 5: DETERMINATION OF PREMIUMS FOR EMPLOYEE-BENEFITS, RISK-RELATED AND DUE PROCESS REIMBURSEMENT COVERAGES**

#### **6.50.5.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.5.1 NMAC - Rp, 6 NMAC 50.5.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is, 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

#### **6.50.5.2 SCOPE:**

This part applies to all school districts, charter schools and other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.5.2 NMAC - Rp, 6 NMAC 50.5.2, 9/1/2014]

#### **6.50.5.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978 directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.5.3 NMAC - Rp, 6 NMAC 50.5.3, 9/1/2014]

**6.50.5.4 DURATION:**

Permanent.

[6.50.5.4 NMAC - Rp, 6 NMAC 50.5.4, 9/1/2014]

**6.50.5.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.5.5 NMAC - Rp, 6 NMAC 50.5.5, 9/1/2014]

**6.50.5.6 OBJECTIVE:**

The objective of this part is to establish the policy for determining premium levels.

[6.50.5.6 NMAC - Rp, 6 NMAC 50.5.6, 9/1/2014]

**6.50.5.7 DEFINITIONS:**

**[RESERVED]**

**6.50.5.8 ESTABLISHMENT OF EMPLOYEE-BENEFIT AND RISK RELATED PREMIUMS:**

**A.** The authority shall establish premiums necessary to protect the solvency of the fund considering all expenses, potential expenses and costs of the authority programs.

**B.** Whenever possible, the authority shall obtain loss experience for each line of coverage for each participating entity.

**C.** Whenever possible and economically feasible, the authority shall obtain professional actuarial advice to establish premium levels.

**D.** Whenever possible, the authority shall consider the loss experience of each particular participating entity as a primary factor in establishing the premiums for that entity. However, the authority shall also use other factors as necessary to protect the stability and solvency of the fund.

**E.** The authority shall also consider an appropriate premium increase of up to ten percent when presented with a member's untimely reporting of losses, in addition to a potential denial of a claim under the memorandums of coverages.

**F.** Exposure information, which includes, but is not limited to, property values, vehicle counts, payroll, average daily attendance, budgets, new or hazardous exposures, is requested from each member typically in December of each year. This



information is one of the factors used to allocate premiums among the members. The deadline for submission of this information to the authorized representative of the authority is the second Friday in January. The authorized representative shall have three to four weeks to review the data, ask and answer any questions and verify the information. The final deadline for the submission of all additional or amended exposure information by the members to the authorized representative is the second Friday in February. The board will have the final decision to approve or reject any late received exposure information. If the exposure information is not received by the deadlines described above, the board may, at its discretion, impose a ten percent penalty increase to that member's prior year's exposure information.

**G.** If, at any time, the authority becomes aware that a member has under reported exposure information, an additional premium will be retroactively charged back to the appropriate policy period.

**H.** If, at any time, the authority becomes aware that a member over reports exposure information, the member will not receive any return of premiums paid. However, if there are extenuating circumstances, the member can request that the board waive the forfeiture of the return premium.

[6.50.5.8 NMAC - Rp, 6 NMAC 50.5.8, 9/1/2014; A, 12/10/2024]

#### **6.50.5.9 ESTABLISHMENT OF DUE PROCESS REIMBURSEMENT PREMIUMS:**

Due process reimbursement coverage premiums shall be established in accordance with Section 22-29-12 NMSA 1978 and the applicable memorandum of coverage.

[6.50.5.9 NMAC - N, 9/1/2014]

#### **6.50.5.10 NONDISCLOSURE OF PREMIUM CHANGES:**

Authority staff, actuaries or consultants shall not discuss or disclose to participating entities, employees, retirees or the public any premium changes until authorized to do so by the board.

[6.50.5.10 NMAC - Rp, 6 NMAC 50.5.9, 9/1/2014]

### **PART 6: NOTICE OF RISK-RELATED, EMPLOYEE BENEFITS AND DUE PROCESS REIMBURSEMENT COVERAGES**

#### **6.50.6.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.6.1 NMAC - Rp, 6 NMAC 50.6.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

**6.50.6.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.6.2 NMAC - Rp, 6 NMAC 50.6.2, 9/1/2014]

**6.50.6.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq., NMSA 1978.

[6.50.6.3 NMAC - Rp, 6 NMAC 50.6.3, 9/1/2014]

**6.50.6.4 DURATION:**

Permanent.

[6.50.6.4 NMAC - Rp, 6 NMAC 50.6.4, 9/1/2014]

**6.50.6.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.6.5 NMAC - Rp, 6 NMAC 50.6.5, 9/1/2014]

**6.50.6.6 OBJECTIVE:**

The objective of this part is to establish the procedure for providing notice of coverage of risk-related, employee benefits and due process reimbursement coverages.

[6.50.6.6 NMAC - Rp, 6 NMAC 50.6.6, 9/1/2014]

**6.50.6.7 DEFINITIONS:**

[RESERVED]

**6.50.6.8 COVERAGE NOTIFICATION:**

The authority will issue notification of coverage for each offering to each participating entity within 30 days of the inception of the coverage. The coverage notification may specify the types, limits, amounts and general terms of coverage to be provided to the participating entity. The notification shall state that a complete copy of the memorandum of coverage which governs risk-related and due process reimbursement coverages will be made available to all interested parties upon request. Each covered employee under employee benefits coverages shall have access to a summary plan description or insurance certificate. The terms of the insurance policy or memorandum of coverage, not the coverage notification or summary shall control in any dispute over coverage. Final determination of whether a claim is covered rests solely with the authority.

[6.50.6.8 NMAC - Rp, 6 NMAC 50.6.8, 9/1/2014; A, 12/10/2024]

## **PART 7: WAIVER OF PARTICIPATION IN AUTHORITY COVERAGE OFFERINGS BY SCHOOL DISTRICTS AND CHARTER SCHOOLS- MINIMUM BENEFIT AND FINANCIAL STANDARDS**

### **6.50.7.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.7.1 NMAC - Rp, 6 NMAC 50.7.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

### **6.50.7.2 SCOPE:**

This part applies to all school districts and charter schools.

[6.50.7.2 NMAC - Rp, 6 NMAC 50.7.2, 9/1/2014]

### **6.50.7.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq., NMSA 1978.

[6.50.7.3 NMAC - Rp, 6 NMAC 50.7.3, 9/1/2014]

### **6.50.7.4 DURATION:**

Permanent.

[6.50.7.4 NMAC - Rp, 6 NMAC 50.7.4, 9/1/2014]

#### **6.50.7.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.7.5 NMAC - Rp, 6 NMAC 50.7.5, 9/1/2014]

#### **6.50.7.6 OBJECTIVE:**

The objective of this part is to establish the procedures for school districts and charter schools to obtain a waiver of participation in authority coverage offerings.

[6.50.7.6 NMAC - Rp, 6 NMAC 50.7.6, 9/1/2014]

#### **6.50.7.7 DEFINITIONS:**

**A. "Individual line of coverage"** means either "risk-related" or "group health insurance" as those terms are defined in Section 22-29-3 NMSA 1978.

**B. "Minimum benefit standards"** means the coverages required by the authority in its requests for proposal to the various insurance carriers.

**C. "Minimum financial standards"** means the premiums, deductibles, limits of liability, coinsurance and other financial parameters associated with the authority coverages as set forth in the requests for proposal sent to the various insurance carriers.

[6.50.7.7 NMAC - Rp 6 NMAC 50.7.7, 9/1/2014]

#### **6.50.7.8 WAIVER OF PARTICIPATION:**

School districts and charter schools shall participate in and accept all authority offerings, unless the school district or charter school has applied for and been granted a waiver for an individual line of coverage by the authority board. If a waiver is granted for an individual line of coverage, the school district or charter school will not be provided any insurance protection or coverage by the authority for the perils covered by that individual line of coverage. The school district or charter school receiving the waiver accepts the obligation to obtain its own insurance protection for the perils covered by the individual line of coverage for which the waiver is granted. A school district or charter school that has been granted a waiver for an individual line of coverage shall be prohibited from participating in that individual line of coverage during the contract period, provided, however, the district or charter school may, if the authority contract period exceeds four years, again seek participation.

[6.50.7.8 NMAC - Rp, 6 NMAC 50.7.8, 9/1/2014; A, 12/10/2024]

#### **6.50.7.9 RESPONSIBILITIES OF SCHOOL DISTRICTS AND CHARTER SCHOOLS WHICH WAIVE PARTICIPATION IN AUTHORITY COVERAGES:**

**A.** A school district or charter school may waive participation in either the risk related or group health insurance or both. Pursuant to Subsections C and D of Section 22-29-9, a school district or charter school must waive all risk-related or all group health insurance coverages or must petition for participation in the remaining coverages offered by the authority in that particular individual line of coverage.

**B.** Should a school district or charter school waive participation in an individual line of coverage, the school district or charter school shall be responsible for the following charges:

(1) For risk-related coverages, the school district or charter school shall forfeit to the authority any right to any return premiums or reserves and shall be responsible to pay to the authority on demand the cost of any prior losses in excess of premium and all the appropriate expenses of the authority in defending, settling and administering any such losses;

(2) For group health insurance, the school district or charter school shall forfeit to the authority any right to any return premium or reserves it may be entitled to. The school district or charter school shall also pay to the authority any funds paid for prior incurred claims of the school district or charter school in excess of premium paid by the school district or charter school and shall pay to the authority all the appropriate expenses of the authority in defending, settling and administering such claims.

**C.** Any school district or charter school waiving participation in an individual line of coverage shall pay to the authority any sums determined by the authority to be due in order to hold safe and harmless all other members of the authority from any adverse financial impact caused by the waiver of coverage. An accounting of funds and amounts owed by the school district or charter school shall not be due from the authority until two years after the waiver of participation has taken effect.

[6.50.7.9 NMAC - Rp, 6 NMAC 50.7.9, 9/1/2014; A, 12/10/2024]

#### **6.50.7.10 MINIMUM BENEFIT AND FINANCIAL STANDARDS:**

Minimum benefit and financial standards shall be established by the authority pursuant Subsection B of Section 22-29-9, NMSA 1978, at the time of the request for proposal process for the line or lines of coverage proposed to be solicited by the authority. The terms and conditions of the requests for proposal which specify the minimum benefits and financial standards which the authority requires potential carriers to respond to shall also constitute the minimum benefit and financial standards which any district seeking a waiver of coverage must match.

[6.50.7.10 NMAC - Rp, 6 NMAC 50.7.10, 9/1/2014]

#### **6.50.7.11 BOARD PROCEDURE FOR CONSIDERING REQUESTS FOR WAIVER:**

**A.** In the event the authority determines it will issue a request for proposal for either risk-related or group health insurance because of termination of an existing contract during its term or because of expiration of an existing contract pursuant to the contractual term limit, the authority shall issue a schedule for the procurement. The request for proposal shall contain a proposed time schedule for responsive offers. The authority shall also set a target date for selection of a carrier. Sixty days prior to the carrier selection target date, the authority shall, by ordinary mail, send to each school district and charter school a copy of the authority's request for proposal notifying the school districts and the charter schools that the request for proposal sets forth the minimum benefits and financial standards for purposes of their opportunity to waive participation in the individual line of coverage being procured. The authority shall in the notice to the school districts and charter schools establish a deadline within which time any school district or charter school desiring a waiver must submit documentation of its proposal matching the authority's minimum benefits and financial standards. A copy of 6.50.7 NMAC shall be enclosed with the notice.

**B.** A school district or charter school that plans to file a request for waiver for any individual line of coverage shall within 14 calendar days after receiving notice from the authority as required by Subsection A of 6.50.7.11 NMAC above, file a notice of intent to file a request for waiver for that particular individual line of coverage. The purpose of this preliminary filing is to permit the authority to structure its request for proposal to give notice to any proposed bidders of the approximate number of school districts and charter schools that may attempt to waive participation in that individual line of coverage, since this can have a significant effect on the procurement process.

**C.** Any school district or charter school that has filed a notice of intent to file a request for waiver, may, if the school district or charter school desires to continue its waiver efforts, seek proposals for insurance through a request for proposal in accordance with state law. The school district's or charter school's request for proposal shall, as a minimum, contain the minimum employee benefits and financial standards or the risk-related minimum benefits and financial standards as required by the authority's request for proposal. The school district or charter school may include additional coverages or additional limits in its request for proposal.

**D.** After the school district or charter school receives responses to its request for proposals and still desires to continue to seek a waiver, it shall prepare a request for waiver which affirmatively sets forth the coverages, the premiums and a summary of the school district's or charter school's data with respect to each of the criteria set forth in 6.50.7.12 NMAC.

**E.** The request for waiver of participation with all documentation shall be filed with the authority on or before the date on which the authority's request for proposal requires proposals to be received.

**F.** Any school district or charter school that does not timely file a notice of intent to file for a waiver of participation or a request for waiver of participation is prohibited from waiving out of the authority coverage.

**G.** When the authority receives a request for a waiver of participation, the authority shall immediately send a notice to the school district or charter school setting forth the time and place for a public board meeting to consider approval or rejection of the waiver request. Since time is of the essence, if necessary, the board shall call a special meeting in accordance with the Open Meetings Act, Section 10-15-1 et seq., NMSA 1978, to consider the waiver request.

**H.** At the meeting, the school district or charter school will present its proposed coverages and the costs of those coverages. Then, the authority's executive director will explain the comparable coverages to be offered by the authority and their costs. The board shall review all documents and information presented orally and in writing and then shall either make its decision at the meeting or notify the school district or charter school of the decision in writing within five calendar days after the meeting.

**I.** The decision of the authority board to grant or deny a waiver of participation is final. Any district denied a waiver of participation may appeal such decision. An appeal shall be taken within thirty days from the date of the board action. Such appeal is on the record made before the authority board and the board decision may be reversed only if shown upon a review of the whole record to be arbitrary, capricious or in violation of law.

[6.50.7.11 NMAC - Rp, 6 NMAC 50.7.11, 9/1/2014]

#### **6.50.7.12 APPROVAL OR DISAPPROVAL OF REQUEST FOR WAIVER OF PARTICIPATION:**

The authority board shall approve or disapprove a waiver of participation based on the documentation submitted by the school district or charter school. The board shall grant a waiver to a school district or charter school that shows evidence to the satisfaction of the board that:

**A.** In the event the waiver is with regard to group health insurance:

(1) that the school district or charter school has secured a valid written enforceable commitment from an insurer to provide group health insurance;

(2) that the coverage committed to the school district or charter school and the plan benefits for their employees is at least as beneficial as the plan being procured by the authority;

(3) that there are no more exclusions from coverage and the exclusions are not broader than those set out in the authority's request for proposals;

(4) that the deductibles, stop loss, out of pocket costs, etc., if any, result in no more costs to the employees than would occur pursuant to the authority's request for proposals;

(5) that any cost containment features not result in any higher costs or burdens on the employees than would result under the authority's request for proposals;

(6) that the prospective insurer of the school district or charter school have the same or greater rating as that required in the authority's request for proposals;

(7) that the notice of intent to request a waiver has been timely filed;

(8) that the request for waiver of participation has been timely filed;

(9) that all the data required to be included in the request for waiver of participation has been timely supplied;

(10) that the proposed insurer for the school district or charter school has satisfactorily demonstrated to the school district or charter school and to the authority that the insurer in its proposal to the school district or charter school has adequately accounted in its rates for such items as school district or charter school experience, incurred but not reported losses, medical inflation trends and other relevant factors for the purpose of allowing the school district or charter school and the authority to determine the future viability of the plan, if rates are under-quoted at inception and whether the proposed insurer for the school district or charter school meets the minimum financial standards of the authority; and

(11) that the total group health insurance offering available in that school district or charter school compares favorably in all respects with the authority's request for proposals;

**B. In the event the waiver is with regard to risk-related insurance:**

(1) that the school district or charter school has secured a valid written enforceable commitment from an insurer to provide risk-related insurance;

(2) that there are no more exclusions from coverage and the exclusions are not broader than those in the authority's request for proposal;

(3) that the deductibles, self-insured retention, etc., if any, are no higher or result in any more costs to the school district or charter school than would occur pursuant to the authority's request for proposal;

(4) that any cost containment features not result in any higher costs or burdens on the school district or charter school than would result under the authority's request for proposals;



(5) that the prospective insurers of the school district or charter school provide coverages as broad as is required in the authority's request for proposals;

(6) that the prospective insurers of the school district or charter school have the same or greater rating as required in the authority's request for proposals;

(7) that the notice of intent to request a waiver has been timely filed;

(8) that the request for waiver of participation has been timely filed;

(9) that all the data required to be included in the request for waiver of participation has been included; and

(10) that the proposed insurer for the school district or charter school has satisfactorily demonstrated to the school district or charter school and to the authority that the insurer in its proposal to the school district or charter school has adequately accounted in its rates for such items as school district or charter school experience, incurred but not reported losses, the nature of existing coverage (claims made or occurrence) and other relevant factors for the purpose of allowing the school district or charter school and the authority to determine the future costs of coverages, to determine if rates are under-quoted at inception and whether the proposed insurer for the school district or charter school meets the minimum financial standards of the authority.

[6.50.7.12 NMAC - Rp, 6 NMAC 50.7.12, 9/1/2014; A, 12/10/2024]

#### **6.50.7.13 WITHDRAWAL, FAILURE TO FOLLOW PROCEDURES, EXPIRATION OF WAIVERS:**

**A.** A request for waiver may be withdrawn at any time prior to or at the scheduled meeting.

**B.** Failure to follow the procedures set forth in this rule shall be adequate reason for rejection of the request for waiver.

**C.** Any waiver granted shall automatically expire at the end of the authority insurance contract for the line of coverage.

[6.50.7.13 NMAC - Rp, 6 NMAC 50.7.13, 9/1/2014]

#### **6.50.7.14 AUTOMATIC WAIVER ALLOWED:**

School districts and charter schools are entitled to an automatic waiver for any line of authority coverage where the employee pays the full amount of the premium. If the school district or charter school desires insurance protection for a particular line of employee-pay-all coverage, the school district or charter school must affirmatively

petition the authority for coverage. In granting the coverage the board shall first determine that the school district or charter school meets the minimum participation requirements as established by the board as necessary, that the school district or charter school will carry the coverage through the end of the contract period and that approval will not jeopardize the stability of the fund.

[6.50.7.14 NMAC - Rp, 6 NMAC 50.7.14, 9/1/2014; A, 12/10/2024]

## **PART 8: EMPLOYEE-BENEFIT AND RISK-RELATED PREMIUM PAYMENTS**

### **6.50.8.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.8.1 NMAC - Rp, 6 NMAC 50.8.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

### **6.50.8.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body board members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.8.2 NMAC - Rp, 6 NMAC 50.8.2, 9/1/2014]

### **6.50.8.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.8.3 NMAC - Rp, 6 NMAC 50.8.3, 9/1/2014]

### **6.50.8.4 DURATION:**

Permanent.

[6.50.8.4 NMAC - Rp, 6 NMAC 50.8.4, 9/1/2014]

### **6.50.8.5 EFFECTIVE DATE:**

September 1, 2014, unless a later date is cited at the end of a section.

[6.50.8.5 NMAC - Rp, 6 NMAC 50.8.5, 9/1/2014]

**6.50.8.6 OBJECTIVE:**

The objective of this part is to set forth the requirements for premium payment by participating entities.

[6.50.8.6 NMAC - Rp, 6 NMAC 50.8.6, 9/1/2014]

**6.50.8.7 DEFINITIONS:**

**[RESERVED]**

**6.50.8.8 PREMIUM PAYMENT FOR RISK RELATED AND DUE PROCESS REIMBURSEMENT COVERAGES:**

The authority shall invoice each member for risk-related and due process reimbursement coverages. Payment for risk-related and due process reimbursement coverages is due in full within 30 days after the billing date. Premium payments not received by the 10th day of the month following the due date shall be subject to an interest charge of one and one-half percent of the outstanding premium due for each month the member is overdue.

[6.50.8.8 NMAC - Rp, 6 NMAC 50.8.8, 9/1/2014; A, 12/10/2024]

**6.50.8.9 PREMIUM PAYMENT FOR EMPLOYEE BENEFITS COVERAGES:**

The authority shall invoice each member for the premiums for employee benefits coverages. Premium payments are due in full within 10 days after billing. Premiums are due no later than the 10th of the month for which coverage is intended. Premium payments not received by the 10th day of the month following the due date shall be subject to an interest charge of one and one-half percent of the outstanding premium due for each month the member is overdue.

[6.50.8.9 NMAC - N, 9/1/2014; A, 12/10/2024]

**6.50.8.10 PREMIUM PAYMENT PLAN:**

Any member unable to make their premium payment timely and in full must obtain a recommendation from the state secretary of education for any alternate payment schedule, which shall then be submitted to the board for approval. The board may accept or reject the secretary's recommendation.

[6.50.8.10 NMAC - Rp, 6 NMAC 50.8.9, 9/1/2014; A, 12/10/2024]

#### **6.50.8.11 FAILURE TO PAY PREMIUMS WHEN DUE:**

If any member or individual participant responsible for making a premium payment fails to make the premium payments when due, the member or individual participant shall be subject to suspension of coverage or in an extreme case, as determined by the board, to termination of coverage. Notice of suspension or termination of coverage shall be given to the member or to the individual as appropriate. Where the coverage has been suspended for non-payment of premiums, the authority shall act to protect the stability of the fund in determining whether to reinstate coverage.

[6.50.8.11 NMAC - Rp, 6 NMAC 50.8.10, 9/1/2014]

#### **6.50.8.12 PROCEDURE FOR HANDLING DISPUTED PREMIUM BILLINGS:**

In the event any member or individual disputes the amount of the authority's billing, the member or individual shall pay the bill and then file a written statement requesting a refund of the disputed amount setting forth the amount and the reasons the member or individual believes the billing constitutes an overcharge. The request shall be filed within 60 days after the submission of the billing. Requests for refunds that are not timely filed shall be deemed to be rejected. The board shall place complaints regarding the amount of the authority's billings that are timely filed on the agenda of one of its meetings and give notice to the affected member or individual so the member or individual may attend and be heard.

[6.50.8.12 NMAC - Rp, 6 NMAC 50.8.11, 9/1/2014; A, 12/10/2024]

### **PART 9: COORDINATION OF BENEFITS REQUIREMENTS - DUPLICATE OR OVERLAPPING BENEFITS COVERAGES**

#### **6.50.9.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.9.1 NMAC - Rp, 6 NMAC 50.9.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

#### **6.50.9.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits or risk-related coverages.

[6.50.8.2 NMAC - Rp, 6 NMAC 50.8.2, 9/1/2014]

### **6.50.9.3      STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.8.3 NMAC - Rp, 6 NMAC 50.8.3, 9/1/2014]

### **6.50.9.4      DURATION:**

Permanent.

[6.50.8.4 NMAC - Rp, 6 NMAC 50.8.4, 9/1/2014]

### **6.50.9.5      EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.8.5 NMAC-Rp, 6 NMAC 50.8.5, 9/1/2014]

### **6.50.9.6      OBJECTIVE:**

The objective of this part is to bring Subsection F of Section 22-29-9, NMSA 1978, to the attention of members and provide direction as to what other insurance may be maintained by members and to provide for claims where there is duplicate coverage.

[6.50.8.6 NMAC - Rp, 6 NMAC 50.8.6, 9/1/2014]

### **6.50.9.7      DEFINITIONS:**

**[RESERVED]**

### **6.50.9.8      SCHOOL DISTRICT AUTHORITY TO MAINTAIN INSURANCE:**

Each school district, charter school and other educational entity participating in the authority offerings shall not separately offer any competing employee-benefits insurance coverage. However, each member participating in the authority offerings may separately obtain any risk-related insurance coverage in addition to the coverage offered by the authority.

[6.50.8.8 NMAC - Rp, 6 NMAC 50.8.8, 9/1/2014]

### **6.50.9.9      AUTHORITY'S LIMITATION OF LIABILITY FOR DUPLICATE OR OVERLAPPING BENEFITS PREMIUMS PAID:**

To the extent that the insurance coverage purchased by the member or individual participant duplicates or overlaps insurance coverage provided by the authority, the authority will not reduce or rebate any portion of its premium nor is the authority liable to the participating entity or to any individual participant for any premiums paid by the participating entity or the individual participant for duplicate or overlapping coverage.

[6.50.9.9 NMAC - Rp, 6 NMAC 50.9.9, 9/1/2014; A, 12/10/2024]

#### **6.50.9.10 RISK-RELATED OVERLAPPING INSURANCE COVERAGES:**

Where there is other insurance, no matter how acquired or provided to an insured, the authority shall follow the "guiding principles for overlapping insurance coverages " adopted by the association of casualty and surety companies, the inland marine underwriters association, the national automobile underwriters association, the national board of fire underwriters, the national bureau of casualty underwriters and the surety association of America to determine the obligations of the authority with respect to apportionment of losses with other insurers.

[6.50.9.10 NMAC - Rp, 6 NMAC 50.9.10, 9/1/2014; A, 12/10/2024]

#### **6.50.9.11 EMPLOYEE BENEFITS COVERAGE/COORDINATION OF BENEFITS RULES:**

Coordination of benefits ("COB") rules of the authority's medical and dental carrier shall prevail in any situation where a conflict exists with any other authority benefits carrier. In the event of a conflict among authority carriers addressed by COB rules, the COB rules of the carrier of coverages wherein the authority is at risk will prevail. In the event of a conflict between an authority carrier and a non-authority carrier addressed by the COB rules of the authority carrier, the authority carrier COB rules will prevail.

[6.50.9.11 NMAC - Rp, 6 NMAC 50.9.11, 9/1/2014; A, 12/10/2024]

### **PART 10: EMPLOYEE BENEFIT COVERAGE ENROLLMENT POLICY**

#### **6.50.10.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.10.1 NMAC - Rp, 6.50.10.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

#### **6.50.10.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits coverages.

[6.50.10.2 NMAC - Rp, 6.50.10.2 NMAC, 9/1/2014]

#### **6.50.10.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978 directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.10.3 NMAC - Rp, 6.50.10.3 NMAC, 9/1/2014]

#### **6.50.10.4 DURATION:**

Permanent.

[6.50.10.4 NMAC - Rp, 6.50.10.4 NMAC, 9/1/2014]

#### **6.50.10.5 EFFECTIVE DATE:**

September 1, 2014, unless a later date is cited at the end of a section.

[6.50.10.5 NMAC - Rp, 6.50.10.5 NMAC, 9/1/2014]

#### **6.50.10.6 OBJECTIVE:**

The objective of this part is to establish the enrollment policy for all persons or entities authorized to participate in the authority's employee benefits coverage.

[6.50.10.6 NMAC - Rp, 6.50.10.6 NMAC, 9/1/2014]

#### **6.50.10.7 DEFINITIONS:**

**A. "Actively at work"** for life and disability coverage, means performing the material duties of your own occupation at your employer's usual place of business. You will also meet the actively at work requirement if you were absent from active work because of a regularly scheduled day off, holiday or vacation day or if you were capable of active work on the day before the scheduled effective date of your insurance or increase in your insurance.

**B. "Employee"** means full time employee as defined in Subsection X of 6.50.1.7 NMAC. This definition applies to the rules related to employee benefits coverage contained in 6.50.10 NMAC only.

**6.50.10.8 REQUIREMENTS FOR ENROLLMENT OF FULL TIME EMPLOYEES:**

**A.** An employee shall be enrolled pursuant to their actual status at the time of enrollment. If a change in status of an employee occurs they must notify the employer within 31 calendar days of the change and complete any enrollment documents required by the authority.

**B.** An employee may enroll only themselves. However, if the employee chooses to enroll one eligible dependent, the employee shall enroll all eligible dependents unless one or more eligible dependents have other coverage. If the dependent of an eligible employee participant is enrolled in another medical plan, the eligible employee participant may enroll in the authority's medical plan as a single and in the two-party or family coverage for other lines. Evidence of the other coverage is required.

**C.** New eligible employees may enroll under the conditions set forth by the authority as follows:

(1) New eligible employees shall enroll within 31 calendar days of hire or within 31 calendar days of being upgraded to eligible employee. Evidence of upgrade is required.

(2) A new participating entity governing body member or new participating authority board member shall enroll within 31 days of being sworn in to office.

(3) Coverage is effective on the first day of the month following the day the employee applies, provided the employee authorizes in writing that the premium is to be withheld from their payroll check, subject to the actively-at-work provision, and for self-payers, the first day of the month following receipt of the premium by the authority.

(4) Where an employee is on a payroll option, the employer shall deduct and remit from each payroll and shall remit the employer's contribution simultaneously.

(5) Where an employee seeks a transfer of benefits:

(a) the employee is covered until the end of the month for which coverage was paid at the school the employee is leaving;

(b) the employee shall enroll within 31 calendar days of hire at the school the employee is moving to; and

(c) participating entities shall coordinate the effective date to ensure duplicate premiums are not paid on behalf of the employee through the outgoing school as well as the incoming school.



(6) Eligible employees or dependents who involuntarily lose benefits coverage have a 31-day window to enroll in the authority. Supporting documentation showing the reason for the involuntary loss of benefits coverage, the date benefits coverage was lost, who was covered and what types of benefits coverage was lost must be submitted within 31 days from the date of loss of coverage. The effective date of new benefits coverage will be the first of the month following receipt by the authority of the documentation required and the necessary application or applications, provided that all enrollment rules of the authority are met.

(7) Eligible employee enrollment after the enrollment period shall be permitted to only enroll in the authority's long-term disability plan and the voluntary life insurance plan upon providing the required evidence of medical insurability and approval by the disability and life carrier. Late enrollments shall not be permitted for medical, dental or vision coverages.

(8) If an eligible employee participant obtains dependent coverage for any eligible dependent from the authority, then the employee is required to enroll all eligible dependents in such coverage unless one or more eligible dependents have proof of other coverage. As an example: If an eligible employee participant is divorced, and the divorce decree states that medical coverage will be provided by the ex-spouse for one or more dependents of the eligible employee participant, the employee is permitted to enroll as a single in the medical and in the two party or family coverage for other lines of coverage.

(9) An employee is prohibited from having duplicate coverage from the authority for any line of coverage. An employee is also prohibited from having employee coverage and dependent coverage at the same time from the authority for any line of coverage. In the event of duplicate coverage, only one benefit will be paid. In those cases where an employee and their spouse or domestic partner are both eligible employees, either one may enroll into the coverage and the other be treated as an eligible dependent.

(10) An eligible employee is not permitted to enroll for a particular line of coverage unless the minimum participation level as determined by the authority is met.

(11) The participant shall only be permitted to switch from one plan to another plan within the same line of coverage during an established switch enrollment period and then only under the terms and conditions permitted by the authority. Open enrollment is allowed annually to add a line of coverage under the terms and conditions provided by the authority.

(12) An employee may drop any line of coverage at any time at the employee's discretion, provided, however, any provision with respect to prohibition against dropping any lines of coverage shall be enforced as determined by the member. In divorce situations, a divorced eligible employee may not drop eligible dependents based on a change in status until a court-endorsed divorce decree is provided to the member and

processed by the authority. When a domestic partnership is terminated, the employee may not drop eligible dependents based on a change in status until the authority receives written notice from the employee that the domestic partnership is terminated in the form of an affidavit terminating domestic partnership provided to the member and processed by the authority. If the employee drops the line of coverage(s), the employee cannot re-enroll except as this part permits.

(13) Proper documentation, including evidence of medical insurability where required, must be provided by the eligible employee seeking coverage within 31 calendar days of the qualifying event. Coverage may be rejected where adequate proof and documentation satisfactory to the authority is not submitted in a timely manner.

(14) Eligibility for employee basic life requires the employee to be a benefits-eligible employee working a minimum of 15 hours or more per week, or as determined by the member.

[6.50.10.8 NMAC - Rp, 6.50.10.8 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.10.9 REQUIREMENTS FOR ENROLLMENT OF PART-TIME EMPLOYEES:**

**A.** Part-time employees who work less than 20 hours a week but 15 hours per week or more are eligible for employee benefits if the member has passed a part-time resolution agreeing to provide employee benefits to part-time employees. A part-time resolution must be renewed in May of each year by the member and approved by the authority board in order for its part-time employees to remain eligible for employee benefits.

**B.** Part-time employees who work less than 15 hours per week are not eligible for employee benefits.

**C.** Part-time employees eligible for employee benefits may also enroll their dependents. The requirements for enrollment for full-time employees under 6.50.10.8 NMAC also apply to part-time employees.

**D.** Eligibility for employee basic life requires the employee to be a benefits-eligible employee working a minimum of 15 hours or more per week or as determined by the member.

[6.50.10.9 NMAC - N, 9/1/2014; A, 12/10/2024]

#### **6.50.10.10 REQUIREMENTS FOR ENROLLMENT OF EMPLOYEE DEPENDENTS:**

**A.** Eligible employee participants may enroll their eligible dependents during the enrollment period established by the authority. If the employee is enrolled in family medical coverage, a newborn dependent of an employee parent is covered from the date of birth under the same lines of family coverage in which the employee parent is

enrolled at the time of the newborn's birth. In cases where the employee is not enrolled in family medical coverage but has family coverage for other lines of employee benefits, the employee parent must enroll the newborn dependent within 31 calendar days from the date of birth to be covered from the date of birth special enrollment. In cases where there is a change of status in premium (i.e., single to two-party, single to family, or two-party to family) due to the addition of a newborn dependent, the employee parent must enroll the newborn dependent within 31 calendar days from the date of birth to be covered from the date of birth. Certification of information from the official state publicly filed birth certificate or a state-filed birth certificate registration certification must accompany the enrollment form, or if the birth certificate or certification is not available, it must be submitted within 61 calendar days from the first day of the month following the newborn dependent's date of birth. Adopted dependents of an employee are eligible for coverage from the date of placement by a licensed state agency, a governmental agency or a court of competent jurisdiction. Supportive documentation of such placement is required with the change of status application within 61 calendar days of the date of placement.

**B.** The employee participant shall enroll the new eligible dependent within 31 calendar days of becoming an eligible dependent, except for newborns when family medical coverage is in effect at the time of the newborn's birth. Those persons considered to be a new eligible dependent are a newborn child, a new spouse, a domestic partner newly established by affidavit to be verified by the employer, a new legally adopted child, legal guardianship and other similar situations where the dependent becomes a new family member and is otherwise an eligible dependent pursuant to a court order. Supportive documentation in the form of copies of publicly filed marriage certificates, certificate of birth certificate information, guardianships, placement or adoption decrees and affidavits of domestic partnership shall be submitted along with the enrollment application.

**C.** An eligible dependent has no greater coverage than the eligible employee participant and the eligible dependent can maintain coverage only to the extent that the eligible employee participant maintains his coverage, except as otherwise specifically provided in this rule or to the extent federal law may grant broader rights. **D.** An eligible employee participant may drop any line of coverage for their eligible dependent at any time at the employee's discretion. However, any provision with respect to prohibition against dropping any lines of coverage shall be enforced as determined by the employer. If the employee drops the line of coverage, that employee cannot re-enroll the eligible dependent except as this rule permits. If the employee drops one dependent from a line of coverage, the employee must drop coverage on all eligible dependents except an employee may drop a dependent 18 years or above without dropping the other eligible dependents with supporting documentation or proof of application. In divorce situations, a divorced eligible employee may not drop eligible dependents based on a change in status until a court-endorsed divorce decree or mutual written court-endorsed stipulation is provided is filed with the authority. When a domestic partnership is terminated, the employee's ex-domestic partner may not drop eligible dependents based on a change in status until the authority receives written

notice that the domestic partnership is terminated in the form of an affidavit terminating domestic partnership.

**E.** Proper documentation (together with application for coverage) including evidence of medical insurability where required, must be provided by the employee for the person seeking coverage within 31 calendar days of the qualifying event. Coverage may be rejected where adequate proof and documentation satisfactory to the authority is not submitted in a timely manner.

**F.** An eligible retired employee and eligible dependents enrolled in a voluntary life plan prior to retirement and the retiree is less than age 70, shall be permitted to enroll in voluntary life prior to life coverage expiring. The retiree shall be responsible for submitting enrollment paperwork and the first month's premium prior to active coverage expiring to ensure no break in premium or coverage occurs. The retiree shall be responsible for premium payments for any monthly premiums. Retiree voluntary life coverage will extend through the last day of the month the retiree reaches age 70.

**G.** The established enrollment period allowed by the authority for active participating entity board members and eligible dependents is 31 calendar days after the board member has taken oath.

[6.50.10.10 NMAC - N, 9/1/2014; A, 10/1/2015; A, 12/10/2024]

#### **6.50.10.11 SPECIAL EVENTS ENROLLMENT:**

In cases of "special events" as defined in Subsection GGG of 6.50.1.7 NMAC, enrollment shall be allowed.

[6.50.10.11 NMAC - N, 9/1/2014]

#### **6.50.10.12 REPORTING REQUIREMENT:**

Authority insurance providers depend on timely reporting of dismissals, resignations, change in status, reports of new employees and eligible dependents and those dropping coverages. The only source of this information is from the participating entity. Participating entities shall report this information on or before the 15th day following notification from the employee of the event. In the event they fail to so timely report, the responsible participating entity shall be liable for any losses an eligible employee or dependent may incur as a result of the failure to timely report.

[6.50.10.12 NMAC - N, 9/1/2014]

#### **6.50.10.13 ENROLLMENT AND ELIGIBILITY CONFLICTS:**

**A.** In the event there is a conflict between a carrier's contract with the authority and this part regarding enrollment and eligibility, the carrier's contract shall prevail.

**B.** In the event there is a conflict between a carrier's contract with the authority and the policies of a participating entity regarding enrollment and eligibility, the carrier's contract shall prevail.

**C.** In the event there is a conflict between the policies of a participating entity policy and this part regarding enrollment and eligibility, this part shall prevail.

**D.** All disputes between a participating entity and an employee or part-time employee in determining eligibility shall be resolved at the participating entity level.

**E.** As to questions of enrollment and eligibility, if miscommunication to an employee or part-time employee by the participating entity has allegedly occurred, the participating entity shall provide a written statement to the authority indicating the party or parties who allegedly miscommunicated to the employee or part-time employee and the circumstances in which the alleged miscommunication occurred.

**F.** As to questions of enrollment and eligibility, disputes not resolved between an employee or part-time employee, the participating entity and the authority or its contractors shall be resolved according to the procedures of 6.50.16 NMAC of these rules. Paid premiums are to be determined by the employer.

**G.** As to all other conflicts between the authority and carriers, the relevant conflict provisions of the agreements between them shall control with regard to conflict resolutions.

[6.50.10.13 NMAC - N, 9/1/2014; A, 12/10/2024]

## **PART 11: EMPLOYEE BENEFIT SAVINGS PROVISION**

### **6.50.11.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.11.1 NMAC - Rp, 6 NMAC.50.11.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

### **6.50.11.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits coverages.

[6.50.11.2 NMAC - Rp, 6 NMAC 50.11.2, 9/1/2014]

### **6.50.11.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.11.3 NMAC - Rp, 6 NMAC 50.11.3, 9/1/2014]

### **6.50.11.4 DURATION:**

Permanent.

[6.50.11.4 NMAC - Rp, 6 NMAC 50.11.4, 9/1/2014]

### **6.50.11.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.11.5 NMAC - Rp, 6 NMAC 50.11.5, 9/1/2014]

### **6.50.11.6 OBJECTIVE:**

The objective of this part is to protect those persons that have obtained employee benefits coverage from the authority in the past and may no longer be entitled to coverage under other provisions of this chapter.

[6.50.11.6 NMAC - Rp, 6 NMAC 50.11.6, 9/1/2014]

### **6.50.11.7 DEFINITIONS:**

**[RESERVED]**

### **6.50.11.8 SAVINGS PROVISION (GRANDFATHER CLAUSE):**

To the extent the adoption of Title 6, Chapter 50 purports to withdraw employee benefits coverage from any individual, group or class of persons currently receiving coverage from the authority, the authority intends by this savings clause (grandfather clause) to allow the authority to continue to provide such coverage to the individual, group or class of persons until the coverage lapses or is dropped.

[6.50.11.8 NMAC - Rp, 6 NMAC 50.11.8, 9/1/2014]

## **PART 12: LOSS PREVENTION MANAGEMENT SYSTEM**

### **6.50.12.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.12.1 NMAC - Rp, 6 50.12.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

**6.50.12.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities and persons or entities authorized to participate in the authority's coverage on matters involving risk-related coverages.

[6.50.12.2 NMAC - Rp, 6 50.12.2 NMAC, 9/1/2014]

**6.50.12.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.12.3 NMAC - Rp, 6 50.12.3 NMAC, 9/1/2014]

**6.50.12.4 DURATION:**

Permanent.

[6.50.12.4 NMAC - Rp, 6 50.12.4 NMAC, 9/1/2014]

**6.50.12.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.12.5 NMAC - Rp, 6 50.12.5 NMAC, 9/1/2014]

**6.50.12.6 OBJECTIVE:**

The objective of this part is to establish a loss control and a loss prevention management system for the purpose of reducing claims and costs.

[6.50.12.6 NMAC - Rp, 6 50.12.6 NMAC, 9/1/2014]

**6.50.12.7 DEFINITIONS:**

**[RESERVED]**

#### **6.50.12.8 LOSS PREVENTION PROGRAM:**

**A.** The loss prevention program is hereby created to provide a mechanism for the identification and abatement of hazards relating to all lines of coverage provided by the authority.

**B.** The loss prevention program is a service provided to the member school districts, charter schools and other educational entities in order to protect the insurance fund and its members from claims that could otherwise be prevented. The authority, through the program, provides recommendations for compliance to the members. It is the responsibility of the members to implement the recommendations for abatement.

**C.** All visits or inspections shall be performed by the risk management consultant (RMC).

**D.** The RMC shall conduct evaluations of members. These evaluations shall include, but are not limited to:

(1) physical inspection of any or all of the members' structures, facilities, vehicles or equipment;

(2) review of the members' policies and procedures;

(3) observation of the members' scholastic and non-scholastic activities and operations; and

(4) interviews with members' administration, teachers, maintenance and other support personnel.

**E.** Within 25 working days following the RMC's completion of the onsite evaluation of a member, the RMC shall submit recommendations to the member for corrective action to eliminate the hazards or exposures observed.

**F.** Members shall have 20 working days from receipt of the RMC's report to reply to the RMC outlining their timetable for the implementation of recommendations, except for critical or imminent hazards as explained in Subsections G and H, below. If the hazard is not critical or imminent, upon request by the member, the RMC may grant additional time up to no more than 60 working days from receipt of the RMC's report for the member to reply.

**G.** Critical hazards are those hazards which have an above average potential for immediate occurrence, but are not immediately life threatening.

(1) The members shall have 10 working days from the receipt of the RMC's report to provide an implementation schedule of recommendations identified by the RMC as representing critical hazards.



(2) The RMC shall make a request to the loss prevention review board (LPRB) that any operation involving the critical hazard be suspended if:

(a) the member fails to submit a report within 10 working days;

(b) the member refuses to provide a report within 10 working days; or

(c) the member does not satisfactorily fix the hazard within the time provided in the implementation schedule agreed upon or ordered.

**H.** Imminent hazards are those hazards which require suspension of activities or operations so as to avoid the threat of an occurrence which could reasonably be expected to cause death or serious physical harm before the danger can be eliminated through the recommended abatement.

(1) The RMC shall convey any recommendation involving an imminent hazard immediately to the highest available member official.

(2) The RMC shall require that any operations involving an imminent hazard be suspended pending implementation of the applicable recommendations.

(3) A notification of the imminent hazard, its accompanying recommendations, and any other verbal request made by the RMC to the member shall be conveyed in writing to the executive director, LPRB, and the member within 72 hours.

(4) The member shall have 72 hours from the receipt of the notice of an imminent hazard to respond to the RMC's recommendation and set forth a plan satisfactory to the RMC to immediately abate the imminent hazard.

(5) The RMC shall make a presentation to the chairperson of the LPRB and the executive director of the authority recommending that insurance coverage provided to the specific operation of the member be suspended if the member refuses or fails to submit a report within 72 hours regarding the immediate implementation of the RMC's recommendation for abatement of the imminent hazard.

(6) The executive director and the chairperson of the LPRB shall consider the recommendation of the RMC and determine if the insurance coverage should be suspended pending a hearing before the LPRB under 6.50.12.11 NMAC.

**I.** The RMC shall physically re-inspect the hazard or exposure to ensure adequate abatement compliance.

**J.** The RMC shall provide loss prevention resource materials and activities where needed. These materials and activities shall include, but are not limited to:

(1) assisting members in the development of a member safety program when size and particular member activities warrant.

(2) providing sources for the procurement of safety-related literature, materials or services.

[6.50.12.8 NMAC - Rp, 6 50.12.8 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.12.9 LOSS PREVENTION REVIEW BOARD (LPRB):**

**A.** The LPRB is hereby created to provide a mechanism for the review of loss prevention activities within the authority's jurisdiction. The LPRB is appointed by the board at the annual board meeting and, except as provided in Subsection B of this section, its membership shall be made up of the risk advisory committee.

**B.** In the event an LPRB is appointed in place of the risk advisory committee, it shall consist of five members, four of whom are appointed by the president of the authority board with the board's advice and consent. The risk advisory committee chairperson shall be the fifth member of the LPRB and shall serve as the LPRB chairperson.

**C.** The LPRB shall meet as required and as scheduled from time to time.

**D.** Special meetings may be called by the LPRB chairperson, if the chairperson determines the need for a special meeting is justified, upon the request of any LPRB or authority board member, any chief executive officer of any member, or the RMC.

**E.** Notice of special meetings of the LPRB shall be sent to all LPRB members, the individual requesting the special meeting, and the RMC.

**F.** The notice required in Subsection E above shall indicate the date, time and place of the special meeting. It shall also clearly set forth the purpose for which the meeting is being called, said purpose being the only matter the LPRB may consider and act upon at the special meeting.

[6.50.12.9 NMAC - Rp, 6 50.12.9 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.12.10 LOSS PREVENTION REVIEW BOARD DUTIES:**

**A.** The LPRB shall consider and act upon:

(1) requests by the RMC that a member be required to implement a specific recommendation;

(2) requests by a member that a recommendation by the RMC be vacated;

(3) any other matter with regard to the enforcement of the authority's loss prevention management system not specifically covered in this part.

**B.** The LPRB shall recommend to the authority board claims management and claims adjusting procedures as they relate to abatement recommendations. Such procedures shall address documentation and management of claims files.

[6.50.12.10 NMAC - Rp, 6 50.12.10 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.12.11 LOSS PREVENTION REVIEW BOARD PROCEEDINGS:**

When considering a request as specified above, the LPRB chairperson shall:

**A.** provide notification to all LPRB members, the RMC, and the affected member;

**B.** conduct the meeting allowing the RMC and the member representative the opportunity to present arguments and justifications for their respective requests, and permit members of the LPRB to ask questions of either party;

**C.** issue the decision of the LPRB within five days and:

(1) if the decision of the LPRB is in agreement with the member, the RMC's recommendation shall be vacated;

(2) if the decision of the LPRB is in agreement with the RMC, the recommendation shall be affirmed and the member directed to implement the recommendation;

(3) if the affirmed recommendation is not implemented as specified by the member, the RMC shall refer the matter to the authority board for action.

[6.50.12.11 NMAC - Rp, 6 50.12.11 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.12.12 ENFORCEMENT:**

The responsibility for enforcement of LPRB decisions shall be vested in the authority board which may act as it sees fit to protect the integrity of the authority. These actions may include but are not limited to issuing a notice of no coverage, premium increase, or fines to the participating member. This notice shall state the specific circumstances for which coverage shall not be in effect, the reason for issuing the notice that no coverage is in effect and the date and time of inception of the no coverage notice. The notice of no coverage shall not affect any other area of coverage for the member. It shall only affect those specific circumstances stated in the notice of no coverage. Upon verification by the RMC to the authority board in writing that a hazard giving rise to a notice of no coverage has been abated, the authority board shall cancel the notice of no coverage.

[6.50.12.12 NMAC - Rp, 6 50.12.12 NMAC, 9/1/2014; A, 12/10/2024]

**6.50.12.13 PROCEDURE FOR APPEAL OF AGENCY DECISIONS UNDER THIS PART:**

An aggrieved member may appeal any final determination of the authority under this part by following the procedures specified in 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations. Review of any final decision or order of the authority under this part can only be sought as provided by 6.50.16 NMAC, by statute or by rules promulgated by the supreme court for appeal of state agency decisions.

[6.50.12.13 NMAC - Rp, 6 50.12.13 NMAC, 9/1/2014]

**PART 13: CLAIMS SETTLEMENT POLICY**

**6.50.13.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.13.1 NMAC - Rp, 6 NMAC 50.13.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

**6.50.13.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities and persons or entities authorized to participate in the authority's risk-related coverages.

[6.50.13.2 NMAC - Rp, 6 NMAC 50.13.2, 9/1/2014]

**6.50.13.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.13.3 NMAC - Rp, 6 NMAC 50.13.3, 9/1/2014]

**6.50.13.4 DURATION:**

Permanent.

[6.50.13.4 NMAC - Rp, 6 NMAC 50.13.4, 9/1/2014]

**6.50.13.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.13.5 NMAC - Rp, 6 NMAC 50.13.5, 9/1/2014]

#### **6.50.13.6 OBJECTIVE:**

The objective of this part is to establish a policy for settling claims against authority insureds.

[6.50.13.6 NMAC - Rp, 6 NMAC 50.13.6, 9/1/2014]

#### **6.50.13.7 DEFINITIONS:**

**[RESERVED]**

#### **6.50.13.8 SETTLEMENT POLICIES:**

The authority retains the right at its sole discretion to decide the terms and conditions of settlement of any claim against any authority insured. The authority or its third-party administrator will not settle a claim against an authority insured for an amount in excess of \$50,000 without first notifying the authority insured of the proposed settlement and the rationale supporting the proposed settlement. After the authority or its third-party administrator has notified an insured of a proposed settlement, the authority or its third-party administrator retains the power to proceed to settle the claim as the authority or its third-party administrator deems it in the best interest of the authority. Should the insured object to the proposed settlement by the authority, the insured shall (if the proposed settlement is a payment of money damages) be offered a payment in an amount equal to the money damages proposed to be paid by the authority under the settlement. The offer to the insured shall be made on condition that the insured release the authority from any further liability on the claim. If the insured accepts the offer, the authority will not consummate the proposed settlement with the claimant. The insured shall then be responsible for defense and settlement or payment of any judgment with regard to the claim and the authority on payment of the settlement amount to the insured shall be released by the insured from all further responsibility for the claim.

[6.50.13.8 NMAC - Rp, 6 NMAC 50.13.8, 9/1/2014; A, 12/10/2024]

### **PART 14: PARTICIPATING ENTITY WORKERS' COMPENSATION POLICY STATEMENT**

#### **6.50.14.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.14.1 NMAC - Rp, 6 NMAC 50.14.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

**6.50.14.2 SCOPE:**

This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's workers' compensation program.

[6.50.14.2 NMAC - Rp, 6 NMAC 50.14.2, 9/1/2014]

**6.50.14.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.14.3 NMAC - Rp, 6 NMAC 50.14.3, 9/1/2014]

**6.50.14.4 DURATION:**

Permanent.

[6.50.14.4 NMAC - Rp, 6 NMAC 50.14.4, 9/1/2014]

**6.50.14.5 EFFECTIVE DATE:**

September 14, 2014 unless a later date is cited at the end of a section.

[6.50.14.5 NMAC - Rp, 6 NMAC 50.14.5, 9/1/2014]

**6.50.14.6 OBJECTIVE:**

The objective of this part is to direct school districts, charter schools and other educational entities to adopt a policy in order to establish the particular entity's procedure for the selection of health care providers, for use of sick leave and for payment of insurance premiums when a worker has filed a workers' compensation claim.

[6.50.14.6 NMAC - Rp, 6 NMAC 50.14.6, 9/1/2014]

**6.50.14.7 DEFINITIONS:**

[RESERVED]

**6.50.14.8 WORKERS' COMPENSATION CLAIM POLICY:**

All school districts, charter schools, other educational entities and any other entities participating in the authority's workers' compensation coverages shall adopt a workers' compensation claim policy for its employees substantially in the form as set forth in Subsections A through I of 6.50.14.9 NMAC, selecting one of two options available for the selection of health care providers, for use of sick leave and for payment of insurance premiums while an employee is disabled from work. The form policy is also downloadable from the authority's website at: <https://nmmpsia.com> and will be updated from time to time.

[6.50.14.8 NMAC - Rp, 6 NMAC 50.14.8, 9/1/2014]

**6.50.14.9 WORKERS' COMPENSATION FORM POLICY FOR SCHOOL DISTRICTS, CHARTER SCHOOLS, OTHER EDUCATIONAL ENTITIES AND OTHER ENTITIES PARTICIPATING IN AUTHORITY WORKERS' COMPENSATION INSURANCE PROGRAM:**

All entities participating in the authority workers' compensation coverage shall adopt a policy substantially in the following form, selecting one of two options available for the selection of health care providers, for use of sick leave and for payment of insurance premiums while an employee is disabled from work.

**A. Workers' compensation eligibility.** In accordance with applicable workers' compensation statutes, all employees of (*insert name of participating entity*) who have a work-related injury are eligible for coverage.

**B. Reporting accidents.** An injured worker must report all work-related accidents or injuries immediately to its immediate supervisor by completing and submitting the notice of accident form, whether or not medical care is needed. The worker's supervisor must then complete the supervisor's accident investigation report form. Both documents must be submitted to the employer's designated workers' compensation administrator within 24 hours from the time the supervisor is informed of the accident. The workers' compensation administrator then must complete the employer's first report of accident form and forward all three forms to the third-party administrator within 72 hours from the employer's first knowledge of the accident. The forms are available to download on the authority's website at: <https://nmmpsia.com>.

**C. Emergency medical treatment.** When an injury or illness is life threatening in nature, the injured worker shall seek emergency treatment at the nearest emergency facility or by calling 911. After the emergency has abated, the injured worker will notify the employer in writing of the work-related injury and present any disability or return to work notices.

**D. Selection of health care provider policy options.**

(1) Each employer shall determine as a matter of policy whether it elects to initially select the health care provider or whether the injured worker is permitted to

make the initial selection. Each employer shall also provide at the time of hiring or during employee orientation the following information in writing:

(a) Option 1 for selection of health care provider: (name of participating entity) elects to have injured workers treated at (insert name and location of facility); or

(b) Option 2 for selection of health care provider: (name of participating entity) permits the injured worker to initially select the health care provided as provided by Subsection B of Section 52-1-49 NMSA 1978.

(2) Upon notice of an accident or injury, the employer shall notify the injured worker in writing whether the employer's policy directs that medical care shall be provided by health care provider selected by the employer or whether the policy permits the worker to initially select the health care provider. The party who did not select the initial health care provider has the right to change to a different health care provider 60 days from the date the worker receives treatment from the selected provider.

#### **E. Workers' compensation benefits.**

(1) Medical benefits include all medical, surgical, and drug expenses that are reasonable, necessary and related to the work injury.

(2) Lost wage benefits are payments to a worker who is disabled from work in the opinion of an authorized health care provider and cannot earn wages. Lost wage benefits are based on a portion of its average weekly wage up to a maximum limit set by the Workers' Compensation Act, Sections 52-1-1 et seq. NMSA 1978. The first seven days (consecutive or non-consecutive) is the statutory waiting period when no disability benefits are paid.

**F. Sick leave and insurance premium payment options.** Each employer shall determine as a matter of policy whether it elects to allow an injured worker to use paid time off during the initial seven days of the statutory waiting period and how insurance premiums will be paid while disabled. There are only two options as follows:

(1) Employer Option #1:

(a) Use of sick leave: The initial seven day period that a worker is absent due to a work-related occurrence is the statutory waiting period in which no lost wage benefits are paid under the workers' compensation claim. The initial seven day period can be consecutive or non-consecutive days and must be charged to paid time off. If the worker continues to be disabled after the seven day waiting period, they will be entitled to lost wage benefits equal to sixty-six and two-thirds percent of their average weekly wage up to the statutory maximum allowed at the time of injury. The worker is not permitted to use paid time off leave after the seven day waiting period. If the disability persists past 28 days, the worker will then be paid the lost wage benefits for the initial



seven day waiting period and the worker is required to reimburse their paid time off bank;

(b) Payment of Insurance premiums: When an absence is due to a work-related occurrence, the worker does not receive wages from the employer. During the period of disability, the worker shall pay its portion of any insurance premiums for employer provided insurance directly to the employer. The employer will continue payment of its matching portion of the insurance premiums until the employee returns to work from the qualifying disability, through the end of the current fiscal year or for as long as the worker continues to pay its portion of the premiums, whichever occurs first.

(2) Employer Option #2:

(a) Use of sick leave: The initial seven day period that a worker is absent due to a work-related occurrence is the statutory waiting period in which no lost wage benefits are paid under the workers' compensation claim. The initial seven day period can be consecutive or non-consecutive days and must be charged to paid time off. If the worker continues to be disabled after the seven day waiting period, they will be entitled to lost wage benefits equal to sixty-six and two-thirds percent of their average weekly wage up to the statutory maximum allowed at the time of their injury. In order to allow the worker to maintain other employment benefits such as 401(k) contributions and health insurance premiums for family members and dependents, the worker is permitted to use paid time off leave in addition to workers' compensation benefits to equate to one hundred percent of the worker's gross wage. The worker will not be paid in excess of one hundred percent of his gross wages when both paid time off leave and compensation benefits are combined. The worker will not be entitled to any advancement of additional paid time off that the worker might potentially accrue during the balance of the fiscal year. If the disability persists past 28 days, the worker will then be paid the lost wage benefits for the initial seven day waiting period and the worker is required notify the employer in writing for proper reimbursement their paid time off bank;

(b) Payment of Insurance premiums: When an absence is due to a work-related occurrence, the worker does not receive wages from the employer. During the period of disability, the worker shall pay their portion of any insurance premiums for employer provided insurance directly to the employer or if the worker uses paid time off leave, the worker's portion of the insurance premiums will continue to be deducted from the checks issued by the employer. The employer will continue payment of its matching portion of the insurance premiums until the employer returns to work from the qualifying disability, through the end of the current fiscal year or for as long as the worker continues to pay their portion of the premiums, whichever occurs first.

**G. Family medical leave act.** Family medical leave act benefits may run concurrently with the worker's time off for a work-related injury.

**H. Returning to work.** Employees returning to work from a work-related disability shall:

(1) submit a written medical statement from the treating physician to the workers' compensation administrator that they are physically able to return to perform the essential job functions of the original position; and

(2) if physically unable to return to performance of the essential job functions of the original position, the worker shall submit a written medical statement from the treating physician for review by their supervisor, human resources and the workers' compensation administrator detailing which specific functions of the original position that they are physically able to perform and which they cannot; such written medical statement shall specify the employee's physical capacity in the terms outlined in Section 52-1-26.4, NMSA 1978; within five days of receiving this written notification, the employer shall advise the worker in writing of the availability of accommodating work and the start date on which the employee is expected to fill the accommodating position;

(3) If physically unable to perform even marginal job duties, the worker shall submit a written medical statement from the treating physician to the workers' compensation administrator to that effect for review by their supervisor, human resources and the workers' compensation administrator; and

(4) present themselves for work within one working day after being released to return to work by his treating physician or of being notified of accommodating work by the employer.

**I. Workers' compensation assessment fee.** Workers covered by workers' compensation under the New Mexico Workers' Compensation Act, Sections 52-1-1 *et seq.*, NMSA 1978 are required to pay a quarterly fee. The worker's contribution is taken as a quarterly payroll deduction.

[6.50.14.9 NMAC - Rp, 6 NMAC 50.14.9, 9/1/2014; A, 12/10/2024]

#### **6.50.14.10 CONFLICT WITH STATUTE:**

In the event of a conflict between this part and the Workers' Compensation Act, Sections 52-1-1 *et seq.* NMSA 1978, the provisions of the act shall prevail.

[6.50.14.10 NMAC - Rp, 6 NMAC 50.14.10, 9/1/2014]

#### **6.50.14.11 CLAIMS DETERMINATION:**

No school district, charter school or educational entity has the authority to accept or acknowledge liability for any workers' compensation claim. There is no liability for a workers' compensation claim until liability is acknowledged in writing by an authorized employee of the authority's third-party administrator.

[6.50.14.11 NMAC - Rp, 6 NMAC 50.14.11, 9/1/2014; A, 12/10/2024]

#### **6.50.14.12 WORKERS' COMPENSATION IS THE EXCLUSIVE REMEDY:**

In any case where an insured under the authority's workers' compensation program is eligible to receive workers' compensation benefits for an injury, the exclusive remedy for such injury is workers' compensation benefits. Such injured insured shall have no claim for additional benefits under either the authority benefits or risk programs, including but not limited to underinsured, uninsured and unknown motorist coverages. Provided, however, this does not prohibit an insured from claiming benefits (in addition to workers' compensation) if provided under a short or long-term disability policy, life insurance policy or medical benefits policy (so long as an insured is limited to one recovery for medical expenses).

[6.50.14.2 NMAC - Rp, 6 NMAC 50.14.12, 9/1/2014]

### **PART 15: INSURANCE FRAUD**

#### **6.50.15.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.15.1 NMAC - Rp, 6 NMAC 50.15.1, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

#### **6.50.15.2 SCOPE:**

This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.15.2 NMAC - Rp, 6 NMAC 50.15.2, 9/1/2014]

#### **6.50.15.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.15.3 NMAC - Rp, 6 NMAC 50.15.3, 9/1/2014]

#### **6.50.15.4 DURATION:**

Permanent.

[6.50.15.4 NMAC - Rp, 6 NMAC 50.15.4, 9/1/2014]

**6.50.15.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.15.5 NMAC - Rp, 6 NMAC 50.15.5, 9/1/2014]

**6.50.15.6 OBJECTIVE:**

The objective of this part is to establish appropriate penalties for insurance fraud in order to deter fraudulent conduct and thus minimize unnecessary expense to the authority and its participating members.

[6.50.15.6 NMAC - Rp, 6 NMAC 50.15.6, 9/1/2014]

**6.50.15.7 DEFINITIONS:**

**[RESERVED]**

**6.50.15.8 INSURANCE FRAUD:**

**A. Forfeiture of rights to coverage and benefits.** Anyone who knowingly or willfully:

(1) makes any false or fraudulent statement or representation as to any material fact in or with reference to any application for insurance or other coverage; or

(2) for the purpose of obtaining any money or benefit, presents or causes to be presented a false or fraudulent claim, or any proof in support of such a claim for payment of loss under a policy; or

(3) prepares, makes or subscribes to a false or fraudulent account, certificate, affidavit or proof of loss, or other document, with intent that the same may be presented or used in support of such a claim; or

(4) makes any false or fraudulent statements or representations on or relative to any application for a policy, for the purpose of obtaining any benefit.

shall forfeit all employee and dependent rights to coverage or benefits.

**B. Termination of coverage:** In the event an official or employee of a participating school district, charter school or other educational entity knowingly or willfully engages in any of the actions listed in Subsection A of 6.50.15.8 NMAC, the employer shall take the appropriate disciplinary action against the offending official or employee. If such

appropriate disciplinary action is not taken, the authority reserves the right to terminate coverage for the participating school district, charter school or other educational entity.

[6.50.15.8 NMAC - Rp, 6 NMAC 50.15.8, 9/1/2014]

## **PART 16: ADMINISTRATIVE APPEAL OF AUTHORITY COVERAGE DETERMINATIONS**

### **6.50.16.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.16.1 NMAC - Rp, 6.50.16.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

### **6.50.16.2 SCOPE:**

This part applies to all appeals of authority coverage determinations by school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's programs.

[6.50.16.2 NMAC - Rp, 6.50.16.2 NMAC, 9/1/2014]

### **6.50.16.3 STATUTORY AUTHORITY:**

Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.16.3 NMAC - Rp, 6.50.16.3 NMAC, 9/1/2014]

### **6.50.16.4 DURATION:**

Permanent.

[6.50.16.4 NMAC - Rp, 6.50.16.4 NMAC, 9/1/2014]

### **6.50.16.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.16.5 NMAC - Rp, 6.50.16.5 NMAC, 9/1/2014]

#### **6.50.16.6 OBJECTIVE:**

The objective of this rule is to clarify the relationship between the authority and its members and to establish a fair and uniform procedure for school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's programs to appeal authority coverage determinations.

[6.50.16.6 NMAC - Rp, 6.50.16.6 NMAC, 9/1/2014]

#### **6.50.16.7 DEFINITIONS:**

As used in this rule:

**A. "Authority"** means the New Mexico public school insurance authority or its authorized representatives.

**B. "Authority board" or "board"** means the board of directors of the New Mexico public school insurance authority.

**C. "Appellant"** means any party who complains that a coverage determination may be in violation of any law, rule, regulation, or order administered or promulgated by the authority and who initiates a proceeding under this rule by filing a petition for review with the authority.

**D. "Coverage determination" and "determination"** mean any decision, order or disposition by the authority denying coverage, limiting the scope of coverage or limiting the amount of payment of a claim of a member or employee, except for workman's compensation claims.

**E. "Document"** means, except as otherwise used in the provisions of this rule governing discovery, any written submission in a formal proceeding which is not a pleading or which is required to be filed by authority rule or order outside a formal pleading; this includes items such as reports, exhibits, and studies; at the option of the party or staff making a filing, any document may additionally be presented in a form the hearing officer so orders.

**F. "Employee"** means a person employed by a member school district, charter school or other educational entity, or an employee's representatives in the event of legal incapacity, and includes volunteers or officials entitled to authority liability coverage pursuant to the Tort Claims Act, Subsection F of Section 41-4-3 NMSA 1978.

**G. "Final coverage determination by the authority"** with respect to a member means a coverage letter from the authority in consultation with general counsel or contracted claims adjuster or with respect to an employee means a coverage letter from

the authority's contracted third party benefits administrator or authorized authority staff member.

**H. "Hearing"** means any proceeding that is noticed for "hearing" by the authority or hearing officer and shall include an opportunity for the parties to present such evidence, argument, or other appropriate matters as the presiding officer shall deem relevant and material to the issues; hearings may be conducted by telephone conference call at the discretion of the presiding officer.

**I. "Hearing officer"** means a person appointed by the authority as a hearing examiner, who is designated by the authority to conduct any hearing or investigation which the authority is authorized to conduct, to take testimony in respect to the subject under investigation, report such testimony and provide to the authority a proposed decision with regard to the issues.

**J. "Member school districts, charter schools and other participating entities"** herein referred to collectively as "members" means all public school districts and charter schools mandated by the act to be members of the authority and all other educational entities voluntarily participating in the authority.

**K. "Party"** means any person or entity that initiates or responds to an authority proceeding by filing a petition for review with the authority and includes the authority; unless the context indicates otherwise, the term "party" may also refer to counsel of record for the party.

[6.50.16.7 NMAC - Rp, 6.50.16.7 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.16.8 RELATIONSHIP BETWEEN THE AUTHORITY, ITS MEMBERS AND COVERED EMPLOYEES:**

These findings and policy considerations guide the authority in adopting the following regulations and providing a procedure for administrative appeal of authority coverage determinations:

**A.** The authority is an agency of the state of New Mexico and is endowed only with those powers and duties stated in the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978 ("act"). The relationship between the authority and its members or employees, and any coverage provided by the authority to them, is defined and constrained by the act and by authority rules, regulations and procedures lawfully promulgated under the act.

**B.** The members of the authority participate pursuant to Section 22-29-9, NMSA 1978 of the act, which provides that school districts and charter schools shall participate in the authority unless they are granted a waiver of participation pursuant to the procedures provided in that section of the act. Section 22-2-9 NMSA 1978 also provides that other educational entities may participate in the authority.

**C.** The act does not empower the authority to contract with its members or employees. There is no relationship between the authority and its members or employees based upon or arising out of any contract between the authority and its members or employees.

**D.** The insurance protection provided by the authority to its members is provided either by insurance policies contracted through private insurers or through the statutory self-insurance program administered by the authority.

**E.** For the benefit of the authority and its members and their employees, the following regulations provide a formal procedure for members and employees to appeal authority coverage determinations. Therefore, the following procedures for appeal from any coverage determination or ruling of the authority are provided as the exclusive remedy for any person or entity challenging a coverage determination of the authority.

[6.50.16.8 NMAC - Rp, 6.50.16.8 NMAC, 9/1/2014]

#### **6.50.16.9 PROCEDURE FOR APPEAL OF A FINAL COVERAGE DETERMINATION OF THE AUTHORITY:**

An aggrieved member or employee may appeal any final coverage determination of the authority by following the procedures specified herein. Review of any final decision or order of the authority can only be sought as provided by statute or by rules promulgated by the supreme court for appeal of state agency decisions.

[6.50.16.9 NMAC - Rp, 6.50.16.9 NMAC, 9/1/2014]

#### **6.50.16.10 PETITION FOR REVIEW:**

Every appeal of a coverage determination of the authority shall be initiated by mailing a petition for review, within 30 days of the mailing date of the determination, to the executive director of the New Mexico Public School Insurance authority by certified mail.

**A.** A petition for review must specify and include:

**(1)** the name of the employee or member appealing, and, for institutional parties, the name, position, address and phone number of a person who will be responsible for receiving communications from the authority;

**(2)** a full description of the coverage determination being appealed, including the date of the determination and, specifically, the substance of the determination that is being appealed;

**(3)** a short, concise statement of the grounds for the appeal;



(4) if the authority determination is in a writing, a copy of the writing must be attached to the notice;

(5) copies of all documents, photographs or other tangible evidence that appellant contends provides support for appellant's position; and

(6) a memorandum stating the complete argument for overturning the determination of the authority, including a statement of relevant facts, an outline of controlling law, and the appellant's argument.

**B.** An extension of up to 14 days to provide the items specified in Paragraphs (5) and (6) of Subsection A of 6.50.16.10 NMAC may be granted at the discretion of the authority upon written request of the appellant.

[6.50.16.10 NMAC - Rp, 6.50.16.10 NMAC, 9/1/2014]

#### **6.50.16.11 FINAL DECISION OF THE AUTHORITY BASED ON PETITION FOR REVIEW:**

**A.** Within 30 days following receipt of the completed petition for review, including all supporting documents, the board shall either:

(1) issue a final decision vacating or modifying the coverage determination of the authority consistent with appellant's argument; or

(2) issue a notice of hearing setting, such hearing to be held no less than 30 days and no more than 45 days after the date the notice of setting is mailed to appellant.

**B.** Either the final decision in conformity with appellant's argument or the notice of hearing setting shall be mailed to appellant by first-class mail. A notice of hearing setting shall specify the date, time, location and subject matter of the hearing.

[6.50.16.11 NMAC - Rp, 6.50.16.11 NMAC, 9/1/2014]

#### **6.50.16.12 SETTLEMENT OF APPEAL:**

The appellant and the authority may, at any time, either prior to or during a proceeding under this rule, informally settle a dispute by the consent of the parties.

[6.50.16.12 NMAC - Rp, 6.50.16.12 NMAC, 9/1/2014]

#### **6.50.16.13 PRE-HEARING PROCEDURE:**

**A.** Hearing officer. The board shall appoint a hearing officer for an appeal within seven days after mailing the notice of setting. The board shall provide appropriate

clerical support and space for any hearings conducted. Venue for any hearings shall be Santa Fe county unless the hearing officer in view of convenience to parties and witnesses orders that another location or virtual attendance is more appropriate. The hearing officer shall oversee all proceedings after the hearing is set. The hearing officer will also provide written findings of fact and a disposition recommendation to the board within 14 days after completion of a hearing. The board shall make a final decision, after review of the recommendations of the hearing officer, and mail a notice of final decision to appellant within 30 days of receipt of the hearing officer's recommendations.

**B. Representation of parties:**

(1) The authority shall be represented in proceedings under this rule by its general counsel or a staff member of the authority appointed by the executive director for this purpose.

(2) The appellant may appear pro se, if appellant is an individual, or by an administrator of an institutional appellant who has been appointed for that purpose by the governing body of the institution. Any appellant may be represented by legal counsel licensed to practice law in the state of New Mexico.

**C. Production of authority documents:**

(1) Should a hearing be set by the board, the authority shall make available for copying and inspection all documents that the authority determines to be relevant to the initial determination being appealed within seven days of the date the hearing setting is issued. "Relevance," in this context is to be construed liberally in favor of production.

(2) Documents may be withheld or redacted by the authority only when the relevant material is protected from disclosure or otherwise privileged under New Mexico law. In the interest of complete disclosure, redaction shall be favored over withholding the document.

(3) Should any documents be withheld pursuant to New Mexico law, a list or privilege log generally identifying each document, its contents and the claimed privilege shall be provided to the appellant at the time of production.

(4) Documents produced shall be made available for inspection and copying at the offices of the authority.

**D. Production of appellant or other party documents:** The hearing officer for good cause shown may order inspection, production and copying of documents deemed relevant that are in the possession, custody or control of the appellant member, employee or other party.

**E. Authority, appellant, member and employee arguments:** At least 14 days before the date set for the hearing, all parties shall file simultaneously memorandums stating their complete arguments for or against the authority determination, including a statement of relevant facts, an outline of controlling law and the relief requested. Each party must mail or deliver the original memorandum and one copy to the hearing officer and one copy to the representative of each other party.

**F. Witness and exhibit lists:** Each party must file witness and exhibit lists at least 14 days before the date set for the hearing by mailing or delivering the original to the hearing officer and one copy to the representative of each other party. Witnesses must be identified with particularity. The party calling a witness must provide the witness's name and address and must describe the subject matter of the testimony expected to be elicited from each witness. Each document or object identified in the exhibit list must be immediately made available for inspection and copying. Only witnesses properly identified in the witness list will be permitted to testify in the hearing and only exhibits properly identified in the exhibit list will be admissible in the hearing unless upon good cause being shown the hearing officer determines otherwise.

[6.50.16.13 NMAC - Rp, 6.50.16.13 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.16.14 HEARINGS:**

**A. Rights of parties and those offering comment.** At any hearing, all parties shall be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the hearing. Non-parties wishing to make comments shall be entitled to make an oral or written statement for the record but such statement shall not be considered as evidence. Non-parties making comment shall not have the right to introduce evidence or examine or cross-examine witnesses, to receive copies of pleadings or documents, to appeal from any decision or order, or to otherwise participate in the hearing other than by making their comments.

**B. Continuance.** Any party who desires a continuance shall request a continuance immediately upon receipt of notice of hearing or as soon thereafter as facts requiring such continuance come to the party's knowledge. The hearing officer may grant a request for continuance if timely made and supported by reasonable cause. The hearing officer may also grant a continuance at any time in the hearing officer's sound discretion.

**C. Order of presentation.** The hearing officer shall determine the order of presentation of the evidence and shall be guided in this matter by the interests of fairness and justice.

**D. Rules of evidence.**

(1) All relevant evidence is admissible which, in the opinion of the hearing officer, is the best evidence most reasonably obtainable, having due regard to its necessity, competence, availability and trustworthiness.

(2) In passing upon the admissibility of evidence, the hearing officer shall give consideration to, but shall not be bound by, the New Mexico rules of evidence which govern proceedings in New Mexico district courts. The hearing officer shall also give consideration to the legal requirement that any final decision on the merits be supported by competent evidence.

(3) All testimony to be considered as evidence in a hearing shall be made under oath.

(4) The parties may agree to submit written stipulations of fact or law or both to the hearing officer and such stipulations shall be binding upon the parties entering into the stipulation.

(5) A hearing officer may take administrative notice of the following matters if otherwise admissible under this rule: rules, regulations and procedures of the authority and other government agencies; decisions, records and transcripts in other authority proceedings; state and federal statutes; decisions of state and federal courts; and matters of which the courts of this state may take judicial notice. Matters noticed are admitted into evidence to the same extent as other relevant evidence.

**E. Proposed findings.** The hearing officer may require all parties of record to file proposed forms of order, including proposed findings of fact and conclusions of law, at the close of testimony in the proceeding.

[6.50.16.14 NMAC - Rp, 6.50.16.14 NMAC, 9/1/2014]

#### **6.50.16.15 CONFLICTS:**

If an employee or official of an aggrieved member is on the authority board, that authority board member shall abstain from any participation, discussion, action or voting with respect to the petition for review. In the event an aggrieved authority employee files a petition for review the employee shall abstain from any participation, discussion, action or communication with regard to the petition other than in the employee's normal role as a petitioner.

[6.50.16.15 NMAC - Rp, 6.50.16.15 NMAC, 9/1/2014; A, 12/10/2024]

#### **6.50.16.16 PROCEDURE FOR REVIEW OF A FINAL DECISION OF THE AUTHORITY:**

Final decisions of the authority, whether based upon a notice of appeal or the written findings of fact and disposition recommendations of a hearing officer, may be reviewed

in the New Mexico district courts pursuant to the provisions of Rule 1-075 of the Rules of Civil Procedure for the district courts, governing issuance of writs of certiorari for constitutional review of agency decisions. It is important that an appellant wishing to seek district court review of a final decision of the authority immediately examine the most recent publication of Rule 1-075 to determine its requirements. Pursuant to Rule 1-075, a petition for writ of certiorari must be filed in the district court within 30 days after the date of the final decision of the authority.

[6.50.16.16 NMAC-Rp, 6.50.16.16 NMAC, 9/1/2014]

## **PART 17: USE OF SCHOOL FACILITIES BY PRIVATE PERSONS**

### **6.50.17.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.17.1 NMAC - Rp, 6.50.17.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

### **6.50.17.2 SCOPE:**

This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's risk related coverages.

[6.50.17.2 NMAC - Rp, 6.50.17.2 NMAC, 9/1/2014]

### **6.50.17.3 STATUTORY AUTHORITY:**

Subsection F of Section 22-29-7 NMSA 1978 directs the authority to establish a policy to be followed by participating members relating to the use of school facilities by private persons provided that the policy relates only to liability and risk issues. This policy shall not affect the rights and responsibilities of local school boards to determine how, when and by whom school district facilities are used. The policy shall be distributed to participating members and posted upon the authority's web site.

[6.50.17.3 NMAC - Rp, 6.50.17.3 NMAC, 9/1/2014]

### **6.50.17.4 DURATION:**

Permanent.

[6.50.17.4 NMAC - Rp, 6.50.17.4 NMAC, 9/1/2014]

### **6.50.17.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.17.5 NMAC - Rp, 6.50.17.5 NMAC, 9/1/2014]

**6.50.17.6 OBJECTIVE:**

To establish a policy to be followed by participating members relating to the use of school facilities by private persons. This policy relates only to liability and risk issues.

[6.50.17.6 NMAC - Rp, 6.50.17.6 NMAC, 9/1/2014]

**6.50.17.7 DEFINITIONS:**

**[RESERVED]**

**6.50.17.8 POLICY ON USE OF SCHOOL FACILITIES BY PRIVATE PERSONS:**

**A.** The representative of the requesting group shall contact the facilities manager or other designated school official of the desired site regarding the proposed usage within a time frame required by the site manager or official. The school or school district shall provide the requesting group with a site use agreement which sets forth the terms and conditions of use of the premises. Site use agreements shall at minimum include a copy of the school's safety rules or safety rules provided by the authority's risk management provider. The requesting group shall agree to follow the safety rules included with the site use agreement and also agree to follow the liability and risk related rules contained in Subsection G of 6.50.17.8 NMAC prior to use of the school facilities. The school facility use shall be conducted in compliance with all federal, state and municipal statutes, ordinances, rules and regulations including those with regard to discrimination. School facilities shall not be used for any unlawful purpose.

**B.** All groups shall also agree that the schools will not be liable for injury to the property of the group itself or participants in the group's activities resulting from their participation in the group's activities. Groups and their individual participants shall be required to give waivers of liability and releases for personal injury or property damage on forms provided by the school or the authority.

**C.** Liability insurance provided through the authority shall be excess over any valid and collectible insurance carried by any group permitted to use school facilities. Liability insurance provided by the authority for use of school facilities by private persons is limited to \$1,000,000 per occurrence. Schools or school districts shall not warrant the suitability of the facility or of the facility's contents for the uses intended by the requesting group.

**D.** Commercial groups shall provide a copy of a current business license. Commercial groups shall inform participants that the activity is not sponsored by the school whose facilities are being used.

**E.** All districts shall include within their site use agreement a statement clearly indicating that the approved activity sponsor must assure that activity participants, guests and spectators only access those site areas designated for the activity. District superintendents shall also designate in the site use agreement an individual who shall verify that all the areas utilized were properly checked and secured upon departure from the facility.

**F.** Schools and school districts shall make their own arrangements regarding any payments required for use of the facilities, for reimbursement for special services such as setting up tables and chairs, use of school equipment such as projectors or video equipment or abnormal wear and tear on the facilities. All fees shall be made by check or money order and shall be made payable to the school or school board. It is inappropriate for users of school facilities to pay school employees directly for services in kind or in cash.

**G.** In addition to the safety rules included in the site use agreement, any user of school or school district facilities must agree to the following liability and risk related rules.

(1) The use of alcohol, illegal drugs and tobacco are prohibited on all school property at all times.

(2) Guns are not permitted on school property except for those in the possession of authorized law enforcement personnel.

(3) Users of the facility shall be responsible for providing security as required by the member school or school district for the type of function they have planned.

(4) Users of swimming pool facilities must have a certified lifeguard on duty at all times.

(5) For events that involve animals, including dogs, all must be leashed, penned, caged or otherwise properly contained, constrained or under supervision and control at all times. Animals or pets not properly contained, constrained or under supervision and control at all times are prohibited.

(6) Open fires including candles, torches, and bonfires shall not be allowed except pursuant to prior approval and permit by the appropriate authorities.

(7) Building exits shall never be blocked for any reason.

(8) Parking shall be in designated areas only.

(9) Every effort shall be made to provide vehicle and pedestrian traffic management in order to insure safe and orderly movement of vehicles and people.

(10) All care shall be taken in the design, placement and construction of booths, displays, viewing stands, platforms, theater sets, temporary stages or any other structures to safeguard the safety of those building, using and disassembling such structures. Alterations made by the user shall be removed and the facility replaced to prior and current construction standards.

(11) Decorations shall be fire resistant whenever possible, cover no more than twenty percent of the wall area and never be placed within close proximity to incendiary sources.

(12) Care shall be taken at all times to avoid the creation of tripping hazards or if unavoidable to warn participants of obstacles.

(13) No hazardous materials, including pyrotechnic devices, fireworks, explosives flammable materials or liquids, poisonous materials or plants, strong acids or caustics shall be brought onto the premises or used in any way while occupying the premises except with the approval prior to use by the fire marshal or other authority having jurisdiction.

(14) No amusement rides or attractions, including but not limited to, trampolines of any type, enclosed or air supported structures of any type, climbing walls, climbing ropes, bow and arrow shooting activity or equipment or devices related thereto shall be brought onto the premises or used in any way while occupying the premises except with the express permission of school authorities and on proof of insurance by the user of the facility of at least \$1,000,000 per occurrence naming the school or school district and the authority as additional insureds. All such activities shall be operated and overseen by persons experienced and, if possible, certified to do so.

(15) All users of school facilities shall give written notice to the school of any accident resulting in bodily injury or property damage to property of the school occurring on school premises or in any way connected with the use of the school premises within 24 hours of the accident. The notice shall include details of the time, place and circumstances of the accident and the names and addresses and phone numbers of any persons witnessing the accident.

(16) If playground equipment is to be used, the user of the facility shall provide at least one adult supervisor for every 15 children.

(17) The user of the facility shall provide the appropriate signage to inform participants of the safety rules. A list of emergency agencies and phone numbers shall also be posted.

(18) Access to school facilities by the users of the facility shall be limited to those areas specified in the site use agreement.



**H.** All users of school facilities shall agree to provide prompt and thorough clean-up and removal or storage of all special structures within no more than 24 hours after the end of the event, but in no case later than the beginning of the next school day or if school is out no later than prior to use of the area by school personnel. Users shall ensure that any furniture and equipment moved during the use of the facilities is replaced.

[6.50.17.8 NMAC - Rp, 6.50.17.8 NMAC, 9/1/2014; A, 12/10/2024]

## **PART 18: USE OF VOLUNTEERS IN SCHOOLS AND SCHOOL DISTRICTS**

### **6.50.18.1 ISSUING AGENCY:**

New Mexico Public School Insurance Authority.

[6.50.18.1 NMAC - Rp, 6.50.18.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

### **6.50.18.2 SCOPE:**

This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's risk related coverages.

[6.50.18.2 NMAC - Rp, 6.50.18.2 NMAC, 9/1/2014]

### **6.50.18.3 STATUTORY AUTHORITY:**

Subsection E of Section 22-29-7 NMSA 1978 directs the authority to establish a policy to be followed by participating members relating to the use of volunteers, distribute the policy to participating members and post the policy upon the authority's web site.

[6.50.18.3 NMAC - Rp, 6.50.18.3 NMAC, 9/1/2014]

### **6.50.18.4 DURATION:**

Permanent.

[6.50.18.4 NMAC - Rp, 6.50.18.4 NMAC, 9/1/2014]

### **6.50.18.5 EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.18.5 NMAC - Rp, 6.50.18.5 NMAC, 9/1/2014]

#### **6.50.18.6 OBJECTIVE:**

To establish a policy to be followed by participating members relating to the use of volunteers.

[6.50.18.6 NMAC - Rp, 6.50.18.6 NMAC, 9/1/2014]

#### **6.50.18.7 DEFINITIONS:**

**A. "Regular volunteers"** means those persons, including relatives of students, who commit to serve on a regular basis at a school district, charter school or other educational entity without compensation.

**B. "Spontaneous volunteers"** means those persons who agree to fill an urgent, temporary need for a school district, charter school or other educational entity without compensation and who are not pre-registered as a regular volunteer.

[6.50.18.7 NMAC - Rp, 6.50.18.7 NMAC, 9/1/2014]

#### **6.50.18.8 POLICY FOR REGULAR VOLUNTEERS IN SCHOOLS AND SCHOOL DISTRICTS:**

**A.** Participating member schools and school districts make extensive use of regular volunteers for many of their programs. In seeking and accepting the voluntary services of qualified, interested individuals, the participating members recognize that they have basic responsibilities to the regular volunteers as well as to the students and to themselves.

**B.** Each participating member shall be responsible for organizing and managing and documenting its own regular volunteer program subject to the following rules. Participating member schools, school districts and other educational entities shall have in place policies clearly establishing how and by whom regular volunteers are appointed and the policies at minimum shall require prior to services:

(1) Provide an application process for all prospective regular volunteers and doing an FBI fingerprint background check, and a reference check including, but not limited to any history of drug abuse or drug dealing, domestic violence, DUI offenses, motor vehicle records checks, and ethical misconduct in compliance with Section 22-10A-5 NMSA 1978;

(2) providing all regular volunteers with a job description, outlining specific duties, time commitment and qualifications for acceptance as a regular volunteer;

(3) providing appropriate training, supervision and evaluation of regular volunteers; and

(4) instructing all regular volunteers to understand that failure to obey the code of ethics and standards of professional conduct as provided in 6.60.9.8 NMAC and 6.60.9.9 NMAC concerning the obligations of school personnel is grounds for dismissal.

**C.** Regular volunteers shall not be allowed to begin their service until after their duties are explained to them and they have accepted in writing the following volunteer pledge. It is my duty:

(1) to deal justly and considerately with each student, school employee or other volunteer;

(2) to share the responsibility for improving educational opportunities for all;

(3) to stimulate students to think and learn, but at the same time protect them from harm;

(4) to respect the confidentiality of student records and information about students, their personal or family life;

(5) not to discriminate or to permit discrimination on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion or serious medical condition against any person while I am on duty as a volunteer;

(6) to avoid exploiting or unduly influencing a student into engaging in an illegal or immoral ethical misconduct or act or any other behavior that would subject the student to discipline for misconduct, whether or not the student actually engages in the behavior;

(7) to avoid giving gifts to any one student unless all students similarly situated receive or are offered gifts of equal value for the same reason;

(8) to avoid lending money to students;

(9) to avoid having inappropriate contact with any student, whether or not on school property, which includes all forms of sexual touching, sexual relations or romantic relations, any touching which is unwelcome by the student or inappropriate given the age, sex and maturity of the student;

(10) to avoid giving a ride to a student;

(11) not to engage in sexual harassment of students, other volunteers or school employees;

(12) not to engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off premises;

(13) not to possess or use tobacco, alcohol, cannabis or illegal drugs while on school property or during school events off premises;

(14) to use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable law, policies and rules;

(15) to avoid any violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct when on school property or off campus at school functions;

(16) to abide by the school's social media policy to refrain from using school information technology equipment, hardware, software or internet access for other than a school related purpose;

(17) to refrain from striking, assaulting or restraining students unless necessary in the defense of self or others;

(18) to refrain from using inflammatory, derogatory or profane language while on school property or while attending school events off premises;

(19) to refrain from bringing or possessing firearms or other weapons on school property except with proper authorization;

(20) not to be under the influence of alcohol, cannabis or illegal drugs on school property or at school events off premises; and

(21) to report, as appropriate under the circumstances, violations of this pledge by other regular volunteers or school employees.

**D.** For the mutual protection of regular volunteers and the participating members, personnel administering regular volunteer programs shall provide a safe place to work and clear project organization or direction, establish and inform regular volunteers of emergency procedures, ensure that regular volunteers understand that their activities create participating member's liability, and that ethical standards apply to them as well as to regular school employees. Participating member personnel shall inform each regular volunteer in writing of the reserved right to dismiss unsatisfactory regular volunteers and of the established procedures for doing so.

**E.** Spontaneous volunteers are not subject to these rules, but spontaneous volunteers must be supervised at all times by an employee or regular volunteer of the school district, charter school or other educational entity.

[6.50.18.8 NMAC - Rp, 6.50.18.8 NMAC, 9/1/2014; A, 12/10/2024]

## **CHAPTER 51-59: [RESERVED]**

# **CHAPTER 60: SCHOOL PERSONNEL - GENERAL PROVISIONS**

## **PART 1: GENERAL PROVISIONS [RESERVED]**

## **PART 2: DEFINITIONS OF "LICENSE", "LICENSED", AND "LICENSURE" [REPEALED]**

[This part was repealed on June 30, 2006.]

## **PART 3: ALTERNATIVE LICENSURE**

### **6.60.3.1 ISSUING AGENCY:**

Public Education Department, herein after the department.

[6.60.3.1 NMAC - Rp, 6.60.3.1 NMAC, 11/27/2018]

### **6.60.3.2 SCOPE:**

Applicants for alternative teaching licensure alternative administrative licensure, or student success advisor licensure.

[6.60.3.2 NMAC - Rp, 6.60.3.2 NMAC, 11/27/2018]

### **6.60.3.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-6, and 22-10A-8 NMSA 1978.

[6.60.3.3 NMAC - Rp, 6.60.3.3 NMAC, 11/27/2018]

### **6.60.3.4 DURATION:**

Permanent

[6.60.3.4 NMAC - Rp, 6.60.3.4 NMAC, 11/27/2018]

### **6.60.3.5 EFFECTIVE DATE:**

November 27, 2018 unless a later date is cited in the history note at the end of a section.

[6.60.3.5 NMAC - Rp, 6.60.3.5 NMAC, 11/27/2018]

### **6.60.3.6 OBJECTIVE:**

To define the requirements for obtaining an alternative teaching license, alternative administrator license, or student success advisor license.

[6.60.3.6 NMAC - Rp, 6.60.3.6 NMAC, 11/27/2018]

#### **6.60.3.7 DEFINITIONS:**

##### **A. "Alternative license" means:**

(1) a temporary, two-year teaching license issued by the department to a candidate who does not yet meet the requirements for a level 1 standard license but is participating in an alternative route to licensure as defined in Subsections B and C of 6.60.3.9 NMAC; or

(2) a temporary, one-year teaching license issued by the department to a candidate who does not yet meet the requirements for a level 1 standard license but is participating in an alternative route to licensure as defined in Subsection D of 6.60.3.9 NMAC; or

(3) a temporary, one-year administrator certificate or license issued by the department to a candidate who does not yet meet the requirements for a level 3B administrator license but is participating in an alternative route to licensure as defined in 6.60.3.11 NMAC; or

(4) a temporary, five-year alternative student success advisor license issued by the department to a candidate who does not yet meet the requirements for school counselor licensure but is working toward meeting the requirements established in 6.63.6 NMAC.

**B. "Competencies for licensure"** means the content knowledge and skills a teacher shall know and apply in order to demonstrate competency in a particular content area as defined in Title 6, Chapter 64, Competencies for Licensure, Parts 2 through 18 NMAC.

**C. "Department-approved educator preparation program" or "department-approved EPP"** means an educational program approved by the department pursuant to 6.65.3 NMAC that offers coursework intended to lead to teacher licensure upon a candidate's successful completion of program requirements.

**D. "Full school year"** means a minimum of 160 instructional days or equivalent number of days in schools or local education agencies on alternative schedules over multiple school years of full-time or part-time teaching during which the teacher is the teacher of record or serves as an instructional coach or resource teacher in at least one class each school year while holding a standard teaching license. An equivalent number of instructional hours may be accepted for those teachers who do not teach every day. Instructional days may include teaching in summer school or similar educational setting.

**E. "Internship"** means an official program with practical experience in which candidates for administrative licensure assume all responsibilities of a school administrator under the guidance of a mentor for a minimum of 180 clock hours throughout one full school year, including those responsibilities that are unique to the beginning and end of the school year. Internships shall be served at a public school, private school, or state educational institution.

**F. "Local education agency" or "LEA"** means a school district or a state-chartered charter school.

**G. "Mental health services"** means the responsibilities of a school counselor as outlined in Subsection D and E of 6.63.6.9 NMAC.

**H. "New Mexico teacher assessments" or "NMTA"** means the tests required for individuals seeking initial New Mexico licensure.

**I. "NMTEACH"** means the department-approved educator effectiveness evaluation system defined in 6.69.8 NMAC that measures teacher performance using the five components:

- (1) improved student achievement;
- (2) classroom observation;
- (3) planning, preparation, and professionalism;
- (4) student or parent surveys; and
- (5) teacher attendance.

**J. "Standard teaching license"** means a certificate or license issued by the department at five and nine year intervals authorizing a person to teach, supervise an instructional program, counsel, provide special instructional services, or serve as an administrator in a New Mexico public school.

**K. "Teacher of record"** means the recipient of an alternative teaching license named in an employment contract with an LEA responsible for teaching students and managing a classroom the majority of the time. The teacher of record is responsible for lesson planning, assigning grades, meeting with parents, and completing all duties of a classroom teacher with a standard teaching license.

[6.60.3.7 NMAC - Rp, 6.60.3.7 NMAC, 11/27/2018]

#### **6.60.3.8 PATHWAYS FOR ALTERNATIVE TEACHING LICENSURE:**

Three pathways shall be available for candidates seeking to obtain an alternative teaching license in New Mexico.

**A. Alternative EPP pathway.** A two-year alternative teaching license may be granted to candidates who simultaneously complete face-to-face or online courses through a department-approved EPP while serving as a teacher of record for two years. Candidates who complete the EPP and meet coursework and testing requirements at the conclusion of the two-year alternative license period shall be eligible to transfer to a level 1 standard teaching license.

**B. Alternative NMTEACH pathway.** A two-year alternative teaching license may be granted to candidates who simultaneously complete required teaching of reading coursework and testing requirements while serving as a teacher of record. Candidates who complete coursework and testing requirements and who earn two consecutive ratings of effective or higher on NMTEACH at the completion of the two-year alternative license period shall be eligible to transfer to a level 1 standard teaching license.

**C. Alternative post-secondary experience pathway.** A one-year alternative license may be granted to candidates who have obtained a bachelor's and master's degree in a field outside education and who have taught at an accredited college or university for a minimum of five years. Candidates who serve as the teacher of record for one full school year who earn an effective or higher rating on NMTEACH and who satisfactorily demonstrate teaching competencies for the type and level of licensure being sought, as determined by the LEA, shall be eligible to transfer to a level 2 or level 3A standard teaching license. Candidates following the alternative post-secondary experience pathway shall not be required to complete testing requirements.

[6.60.3.8 NMAC - Rp, 6.60.3.8 NMAC, 11/27/2018]

#### **6.60.3.9 REQUIREMENTS FOR ALTERNATIVE TEACHING LICENSURE:**

**A. General requirements.** All applicants for alternative teaching licensure shall:

- (1) be at least 18 years of age;
- (2) hold either a bachelor of arts or science degree, master of arts or science degree, or doctorate degree from a regionally accredited college or university with a minimum grade point average of 2.75;
- (3) complete a background check in accordance with 6.60.8 NMAC; and
- (4) have no licensure requirements waived on an emergency or temporary basis, or for any other reason; and
- (5) meet the application requirements for the license being sought.



**B. Alternative EPP pathway.** Applicants following the alternative EPP pathway shall:

- (1) pass the required NMTA essential academic skills tests defined in 6.60.5 NMAC prior to receiving alternative licensure at any level;
- (2) participate in a department-approved EPP with an alternative licensure program;
- (3) serve as a teacher of record for two full school years; and
- (4) complete no fewer than six semester hours including required hours of coursework in the teaching of reading aligned with the competencies for licensure for entry-level teachers for the type of license being sought.

**C. Alternative NMTEACH pathway.** Applicants following the alternative NMTEACH pathway shall:

- (1) pass the required NMTA essential academic skills tests defined in 6.60.5 NMAC prior to receiving alternative licensure at any level;
- (2) serve as a teacher of record for two full school years;
- (3) receive two consecutive ratings of effective or higher on the NMTEACH summative evaluation; and
- (4) complete required coursework in the teaching of reading.

(a) Applicants seeking early childhood birth to pre-K, early childhood age three to age eight, elementary K-8, or special education pre K-12 licensure, shall complete six semester hours of coursework in the teaching of reading.

(b) Applicants seeking middle level 5-9, secondary 7-12, or specialty area pre K-12 licensure, shall complete three semester hours of coursework in the teaching of reading.

**D. Alternative post-secondary experience pathway.** Applicants following the post-secondary experience pathway shall:

- (1) provide documentation of at least five full school years' experience teaching at an accredited college or university;
- (2) complete at least one full school year as a teacher of record while holding an alternative license; and
- (3) complete required coursework in the teaching of reading.

(a) Applicants seeking early childhood birth to pre-K, early childhood age three to age eight, elementary K-8, or special education pre K-12 licensure, shall complete six semester hours of coursework in the teaching of reading.

(b) Applicants seeking middle level 5-9, secondary 7-12, or specialty area pre K-12 licensure, shall complete three semester hours of coursework in the teaching of reading.

[6.60.3.9 NMAC - Rp, 6.60.3.9 NMAC, 11/27/2018]

### **6.60.3.10 APPLICATION FOR ALTERNATIVE TEACHING LICENSURE:**

**A. Alternative EPP pathway.** Applicants following the alternative EPP pathway who meet the criteria for alternative licensure as defined in 6.60.3 NMAC shall be issued a two-year alternative license and shall be permitted to serve as a teacher of record prior to completion of licensure requirements. The licensee shall complete coursework requirements within the two-year period and shall provide the department with documentation of coursework completion. Candidates with alternative licensure may be issued a one-year extension to allow additional time for completing coursework and testing requirements if they can demonstrate good standing with the LEA or EPP. Applicants for alternative licensure via the alternative EPP pathway shall provide:

- (1) official sealed bachelor's degree transcript with at least 30 semester hours in the license subject area, a master's degree transcript with at least 12 graduate hours in the license subject area, or a doctoral degree in the license subject area;
- (2) a letter of acceptance into a department-approved EPP; and
- (3) proof of passage of required NMTA essential academic skills tests.

**B. Alternative NMTEACH pathway.** Applicants following the alternative NMTEACH pathway who meet the criteria for alternative licensure as defined in 6.60.3 NMAC shall be issued a two-year alternative license and shall be permitted to serve as a teacher of record prior to completion of licensure requirements. The licensee shall complete coursework requirements within the two-year period and shall provide the department with documentation of coursework completion. Candidates with alternative licensure following the NMTEACH pathway who are not successful in demonstrating competency by way of NMTEACH summative evaluations shall not have their alternative license extended or renewed. Applicants for alternative licensure via the alternative NMTEACH pathway shall provide:

- (1) official sealed transcript for a bachelor's degree transcript with at least 30 semester hours in the license subject area, a master's degree transcript with at least 12 graduate hours in the license subject area, or a doctoral degree in the license subject area;

- (2) proof of registration to complete required coursework in the teaching of reading;
- (3) proof of passage of required NMTA essential academic skills tests;
- (4) a letter of support from the LEA requesting that the applicant follow the alternative NMTEACH pathway; and
- (5) a letter of interest from the applicant requesting to follow the alternative NMTEACH pathway.

**C. Alternative post-secondary experience pathway.** Applicants following the alternative post-secondary experience pathway who meet the criteria for alternative licensure as defined in 6.60.3 NMAC shall be issued a one-year alternative license and shall be permitted to serve as a teacher of record prior to completion of licensure requirements. Applicants shall provide:

- (1) proof of registration to complete required coursework in the teaching of reading; and
- (2) verification of five-years' teaching experience at an accredited college or university.

[6.60.3.10 NMAC - Rp, 6.60.3.11 NMAC, 11/27/2018]

#### **6.60.3.11 REQUIREMENTS FOR ALTERNATIVE ADMINISTRATOR LICENSURE:**

**A.** A one-year alternative license in educational administration may be issued to any candidate who:

- (1) holds a level 2 or level 3 teaching license; and
- (2) has at least six full school years of experience in administration at an accredited college or university. Administrators shall be in a position of supervision which shall include:

- (a) dean;
- (b) president; and
- (c) vice president.

**B.** Alternatively licensed educational administrators shall complete an internship of at least 180 hours. Upon completion of the internship, the candidate shall be issued a level 3B administrator license so long as they have met the administrator licensure

competencies and indicators outlined in 6.62.2.10 NMAC, as verified to the department by the candidate's employer.

[6.60.3.11 NMAC - Rp, 6.60.3.11 NMAC, 11/27/2018]

**6.60.3.12 REQUIREMENTS FOR ALTERNATIVE STUDENT SUCCESS ADVISOR LICENSURE:**

**A.** Applicants for an alternative student success advisor license shall:

- (1)** be at least 18 years of age;
- (2)** hold either a bachelor of arts or science degree from a regionally accredited college or university; and
- (3)** complete a background check in accordance with 6.60.8 NMAC.

**B.** Applicants who meet the criteria established in Subsection A of 6.60.3.13 NMAC shall be issued a five-year alternative license to serve as a student success advisor. Student success advisors shall:

- (1)** work with students in grades seven through 12; and
- (2)** sign an ethical statement, prescribed by the department, stating that the licensee shall not provide mental health services while employed as a student success advisor.

**C.** Alternative student success advisor licenses shall be non-renewable. Student success advisors shall complete the requirements to earn a school counselor license defined in 6.63.6 NMAC within the five-year term of their alternative license to maintain employment in the role of a student advisor or to transition into the role of school counselor.

**D.** Responsibilities of the student success advisor may include any of the following:

- (1)** maintaining accurate and complete records and reports as required by federal and state law and regulation, department guidance, and district and charter school policies;
- (2)** analyzing transcripts;
- (3)** guiding student and parent decision making regarding courses and graduation pathways;
- (4)** supporting students with the college application and admission process, including preparation for college admissions tests;

- (5) developing master schedules;
- (6) arranging for dual or concurrent enrollment, career technical education, and advanced placement course offerings;
- (7) informing students about postsecondary financing options such as the free application for federal student aid that can be used to support advanced education and training;
- (8) supporting student documentation of career preparedness, including industry-recognized credentials or certificates, test results, grades, samples of student work, resumes, and cover letters to prospective employers;
- (9) planning and conducting activities focused on increasing career awareness;
- (10) conducting orientation and training programs for students, parents, and staff;
- (11) serving as a district or school test coordinator or administrator as defined in 6.10.7 NMAC; and
- (12) supporting students in meeting the requirements for a New Mexico diploma of excellence by providing guidance on coursework and demonstration of competency requirements.

E. Responsibilities of the student success advisor shall not include providing mental health services.

[6.60.3.12 NMAC - Rp, 6.60.3.12 NMAC, 11/27/2018]

## **PART 4: LICENSURE RECIPROCITY**

### **6.60.4.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.60.4.1 NMAC - Rp 6 NMAC 4.2.2.3.1, 07-01-01; A, 10-14-04]

### **6.60.4.2 SCOPE:**

All persons who possess a minimum of a baccalaureate degree, have completed their education preparation programs at educational institutions outside the state or hold a valid out-of-state license, and are now seeking a teaching or administrative license or an endorsement from the PED.

[6.60.4.2 NMAC - Rp 6 NMAC 4.2.2.3.2, 07-01-01; A, 10-14-04; A, 10-31-07]

**6.60.4.3 STATUTORY AUTHORITY:**

Sections 22-10A-12, 22-10A-6 (C) (D), and 22-10A-12 NMSA 1978.

[6.60.4.3 NMAC - Rp 6 NMAC 4.2.2.3.3, 07-01-01; A, 10-14-04]

**6.60.4.4 DURATION:**

Permanent.

[6.60.4.4 NMAC - Rp 6 NMAC 4.2.2.3.4, 07-01-01]

**6.60.4.5 EFFECTIVE DATE:**

July 1, 2001, unless a later date is specified at the end of a section.

[6.60.4.5 NMAC - Rp 6 NMAC 4.2.2.3.5, 07-01-01]

**6.60.4.6 OBJECTIVE:**

This rule governs the requirements for providing limited reciprocity to obtain teaching or administrative licensure, or licensure endorsement, for those persons having completed their education preparation programs at educational institutions outside the state or holding valid out-of-state licensure.

[6.60.4.6 NMAC - Rp 6 NMAC 4.2.2.3.6, 07-01-01; A, 10-31-07]

**6.60.4.7 DEFINITIONS:**

**A. "Core academic subjects"** means English, language arts, reading, mathematics, science, modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes and pueblos, the arts, including music and visual arts, and social studies, which includes civics, government, economics, history, and geography.

**B. "Academic major,"** under this rule, means twenty-four (24) to thirty-six (36) semester hours in a core academic subject area, twelve hours of which must be upper division for secondary 7-12, middle level 5-9, and pre-K-12 specialty area licenses.

**C. "Full school year"** means a minimum of 160 instructional days in a school year or 480 instructional days or equivalent number of days in schools or school districts on alternative schedules over multiple school years of full-time or part-time teaching during which the teacher is the teacher of record or serves as an instructional coach or resource teacher in at least one class each school year while holding a standard

teaching license. An equivalent number of instructional hours may be accepted for those teachers who do not teach every day. Instructional days may include teaching in summer school or similar educational setting.

[6.60.4.7 NMAC - N, 10-14-04; A, 10-31-07; A, 06-15-09]

#### **6.60.4.8 REQUIREMENTS:**

**A.** Persons seeking a reciprocal level 1 license for elementary k-8, early childhood birth-grade 3, secondary or secondary vocational technical 7-12, middle level 5-9, special education pre K-12, or grade pre K-12 specialty area, or grade pre K-12 blind and visually impaired, through reciprocity, shall meet the following requirements:

(1) hold a bachelor's degree or higher degree from a regionally accredited or PED approved college or university; and

(2) hold and provide a copy of at least one current valid teaching license issued by a state education agency, including PED or department of defense dependent schools or foreign country that is comparable to the license they are seeking; and

(3) have completed a standard or alternative teacher preparation program approved in another state or accepted by the PED; and

(4) provide copies of test scores for exams that were required to receive the license; and

(5) if applying for:

(a) early childhood birth-grade 3 or k-8 elementary licensure, provide evidence of having passed a content knowledge or professional knowledge test on the basic early childhood or elementary school curriculum and on any additional core academic endorsement areas or have completed 24 lower or upper division credit hours across the elementary education core academic subjects of language arts, social studies, mathematics, and science with at least six credit hours in each core area;

(b) secondary or secondary vocational and technical 7-12, middle level 5-9, or grades pre K-12 specialty area licensure in the core academic areas, provide evidence of having passed a content knowledge test in each of the core academic subjects in which the applicant seeks licensure or having completed an academic major, a graduate degree, or coursework equivalent to an academic major in each of the core academic subjects in which the applicant seeks licensure;

(c) licensure in non-core academic subjects, special education pre K-12, or blind and visually impaired pre K-12 licensure, have, on a form acceptable to the PED, provided evidence of having satisfactorily taught under their out of state license or licenses or have passed the applicable New Mexico teacher assessment ("NMTA") and

**(6)** have, on a form acceptable to the professional licensure bureau ("PLB") of the PED, provided evidence of having satisfactorily taught in any state or foreign country or combination of other states or countries other than New Mexico for fewer than three (3) full school years at any time preceding their application for licensure while holding at least one standard out-of-state or New Mexico teaching license or foreign country authorization to teach or combination of any of the aforementioned licenses or authorizations, and

**(7)** submit to and satisfactorily clear a fingerprint-based background check pursuant to Section 22-10A-5, NMSA 1978.

**B.** Persons seeking a level 2 license for elementary k-8, early childhood birth-grade 3, secondary or secondary vocational technical 7-12, middle level 5-9, special education pre K-12, or grade preK-12 specialty area, or grade pre K-12 blind and visually impaired, through reciprocity, shall meet the following requirements:

**(1)** hold a bachelor's degree or higher degree from a regionally accredited or state approved college or university; and either

**(2)** hold a valid certificate issued by the national board for professional teaching standards; or

**(3)** hold and provide a copy of a valid teaching license or licenses issued by a state education agency, including PED or department of defense dependent schools or foreign country that is comparable to the license they are seeking; and

**(4)** have completed a standard or alternative teacher preparation program approved in another state or accepted by the PED; and

**(5)** have, on a form acceptable to the PED, provided evidence of having satisfactorily taught in any state or foreign country or combination of other states or countries other than New Mexico for at least three (3) full school years at any time preceding their application for licensure while holding at least one standard out-of-state or New Mexico teaching license or foreign country authorization to teach or combination of any of the aforementioned licenses or authorizations, and

**(6)** provide copies of test scores for exams required to receive the license and have either the required credit hours or have passed a license test for endorsement areas; and

**(7)** submit to and satisfactorily clear a fingerprint-based background check pursuant to Section 22-10-3.3, NMSA 1978.

**C.** Persons seeking a level 3-A license for elementary k-8, early childhood birth-grade 3, secondary or secondary vocational technical 7-12, middle level 5-9, special



education pre K-12 or grade pre K-12 specialty area, or grade pre K-12 blind and visually impaired, through reciprocity, shall meet the following requirements:

- (1)** hold a master's degree or higher from a regionally accredited or state approved college or university; or
- (2)** hold a valid certificate issued by the national board for professional teaching standards; and
- (3)** hold and provide a copy of a valid teaching license or licenses issued by a state education agency, including PED or department of defense dependent schools or foreign country that is comparable to the license they are seeking; and
- (4)** have completed a standard or alternative teacher preparation program approved in another state or accepted by the PED and
- (5)** have, on a form acceptable to the PED, provided evidence of having satisfactorily taught in any state or foreign country or combination of other states or countries other than New Mexico for at least six (6) full school years at any time preceding their application for licensure while holding at least one standard out-of-state or New Mexico teaching license or foreign country authorization to teach or combination of any of the aforementioned licenses or authorizations; and
- (6)** provide copies of test scores for exams required to receive the license and have either the required credit hours or have passed a licensure test for endorsement areas; and
- (7)** submit to and satisfactorily clear a fingerprint-based background check pursuant to section 22-10A-5, NMSA 1978.

**D.** A teacher who is granted level 3-A licensure under this rule who does not demonstrate competency at level 3-A indicators in Subsection D of 6.69.4.12 NMAC for a given school year may have the license suspended under Subsection F of 6.69.4.10 NMAC.

**E.** Persons seeking reciprocal administrative licensure shall meet the following requirements:

- (1)** hold a master's degree or higher degree from a regionally accredited or PED approved college or university; and
- (2)** hold a valid administrator's license or licenses issued by a state education agency or department of defense dependent schools or foreign country;
- (3)** have completed a regionally accredited college or university education administrator preparation program approved in another state or accepted by the PED;

(4) provide on a form acceptable to the PED, evidence of having satisfactorily worked in any state or foreign country or combination of other states or countries other than New Mexico for at least six (6) full school years as a teacher at any time preceding their application for New Mexico licensure in education administration, or having worked in any state or foreign country or combination of other states or countries other than New Mexico for six (6) full school years either as a teacher or administrator with at least three (3) full school years of experience as a teacher at any time preceding their application for New Mexico licensure in education administration.

F. Persons holding a valid education administration license from another state or department of defense dependent schools or foreign country who are seeking reciprocal education administration licensure in New Mexico shall be exempt from satisfying the requirements of Paragraph 4 of Subsection E of 6.60.4.8 NMAC above, provided that they began their administrator preparation program prior to April 4, 2003.

[6.60.4.8 NMAC - Rp 6 NMAC 4.2.2.3.8, 07-01-01; A, 06-01-02; A, 08-30-02; A, 10-14-04; A, 10-31-07; A, 06-15-09; A, 01-29-10]

#### **6.60.4.9 LICENSURE ENDORSEMENTS:**

Persons seeking to add an endorsement on the basis of regionally accredited college coursework, passage of a content test or showing the endorsement on an out-of-state license shall meet the following requirements:

A. hold the underlying license required for that endorsement; and

B. provide the out-of state documentation supporting their having satisfied the endorsement-appropriate PED requirements for the requested endorsement; and

C. if they are also seeking level 1, level 2, or level 3 reciprocal licensure under this rule, meet the requirements of either Subsections A, B or C of Section 8 of 6.60.4 NMAC above for the respective level of licensure sought.

[6.60.4.9 NMAC - N, 07-01-01; A, 10-14-04; A, 10-31-07]

#### **6.60.4.10 BURDEN OF PROOF ON SUBMISSIONS:**

Consistent with the criteria enumerated above, it shall be the burden of the individual seeking the reciprocal licensure or licensure endorsement to provide supporting documentation to the PED. Individuals would have one calendar year after application receipt date in the licensure bureau to provide the documentation to have the level of license changed. After that time, the person would need to reapply and provide all proper documentation.

[6.60.4.10 NMAC - N, 07-01-01; A, 10-14-04; A, 10-31-07]

#### **6.60.4.11 [RESERVED]**

[6.60.4.11 NMAC - N, 07-01-01; Repealed, 10-14-04]

#### **6.60.4.12 IMPLEMENTATION:**

Persons who meet the requirements in this rule may obtain a license at a level established by the PED unless otherwise barred by statute or PED rule. The PED may issue new licenses to persons impacted by amendments in this rule with the same beginning effective dates as their original licenses. Out of state licenses that are expired will only be considered in determining a person's eligibility to receive licensure or licensure endorsement under this rule if the person has provided at least one currently valid license. Except for a certificate issued by the national board for professional teaching standards, the fact that a person seeking reciprocal licensure holds a valid out of state license or endorsement shall not in itself entitle that person to any presumption regarding the issuance of a PED license or endorsement. Nothing in this rule shall prevent a local superintendent from establishing a policy requiring a person who receives reciprocal licensure to participate in a mentorship program.

[6.60.4.12 NMAC - Rp 6 NMAC 4.2.2.3.9, 07-01-01; A, 10-14-04; A, 10-31-07]

#### **6.60.4.13 FOREIGN COUNTRY LICENSURE RECIPROCITY:**

**A.** Foreign country teachers seeking a reciprocal level 1 license for elementary k-8, early childhood birth-grade 3, secondary or secondary vocational technical 7-12, middle level 5-9, special education pre K-2, or grade pre K-12 specialty area, or grade pre K-12 blind and visually impaired who are licensed or hold authorization to teach in a country outside of the United States of America here after referred to as United States shall meet the following requirements:

(1) hold a bachelor's degree from a United States regionally accredited college or university or an equivalent to a bachelor's degree from another country as verified by an official translation and evaluation from a PED accepted agency as posted on [www.ped.state.nm.us](http://www.ped.state.nm.us); and,

(2) hold and provide a copy of a valid teaching license or authorization to teach in another country or countries that is comparable to the New Mexico license they are seeking; and,

(3) have completed a standard or alternative teacher preparation program approved in another state or country or accepted by the PED; and,

(4) if applying for:

(a) early childhood birth-grade 3 or k-8 elementary licensure, have passed the applicable New Mexico teacher assessments ("NMTA") or other teacher competency

test(s) satisfying requirements for teacher licensure in another state or country, or have completed 24 lower or upper division credit hours across the elementary education core academic subjects of language arts, social studies, mathematics, and science with at least six credit hours in each core area;

**(b)** secondary or secondary vocational technical 7-12, middle level 5-9, and grades pre K-12 specialty area licensure in the core academic areas, provide evidence of having completed an academic major, a graduate degree, or coursework equivalent to an academic major in each of the core academic subjects in which the applicant seeks licensure, or having passed the applicable New Mexico teacher assessments ("NMTA") or other teacher competency test(s) satisfying requirements for teacher licensure in another state or country;

**(c)** licensure in non-core academic subjects, special education pre K-12, or blind and visually impaired pre K-12 licensure, have, on a form acceptable to the PED, provided evidence of having satisfactorily taught under their foreign country licensure or authorization, or have passed the applicable New Mexico teacher assessments ("NMTA") or other teacher competency test(s) satisfying requirements for teacher licensure in another state or country; and,

**(5)** have, on a form acceptable to the PED, provided evidence of having satisfactorily taught in any state or foreign country or combination of other states or countries other than New Mexico for fewer than three (3) full school years at any time preceding their application for licensure while holding at least one standard out-of-state or New Mexico teaching license or foreign country authorization to teach or combination of any of the aforementioned licenses or authorizations; and

**(6)** submit to and satisfactorily clear a fingerprint-based background check pursuant to Section 22-10A-5, NMSA 1978 or provide proof of a criminal history background clearance from their country of residence.

**B.** Persons seeking a level 2 license for elementary k-8, early childhood birth-grade 3, secondary or secondary vocational technical 7-12, middle level 5-9, special education pre K-12, or grade pre K-12 specialty area, or grade pre K-12 blind and visually impaired, through reciprocity, shall meet the following requirements:

**(1)** hold a bachelor's degree or equivalent from a college or university, which if located in the United States must be regionally accredited; and either

**(2)** hold a valid certificate issued by the national board for professional teaching standards; or

**(3)** hold and provide a copy of a valid teaching license or authorization to teach in another country or countries that is comparable to the New Mexico license they are seeking; and

(4) provide a valid translation and evaluation of transcripts and other documentation from outside of the United States; and

(5) have completed a standard or alternative teacher preparation program approved in another state or country or accepted by the PED; and

(6) meet the requirements of Paragraph (4) of Subsection A of 6.60.4.13, NMAC; and

(7) have, on a form acceptable to the PED, provided evidence of having satisfactorily taught in any state or foreign country or combination of other states or countries other than New Mexico for at least three (3) full school years at any time preceding their application for licensure while holding at least one standard out-of-state or New Mexico teaching license or foreign country authorization to teach, or combination of any of the aforementioned licenses or authorizations; and

(8) submit to and satisfactorily clear a fingerprint-based background check pursuant to section 22-10A-5, NMSA 1978 or provide proof of a criminal history background clearance from their country of residence.

**C.** Persons seeking a level 3 license for elementary k-8, early childhood birth-grade 3, secondary or secondary vocational technical 7-12, middle level 5-9, special education pre K-12, or grade pre K-12 specialty area, or pre K-12 blind and visually impaired, through reciprocity, shall meet the following requirements:

(1) hold a master's degree or higher degree or equivalent from a college or university, which if located in the United States must be regionally accredited; and either

(2) hold a valid certificate issued by the national board for professional teaching standards; or

(3) hold and provide a copy of a valid teaching license or authorization to teach in another country or countries that is comparable to the New Mexico license they are seeking; and

(4) have completed a standard or alternative teacher preparation program approved in another state or country or accepted by the PED; and

(5) provide a valid translation of transcripts and other documentation; and

(6) meet the requirements of Paragraph 4 of Subsection A of 6.60.4.13 NMAC; and

(7) have, on a form acceptable to the PED, provided evidence of having satisfactorily taught in any state or foreign country or combination of other states or countries other than New Mexico for at least six (6) full school years at any time

preceding their application for licensure while holding at least one standard out-of-state or New Mexico teaching license or foreign country authorization to teach or combination of any of the aforementioned licenses or authorizations; and

**(8)** submit to and satisfactorily clear a fingerprint-based background check pursuant to section 22-10A-5, NMSA 1978 or provide proof of a criminal history background clearance from their country of residence.

**D.** A teacher who is granted level 3-A licensure under this rule who does not demonstrate competency at level 3-A indicators of Subsection D of 6.69.4.12 for a given school year may have the license suspended under Subsection F of 6.69.4.10 NMAC.

[6.60.4.13 NMAC - N, 06-01-02; A, 08-15-03; A, 10-14-04; A, 10-31-07; A, 06-15-09]

## **PART 5: COMPETENCY TESTING FOR LICENSURE**

### **6.60.5.1 ISSUING AGENCY:**

Public Education Department (PED).

[12-31-98, 07-30-99; 6.60.5.1 NMAC - Rn, 6 NMAC 4.2.2.2.1, 10-13-00; A, 04-29-05; A, 06-15-09]

### **6.60.5.2 SCOPE:**

All persons seeking teaching licensure, certain licensure endorsements, and bilingual education endorsement on or after July 30, 1999; all persons seeking administrator, school counselor, educational diagnostician licensure after September 1, 2007, and all persons who have registered to take or have taken any portion of the New Mexico teacher assessments.

[12-31-98, 07-30-99; 6.60.5.2 NMAC - Rn, 6 NMAC 4.2.2.2.2 & A, 10-13-00; A, 07-01-01; A, 07-15-02; A, 04-29-05; A, 10-31-07]

### **6.60.5.3 STATUTORY AUTHORITY:**

Sections 22-2-1 and 22-2-2, NMSA 1978.

[12-31-98; 6.60.5.3 NMAC - Rn, 6 NMAC 4.2.2.2.3, 10-13-00; A, 07-01-01; A, 04-29-05]

### **6.60.5.4 DURATION:**

Permanent.

[12-31-98; 6.60.5.4 NMAC - Rn, 6 NMAC 4.2.2.2.4, 10-13-00]

#### **6.60.5.5 EFFECTIVE DATE:**

July 30, 1999, unless a later date is cited in the history at the end of a section.

[12-31-98, 07-30-99; 6.60.5.5 NMAC - Rn, 6 NMAC 4.2.2.2.5 & A, 10-13-00]

#### **6.60.5.6 OBJECTIVE:**

This rule is adopted by the "PED" for the purpose of establishing the New Mexico teacher assessments ("NMTA") as the primary acceptable examination for educator licensure in New Mexico. Although the PED adopts the New Mexico teacher assessments as the successor examination to the core battery of the national teachers examination, this rule also provides for acceptance of passing test scores from those applicants who took the core battery of the national teachers examination and have applied for licensure on or after July 30, 1999. This rule also establishes the New Mexico content knowledge assessments ("NMCKA"), which is part of the NMTA, as the content tests required to be taken to hold certain endorsements on teaching licenses or to receive an initial elementary K-8 license or pre K-12 special education license. This rule also establishes Prueba de Español para la Certificación Bilingüe as the PED's required Spanish language proficiency examination for persons seeking an endorsement to a teaching license in Spanish/English bilingual education and allows that test or its predecessor to be used as the content knowledge test to be taken for an endorsement in modern, classical and native languages for Spanish. This rule also allows the national family and consumer sciences test to be used as the content knowledge test to be taken for an endorsement in family and consumer sciences. Lastly, this rule establishes procedures for investigating NMTA testing irregularities and taking corrective action.

[12-31-98, 07-30-99; 6.60.5.6 NMAC - Rn, 6 NMAC 4.2.2.2.6 & A, 10-13-00; A, 07-01-01; A, 07-15-02; A, 02-14-03; A, 04-29-05; A, 05-31-06; A, 10-31-07]

#### **6.60.5.7 DEFINITIONS:**

**A. "NMCKA"** means the New Mexico content knowledge assessments, which are the teacher-tests approved by the PED which individuals must take and pass in order to receive endorsements on an initial license or as an option to add endorsements to an existing license in language arts, reading, mathematics, science, social studies, the arts (music or visual arts), modern, classical and native languages, (Spanish, French, German); health, physical education, library/media, teaching English to speakers of other languages (TESOL), and family and consumer sciences, or to receive initial licensure in elementary education from grades K-8 or special education pre K-12.

**B. "NMTA"** means the New Mexico teacher assessments, which are the tests approved by the PED that all individuals must take and pass in order to receive initial educator licensure; the NMTA consists of the New Mexico assessment of teacher basic skills, the New Mexico assessment of teacher competency (at the early childhood,

elementary and secondary levels), and the New Mexico content knowledge assessments ("NMCKA"); it shall include any test materials related to a testing applicant's taking of or registration for the NMTA.

**C. "Test administrator"** means the business entity, namely, the national evaluation systems, inc. or NES that developed the NMTA, administers the NMTA at testing centers throughout New Mexico, scores the NMTA, and reports NMTA testing results to the PED.

**D. "Testing applicant"** means a person who has filed an NMTA registration form with the test administrator, or who has not yet taken a portion of the NMTA.

**E. "Testing irregularity"** means any circumstance within or beyond the control of a testing applicant that, in the sole opinion of the PED or NES raises doubts about the propriety of a testing applicant's NMTA registration, NMTA score, or conduct during an NMTA test.

**F. "Withheld NMTA score(s)"** means the suspension of use by and disclosure to a testing applicant of an NMTA score(s) for up to 120 days upon a determination made by the PED professional licensure bureau director that a testing irregularity is likely to have occurred.

**G. "Voided NMTA score(s)"** means the cancellation, invalidation and non-disclosure of a testing applicant of an NMTA score(s) after a final determination of testing irregularity by the PED's professional licensure bureau director or by a hearing officer of the secretary of education.

**H. "Rules of test participation"** means any written rules in the applicable NMTA registration bulletin that a testing applicant has expressly agreed to comply with as a condition of registering for or taking the NMTA.

**I. "Educator licensure application"** means an application for any professional teaching, administrator, or instructional support provider license, excluding licensure for an athletic coach, educational assistant, or substitute teacher.

**J. "Core academic subjects"** language arts, reading, mathematics, science, modern and classical languages, except the Native American languages and cultures of New Mexico tribes or pueblos, the arts, including music and visual arts, and social studies which includes history, geography, economics, civics and government, and modern and classical languages.

**K. "Highly qualified"**, under this rule, means a teacher of the core academic subjects who has met all license or endorsement requirements and is not teaching under an endorsement waiver.



**L. "Specialty area examination"** means the New Mexico specialty area assessments, which are the tests approved by the PED for instructional support providers and administrators, which identified providers must take and pass in order to receive licensure as instructional support providers or administrators.

[6.60.5.7 NMAC - N, 07-01-01; A, 07-15-02; A, 02-14-03; A, 06-30-03; A, 04-29-05; A, 03-15-06; A, 05-31-06; A, 10-31-07]

#### **6.60.5.8 REQUIREMENTS:**

The NMTA consists of two generic categories of assessments. The first category is the basic skills and competency assessments identified at Subsection A of 6.60.5.8 NMAC below. The second category is the content knowledge assessments ("CKA"), sometimes called content tests, identified at Subsection B of 6.60.5.8 NMAC below.

**A.** Beginning July 30, 1999 except for those individuals covered by Subsection C of 6.60.5.8 NMAC, below all applicants for initial licensure in addition to meeting all other licensure and background check requirements of the PED, are required to take the basic skills and competency assessments of the NMTA, which consist of the following tests and obtaining the following passing scores:

(1) assessment of teacher basic skills: passing score = 240; and

(2) either:

(a) assessment of teacher competency, elementary level (for those seeking elementary K-8 licensure, middle level 5-9, special education pre K-12 licensure or grade pre K-12 licensure): passing score = 240; or

(b) assessment of teacher competency, secondary level (for those seeking secondary 7-12 licensure including special education pre K-12 licensure, middle level 5-9 or grade pre K-12, or special education pre K-12): passing score = 240; or

(c) assessment of teacher competency, early childhood level (for those seeking early childhood birth-grade 3 licensure or special education pre K-12 licensure): passing score = 240.

**B.** In addition to the testing requirement above, all applicants for initial teacher licensure must take and pass a test in their content area subject according to the following schedule:

(1) Beginning with the September 2002, administration of the PED's content testing, if applicants are seeking licensure in elementary K-8, they shall take and pass the PED's CKA in elementary education prior to issuance of that license except as provided in Paragraph (6) of Subsection B of 6.60.5.8 NMAC.

**(2)** Beginning with the September, 2002, administration of the PED's content testing, if applicants are applying for licensure in early childhood birth-grade 3 or elementary K-8 and are also seeking an endorsement in reading, they shall take and pass the PED's CKA in that content area prior to issuance of that endorsement.

**(3)** Beginning with the September, 2004, administration of the PED's content testing, if applicants are applying for licensure in early childhood birth-grade 3, elementary K-8, secondary 7-12, middle level 5-9, special education pre K-12 or grade pre K-12, and are also seeking an endorsement in the arts (music or visual arts) or modern, classical and native languages (Spanish, French, or German) they must take and pass the PED's CKA's in the respective content area prior to issuance of the endorsement(s).

**(4)** Beginning with the September, 2002, administration of the PED's content testing, if they are applying for licensure in secondary 7-12, middle level 5-9 or grade pre K-12 and are also seeking endorsement in language arts, reading, mathematics, science or social studies, or any combination thereof, they shall take and pass the PED's CKA in that content area prior to issuance of that license.

**(5)** Beginning with the September, 2006, administration of the PED's content testing if they are applying for licensure in early childhood birth-grade 3, elementary K-8, secondary 7-12, middle level 5-9, special education pre K-12 or grade pre K-12, and are also seeking an endorsement in the health, physical education, library/media, teaching English to speakers of other languages (TESOL), or family and consumer sciences, they must take and pass the PED's CKA's in the respective content area prior to issuance of the endorsement(s).

**(6)** An elementary K-8 licensed teacher who is new to the profession and who will be teaching language arts, social studies, mathematics, or science in a middle school or junior high school must either:

**(a)** take and pass the PED's middle level CKA's in each core subject area the teacher will be teaching; or

**(b)** complete twenty-four semester hours of coursework, at least 6 hours of which are upper division, in each core academic subject the teacher will teach and take and pass the CKA in elementary education.

**(7)** If they currently hold a license and seek to add an endorsement in language arts, reading, mathematics, science, social studies, the arts (music or visual arts), modern, classical and native languages (Spanish, French, or German), health, physical education, library/media, teaching English to speakers of other languages (TESOL), or family and consumer sciences, they may be issued an endorsement in the content area upon passage of the PED's CKA's in the respective content area except that a candidate who has passed the TESOL, CKA or Prueba de Español para la

Certificación Bilingüe must also complete required coursework in order to add the respective endorsement.

**(8)** Beginning with the September, 2007, administration of PED's teacher testing if applicants are applying for licensure in special education pre K-12, they shall take and pass the PED's teacher content assessment in special education prior to issuance of that license.

**(9)** Beginning with the September, 2007, administration of PED's specialty area examinations, if they are applying for licensure as a school counselor, educational diagnostician or administrator, grades pre K-12, they shall take and pass the PED's specialty area examinations as provided in PED rules governing those licenses prior to the issuance of those licenses.

**C.** Applicants for an initial Spanish/English bilingual endorsement to a teaching license must, in addition to meeting all other PED requirements for the endorsement, pass Prueba de Español para la Certificación Bilingüe by obtaining a score of 2 or higher on any 12 of the 15 subsections. Applicants seeking this endorsement through licensure reciprocity should consult 6.60.4 NMAC for guidance.

**D.** Applicants for alternative licensure with teaching experience at the post-secondary level under Subsection C of 6.60.3.8 NMAC, shall be exempt from the teacher licensure testing requirements as long as they meet all other requirements for licensure.

[12-31-98, 07-30-99, 02-14-00; 6.60.5.8 NMAC - Rn, 6 NMAC 4.2.2.2.8 & A, 10-13-00; A, 07-15-02; A, 02-14-03; A, 06-30-03; A, 04-29-05; A, 03-15-06; A 05-31-06; A, 10-31-07; A, 06-15-09; A, 01-29-10]

#### **6.60.5.9 IMPLEMENTATION:**

Consistent with Title I, Section 1119 (a) (2) and Title IX, Section 9101 (23) (A) (ii) of the No Child Left Behind Act (NCLB), which requires that all teachers of the core academic subjects be highly qualified by the end of the 2005-2006 school year, the PED will not issue one year licenses in the core academic subjects under this section after June 30, 2006.

[07-30-99; 6.60.5.9 NMAC - Rn, 6 NMAC 4.2.2.2.9, 10-13-00; A, 06-30-03; A, 04-29-05; A 05-31-06; A, 10-31-07; A, 01-29-10]

#### **6.60.5.10 EXCEPTIONS:**

**A.** Applicants for an initial Spanish/English bilingual endorsement to a teaching license must, in addition to meeting all other PED requirements for the endorsement, pass Prueba de Español para la Certificación Bilingüe by obtaining a score of two (2) or

higher on any twelve (12) of the fifteen (15) subsections. Applicants seeking this endorsement through licensure reciprocity should consult 6.60.4 NMAC, for guidance.

**B.** Applicants for alternative licensure with teaching experience at the post-secondary level under Subsection C of 6.60.3.8 NMAC, shall be exempt from the teacher licensure testing requirements as long as they meet all other requirements for licensure.

**C.** Exceptions for NMTA (this exception is in accordance with NMSA 22-10A; The School Personnel Act:

**(1)** The provisions of this paragraph shall apply to an individual who holds at least a bachelors degree, has successfully completed a teacher preparation program, can verify through a current audiological evaluation that the individual is deaf or hard of hearing and requests an alternative assessment of the NMTA.

**(2)** As used in this section, "deaf or hard of hearing," means: a person who is prelingually deaf or hard of hearing. Prelingual means an individual who acquired a permanent hearing loss prior to five (5) years of age that prevents the processing of linguistic information through hearing with or without amplification or other hearing assistance devices.

**(3)** As used in this section, "audiological evaluation" means: a hearing assessment which includes otoscopic inspection, tympanometry, unaided pure tone air and bone conduction threshold testing, as well as speech awareness and speech reception threshold testing (if applicable).

**(4)** The applicant must obtain an audiological evaluation from a licensed audiologist to verify the required minimum of a permanent, moderate hearing loss as determined by a pure tone average (PTA) at or greater than 41dBHL in each ear. The evaluation must be completed on a PED approved form and dated within one (1) calendar year of application submission.

**(5)** A person that meets the eligibility requirements of this provision and seeking to demonstrate competencies through the alternative assessment must submit the PED approved "alternative assessment request form" as part of their complete application. The information obtained from the request form will be used to determine which alternative assessments the applicant requires and possible dates for administration of the teacher competency and CKA portions of the alternative assessment.

**(6)** Individuals granted access to the alternative assessment will have their alternative assessment reviewed by a committee that consists of:

**(a)** a teacher of deaf or hard of hearing students;

- (b) a sign language interpreter;
- (c) a school administrator from the New Mexico school for the deaf, (NMSD);
- (d) a parent of a deaf or hard of hearing student;
- (e) a deaf or hard of hearing teacher, if one is available;
- (f) a public school employee, and
- (g) other appropriate persons as determined by the PED.

**(7)** A person that meets the eligibility requirements of this provision and seeking to demonstrate competencies through the alternative assessment is encouraged to request alternative testing arrangements and attempt all portions of the NMTA with alternative testing arrangements. Requests for alternative testing arrangements should describe accommodations previously received by the candidate during past standardized test administrations, documentation of audiological evaluations, and suggested modifications from a licensed audiologist. Applicants for this license that have earned a passing score of at least 240 on basic skills portion of the NMTA, teacher competency, or CKA are exempt from completing the alternative assessment in the portion they have passed. The PLB at the PED will assist eligible candidates in submitting requests for alternative testing arrangements.

**(8)** Individuals seeking an alternative assessment will demonstrate teacher competency and content knowledge by presenting a hard copy of portfolio in a face-to-face setting to the alternative assessment review committee. Applicants must obtain a passing score of 70% or greater on the teacher competency or content knowledge hard copy portfolio review to receive a score of pass.

**(9)** Applicants for this license will be charged the same amount(s) for the alternative assessment that registrants for the NMTA are charged plus the licensure-processing fee. These fees are due when the applicant submits a complete application. Applications without the appropriate fees will not be accepted.

**(10)** Applicants that are unsuccessful in obtaining a passing score of 70% on the alternative assessment may reapply and must submit the applicable fees.

[07-30-99; 6.60.5.10 NMAC - Rn, 6 NMAC 4.2.2.2.10 & A, 10-13-00; A, 07-15-02; A, 02-14-03; A, 04-29-05; A, 05-31-06, A, 10-31-07; A, 06-15-09; 6.60.5.10 NMAC - N, 01-29-10; A, 11-15-11]

#### **6.60.5.11 SAVINGS CLAUSE:**

**A.** Applicants described in 6.60.5.8 NMAC applying for licensure after July 30, 1999, who have taken the professional knowledge, or communications skills tests of the core

battery of the national teachers examination (NTE) that correspond with portions of the NMTA as indicated below, will be exempt from taking the same portions of the NMTA provided they have obtained the following minimum scaled score that correspond with each test of the core battery of the NTE:

(1)	professional knowledge	630 corresponds with NMTA-teacher competency	240
(2)	communication skills	644 corresponds with NMTA basic skills	240

**B.** Those applicants not applying for licensure under reciprocity but presenting passing test scores on comparable basic skills, teacher competency or a content area tests from out of state may be excused from taking the corresponding NMTA basic skills, teacher competency or a content area test. For any single test to be deemed to be passing, scores must show a correct response rate of at least 70 percent, regardless of the raw test scores. PED may require the applicant to provide evidence of having met the 70 percent correct response rate.

[6.60.5.11 NMAC - N, 07-01-01; A, 04-29-05; A, 10-31-07; 6.60.5.11 NMAC - Rn & A, 6.60.5.10 NMAC, 01-29-10]

#### **6.60.5.12 TESTING IRREGULARITIES:**

Where a potential testing irregularity is reported to the PED, the PED shall make a preliminary inquiry to determine if further investigation is warranted.

**A.** If after a preliminary inquiry the PED determines that a potential testing irregularity warrants further investigation, the PED may cause that testing applicant's NMTA score to be withheld pending the completion of an investigation. The PED shall notify a testing applicant that any NMTA score suspected of being obtained by means of or following a testing irregularity may be withheld for up to 120 days pending an investigation. At the conclusion of its investigation, the PED shall notify the test administrator and the testing applicant of its findings and conclusions, whether or not a testing irregularity has been substantiated.

**B.** If after an investigation the PED finds and concludes that a testing irregularity is substantiated by the evidence, it may, after notifying the test administrator and the testing applicant of its findings, conclusions and intended action:

- (1) void the applicant's test score(s);
- (2) bar the applicant from retaking the NMTA for up to five (5) years;
- (3) direct that the applicant's registration fee be forfeited;
- (4) direct that the applicant's registration fee be refunded;

(5) permit the applicant to retake all or portions of the NMTA under controlled conditions; or

(6) impose any combination of the foregoing options.

**C.** If after an investigation the PED finds and concludes that no testing irregularity is substantiated by the evidence, it shall promptly notify the test administrator and the testing applicant and direct that any withheld NMTA be released and available for use in the educator licensure process.

[6.60.5.11 NMAC - N, 07-01-01; A, 04-29-05; A, 10-31-07; 6.60.5.12 NMAC - Rn, 6.60.5.11 NMAC, 01-29-10]

### **6.60.5.13 RIGHTS OF A TESTING APPLICANT:**

The PED shall advise the testing applicant at the time of notification that the NMTA score will be withheld or voided, that the applicant can at any time provide the PED with a statement or documentary evidence rebutting the likely or substantiated existence of a testing irregularity. However, the testing applicant shall be cautioned that any statement or document provided by the applicant may later be used against the applicant at a PED administrative proceeding, a civil proceeding or a criminal proceeding.

**A.** Where a testing applicant has an initial educator licensure application on file with the PED at the time of notification that a testing irregularity has been substantiated, the applicant shall have a right to request a hearing within 30 days of the notification and shall be afforded all the procedural and substantive due process rights contained in 6.68.2 NMAC ("Denial of Applications for Licenses for School Personnel"), which rule shall govern the proceedings. The PED may combine this hearing with a licensure denial hearing. The right to discovery shall be limited as set forth in 6.60.5.14 NMAC below.

**B.** Where a testing applicant does not have an initial educator licensure application on file with the PED at the time of notification that a testing irregularity has been substantiated, the applicant shall have 20 days to notify the PED professional licensure director ("director") of the desire to schedule a telephonic conference-call or in-person meeting with the director. Such request must be in writing. Any relevant documents may be introduced and either side may be represented by an attorney and up to three witnesses may be called. The formal rules of evidence shall not apply and either side may at their own expense request that any witness statements be sworn and that a record be made of the meeting. The director shall issue a written decision consisting of written findings, conclusions and action to be taken. The decision will be issued to the testing applicant within 14 days of the meeting. The decision of the director, which must be based on a preponderance of the evidence, shall be final and not subject to review, appeal, or reconsideration by the agency.

**C.** A testing applicant with an initial educator licensure application on file with the PED at the time of notification that a testing irregularity has been substantiated, may waive the right to a hearing and proceed by way of a meeting with the director as set forth in the immediately preceding paragraph.

[6.60.5.13 NMAC - N, 07-01-01; A, 04-29-05; A, 10-31-07; A, 06-15-09; 6.60.5.13 NMAC - Rn & A, 6.60.5.12 NMAC, 01-29-10]

#### **6.60.5.14 LIMITED DISCOVERY RIGHTS:**

The NMTA is the primary PED-approved teacher test for the state of New Mexico. It was developed by the test administrator under contract with the PED to help identify candidates for educator licensure who have demonstrated the level of knowledge and skills necessary for performing the duties of a teacher in New Mexico's public schools. The PED holds the exclusive copyright on the NMTA. As such, the PED must safeguard not only the copyright but also the confidentiality of the NMTA. Any testing applicant who timely requests a meeting or a hearing as permitted by this rule shall have only limited access to the questions and answers of the applicant's NMTA or related materials.

**A.** Given the proprietary nature of the NMTA or related materials, under no circumstance shall a testing applicant's disputed or undisputed NMTA be released to a testing applicant, attorney, representative, or the general public.

**B.** Upon request made to the director, a testing applicant, and an attorney, or representative shall be given as much access to the applicant's disputed or undisputed NMTA or related materials as is deemed reasonably necessary by the director, or hearing officer as the case may be, to prepare for pending meeting or hearing.

**C.** Anyone given permission to view a testing applicant's disputed or undisputed NMTA or related materials, must sign a confidentiality agreement offered by the PED. An NMTA or related materials may only be viewed during routine office hours of the PED under supervision of a PED employee and on the PED premises. No NMTA or related materials may be written on, marked, electronically copied, hand-duplicated, or otherwise removed from the premises of the PED. The form, subject matter, substance and wording of any NMTA test question or answer may also not be removed from the premises of the PED nor may they be further disclosed in any other way. A person granted permission to review the materials covered by this section may not bring any manual or electronic copying devices to the location where the materials are offered. Such copying devices referred to in the preceding sentence shall include but not be limited to cameras, camcorders, tape recorders, writing utensils, hand-held computers, paper, briefcases, etc. The said confidentiality agreement shall accomplish this as well as other test-security goals. Anyone who enters the PED premises to review the materials covered by this section and who violates or attempts to violate any protected security measure may, at the discretion of the PED, be removed from the premises and



be considered to have forfeited any additional access to an applicant's disputed or undisputed NMTA or related materials.

**D.** The original or copy of any NMTA or related materials used as evidence at any meeting or hearing shall also be subject to confidentiality by all attendees and participants. Accordingly, all such meetings or hearings shall be closed to the public.

[6.60.5.14 NMAC - N, 07-01-01; A, 04-29-05; A, 10-31-07; 6.60.5.14 NMAC - Rn, 6.60.5.13 NMAC, 01-29-10]

#### **6.60.5.15 LICENSURE DENIAL OR REVOCATION:**

Engaging in a testing irregularity shall constitute a good and just ground to deny a testing applicant's licensure application or to revoke or suspend any license held by a testing applicant that was issued by the PED. In the case of licensure revocation or suspension, the PED shall proceed under authority and procedure of 6.68.3 NMAC ("Suspension or Revocation of a License Held by a Licensed School Individual") and the Uniform Licensing Act [Sections 61-1-1 through 61-1-31 NMSA 1978].

[6.60.5.15 NMAC - Rn, 6.60.5.14 NMAC, 01-29-10]

### **PART 6: CONTINUING LICENSURE FOR LICENSED EDUCATORS IN NEW MEXICO**

#### **6.60.6.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.60.6.1 NMAC – Rp, 6.60.6.1 NMAC, 1/18/2023]

#### **6.60.6.2 SCOPE:**

Individuals holding New Mexico licensure who are seeking continuing licensure.

[6.60.6.2 NMAC – Rp, 6.60.6.2 NMAC, 1/18/2023]

#### **6.60.6.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, 22-2-8.1, and 22-10A-3 NMSA 1978.

[6.60.6.3 NMAC – Rp, 6.60.6.3 NMAC, 1/18/2023]

#### **6.60.6.4 DURATION:**

Permanent.

[6.60.6.4 NMAC – Rp, 6.60.6.4 NMAC, 1/18/2023]

**6.60.6.5 EFFECTIVE DATE:**

January 18, 2023, unless a later date is cited at the end of a section.

[6.60.6.5 NMAC – Rp, 6.60.6.5 NMAC, 1/18/2023]

**6.60.6.6 OBJECTIVE:**

This rule establishes the requirements for individuals holding New Mexico licensure who are seeking continuing licensure.

[6.60.6.6 NMAC – Rp, 6.60.6.6 NMAC, 1/18/2023]

**6.60.6.7 DEFINITIONS:**

**A. "Advancement program level I – level II" or "APLI-II"** means a series of five microcredentials, aligned with the department-approved educator evaluation system, that a teacher with a level 1 teaching license shall successfully complete and demonstrate mastery in before progressing to a level 2 teaching license.

**B. "Advancement program level II – level III" or "APLI-II-III"** means a series of five microcredentials, aligned with the department-approved educator evaluation system, that a teacher with a level 2 teaching license shall successfully complete and demonstrate mastery in before progressing to a level 3-A teaching license.

**C. "Level 1 teaching license"** means a provisional license issued for up to five years of teaching that gives a beginning teacher the opportunity, through a formal mentorship program and APLI-II, for additional preparation to be a quality teacher.

**D. "Level 2 teaching license"** means a professional license issued to a teacher who may choose to remain at level 2 for the remainder of their career and who is primarily responsible for ensuring students meet or exceed the department's academic content and performance standards.

**E. "Level 3-A teaching license"** means a master teaching license that is the highest level of teaching competence for teachers who choose to advance as instructional leaders in the teaching profession and undertake greater responsibilities, such as curriculum development, peer intervention, and mentoring.

**F. "Full school year"** means a minimum of 1080 instructional hours in a school year for teachers of students in seventh through 12th grades, 990 hours for teachers of students in full-day kindergarten through fifth grade, or 450 hours for teachers of students in half-day kindergarten, during which the teacher is the teacher of record or serves as an instructional coach or resource teacher in at least one class each school

year while holding a standard teaching license. An equivalent number of instructional hours may be accepted for those teachers who do not teach every day. Instructional hours may include teaching in summer school, extended learning time programs, or similar educational settings.

**G. "Governing authority"** means the policy-setting body of a school district, charter school, constitutional special school, regional education cooperative, or final decisionmaker of another state agency.

**H. "Micro-credential"** means a competency-based process made up of several courses, each focused on a discrete skill or area aligned with the educator evaluation system.

[6.60.6.7 NMAC – Rp, 6.60.6.7 NMAC, 1/18/2023]

#### **6.60.6.8 [RESERVED]**

[6.60.6.8 NMAC – Repealed, 6.60.6.8 NMAC, 1/18/2023]

#### **6.60.6.9 REQUIREMENTS FOR ADVANCEMENT AND RENEWAL OF TEACHING LICENSES:**

**A.** A teacher holding a level 1 teaching license and seeking a level 2 teaching license shall meet the following requirements:

(1) completion of three full school years of teaching experience as the teacher of record holding a level 1 teaching license with successful annual evaluations as determined by the governing authority. The governing authority shall consider the effectiveness ratings from the department-approved educator evaluation system to determine whether the teacher has had successful evaluations. The governing authority shall consider all annual evaluations that have occurred during the term of the level 1 teaching license, except that, before being eligible for advancement to a level 2 teaching license, a teacher who has completed one full school year of teaching in another state or country shall teach for two full school years holding a level 1 teaching license. A governing authority may require completion of up to two full school years of additional teaching experience in New Mexico of a teacher who:

(a) has completed three full school years of teaching experience while holding a level 1 teaching license in New Mexico;

(b) has completed three full school years of teaching experience while holding a level 1 teaching license in another state or country; or

(c) has obtained a level 1 teaching license through reciprocity under 6.60.5 NMAC;

(2) submission of an application for licensure advancement, which may be submitted up to three months in advance of the completion of the requirement in Paragraph (1) of Subsection A of 6.60.6.9 NMAC, with final approval dependent upon the completion of three full school years of teaching experience while holding a level 1 teaching license. The application shall include the governing authority's assurance that the governing authority considered the teacher's effectiveness ratings from the department-approved educator evaluation system during the term the teacher held a level 1 teaching license and the governing authority's determination of successful annual evaluations. The teacher may apply for advancement by:

(a) establishing an effective or better rating on the department-approved educator evaluation system, as determined by the department;

(b) successfully completing APLI-II or receiving certification from the national board for professional teaching standards; and

(3) completion of the mentorship requirement for beginning teachers in 6.60.10 NMAC.

**B.** A teacher holding a level 2 teaching license and seeking a level 3-A teaching license shall meet the following requirements:

(1) completion of three full school years of teaching experience as the teacher of record holding a level 2 teaching license with successful annual evaluations under the department-approved educator evaluation system. The governing authority shall consider all annual evaluations that have occurred during the term the teacher held a level 2 teaching license. Before being eligible for advancement to a level 3-A teaching license, a governing authority may require completion of up to two school full years of teaching experience in New Mexico of a teacher who:

(a) has four or more full school years of teaching experience while holding a level 2 teaching license in New Mexico or another state or country; or

(b) has obtained a level 2 teaching license through reciprocity in 6.60.4 NMAC;

(2) successful completion of a post-baccalaureate degree from a regionally accredited college or university; and

(3) submission of an application for licensure advancement, which may be submitted up to three months in advance of the completion of the requirement of Paragraph (1) of Subsection A of 6.60.9 NMAC, with final approval dependent upon the completion of three full school years of teaching experience while holding a level 2 teaching license. The application shall include the governing authority's assurance that the governing authority considered the teacher's effectiveness ratings from the department-approved educator evaluation system during the term the teacher held a

level 2 teaching license and the governing authority's determination of successful annual evaluations. The teacher may apply for advancement by:

(a) establishing an effective or better rating on the department-approved educator evaluation system, as determined by the department; and

(b) successfully completing APLII-III or receiving certification from the national board for professional teaching standards; 6.60.6 NMAC 3

**C.** A teacher holding a level 2 teaching license or a level 3-A teaching license who is seeking to renew their license shall meet the requirements of Paragraph (1) or Paragraph (2) of this subsection. The governing authority shall consider the effectiveness ratings from the department-approved educator evaluation system to determine whether the teacher has had successful evaluations. The governing authority shall consider all annual evaluations that have occurred during the term of the license the applicant is seeking to renew.

(1) A teacher shall submit, along with the fee specified in 6.60.7.8 NMAC:

(a) a completed application for licensure renewal to the department; and

(b) verification from the governing authority by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the applicant has:

(i) satisfactorily demonstrated the competencies for the current level of license; and

(ii) met other requirements of the department-approved educator evaluation system for the level of license the applicant is seeking to renew as evidenced by the teacher's annual evaluations as determined by the governing authority.

(2) If a teacher does not satisfactorily demonstrate the competencies for the level of license or other requirements of the department-approved educator evaluation system for licensure renewal, the applicant, depending on the outcome of any due process proceeding under the Uniform Licensing Act, might not be issued a license.

**D.** If a teacher holding a level 3-A teaching license does not satisfactorily meet the department approved educator evaluation system for a level 3-A teaching license renewal, the applicant, depending on the outcome of any due process proceeding under the Uniform Licensing Act, might not be issued a level 3-A teaching license. In that case, the applicant may be issued a level 2 teaching license if the governing authority by which the applicant has been most recently employed as of the date of the application for licensure renewal, submits to the department verification that the applicant has satisfactorily met the high objective uniform standards of evaluation for a level 2 teaching license as evidenced by the teacher's annual evaluations.

**E.** A person who obtains a level 1 alternative license shall complete the requirements for this license by the end of the second year. An extension may be granted by the department if adequate progress toward completion has been made. A person who fails to complete the requirements within the extended period shall not be issued another alternative license in the same or another teaching field or endorsement area. Multiple extensions shall not be granted.

[6.60.6.9 NMAC – Rp, 6.60.6.9 NMAC, 1/18/2023]

**6.60.6.10 REQUIREMENTS FOR ADVANCEMENT AND RENEWAL OF LICENSES OTHER THAN TEACHING:**

**A.** A person holding a level 1 teaching license and seeking a level 2 teaching license shall meet the following requirements:

- (1) submission of a completed application for continuing licensure to the department;
- (2) submission of verification to the department that the applicant has demonstrated the competencies required for a level 2 teaching license by the governing authority by which the applicant has been most recently employed as of the date of the application for continued licensure.

**B.** A person holding a level 2 teaching license and seeking a level 3-A teaching license shall meet the following requirements:

- (1) submission of a completed application for continuing licensure shall be submitted to the department;
- (2) successful completion of a post-baccalaureate degree from a regionally accredited college or university;
- (3) the governing authority by which the applicant was most recently employed as of the date of the application for continued licensure shall submit to the department verification that the applicant has demonstrated the competencies required for a level 3-A teaching license.

**C.** A person holding a level 2 teaching license or level 3-A teaching license who is seeking continuing licensure shall submit, along with the fee specified in 6.60.7.8 NMAC:

- (1) a completed application for licensure renewal to the department; and
- (2) verification from the governing authority by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the

applicant has demonstrated the competencies required by the department. 6.60.6 NMAC 4

**D.** A person holding a level 2 teaching license and a level 3 counselor license seeking a level 3-B administrator license shall follow the requirements and procedures set forth in 6.62.2.8 NMAC.

**E.** A person holding a level 3-B administrator license and seeking continuing licensure pursuant to the provisions of this rule shall meet the requirements of Paragraphs (1) or (2) of Subsection C of this section.

[6.60.6.10 NMAC – Rp, 6.60.6.10 NMAC, 1/18/2023]

#### **6.60.6.11 EXCEPTIONS:**

**A.** The provisions of this paragraph shall apply to an individual holding a level 1, level 2, or level 3- A teaching license who, in exigent circumstance, is unable to secure verification of the required competencies for licensure renewal. As used in this paragraph, "exigent circumstance" means:

(1) the non-availability of the governing authority by which the applicant has been most recently employed;

(2) the licensed individual has not been employed in elementary or secondary education during the term of the license; or

(3) when an intern or level 1 teacher has not been employed as the teacher of record in a New Mexico or out-of-state public school for the total number of years authorized by the license.

**B.** A person seeking to renew their current level of licensure who, in exigent circumstances, is unable to secure verification of the required competencies shall submit a sworn statement asserting the exigent circumstance, and may be granted licensure or licensure renewal as follows:

(1) an applicant or licensed individual with an exigent circumstance as described in Paragraphs (1) and (2) of Subsection A of this Section may be granted a five-year level 1 license.

(2) an intern with an exigent circumstance as described in Paragraph (3) of Subsection A of this section may be granted a one-time license renewal with an effective period equal to the amount of time of nonemployment, except that any period of non-employment less than a full school year, but more than 90 days, shall constitute a full school year; and

(3) a level 1 teacher with an exigent circumstance as described in Paragraph (3) of Subsection A of this section may be granted no more than three level 1 teaching license renewals with effective periods equal to the amount of time of non-employment, except that any period of non-employment less than a full school year, but more than 90 days, shall constitute a full school year; a teacher holding a level 1 teaching license who remains unemployed after their last level 1 teaching license renewal may renew subsequent level 1 teaching licenses following Paragraph (2) of Subsection A of this section, but any previous years of teaching experience counted toward advancement to a level 2 teaching license become void.

**C.** If a person seeking licensure renewal cannot demonstrate an exigent circumstance or whose level 1 teaching license has expired, they may not reapply until after three years after the expiration date of their current license. A level 1 teaching license granted pursuant to this paragraph shall be subject to advancement to a level 2 teaching license in the same manner as other such licenses.

**D.** A person seeking to renew a level 2 teaching license, a level 3-A teaching license, or a level 3-B license who has worked in education but not in an elementary or secondary school setting or who has retired from or has not continued to work in elementary and secondary education under a New Mexico license during the effective period of the license, shall submit a sworn statement asserting that the person has not worked in an elementary or secondary school setting during the effective period of the license, and may renew the license at the current level held.

[6.60.6.11 NMAC – Rp, 6.60.6.9 NMAC, 1/18/2023]

#### **6.60.6.12 IMPLEMENTATION:**

**A.** Absent the exceptions provided in Paragraphs (2) and (3) of Subsection A of 6.60.6.11 NMAC, a level 1 teaching license shall not be renewed and shall be deemed to have lapsed upon the date of expiration, immediately terminating authorization to work as a teacher in New Mexico public schools.

**B.** Continuing level 2 and level 3-A licenses shall be granted for nine years.

**C.** Applications for a level 2 teaching license and level 3-A teaching license advancement or renewal must be submitted no later than June 30 of the year following expiration of the license. After that date, the license shall be deemed to have lapsed.

**D.** A level 2 teaching license, a level 3 teaching license, or a level 3-A teaching license that has lapsed may be renewed by submission of:

(1) evidence of having satisfactorily carried out the duties as previously authorized by the lapsed license for five full school years; and



(2) verification from the governing authority by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the applicant has demonstrated the competencies for the level of lapsed licensure as evidenced by annual evaluations. If the applicant cannot provide verification of five years of experience and competency from the governing authority by which the applicant has been most recently employed, the applicant shall be issued a level 1 license.

[6.60.6.12 NMAC – Rp, 6.60.6.12 NMAC, 1/18/2023]

## **PART 7: EDUCATOR LICENSURE APPLICATION FEE**

### **6.60.7.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.60.7.1 NMAC - Rp, 6.60.7.1 NMAC, 8/13/2019]

### **6.60.7.2 SCOPE:**

Individuals submitting initial and renewal applications for educational licensure and adding endorsements.

[6.60.7.2 NMAC - Rp, 6.60.7.2 NMAC, 8/13/2019; A, 1/18/2023]

### **6.60.7.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, 22-8-44, and 22-10A-3 NMSA 1978.

[6.60.7.3 NMAC - Rp, 6.60.7.3 NMAC, 8/13/2019; A, 1/18/2023]

### **6.60.7.4 DURATION:**

Permanent.

[6.60.7.4 NMAC - Rp, 6.60.7.4 NMAC, 8/13/2019]

### **6.60.7.5 EFFECTIVE DATE:**

August 13, 2019, unless a later date is specified in rule or a later date is cited in the history note at the end of the section.

[6.60.7.5 NMAC - Rp, 6.60.7.5 NMAC, 8/13/2019]

### **6.60.7.6 OBJECTIVE:**

This rule establishes requirements for the payment of fees that apply to initial and renewal applications for educational licensure and additional endorsements.

[6.60.7.6 NMAC - Rp, 6.60.7.6 NMAC, 8/13/2019; A, 1/18/2023]

#### **6.60.7.7 DEFINITIONS:**

**A. "Applicant"** means a person who has submitted or intends to submit an application to the department.

**B. "Application"** means a formal written or online request, on a department-approved form, to the department for issuance of a department license, license renewal, license continuation, license advancement, certification, or license endorsement.

**C. "Application fee"** means all fees, monies, remittances, or charges owed for the processing of a department application but does not include any additional fees, monies, or charges owed for the processing of a background check.

**D. "Indigence"** means the financial inability to pay or afford, without extreme hardship, an application fee.

**E. "Micro-credential"** means a competency-based process made up of several courses, each focused on a discrete skill or area aligned with the educator evaluation system.

**F. "Military member"** means an active duty member or reservist, or spouse or dependent of a person currently serving in the armed forces or armed forces reserve, of the United States.

**G. "PDD"** means the professional development dossier defined in 6.69.4.11 NMAC for advancing from a level one to level two license or from a level two to level three license.

**H. "PDD strand"** means one of three categories used to measure evidence of teacher competency on the professional development dossier. Submission of any of the following strands will incur fees:

- (1) the instruction strand;
- (2) the student learning strand; and
- (3) the professional learning strand.

**I. "Veteran"** means an individual who has received an honorable discharge or separation from the armed forces of the United States.

[6.60.7.7 NMAC - Rp, 6.60.7.7 NMAC, 8/13/2019, A, 6/9/2020; A, 1/18/2023]

#### **6.60.7.8 APPLICATION FEES:**

**A.** An applicant shall remit an application fee to the department for each application submitted unless multiple licensure applications are submitted simultaneously.

**B.** Should multiple licensure applications be submitted simultaneously, the following shall apply:

- (1) only a single application fee shall be incurred; and
- (2) the highest application fee shall apply.

**C.** Application fees must be remitted to the department by money order, certified check, or other forms of payment acceptable to the department.

**D.** Payment, in all forms, must be made to the "New Mexico public education department".

**E.** Unless there has been a determination of indigence, all application fees once submitted, are non-refundable, and shall not be returned to an applicant.

**F.** The department shall deposit all received application fees in the department educator licensure fund.

[6.60.7.8 NMAC - Rp, 6.60.7.8 NMAC, 8/13/2019]

#### **6.60.7.9 FEE SCHEDULE:**

**A.** Initial licensure applications. Applicants for initial licensure shall pay an application fee of one hundred fifty dollars (\$150) unless another application fee is specified below:

- (1) applicants for initial licensure as an educational assistant shall pay an application fee of fifty dollars (\$50);
- (2) applicants for initial licensure as a school health assistant shall pay an application fee of fifty dollars (\$50);
- (3) applicants for initial licensure as a substitute teacher shall pay an application fee of fifty dollars (\$50);
- (4) applicants for initial licensure as an athletic coach shall pay an application fee of fifty dollars (\$50); and

(5) applicants for initial licensure for Native American language and culture certification shall pay a fee of fifty dollars (\$50).

**B.** Renewal applications of an existing educator license. Applicants for renewal of an existing educator license shall pay an application fee of one hundred twenty dollars (\$120) unless another application fee is specified below:

(1) applicants for renewal of an existing educator license as an administrator shall pay an application fee of one hundred thirty dollars (\$130);

(2) applicants for renewal of an existing educator license as an educational assistant shall pay an application fee of fifty dollars (\$50);

(3) applicants for renewal of an existing educator license as a school health assistant shall pay an application fee of fifty dollars (\$50); and

(4) applicants for renewal of an existing educator license as a substitute teacher shall pay an application fee of fifty dollars (\$50).

**C.** Renewal applications of an existing certification.

(1) Applicants for renewal of an existing educator certification shall pay a renewal application fee of one hundred twenty dollars (\$120).

(2) Applicants for renewal of Native American language and culture certification shall pay a fee of fifty dollars (\$50).

**D.** Advancement applications by completion of the PDD.

(1) Applicants who have not previously submitted an application for advancement to a higher level of teacher license for the level of license sought shall pay three hundred twenty dollars (\$320).

(2) Applicants who have previously submitted an application for advancement to a higher level of teacher license for the level of license sought shall pay:

(a) one hundred ten dollars (\$110) for an application that includes one PDD strand;

(b) two hundred twenty dollars (\$220) for an application that includes two PDD strands; or

(c) three hundred twenty dollars (\$320) for an application that includes three PDD strands.

(3) Applicants who concurrently submit a renewal of existing educator license application and an advancement application shall pay no renewal of existing application fee.

(4) In order to concurrently submit a renewal of existing educator license application and an advancement application the following must occur:

(a) the advancement application must be submitted on the same date or before the renewal of an existing educator license application;

(b) the advancement application fees must be received upon the date of the advancement application submission; and

(c) the renewal of existing educator license application must be received by the department within five business days of the advancement application.

**E.** Applicants seeking advancement to higher levels of licensure by completion of a series of microcredentials shall pay a fee of \$60 per micro-credential.

**F.** Endorsement applications. Applicants seeking to add an endorsement to an existing license shall pay a fee of one hundred twenty dollars (\$120).

[6.60.7.9 NMAC - Rp, 6.60.7.9 NMAC, 8/13/2019, A, 6/9/2020; A, 1/18/2023]

#### **6.60.7.10 LICENSURE APPLICATION FEE EXEMPTIONS:**

**A.** An application fee shall not be charged for any of the following applications:

(1) application for name change;

(2) application for address change;

(3) application for replacing lost or misplaced licenses; and

(4) applicants with an alternative license who meet the requirements to transition their license to a standard level one license.

**B.** An application fee shall not be charged to an individual who qualifies as indigent.

**C.** An application fee charged to an individual who qualifies as indigent may be returned.

**D.** An application fee shall not be charged for the first three years a license is issued to an individual who qualifies as a military member or veteran and who has provided one of the following:

- (1) DD Form 214;
- (2) United States uniformed services identification card; or
- (3) marriage license and a copy of spouses' orders for mobilization or deployment.

**E.** A license issued to an applicant identified as a military member or veteran with an expired educator license shall not be valid for more than one year.

[6.60.7.10 NMAC - Rp, 6.60.7.10 NMAC, 8/13/2019, A, 6/9/2020]

#### **6.60.7.11 STANDARD OF INDIGENCE:**

**A.** An indigence determination shall be made according to the following process:

- (1) The request for indigence:
  - (a) shall be made on a form approved by the department;
  - (b) shall include any supporting documentation and be submitted to the department within five business days of any application submission; and
  - (c) a request for indigence shall include a signed statement, certifying that the licensee is indigent.
- (2) The department's review:
  - (a) the department shall review and make a determination of indigence within 30 days;
  - (b) the determination shall not consider any potential loss or gain of income associated with a department license, renewal, license continuation, license advancement, license, certification, or license endorsement;
  - (c) the determination of indigence shall be solely within the discretion of the department; and
  - (d) the determination of indigence shall be final and not subject to review.

**B.** An applicant is presumed indigent if the applicant is a current recipient of one or more of the following:

- (1) medicaid;

- (2) supplemental security income;
- (3) public assisted housing;
- (4) department of health case management services; or
- (5) temporary assistance for needy families.

[6.60.7.11 NMAC - N, 6.60.7.11 NMAC, 8/13/2019; A, 1/18/2023]

## **PART 8: BACKGROUND CHECKS FOR EDUCATOR LICENSURE**

### **6.60.8.1 ISSUING AGENCY:**

Public Education Department.

[06-15-98, 07-30-99; 6.60.8.1 NMAC - Rn, 6 NMAC 4.2.4.8.1, 03-31-01; A, 06-15-06]

### **6.60.8.2 SCOPE:**

All persons applying for initial standard, alternative or substitute licensure.

[06-15-98; 6.60.8.2 NMAC - Rn, 6 NMAC 4.2.4.8.2 & A, 03-31-01]

### **6.60.8.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-5 NMSA 1978.

[06-15-98, 11-15-99; 6.60.8.3 NMAC - Rn, 6 NMAC 4.2.4.8.3, 03-31-01; A, 06-15-06]

### **6.60.8.4 DURATION:**

Permanent

[06-15-98; 6.60.8.4 NMAC - Rn, 6 NMAC 4.2.4.8.4, 03-31-01]

### **6.60.8.5 EFFECTIVE DATE:**

June 15, 1998, unless a later date is cited in the history note at the end of a section.

[06-15-98; 6.60.8.5 NMAC - Rn, 6 NMAC 4.2.4.8.5 & A, 03-31-01]

### **6.60.8.6 OBJECTIVE:**

This rule establishes the requirements for background checks on all initial applicants for licensure and for sharing information from employment background checks between school districts and the New Mexico public education department ("PED").

[06-15-98, 11-15-99; 6.60.8.6 NMAC - Rn, 6 NMAC 4.2.4.8.6 & A, 03-31-01; A, 06-15-06]

#### **6.60.8.7 DEFINITIONS:**

**"Criminal history"** means convictions of felonies or misdemeanors of moral turpitude, or other information concerning a person's arrests, indictments, other formal criminal charges and any dispositions arising therefrom, including convictions, dismissals, acquittals, sentencing, and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation ("FBI"), the national law enforcement telecommunications system, the New Mexico department of public safety ("DPS"), or the repositories of criminal history information of other states.

[06-15-98, 11-15-99; 6.60.8.7 NMAC - Rn, 6 NMAC 4.2.4.8.7 & A, 03-31-01]

#### **6.60.8.8 REQUIREMENTS:**

**A.** An applicant for initial educator licensure shall be fingerprinted using fingerprint cards supplied by the PED or the equivalent electronic fingerprints. The applicant will submit the two completed fingerprint cards or equivalent electronic fingerprints to the PED either prior to or with the initial application for educator licensure. A criminal history background record issued by either the DPS or the FBI shall be valid and may be disseminated by the PED pursuant to FBI and DPS guidelines for twenty-four months from the date of issuance entered on the criminal history background record.

**B.** The PED shall not disseminate a DPS or FBI criminal history background record more than twenty-four months from the date of issuance, regardless of when an applicant for initial employment already possessing current New Mexico educator licensure is offered employment or commences employment duties for any new employer.

**C.** The applicant shall pay by certified check, money order, or credit card, if authorized by the PED, a background check fee in an amount established by that agency sufficient to cover the agency's actual costs of obtaining criminal history background reports from the DPS and the FBI.

[06-15-98, 11-15-99; 6.60.8.8 NMAC - Rn, 6 NMAC 4.2.4.8.8 & A, 03-31-01; A, 06-15-06]

#### **6.60.8.9 IMPLEMENTATION:**



**A.** The PED will not issue an educator license until the applicant's background check has been successfully completed.

**B.** An applicant will be notified of any information in the background check reports that could result in licensure denial, suspension, or revocation prior to the initiation of any such action by the PED.

**C.** If requested by a local school board, a DPS or FBI criminal history report that is not more than twenty-four months old may be provided by the PED to the applicant's school employer. The PED may inform a licensure applicant's school employer, if known, of any background check information that reveals a conviction of a felony or misdemeanor of moral turpitude at the same time that the information is reported to the applicant.

**D.** School district officials, who in the course of their background checks of employment applicants, discover that a licensed applicant or applicant pending a license has a conviction of a felony or misdemeanor of moral turpitude that results in any kind of action against that individual, shall share that information with the professional licensure or educator ethics bureaus of the PED. If the applicant has education licensure, the PED will notify the license holder, and his/her current school employer, if known, of the conviction(s) following the procedures in Subsections B and C of 6.60.8.9 NMAC.

**E.** Applicants will be given the opportunity on the application form to disclose, explain, and provide information, including rehabilitation, related to their criminal history.

[06-15-98, 11-15-99; 6.60.8.9 NMAC - Rn, 6 NMAC 4.2.4.8.9 & A, 03-31-01; A, 06-15-06]

## **PART 9: LICENSURE REQUIREMENTS, CODE OF ETHICAL RESPONSIBILITY OF THE EDUCATION PROFESSION**

### **6.60.9.1 ISSUING AGENCY:**

Public Education Department.

[6.60.9.1 NMAC - N, 04-30-01; A, 10-17-05]

### **6.60.9.2 SCOPE:**

All licensed personnel. The New Mexico public education department (PED) hereby sets minimal standards of accepted ethical behavior and professional conduct in education that are applicable to all licensed school personnel, instructional personnel under contract, including any other person who provides instructional or education-related services in a school and who holds any license, certificate or written authority issued by the PED.

[6.60.9.2 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

**6.60.9.3      STATUTORY AUTHORITY:**

Sections 22-2-1B, 22-2-2J and 22-10A-31 NMSA 1978.

[6.60.9.3 NMAC - N, 04-30-01; A, 10-17-05]

**6.60.9.4      DURATION:**

Permanent.

[6.60.9.4 NMAC - N, 04-30-01]

**6.60.9.5      EFFECTIVE DATE:**

April 30, 2001, unless a later date is specified at the end of a section.

[6.60.9.5 NMAC - N, 04-30-01]

**6.60.9.6      OBJECTIVE:**

The PED seeks to make ethical values and ethical leadership an integral part of the day to day activities of schools, and holds all persons within the scope of this rule accountable for adhering to minimal standards of accepted professional conduct and ethical behavior. The PED accepts the recommendations of its professional practices and standards council and the ethics subcommittee that a code of ethics and standards of professional conduct applicable to the education profession will infuse the learning environment with choices and values designed to assist in shaping young minds into educated, responsible citizens.

[6.60.9.6 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

**6.60.9.7      DEFINITIONS:**

**"Ethical misconduct"** means behavior or conduct engaged in by a licensed or certified school employee that violates the minimal standards of accepted ethical behavior and professional conduct listed in the standards of professional conduct section of this rule, or that constitutes the grounds for revoking licensure listed in 6.63.8 NMAC except for failure to meet level 3-A competencies.

[6.60.9.7 NMAC - N, 10-31-06]

**6.60.9.8      CODE OF ETHICS:**

We, professional educators of New Mexico, affirm our belief in the worth and dignity of humanity. We recognize the supreme importance of the pursuit of truth, the encouragement of scholarship, and the promotion of democratic citizenship. We regard as essential to these goals the protection of freedom to learn and to teach with the guarantee of equal educational opportunity for all. We affirm and accept our responsibility to practice our profession according to the highest ethical standards. We acknowledge the magnitude of the profession we have chosen, and engage ourselves, individually and collectively, to judge our colleagues and to be judged by them in accordance with the applicable provisions of this code.

**A. Principle I: Commitment to the student.** We measure success by the progress of each student toward achievement of his/her maximum potential. We therefore work to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals. We recognize the importance of cooperative relationships with other community institutions, especially the home. In fulfilling our obligation to the student, we:

- (1) deal justly and considerately with each student;
- (2) encourage the student to study and express varying points of view and respect his/her right to form his/her own judgment;
- (3) conduct conferences with or concerning students in an appropriate place and manner;
- (4) seek constantly to improve learning facilities and opportunities.

**B. Principle II: Commitment to the community.** We believe that patriotism in its highest form requires dedication to the principles of our democratic heritage. We share with all other citizens the responsibility for the development of sound public policy. As educators, we are particularly accountable for participating in the development of educational programs and policies and for interpreting them to the public. In fulfilling our obligations to the community, we:

- (1) share the responsibility for improving the educational opportunities for all;
- (2) recognize that each educational institution has a person authorized to interpret its official policies;
- (3) acknowledge the right and responsibility of the public to participate in the formulation of educational policy;
- (4) evaluate through appropriate professional procedures conditions within a district or institution of learning, make known serious deficiencies, and take action deemed necessary and proper;

(5) assume full political and citizenship responsibilities, but refrain from exploiting the institutional privileges of our professional positions to promote political candidates of partisan activities;

(6) protect the educational program against undesirable infringement, and promote academic freedom.

**C. Principle III: Commitment to the profession.** We believe that the quality of the services of the education profession directly influence the future of the nation and its citizens. We therefore exert every effort to raise educational standards, to improve our service, to promote a climate in which the exercise of professional judgment is encouraged, to demonstrate integrity in all work-related activities and interactions in the school setting, and to achieve conditions which attract persons worthy of the trust to careers in education. Aware of the value of united effort, we contribute actively to the support, planning, and programs of our professional organizations. In fulfilling our obligations to the profession, we:

(1) recognize that a profession must accept responsibility for the conduct of its members and understand that our own conduct may be regarded as representative of our profession;

(2) participate and conduct ourselves in a responsible manner in the development and implementation of policies affecting education;

(3) cooperate in the selective recruitment of prospective teachers and in the orientation of student teachers, interns, and those colleagues new to their positions;

(4) accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities;

(5) refrain from assigning professional duties to nonprofessional personnel when such assignment is not in the best interest of the student;

(6) refrain from exerting undue influence based on the authority of our positions in the determination of professional decisions by colleagues;

(7) keep the trust under which confidential information is exchanged;

(8) make appropriate use of the time granted for professional purposes;

(9) interpret and use the writings of others and the findings of educational research with intellectual honesty;

(10) maintain our integrity when dissenting by basing our public criticism of education on valid assumptions as established by careful evaluation of facts;

(11) respond accurately to requests for evaluation of colleagues seeking professional positions;

(12) provide applicants seeking information about a position with an honest description of the assignment, the conditions of work and related matters.

**D. Principle IV: Commitment to professional employment practices.** We regard the employment agreement as a solemn pledge to be executed both in spirit and in fact in a manner consistent with the highest ideals of professional service. Sound professional personnel relationships with governing boards are built upon integrity, dignity, and mutual respect between employees, administrators, and local school boards. In fulfilling our obligations to professional employment practices, we:

(1) apply for or offer a position on the basis of professional and legal qualifications;

(2) apply for a specific position only when it is known to be vacant and refrain from such practices as underbidding or commenting adversely about other candidates;

(3) fill no vacancy except where the terms, conditions, and policies are known;

(4) adhere to and respect the conditions of a contract or to the terms of an appointment until either has been terminated legally or by mutual consent;

(5) give prompt notice of any change in availability of service, in status of applications, or in change in position;

(6) conduct professional business through recognized educational and professional channels.

[6.60.9.8 NMAC - N, 04-30-01]

#### **6.60.9.9 STANDARDS OF PROFESSIONAL CONDUCT:**

##### **A. Preamble**

(1) We, licensed New Mexico educators acknowledge that ethical values in our schools cannot exist without ethical leadership. It is our ultimate goal to educate children so that they may become productive citizens; we understand that our guidance and ability to provide choices has a profound effect on reaching this goal. In affording students and each other choices, we agree to consider the consequence of each choice, the moral value best exemplified by the recommended choice, and our position on the choice if it were applied to us. These principles apply equally to all licensed educators in all schools except where they are uniquely applicable to public schools or where they conflict with principles of religious freedom.

**(2)** Moral values are to ethical leadership what years of experience are to a successful educator. The former sets the stage for success of the latter. Abstract principles that espouse excellence do not easily equate into simple behavioral maxims. We are certain that some foundational concepts can be embraced because they truly celebrate desirable moral values. These concepts are: respect for one's self and others, honesty and openness, the delicate balance between absolute freedom and safety, the equally delicate balance between confidentiality and the right to know, equality of opportunity, fairness to all, and personal integrity.

**(3)** In the final analysis it is our consistent ethical leadership that wins the most allies and produces the best results. Not only does this code highlight our professional responsibilities, but also it stimulates us to discuss the professional implications of our ethical choices and ethical recommendations, causes us to assess and reassess our application of moral values, and sets forth concrete behaviors appropriate for education professionals. We are committed to this code and understand that it provides minimally accepted standards of professional conduct in education.

**B. Standard I: Duty to the student.** We endeavor to stimulate students to think and to learn while at the same time we seek to protect them from any harm. Ethical leadership requires licensed educators to teach not only by use of pedagogical tools, but also by consistent and justifiable personal example. To satisfy this obligation, we:

**(1)** shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 *et seq.*, 34 C.F.R. Part 300), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 *et seq.*, NMSA 1978), the Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-3, NMSA 1978), withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law;

**(2)** shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;

**(3)** shall avoid using our positions as licensed school employees to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior;

**(4)** shall tutor students only in accordance with local board policies, if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian;

**(5)** shall not give a gift to any one student unless all students situated similarly receive or are offered gifts of equal value for the same reason;

**(6)** shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;

**(7)** shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:

**(a)** all forms of sexual touching, sexual relations or romantic relations;

**(b)** inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;

**(c)** any open displays of affection toward mostly-boys or mostly-girls; and

**(d)** offering or giving a ride to a student unless absolutely unavoidable, such as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements;

**(8)** shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:

**(a)** making any sexual advances, requests for sexual favors, repeated sexual references, any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them; and

**(b)** creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at Paragraph (7) or Subparagraph (a) of Paragraph (8), Subsection B of 6.60.9.9 NMAC, above.

**C. Standard II: Duty to the profession.** The education profession has been vested by the public with an awesome trust and responsibility. To live up to that lofty expectation, we must continually engender public confidence in the integrity of our profession, and must strive consistently in educating the children of New Mexico, all of whom will one-day shape the future. To satisfy this obligation, we:

**(1)** shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure;

- (2)** shall not orally or in writing misrepresent our professional qualifications;
- (3)** shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history;
- (4)** shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education;
- (5)** shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school;
- (6)** shall not disclose personal, medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law;
- (7)** shall not knowingly make false or derogatory personal comments about an educational colleague, although first amendment protected comments on or off campus are not prohibited;
- (8)** shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds \$100, excluding approved educational awards, honoraria, plaques, trophies, and prizes;
- (9)** shall avoid conduct connected with official duties that is unfair, improper, illegal or gives the appearance of being improper or illegal;
- (10)** shall not sexually harass any school employee, any school visitor or anyone else we might encounter in the course of our official duties, which includes:
- (a)** making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above;
  - (b)** making any other verbal gesture or physical conduct with any of the above-named individuals even where the licensed educator believes they consent or they actually initiate the activity;
  - (c)** displaying or distributing any sexually oriented materials where the above-named individuals can see them; and
  - (d)** creating an intimidating, hostile, or offensive work/school environment by engaging in any of the prohibited behaviors set forth at Subparagraphs (a), (b) or (c), Paragraph (10), Subsection C of 6.60.9.9 NMAC, above;



**(11)** shall educate oneself at least annually about avoiding sexual harassment by either attending periodic training, reviewing sexual harassment literature or the EEOC guidelines found at Title 29 Code of Federal Regulations Part 1604 (29 C.F.R. Section 1604.1 *et seq.*), or contacting appropriate school human resources personnel;

**(12)** shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus;

**(13)** shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs;

**(14)** shall use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable policy, law and regulation;

**(15)** shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;

**(16)** shall not engage in any outside employment:

**(a)** the performance of which conflicts with our public school duties, such as where a licensed educator takes a private job that would require performance in the very school district where he/she is employed;

**(b)** where we use confidential/privileged information obtained from our public school employment as part or all of our private employment duties; and

**(c)** that impairs our physical ability to perform our school duties;

**(17)** shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:

**(a)** in connection with our official school duties;

**(b)** in connection with another licensed person's official school duties;

**(c)** in connection with any standardized or non-standardized testing;

**(d)** in connection with any school application or disclosure process; and

**(e)** in connection with any writing submitted to the public education department related to our initial or continued licensure, including endorsements;

**(18)** shall not in connection with any state board-approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering;

**(19)** shall not engage in any conduct or make any statement:

**(a)** that would breach the security of any standardized or non-standardized tests;

**(b)** that would ignore administering portions or the entirety of any standardized or non-standardized testing instructions;

**(c)** that would give students an unfair advantage in taking a standardized or non-standardized test;

**(d)** that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test; and

**(e)** that would assist students in obtaining services or benefits for which they do not qualify or are not entitled;

**(20)** shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace;

**(21)** shall not hold, or continue to hold, employment for which educator licensure or certification is required when the individual knew, should have known or is informed by the PED, that the individual does not hold the required credentials; and

**(22)** shall not use school information technology equipment, hardware, software or internet access to view, download, display, store or print pornographic images or advertisements, nude images, or sexually explicit depictions or language;

**(23)** shall not engage in unprofessional conduct, which conduct shall include but not be limited to the following:

**(a)** striking, assaulting or restraining a student for no valid reason;

**(b)** using any written or spoken words in public schools or at school events that are inflammatory, derogatory or otherwise demonstrate a bias against a person or group, on the basis of their race, religion, culture, ethnicity, sexual preference, sexuality or physical disability;

**(c)** bringing firearms onto school property or possessing them on school property, except with proper authorization;

- (d) possessing or consuming alcohol beverages at school;
- (e) possessing or using illegal drugs;
- (f) being under the influence of alcohol or illegal drugs at school;
- (g) actively obstructing an investigation into the possible unethical or illegal conduct of a school employee; and
- (h) engaging in favoritism or preferential treatment toward any school employee or applicant in regards to that individual's hiring, discipline, terms of employment, working conditions or work performance due to that individual's familial relationship with the licensee;

(24) shall report any knowledge of inappropriate contact, as provided by Paragraph (7) of Subsection B of 6.60.9 NMAC with a student or other school employee to the local school authority within 30 days of obtaining such knowledge.

[6.60.9.9 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

#### **6.60.9.10 FAILURE TO COMPLY WITH THIS CODE:**

The PED finds that adherence to this code of ethical responsibility has a significant bearing on licensed personnel's competence, turpitude or the proper performance of their duties. It makes the same finding for any other person providing instructional or education-related services in a school who holds any license, certificate or written authority issued by the instructional or education-related services in a school who hold any license, certificate or written authority issued by the PED. Both the code of ethics and standards of professional conduct are intended to provide a valuable framework of personal ethics to assist educators and administrators in their interaction with colleagues, students and parents. However, the standards of professional conduct establish minimal standards of acceptable professional conduct with which all educators and administrators are required to comply. Therefore, the PED through the educator ethics bureau may revoke, suspend or take other appropriate action against any educator license of any person, or may deny applications for initial licensure or continuing licensure to any person, who is within the scope of this rule, and who after hearing, is found to have engaged in ethical misconduct, by failing to comply with one or more of the enumerated provisions of the standards of professional conduct set forth in 6.60.9.9 NMAC, above, exclusive of the preamble. All hearings and attendant notices shall be conducted and served pursuant to the Uniform Licensing Act 61-1-1 through 61-1-31, NMSA 1978 and either 6.68.2 NMAC or 6.68.3 NMAC.

[6.60.9.10 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

#### **6.60.9.11 DISSEMINATION OF THIS CODE:**

The PED shall adopt measures to ensure that this code of ethical responsibility receives the widest possible dissemination to all persons falling within its scope. Such measures include but are not limited to:

**A.** providing information about the code of ethical responsibility directly through the PED and the PED's application process;

**B.** providing information about the code of ethical responsibility to all school districts, charter schools, and non-public schools accredited by the PED;

**C.** notifying any school district, charter school or private school accredited by the PED of the decision and order of the PED after the PED has taken final licensure action against one of that school's PED licensed employees based in whole or in part on a failure to comply with the standards of professional conduct;

**D.** any other reasonable measure that is calculated to result in the widest dissemination of the PED's code of ethical responsibility and notification of the consequences of failure to comply with the standards of professional conduct.

[6.60.9.11 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

#### **6.60.9.12 REPORTING REQUIREMENT:**

It is the duty of each school superintendent or charter school administrator to provide prompt written notification to the director of the educator ethics bureau after taking final action to discharge or terminate the employment, based in whole or in part on a violation of the standards of professional conduct in this rule, of any certified or licensed school employee, or any other person providing instructional or education-related services in a school under written authority of the PED.

[6.60.9.12 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

### **PART 10: MENTORSHIP PROGRAMS FOR BEGINNING TEACHERS**

#### **6.60.10.1 ISSUING AGENCY:**

Public Education Department, herein after the "department".

[6.60.10.1 NMAC - Rp, 6.60.10.1 NMAC, 7/1/2019]

#### **6.60.10.2 SCOPE:**

Applies to all New Mexico public school districts, charter schools, or state educational institutions. First-year teachers shall successfully complete a minimum one-year teacher mentorship program provided by the public school district, charter school or state

educational institution. If any part or application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.

[6.60.10.2 NMAC - Rp, 6.60.10.2 NMAC, 7/1/2019]

**6.60.10.3 STATUTORY AUTHORITY:**

Sections 22-2-1 and 22-10A-9 NMSA 1978.

[6.60.10.3 NMAC - Rp, 6.60.10.3 NMAC, 7/1/2019]

**6.60.10.4 DURATION:**

Permanent.

[6.60.10.4 NMAC - Rp, 6.60.10.4 NMAC, 7/1/2019]

**6.60.10.5 EFFECTIVE DATE:**

July 1, 2019, unless a later date is cited at the end of a section.

[6.60.10.5 NMAC - Rp, 6.60.10.5 NMAC, 7/1/2019]

**6.60.10.6 OBJECTIVE:**

To establish requirements for teacher mentorship programs that improve teacher practice, achievement of their students, and overall performance of their school.

[6.60.10.6 NMAC - Rp, 6.60.10.6 NMAC, 7/1/2019]

**6.60.10.7 DEFINITIONS:**

**A. "First-year teacher"** means a teacher in their first year of teaching in a New Mexico public school as a teacher of record, holding a New Mexico teaching license. Public school districts and charters may, at their discretion, extend this definition to include teachers in their first year as teacher of record in their school who may have had prior teaching experience in another school.

**B. "Designated mentor"** means a level 2 or level 3 teacher who:

(1) has earned an effectiveness rating of highly effective or exemplary as determined by the state's educator effectiveness evaluation system, NMTEACH, as outlined in 6.69.8 NMAC, for at least one of the two most recent years;

(2) is a nationally board certified teacher and has earned an effectiveness rating of effective as determined by the state's educator effectiveness evaluation

system, NMTEACH, as outlined in 6.69.8 NMAC, for at least one of the most recent two years; or

(3) is assigned by the department in situations where no qualifying mentor is available.

**C. "Director"** means the director of the educator quality division for the public education department.

**D. "Local education agency" or "LEA"** means a local school district, charter school, or state educational institution.

**E. "Teaching license"** means a department license issued in any of the following:

- (1) birth - pre-K;
- (2) pre-K - grade 3;
- (3) grades K- 8;
- (4) grades 5 - 9;
- (5) grades 7-12;
- (6) special education grades pre K-12;
- (7) licensure for pre K-12 in specialty areas;
- (8) blindness and visual impairment birth - grade 12;
- (9) secondary vocational-technical education; or
- (10) deaf and hard of hearing.

[6.60.10.7 NMAC - Rp, 6.60.10.7 NMAC, 7/1/2019]

#### **6.60.10.8 REQUIREMENTS FOR TEACHER MENTORSHIP PROGRAMS:**

All mentorship programs must receive initial approval from the director prior to the first year of implementation and each year thereafter. To receive approval, public school districts, charter schools, or state educational institutions shall submit a proposed teacher mentorship program that aligns with and supports the public school district's, charter school's, or state educational institution's long range plan for student success. Teacher mentorship programs shall align with all competencies outlined in the state's educator effectiveness evaluation system, NMTEACH, in accordance with 6.69.8 NMAC, and all other competencies outlined in department regulation and guidance. The

proposal shall describe how this mandatory teacher mentorship program for first-year teachers addresses the following.

**A.** Individual support for first-year teachers from designated mentors shall be aligned to all competencies outlined in the NMTEACH system and also include, at a minimum:

- (1) instructional material development in alignment with department-approved standards;
- (2) culturally and linguistically responsive, as defined by the department, lesson planning and lesson design appropriate for all diverse learners, including English learners and students with disabilities;
- (3) development and administration of formative and benchmark student academic assessments;
- (4) individual instructional conferences with students;
- (5) individual conferences with parents and families, specifically to discuss student achievement, assessment scores, and college and career readiness; and
- (6) classroom observation protocol.

**B.** Structured and evidence-based training activities for designated mentors, which shall include the following, at a minimum:

- (1) identifying and addressing the needs of first-year teachers;
  - (2) developing mentorship relationships;
  - (3) evaluating mentees using observation domains outlined in NMTEACH;
- and
- (4) documenting teacher growth aligned with the NMTEACH system and rubrics.

**C.** Structured process for selection of designated mentors shall include:

- (1) selection criteria and process; and
- (2) criteria of evaluation for the efficacy of the mentor.

**D.** Compensation provided to designated mentors, as determined by the relevant public school district, charter school, or state educational institution. Pursuant to Section 22-10A-4 NMSA 1978, a level 3-A license is the highest level of teaching licensure for

those teachers who choose to advance as instructional leaders in the teaching profession and undertake greater responsibilities such as curriculum development, peer intervention and mentoring. LEAs may increase compensation for level 3-A license teachers.

**E.** Mentor quality, specifically guaranteeing that all designated mentors will be a level 2 or level 3 teacher who:

**(1)** has earned an effectiveness rating of highly effective or exemplary as determined by the state's educator effectiveness evaluation system, NMTEACH, as outlined in 6.69.8 NMAC, for at least one of the two most recent years;

**(2)** is a nationally board certified teacher and has earned an effectiveness rating of effective as determined by the state's educator effectiveness evaluation system, NMTEACH, as outlined in 6.69.8 NMAC, for at least one of the most recent two years; or

**(3)** is assigned by the department in situations where no qualifying mentor is available.

**F.** Requirements to complete a mentorship program.

**G.** Programming that is at least one year in length and includes provisions whereby support for an additional one or two years may be provided to teachers who do not successfully complete the first-year teacher mentorship program and continue to be employed in the public school district, charter school, or state educational institution.

[6.60.10.8 NMAC - Rp, 6.60.10.8 NMAC, 7/1/2019]

#### **6.60.10.9 COMPLETION OF TEACHER MENTORSHIP PROGRAM:**

All first-year teachers shall successfully complete a minimum of a one-year teacher mentorship program to be eligible for a level 2 license. Successful completion of the program shall be determined by the public school district, charter school, or state educational institution.

[6.60.10.9 NMAC - Rp, 6.60.10.9 NMAC, 7/1/2019]

#### **6.60.10.10 ANNUAL PROGRAM REPORTING:**

**A.** Mentorship programs shall be reviewed by the department annually for effectiveness. For the purposes of such review, each district shall maintain teacher evaluation data through NMTEACH and administer a department-issued teacher mentorship program survey for first-year teachers. These data shall be provided to the department in a report submitted annually by November 15 of the following school year. The annual report shall include the following, at a minimum, by school or institution:



(1) assessment of proficiency in the areas of practice detailed in the approved teacher mentorship proposal, pursuant to Subsection A of 6.60.10.8 NMAC;

(2) a current analysis each first-year teacher's performance as demonstrated by NMTEACH; and

(3) results from the department-issued teacher mentorship program survey for first-year teachers.

**B.** The department shall compile and analyze the data submitted by public school districts, charter schools and state educational institutions and report annually to the appropriate interim legislative committee. Nothing may inhibit the department's discretion to share program evaluation results as it determines to be beneficial, within the bounds of applicable state and federal laws and regulations.

[6.60.10.10 NMAC - Rp, 6.60.10.10 NMAC, 7/1/2019]

## **PART 11: REQUIRED TRAINING PROGRAM FOR SCHOOL DISTRICT PERSONNEL, SCHOOL VOLUNTEERS, AND CONTRACTORS**

### **6.60.11.1 ISSUING AGENCY:**

Public Education Department (PED), hereinafter the department.

[6.60.11.1 NMAC - N, 5/24/2022]

### **6.60.11.2 SCOPE:**

This rule shall apply to all school district personnel, school employees, school volunteers, contractors, and contractors' employees.

[6.60.11.2 NMAC - N, 5/24/2022]

### **6.60.11.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-32 NMSA 1978.

[6.60.11.3 NMAC - N, 5/24/2022]

### **6.60.11.4 DURATION:**

Permanent.

[6.60.11.4 NMAC - N, 5/24/2022]

### **6.60.11.5 EFFECTIVE DATE:**

May 24, 2022, unless a later date is cited in the history note at the end of a section.

[6.60.11.5 NMAC - N, 5/24/2022]

#### **6.60.11.6 OBJECTIVE:**

This rule establishes the mandatory ethical misconduct training course requirements for all school district personnel, school employees, school volunteers, contractors, and contractors' employees.

[6.60.11.6 NMAC - N, 5/24/2022]

#### **6.60.11.7 DEFINITIONS:**

##### **A. "Child abuse" means a child:**

- (1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian, custodian, or other adult;
- (2) who has suffered physical abuse, emotional abuse, or psychological abuse inflicted or caused by the child's parent, guardian, custodian, or other adult;
- (3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian, custodian, or other adult;
- (4) whose parent, guardian, custodian, or other adult has knowingly, intentionally, or negligently placed the child in a situation that may endanger the child's life or health; or
- (5) whose parent, guardian, custodian, or other adult has knowingly or intentionally tortured, cruelly confined, or cruelly punished the child.

**B. "Contractor"** means an individual who is under contract with a public school and is hired to provide services to the public school, but does not include a general contractor or a building or maintenance contractor who is supervised and has no access to students at the public school.

**C. "Ethical misconduct"** means the following behavior or conduct by school district personnel, school employees, school volunteers, contractors or contractors' employees:

- (1) discriminatory practice based on race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status, or serious medical condition;

(2) sexual misconduct or any sexual offense prohibited by Chapter 30, Article 6A or Article 9 NMSA 1978 involving an adult or child, regardless of a child's enrollment status;

(3) fondling a child or student, including touching private body parts, such as breasts, buttocks, genitals, inner thighs, groin, or anus; or

(4) any other behavior, including licentious, enticing or solicitous behavior, that is reasonably apparent to result in inappropriate sexual contact with a child or student or to induce a child or student into engaging in illegal, immoral, or other prohibited behavior.

**D. "Public school"** means a school district, charter school, constitutional special school, regional education cooperative, or the educational program of another state agency.

**E. "School district"** includes charter schools.

**F. "School employee"** includes licensed and unlicensed employees of a public school.

**G. "School volunteer"** means a person, including a relative of a student, who commits to serve on a regular basis at a school district, charter school, or other educational entity without compensation.

**H. "State agency"** means a regional education cooperative or state institution.

**I. "State institution"** means the New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas, and any other state agency responsible for educating resident children.

[6.60.11.7 NMAC - N, 5/24/2022]

#### **6.60.11.8 MANDATORY ETHICAL MISCONDUCT TRAINING PROGRAM FOR ALL SCHOOL DISTRICT PERSONNEL, SCHOOL EMPLOYEES, SCHOOL VOLUNTEERS, CONTRACTORS, AND CONTRACTORS' EMPLOYEES:**

**A.** Within the first year of employment or provision of contractual or volunteer services, all newly hired school district personnel, school employees, contractors, contractors' employees, and all new school volunteers shall complete training provided by approved providers, including the New Mexico public school insurance authority's contracted entities and New Mexico state university's training on recognizing and reporting child abuse; or provide evidence that they have already completed the required training. The ethical misconduct training shall address child abuse and neglect,

ethical misconduct, professional responsibilities, sexual abuse and assault, and substance abuse, and shall include, at a minimum training on the following:

- (1) reporting requirements, including minimal standards triggering reporting;
- (2) trauma-informed instruction;
- (3) identification of circumstances and factors that are indicators of likely child abuse or inappropriate behaviors;
- (4) ethical misconduct;
- (5) professional responsibilities;
- (6) investigations and procedures; and
- (7) relevant legal and regulatory definitions.

**B.** Current school district personnel, school employees, school volunteers, contractors, and contractors' employees shall complete the training required under Subsection A of 6.60.11.8 NMAC within one year of the final adoption and promulgation of 6.60.11 NMAC.

**C.** The department shall make the training programs required pursuant to 6.60.11.8 NMAC available to the deans and directors of all colleges of education in New Mexico for use in providing training to candidates seeking elementary and secondary education licensure.

**D.** All school district personnel, school employees, school volunteers, contractors, and contractors' employees shall complete all the training required under Subsection A of 6.60.11.8 NMAC every two years.

[6.60.11.8 NMAC - N, 5/24/2022]

#### **6.60.11.9 ETHICAL MISCONDUCT TRAINING REPORTING AND COMPLIANCE:**

All school districts and public schools shall maintain records of the ethical misconduct training completion required under Subsection A of 6.60.11.8 NMAC, including initial and biennial training, of all school district personnel, school employees, school volunteers, contractors, and contractors' employees.

[6.60.11.9 NMAC - N, 5/24/2022]

# **CHAPTER 61: SCHOOL PERSONNEL - SPECIFIC LICENSURE REQUIREMENTS FOR INSTRUCTORS**

## **PART 1: GENERAL PROVISIONS [RESERVED]**

## **PART 2: LICENSURE IN ELEMENTARY EDUCATION, GRADES K-8**

### **6.61.2.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.2.1 NMAC - Rp, 6.61.2.1 NMAC, 8/1/2018]

### **6.61.2.2 SCOPE:**

Chapter 61, Part 2 governs licensure in elementary education, grades K-8, for those persons seeking such licensure.

[6.61.2.2 NMAC - Rp, 6.61.2.2 NMAC, 8/1/2018]

### **6.61.2.3 STATUTORY AUTHORITY:**

Sections 22-1-1, 22-1-1.1, 22-1-1.2, 22-2-1, 22-2-2, 22-10A-3, 22-10A-4, and 22-10A-6, NMSA 1978.

[6.61.2.3 NMAC - Rp, 6.61.2.3 NMAC, 8/1/2018]

### **6.61.2.4 DURATION:**

Permanent.

[6.61.2.4 NMAC - Rp, 6.61.2.4 NMAC, 8/1/2018]

### **6.61.2.5 EFFECTIVE DATE:**

August 1, 2018, unless a later date is cited in the history note at the end of a section.

[6.61.2.5 NMAC - Rp, 6.61.2.5 NMAC, 8/1/2018]

### **6.61.2.6 OBJECTIVE:**

This rule governs licensure requirements in elementary education for persons seeking such licensure.

[6.61.2.6 NMAC - Rp, 6.61.2.6 NMAC, 8/1/2018]

#### 6.61.2.7 DEFINITIONS:

**A. "A highly qualified beginning elementary teacher,"** under this rule, means a teacher who is fully qualified for teaching in grades K-8, who is new to the profession, who has pursued a standard route to licensure, and who:

(1) meets all the requirements for elementary K-8 licensure required by Subsections A or B in Section 8 of this rule, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable competency or teacher testing requirements for licensure in 6.60.5.8 NMAC (Competency Testing for Licensure).

**B. "A highly qualified beginning middle or junior high school teacher holding elementary K-8 licensure,"** under this rule, means a teacher who is fully qualified to teach the core academic subjects in a public middle or junior high school, who is new to the profession, who has pursued a standard route to licensure, and who:

(1) meets all the requirements for elementary K-8 licensure required by Subsections A or B of Section 8 of this rule, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable competency or teacher testing requirements for elementary K-8 licensure in 6.60.5.8 NMAC (Competency Testing for Licensure), and

(4) has passed the content knowledge test(s) of the New Mexico teacher assessments or comparable licensure tests from another state in each core academic subject the teacher teaches and in which the teacher is required to have a licensure endorsement; or has successfully completed an undergraduate academic major or coursework equivalent to an undergraduate major, or a graduate degree in each core academic subject the teacher teaches and in which the teacher is required to have a licensure endorsement.

**C. "Core academic subjects"** means English, language arts, reading, mathematics, science, modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes and pueblos, the arts, including music and visual arts, and social studies, which includes civics, government, economics, history, and geography.

**D. "Undergraduate academic major"** under this rule, means twenty-four to thirty-six semester hours in a core academic subject area.

**6.61.2.8 REQUIREMENTS:**

**A.** Persons seeking licensure in elementary education pursuant to the provisions of this rule shall meet the requirements enumerated in Subsection A or Subsection B of this section.

**(1)** bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

**(a)** nine semester hours in communication

**(b)** six semester hours in mathematics

**(c)** eight semester hours in laboratory science

**(d)** nine semester hours in social and behavioral science

**(e)** nine semester hours in humanities and fine arts; and

**(2)** credits from a regionally accredited college or university which include thirty to thirty-six semester hours of professional education in an elementary education program approved by the PED, including completion of the PED's approved functional areas and related competencies in professional education; and

**(3)** a mandatory student teaching component; and

**(4)** twenty-four to thirty-six semester hours in one teaching field such as mathematics, science(s), language arts, reading, and social studies (or other content related areas); individuals must also complete the PED's approved functional areas and related competencies in the teaching field; and

**(5)** in addition to the requirements specified in Subsection A, Paragraphs (1), (3), (4), (6) and (7) of 6.61.2.8 NMAC, six hours in the teaching of reading for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

**(6)** pass all required portions of the NMTA or any successor teacher examination adopted by the PED; and

**(7)** if teaching in an elementary school, satisfy the requirements of a highly qualified beginning elementary teacher; and

**(8)** if teaching the core academic subjects in a middle or junior high school, satisfy the requirements of a highly qualified beginning middle or junior high school teacher holding elementary K-8 licensure; or

**B.** Possess a valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.2.8 NMAC - Rp, 6.61.2.8 NMAC, 8/1/2018]

**6.61.2.9 [RESERVED]**

[6.61.2.9 NMAC - Rp, 6.61.2.9 NMAC, 8/1/2018]

**6.61.2.10 REFERENCED MATERIAL:**

Competencies for entry level elementary teachers

**A.** Learner development:

**(1)** The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences.

**(2)** The teacher shall:

**(a)** regularly assess individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional and physical) and scaffolds the next level of development;

**(b)** create developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate their learning;

**(c)** collaborate with families, communities, colleagues, and other professionals to promote learner growth and development;

**(d)** understand how learning occurs, how learners construct knowledge, acquire skills, develop disciplined thinking processes and knows how to use instructional strategies that promote student learning;

**(e)** understand that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs;



**(f)** identify readiness for learning, and understands how development in any one area may affect performance in others;

**(g)** understand the role of language and culture in learning and knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging;

**(h)** respect learners' differing strengths and needs and is committed to using the information to further each learner's development;

**(i)** commit to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning;

**(j)** take responsibility for promoting learners' growth and development; and

**(k)** value the input and contributions of families, colleagues, and other professionals in understanding and supporting each learner's development.

**B. Learning differences:**

**(1)** The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards.

**(2)** The teacher shall:

**(a)** design, adapt, and deliver instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways;

**(b)** make appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment and response modes) for individual students with particular learning differences or needs;

**(c)** design instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings;

**(d)** bring multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms;

**(e)** incorporate tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency;

**(f)** access resource, supports, and specialized assistance and services to meet particular learning differences or needs;

**(g)** understand and identify differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth;

**(h)** understand students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs;

**(i)** know about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition;

**(j)** understand that learners bring assets for learning based on their individual experiences, abilities, talents, prior learning, and peer and social group interactions, as well as language, culture, family and community values;

**(k)** know how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures and community resources into instruction;

**(l)** believe that all learners can achieve at the high levels and persists in helping each learner reach their potential;

**(m)** respect learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents and interests;

**(n)** make learners feel valued and helps them learn to value each other; and

**(o)** value diverse languages and dialects and seeks to integrate them into their instructional practice to engage students in learning.

**C. Learning environments:**

**(1)** The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation.

**(2)** The teacher shall:

**(a)** collaborate with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry;

**(b)** develop learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally;

**(c)** collaborate with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work;

**(d)** manage the learning environment to actively and equitably engage learners by organizing allocating, and coordinating resources of time, space, and learners' attention;

**(e)** use a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments;

**(f)** communicate verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment;

**(g)** promote responsible learner use of interactive technologies to extend the possibilities for learning locally and globally;

**(h)** intentionally build learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills;

**(i)** understand the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning;

**(j)** know how to help learners work productively and cooperatively with each other to achieve learning goals;

**(k)** know how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structure;

**(l)** understand how learner diversity can affect communication and knows how to communicate effectively in differing environments;

**(m)** know how to use the technologies and how to guide learners to apply them in appropriate, safe and effective ways;

**(n)** commit to working with learners, colleagues, families and communities to establish positive and supportive learning environments;

**(o)** value the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning;

**(p)** commit to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning;

**(q)** seek to foster respectful communication among all members of the learning community; and

**(r)** be thoughtful and responsive listener and observer.

**D. Content knowledge:**

**(1)** The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) they teach and creates learning experiences that make these aspects of the discipline accessible and meaningful to learners to assure mastery of the content.

**(2)** The teacher shall:

**(a)** effectively use multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards;

**(b)** engage students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content;

**(c)** engage learners in applying methods of inquiry and standards of evidence used in the discipline;

**(d)** stimulate learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' new experiences;

**(e)** recognize learner misconceptions in a discipline that interfere with learning, and create experiences to build accurate conceptual understanding;

**(f)** evaluate and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for their learners;

**(g)** use supplementary resources and technologies effectively to ensure accessibility and relevance for all learners;

**(h)** create opportunities for students to learn, practice, and master academic language in their content;

**(i)** access school and district based resources to evaluate the learner's content knowledge in their primary language;

**(j)** understand major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) they teach;

**(k)** understand common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding;

**(l)** know and use academic language of the discipline and knows how to make it accessible to learners;

**(m)** know how to integrate culturally relevant content to build on learners' background knowledge;

**(n)** have a deep knowledge of student content standards and learning progression in the discipline(s) they teach;

**(o)** realize that content knowledge is not a fixed body of facts but a complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and understandings in the field.

**(p)** appreciate multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives;

**(q)** recognize the potential bias in their presentation of the discipline and seeks to appropriately address problems of bias; and

**(r)** commit to work toward each learner's mastery of disciplinary content and skills.

**E. Application of content:**

**(1)** The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues.

**(2)** The teacher shall:

**(a)** develop and implement projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills(e.g., a water quality study that draws upon biology or chemistry to look at factual information and social studies to examine policy implications);

**(b)** engage learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy);

**(c)** facilitate learners' use of current tools and resources to maximize content learning in varied contexts;

**(d)** engage learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts;

**(e)** develop learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes;

**(f)** engage learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work;

**(g)** facilitate learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems;

**(h)** develop and implements supports for learner literacy development across content areas;

**(i)** understand the ways of knowing their discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues and concerns;

**(j)** understand how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences;

**(k)** understand the demands of acceding and managing information as well as how to evaluate issues of ethics and quality related to the information and its use;

**(l)** understand how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals;

**(m)** understand critical thinking processes and knows how to help learners develop high level questioning skills to promote independent learning;

**(n)** understand communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning;

**(o)** understand creative thinking processes and how to engage learners in producing original work;

**(p)** know where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum;

**(q)** constantly explore how to use disciplinary knowledge as a lens to address local and global issues;

**(r)** value knowledge outside their own content area and how such knowledge enhances student learning; and

**(s)** value flexible learning environments that encourage learner exploration, discovery, and expression across content areas.

**F. Assessment:**

**(1)** The teacher understands and uses multiple measures of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making.

**(2)** The teacher shall:

**(a)** balance the use of formative and summative assessment as appropriate to support, verify, and document learning;

**(b)** design assessments that match learning objectives with assessment methods and minimize sources of bias that can distort assessment results;

**(c)** work independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning;

**(d)** engage learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work;

**(e)** engage learners in multiple ways of demonstrating knowledge and skill as part of the assessment process;

**(f)** model and structure processes that guide learners in examining their own thinking and learning as well as the performance of others;

**(g)** use multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences;

**(h)** prepare all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs;

**(i)** continually seek appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs;

**(j)** understand the differences between formative and summative applications of assessment and knows how and when to use each;

**(k)** understand the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias;

**(l)** know how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners;

**(m)** know when and how to engage learners in analyzing their own assessment results and in helping set goals for their own learning;

**(n)** understand the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback;

**(o)** know when and how to evaluate and report learner progress against standards;

**(p)** understand how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs;

**(q)** commit to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning;

**(r)** take responsibility for aligning instruction and assessment with learning goals;

**(s)** commit to providing timely and effective descriptive feedback to learners on their progress;

**(t)** commit to using multiple types of assessment processes to support, verify, and document learning;



**(u)** commit to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs; and

**(v)** commit to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.

**G. Planning for instruction:**

**(1)** The teacher plans the instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context.

**(2)** The teacher shall:

**(a)** individually and collaboratively select and create learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners;

**(b)** plan how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners;

**(c)** develop appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill;

**(d)** plan for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest;

**(e)** plan collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language and learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences that meet unique learning needs;

**(f)** evaluate plans in relation to short and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning;

**(g)** understand content and content standards and how these are organized in the curriculum;

**(h)** understand how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge;

**(i)** understand learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning;

**(j)** understand the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs;

**(k)** know a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs;

**(l)** know when and how to adjust plans based on assessment information and learner responses;

**(m)** know when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations);

**(n)** respect learners' diverse strengths and needs and is committed to using this information to plan effective instruction;

**(o)** value planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community;

**(p)** take professional responsibility to use short and long-term planning as a means of assuring student learning; and

**(q)** believe that plans must always be open to adjustment and revision based on learner needs and changing circumstances.

#### **H. Instructional strategies:**

**(1)** The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways.

**(2)** The teacher shall:

**(a)** use appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners;

**(b)** continuously monitor student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs;

**(c)** collaborate with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest;

**(d)** vary their role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners;

**(e)** provide multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performance;

**(f)** engage all learners in developing higher order questioning skills and metacognitive processes;

**(g)** engage learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information;

**(h)** use a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes;

**(i)** ask questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question);

**(j)** understand the cognitive process associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated;

**(k)** know how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals;

**(l)** know when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks;

**(m)** understand how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self-expression, and build relationships;

**(n)** know how to use a wide variety of resources, including human and technological, to engage students in learning;

**(o)** understand how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness;

**(p)** commit to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction;

**(q)** value the variety of ways people communicate and encourage learners to develop and use multiple forms of communication;

**(r)** commit to exploring how the use of new and emerging technologies can support and promote student learning; and

**(s)** value flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.

**I. Professional learning and ethical practice:**

**(1)** The teacher engages in ongoing professional learning and uses evidence to continually evaluate their practice, particularly the effects of their choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner.

**(2)** The teacher shall:

**(a)** engage in ongoing learning opportunities to develop knowledge and skills in order to provide learners with engaging curriculum and learning experiences based on local and state standards;

**(b)** engage in meaningful and appropriate professional learning experiences aligned with their own needs and the needs of the learners, school, and system;

**(c)** independently and in collaboration with colleagues use a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice;

**(d)** actively seek professional community, and technological resources, within and outside the school, as supports for analysis, reflection and problem solving;

**(e)** reflect on their personal biases and accesses resources to deepen their own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences;

**(f)** advocate, model, and teach safe, legal, and ethical use of information and technology including proper documentation of sources and respect for others in the use of social media;

**(g)** understand and know how to use a variety of self-assessment and problem-solving strategies to analyze and reflect on their practice and to plan for adaptations and adjustments;

**(h)** know how to use learner data to analyze practice and differentiate instruction accordingly;

**(i)** understand how personal identity, worldview, and prior experience affect perceptions and expectations, and recognize how they may bias behaviors and interactions with others;

**(j)** understand laws related to learners' rights and teacher responsibility (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse);

**(k)** The teacher knows how to build and implement a plan for professional growth directly aligned with their needs as a growing professional using feedback from teacher evaluations and observations, data on learner performance, and school and system-wide priorities;

**(l)** take responsibility for student learning and uses on going analysis and reflection to improve planning and practice;

**(m)** commit to deepening understanding of their own frames of references (e.g., culture, gender, language, abilities, ways of knowing), the potential biases in these frames, and their impact on expectations for and relationships with learners and their families;

**(n)** see themselves as a learner, continuously seeking opportunities to draw upon current education policy and research as sources of analysis and reflection to improve practice; and

**(o)** understand expectations of the profession including codes of ethics, professional standards of practice, and relevant law and policy.

**J. Leadership and collaboration:**

**(1)** The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession.

**(2)** The teacher shall:

**(a)** take an active role on the instructional team, giving and receiving feedback on practice, examining learner work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each student's learning;

**(b)** work with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners;

**(c)** engage collaboratively in the school-wide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals;

**(d)** work collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement;

**(e)** working with school colleagues build ongoing connections with community resources to enhance student learning and wellbeing;

**(f)** engage in professional learning, contributes to the knowledge and skill of others, and works collaboratively to advance professional practice;

**(g)** use technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues;

**(h)** use and generate meaningful research on education issues and policy;

**(i)** seek appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles;

**(j)** advocate to meet the needs of learners, to strengthen the learning environment, and to enact system change;

**(k)** take on leadership roles at the school, district, state, and national level and advocates for the school, the community, and the profession;

**(l)** understand schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners;

**(m)** understand that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning;

**(n)** know how to work with other adults and develop skills in collaborative interaction appropriate for both face-to-face and virtual contexts;

**(o)** know how to contribute a common culture that supports high expectations for student learning;

**(p)** actively share responsibility for shaping and supporting the mission of their school as one of the advocacy for learners and accountability for their success;

(q) respect families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals;

(r) take initiative to grow and develop with colleagues through interactions and enhance practice and support student learning;

(s) take responsibility for contributing to and advancing the profession; and

(t) embrace the challenge of continuous improvement and change.

[6.61.2.10 NMAC - Rp, 6.61.2.10 NMAC, 8/1/2018]

### **PART 3: LICENSURE IN MIDDLE LEVEL EDUCATION, GRADES 5-9**

#### **6.61.3.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.3.1 NMAC - Rp, 6.61.3.1 NMAC, 8/1/2018]

#### **6.61.3.2 SCOPE:**

Chapter 61, Part 3, governs licensure in middle level education, grades 5 - 9 for those persons seeking such licensure.

[6.61.3.2 NMAC - Rp, 6.61.3.2 NMAC, 8/1/2018]

#### **6.61.3.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2 and 22-2-8.7 NMSA 1978.

[6.61.3.3 NMAC - Rp, 6.61.3.3 NMAC, 8/1/2018]

#### **6.61.3.4 DURATION:**

Permanent.

[6.61.3.4 NMAC - Rp, 6.61.3.4 NMAC, 8/1/2018]

#### **6.61.3.5 EFFECTIVE DATE:**

August 1, 2018.

[6.61.3.5 NMAC - Rp, 6.61.3.5 NMAC, 8/1/2018]

#### **6.61.3.6 OBJECTIVE:**

This rule governs the requirements for New Mexico licensure for persons seeking licensure in middle level education, grades 5 - 9.

[6.61.3.6 NMAC - Rp, 6.61.3.6 NMAC, 8/1/2018]

#### **6.61.3.7 DEFINITIONS:**

**A. "Advisory"** - means a middle level arrangement intended to insure that each student is part of a small peer group with an adult advisor or mentor where communication within the group is open and non-threatening.

**B. "Early adolescence"** - means the developmental period that encompasses ages 10 through 15, or grades 5 - 9.

**C. "Integrative curriculum"** - means a curriculum model which coordinates or blends the interests of the learner into a unified whole, utilizing a variety of disciplines for investigating a central question.

**D. "Interdisciplinary curriculum"** - means a curriculum model designed to incorporate knowledge from two or more academic, scientific, or artistic disciplines.

**E. "License"** - means the professional certificate or credential which is issued upon completion of specified requirements and which designates the grade level(s) at which the holder is authorized to teach or administer.

**F. "Middle level"** - means grades 5 - 9.

**G. "National board for professional teaching standards"** - means a nonprofit, nongovernmental organization which operates a voluntary assessment system to grant national teacher certification to persons who meet an established set of national standards.

**H. "Young adolescent"** - means a student in grades 5 - 9.

**I. "Core academic subjects"** means English, language arts, reading, mathematics, science, modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes or pueblos, the arts, including music and visual arts, and social studies, which includes civics, government, economics, history, and geography.

**J. "A highly qualified beginning middle level teacher"** under this rule means a teacher who is fully qualified to teach the core academic subjects in grades 5-9, is new to the profession, has pursued a standard path to licensure, and:

**(1)** meets the requirements for middle level licensure in Subsections A or C of 6.61.3.8 NMAC;



(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

(3) has passed all applicable teacher testing requirements for licensure in 6.60.5.8 NMAC.

[6.61.3.7 NMAC - Rp, 6.61.3.7 NMAC, 8/1/2018]

#### **6.61.3.8 REQUIREMENTS:**

**A.** Persons seeking a teaching license or licensure endorsements pursuant to the provisions of this rule shall meet the following requirements of Subsection A, Paragraph (1) of 6.61.3.8 NMAC, or Subsection B of 6.61.3.8 NMAC, or Subsection C of 6.61.3.8 NMAC.

(1) bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

(a) nine semester hours in communication

(b) six semester hours in mathematics

(c) eight semester hours in laboratory science

(d) nine semester hours in social and behavioral science; and

(e) nine semester hours in humanities and fine arts.

(2) 30 - 36 semester hours of professional education in a middle level education program approved by the PED, including completion of the PED's New Mexico middle level teacher competencies and a mandatory student teaching experience; and

(3) 24 semester hours in at least one teaching field such as mathematics, science(s), language arts, reading, and social studies (or other content related areas), six semester hours of which must be in upper division courses; individuals must also complete the PED's approved competencies in the teaching field; and

(4) in addition to the requirements specified in Subsection A, Paragraphs (1), (3) and (5) of 6.61.3.8 NMAC, three hours in the teaching of reading in subject matter content for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(5) passage of all applicable portions of the current PED-approved teacher test; and

(6) satisfy the requirements of a highly qualified beginning middle level teacher,  
or

**B.** persons holding a standard New Mexico license in K-8 elementary education, 7-12 secondary education pre K-12 specialty area education, or pre K-12 special education; and

(1) five years of documented, successful teaching experience at the middle school level during the ten-year period immediately preceding the date of application for middle level education licensure; and

(2) has demonstrated competency in the academic subjects the teacher teaches by:

(a) passing the content knowledge test(s) of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state in each subject the teacher teaches; or

(b) successfully completing an undergraduate academic major (24-36 semester hours), six semester hours of which must be in upper division courses or coursework equivalent to an undergraduate major, or a graduate degree in each subject area the teacher teaches; or

**C.** possess a valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.3.8 NMAC - Rp, 6.61.3.8 NMAC, 8/1/2018]

#### **6.61.3.9 IMPLEMENTATION:**

Persons who meet these requirements may obtain a license or endorsements at a level established by the PED unless otherwise barred by New Mexico statute or PED rule.

[6.61.3.9 NMAC - Rp, 6.61.3.9 NMAC, 8/1/2018]

#### **6.61.3.10 REFERENCED MATERIAL:**

The New Mexico middle level teacher competencies follow:

##### **A. Learner development:**

(1) The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences.

**(2)** The teacher shall:

**(a)** regularly assess individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional and physical) and scaffolds the next level of development;

**(b)** create developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate their learning;

**(c)** collaborate with families, communities, colleagues, and other professionals to promote learner growth and development;

**(d)** understand how learning occurs—how learners construct knowledge, acquire skills, and develop disciplined thinking processes—and knows how to use instructional strategies that promote student learning;

**(e)** understand that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs;

**(f)** identify readiness for learning, and understands how development in any one area may affect performance in others;

**(g)** understand the role of language and culture in learning and knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging;

**(h)** respect learners' differing strengths and needs and is committed to using the information to further each learner's development;

**(i)** commit to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning;

**(j)** take responsibility for promoting learners' growth and development; and

**(k)** value the input and contributions of families, colleagues, and other professionals in understanding and supporting each learner's development.

**B. Learning differences:**

**(1)** The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards.

**(2)** The teacher shall:

**(a)** design, adapt, and deliver instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways;

**(b)** make appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment and response modes) for individual students with particular learning differences or needs;

**(c)** design instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings;

**(d)** bring multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms;

**(e)** incorporate tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency;

**(f)** access resource, supports, and specialized assistance and services to meet particular learning differences or needs;

**(g)** understand and identify differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth;

**(h)** understand students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs;

**(i)** know about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition;

**(j)** understand that learners bring assets for learning based on their individual experiences, abilities, talents, prior learning, and peer and social group interactions, as well as language, culture, family and community values;

**(k)** know how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures and community resources into instruction;

**(l)** believe that all learners can achieve at the high levels and persists in helping each learner reach their potential;

**(m)** respect learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents and interests;

- (n)** make learners feel valued and helps them learn to value each other; and
- (o)** value diverse languages and dialects and seeks to integrate them into their instructional practice to engage students in learning.

**C. Learning environments:**

**(1)** The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation.

**(2)** The teacher shall:

**(a)** collaborate with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry;

**(b)** develop learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally;

**(c)** collaborate with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work;

**(d)** manage the learning environment to actively and equitably engage learners by organizing allocating, and coordinating resources of time, space, and learners' attention;

**(e)** use a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments;

**(f)** communicate verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment;

**(g)** promote responsible learner use of interactive technologies to extend the possibilities for learning locally and globally;

**(h)** intentionally build learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills;

**(i)** understand the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning;

**(j)** know how to help learners work productively and cooperatively with each other to achieve learning goals;

**(k)** know how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structure;

**(l)** understand how learner diversity can affect communication and knows how to communicate effectively in differing environments;

**(m)** know how to use the technologies and how to guide learners to apply them in appropriate, safe and effective ways;

**(n)** commit to working with learners, colleagues, families and communities to establish positive and supportive learning environments;

**(o)** value the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning;

**(p)** commit to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning;

**(q)** seek to foster respectful communication among all members of the learning community; and

**(r)** be thoughtful and responsive listener and observer.

**D. Content knowledge:**

**(1)** The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) they teach and creates learning experiences that make these aspects of the discipline accessible and meaningful to learners to assure mastery of the content.

**(2)** The teacher shall:

**(a)** effectively use multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards;

**(b)** engage students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content;

**(c)** engage learners in applying methods of inquiry and standards of evidence used in the discipline;

**(d)** stimulate learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' new experiences;

**(e)** recognize learner misconceptions in a discipline that interfere with learning, and create experiences to build accurate conceptual understanding;

**(f)** evaluate and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for their learners;

**(g)** use supplementary resources and technologies effectively to ensure accessibility and relevance for all learners;

**(h)** create opportunities for students to learn, practice, and master academic language in their content;

**(i)** access school and district based resources to evaluate the learner's content knowledge in their primary language;

**(j)** understand major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) they teach;

**(k)** understand common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding;

**(l)** know and use academic language of the discipline and knows how to make it accessible to learners;

**(m)** know how to integrate culturally relevant content to build on learners' background knowledge;

**(n)** have a deep knowledge of student content standards and learning progression in the discipline(s) they teach;

**(o)** realize that content knowledge is not a fixed body of facts but a complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and understandings in the field;

**(p)** appreciate multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives;

**(q)** recognize the potential bias in their presentation of the discipline and seeks to appropriately address problems of bias; and

**(r)** commit to work toward each learner's mastery of disciplinary content and skills.

**E. Application of content:**

**(1)** The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues.

**(2)** The teacher shall:

**(a)** develop and implement projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills(e.g., a water quality study that draws upon biology or chemistry to look at factual information and social studies to examine policy implications);

**(b)** engage learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy);

**(c)** facilitate learners' use of current tools and resources to maximize content learning in varied contexts;

**(d)** engage learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts;

**(e)** develop learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes;

**(f)** engage learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work;

**(g)** facilitate learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems;

**(h)** develop and implements supports for learner literacy development across content areas;

**(i)** understand the ways of knowing their discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues and concerns;



**(j)** understand how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences;

**(k)** understand the demands of accessing and managing information as well as how to evaluate issues of ethics and quality related to the information and its use;

**(l)** understand how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals;

**(m)** understand critical thinking processes and knows how to help learners develop high level questioning skills to promote independent learning;

**(n)** understand communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning;

**(o)** understand creative thinking processes and how to engage learners in producing original work.

**(p)** know where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum;

**(q)** constantly explore how to use disciplinary knowledge as a lens to address local and global issues;

**(r)** value knowledge outside their own content area and how such knowledge enhances student learning; and

**(s)** value flexible learning environments that encourage learner exploration, discovery, and expression across content areas.

#### **F. Assessment:**

**(1)** The teacher understands and uses multiple measures of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making.

**(2)** The teacher shall:

**(a)** balance the use of formative and summative assessment as appropriate to support, verify, and document learning;

**(b)** design assessments that match learning objectives with assessment methods and minimize sources of bias that can distort assessment results.

**(c)** work independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning;

**(d)** engage learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work;

**(e)** engage learners in multiple ways of demonstrating knowledge and skill as part of the assessment process;

**(f)** model and structure processes that guide learners in examining their own thinking and learning as well as the performance of others;

**(g)** use multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences;

**(h)** prepare all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs;

**(i)** continually seek appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs;

**(j)** understand the differences between formative and summative applications of assessment and knows how and when to use each;

**(k)** understand the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias;

**(l)** know how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners;

**(m)** know when and how to engage learners in analyzing their own assessment results and in helping set goals for their own learning;

**(n)** understand the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback;

**(o)** know when and how to evaluate and report learner progress against standards;

**(p)** understand how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs;

**(q)** commit to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning;

**(r)** take responsibility for aligning instruction and assessment with learning goals;

**(s)** commit to providing timely and effective descriptive feedback to learners on their progress;

**(t)** commit to using multiple types of assessment processes to support, verify, and document learning;

**(u)** commit to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs; and

**(v)** commit to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.

**G. Planning for instruction:**

**(1)** The teacher plans the instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context.

**(2)** The teacher shall:

**(a)** individually and collaboratively select and create learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners;

**(b)** plan how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners;

**(c)** develop appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill;

**(d)** plan for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest;

**(e)** plan collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language and learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences that meet unique learning needs;

**(f)** evaluate plans in relation to short and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning;

**(g)** understand content and content standards and how these are organized in the curriculum;

**(h)** understand how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge;

**(i)** understand learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning;

**(j)** understand the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs;

**(k)** know a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs;

**(l)** know when and how to adjust plans based on assessment information and learner responses;

**(m)** know when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations);

**(n)** respect learners' diverse strengths and needs and is committed to using this information to plan effective instruction;

**(o)** value planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community;

**(p)** take professional responsibility to use short and long-term planning as a means of assuring student learning; and

**(q)** believe that plans must always be open to adjustment and revision based on learner needs and changing circumstances.

#### **H. Instructional strategies:**

**(1)** The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways.

**(2)** The teacher shall:

**(a)** use appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners;

**(b)** continuously monitor student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs;

**(c)** collaborate with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest.

**(d)** vary their role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners;

**(e)** provide multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performance;

**(f)** engage all learners in developing higher order questioning skills and metacognitive processes;

**(g)** engage learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information;

**(h)** use a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes;

**(i)** ask questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question);

**(j)** understand the cognitive process associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated;

**(k)** know how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals;

**(l)** know when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks;

**(m)** understand how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self-expression, and build relationships;

**(n)** know how to use a wide variety of resources, including human and technological, to engage students in learning;

**(o)** understand how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness;

**(p)** commit to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction;

**(q)** value the variety of ways people communicate and encourage learners to develop and use multiple forms of communication;

**(r)** commit to exploring how the use of new and emerging technologies can support and promote student learning; and

**(s)** value flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.

**I. Professional learning and ethical practice:**

**(1)** The teacher engages in ongoing professional learning and uses evidence to continually evaluate their practice, particularly the effects of their choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner.

**(2)** The teacher shall:

**(a)** engage in ongoing learning opportunities to develop knowledge and skills in order to provide learners with engaging curriculum and learning experiences based on local and state standards;

**(b)** engage in meaningful and appropriate professional learning experiences aligned with their own needs and the needs of the learners, school, and system;

**(c)** independently and in collaboration with colleagues use a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice;

**(d)** actively seek professional community, and technological resources, within and outside the school, as supports for analysis, reflection and problem solving;

**(e)** reflect on their personal biases and accesses resources to deepen their own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences;

**(f)** advocate, model, and teach safe, legal, and ethical use of information and technology including proper documentation of sources and respect for others in the use of social media;

**(g)** understand and know how to use a variety of self-assessment and problem-solving strategies to analyze and reflect on their practice and to plan for adaptations and adjustments;

**(h)** know how to use learner data to analyze practice and differentiate instruction accordingly;

**(i)** understand how personal identity, worldview, and prior experience affect perceptions and expectations, and recognize how they may bias behaviors and interactions with others;

**(j)** understand laws related to learners' rights and teacher responsibility (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse);

**(k)** The teacher knows how to build and implement a plan for professional growth directly aligned with their needs as a growing professional using feedback from teacher evaluations and observations, data on learner performance, and school and system-wide priorities;

**(l)** take responsibility for student learning and uses on going analysis and reflection to improve planning and practice;

**(m)** commit to deepening understanding of their own frames of references (e.g., culture, gender, language, abilities, ways of knowing), the potential biases in these frames, and their impact on expectations for and relationships with learners and their families;

**(n)** see themselves as a learner, continuously seeking opportunities to draw upon current education policy and research as sources of analysis and reflection to improve practice; and

**(o)** understand expectations of the profession including codes of ethics, professional standards of practice, and relevant law and policy.

#### **J. Leadership and collaboration:**

**(1)** The teacher seeks appropriate leadership roles and opportunities to share responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession.

**(2)** The teacher shall:

**(a)** take an active role on the instructional team, giving and receiving feedback on practice, examining learner work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each student's learning;

**(b)** work with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners;

**(c)** engage collaboratively in the school-wide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals;

**(d)** work collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement;

**(e)** working with school colleagues build ongoing connections with community resources to enhance student learning and wellbeing;

**(f)** engage in professional learning, contributes to the knowledge and skill of others, and works collaboratively to advance professional practice;

**(g)** use technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues;

**(h)** use and generate meaningful research on education issues and policy;

**(i)** seek appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles;

**(j)** advocate to meet the needs of learners, to strengthen the learning environment, and to enact system change;

**(k)** take on leadership roles at the school, district, state, and national level and advocates for the school, the community, and the profession;

**(l)** understand schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners;



(m) understand that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning;

(n) know how to work with other adults and develop skills in collaborative interaction appropriate for both face-to-face and virtual contexts;

(o) know how to contribute a common culture that supports high expectations for student learning;

(p) actively share responsibility for shaping and supporting the mission of their school as one of the advocacy for learners and accountability for their success;

(q) respect families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals;

(r) take initiative to grow and develop with colleagues through interactions and enhance practice and support student learning;

(s) take responsibility for contributing to and advancing the profession; and

(t) embrace the challenge of continuous improvement and change.

[6.61.3.10 NMAC - Rp, 6.61.3.10 NMAC, 8/1/2018]

## **PART 4: LICENSURE IN SECONDARY EDUCATION, GRADES 7-12**

### **6.61.4.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.4.1 NMAC - Rp, 6.61.4.1 NMAC, 8/1/2018]

### **6.61.4.2 SCOPE:**

Chapter 61, Part 4 governs licensure in secondary education, grades 7-12, for those persons seeking such licensure.

[6.61.4.2 NMAC - Rp, 6.61.4.2 NMAC, 8/1/2018]

### **6.61.4.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2 and 22-10A-6, NMSA 1978.

[6.61.4.3 NMAC - Rp, 6.61.4.3 NMAC, 8/1/2018]

#### **6.61.4.4 DURATION:**

Permanent.

[6.61.4.4 NMAC - Rp, 6.61.4.4 NMAC, 8/1/2018]

#### **6.61.4.5 EFFECTIVE DATE:**

August 1, 2018, unless a later date is cited in the history note at the end of a section.

[6.61.4.5 NMAC - Rp, 6.61.4.5 NMAC, 8/1/2018]

#### **6.61.4.6 OBJECTIVE:**

This rule governs licensure requirements in secondary education for grades 7-12 for persons seeking such licensure. It waives the requirement of this licensure for persons already holding a valid state secondary license as of June 30, 1989.

[6.61.4.6 NMAC - Rp, 6.61.4.6 NMAC, 8/1/2018]

#### **6.61.4.7 DEFINITIONS:**

**A. "Core academic subjects"** means English, language arts, reading, mathematics, science, the arts, including music and visual arts, social studies, which includes civics, government, economics, history, and geography, and modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes or pueblos.

**B. "A highly qualified beginning secondary teacher"**, under this rule, means a teacher who is fully qualified to teach the core academic subjects in grades 7-12, who is new to the profession, who has pursued a standard route to licensure and who:

(1) meets the requirements for secondary 7-12 licensure in Subsections A or B of 6.61.4.8 NMAC, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable teacher testing requirements for licensure in 6.60.5.8 NMAC.

[6.61.4.7 NMAC - Rp, 6.61.4.7 NMAC, 08/01/2018]

#### **6.61.4.8 REQUIREMENTS:**

**A.** persons seeking licensure in secondary education pursuant to the provisions of this rule shall meet the requirements of Subsection A or Subsection B of 6.61.4.8 NMAC.

**(1)** bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

**(a)** nine semester hours in communication

**(b)** six semester hours in mathematics

**(c)** eight semester hours in laboratory science

**(d)** nine semester hours in social and behavioral science

**(e)** nine semester hours in humanities and fine arts; and

**(2)** credits from a regionally accredited college or university which include 24 - 30 semester hours of professional education in a secondary education program approved by the (PED) including completion of the PED's approved functional areas and related competencies in professional education; and including:

**(3)** a mandatory student teaching component; and

**(4)** 24 - 36 semester hours in at least one teaching field such as mathematics, science(s), language arts, reading, or from among history, geography, economics, civics and government (or other content related areas), twelve hours of which must be in upper division courses as defined by the college or university; individuals must also complete the PED approved functional areas and related competencies in the teaching field; and

**(5)** in addition to the requirements specified in Subsection A, Paragraphs (1), (3), (4), (6) and (7) of 6.61.4.8 NMAC, three hours in the teaching of reading for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

**(6)** passage of all portions of the current PED approved teacher test; and

**(7)** satisfy the requirements of a highly qualified beginning secondary teacher;  
or

**B.** possess a valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.4.8 NMAC - Rp, 6.61.4.8 NMAC, 8/1/2018]

#### **6.61.4.9 [RESERVED]**

[6.61.4.9 NMAC - Rp, 6.61.4.9 NMAC, 8/1/2018]

#### **6.61.4.10 REFERENCED MATERIAL:**

Competencies for entry level secondary teachers

##### **A. Learner development:**

**(1)** The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences.

##### **(2) The teacher shall:**

**(a)** regularly assess individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional and physical) and scaffolds the next level of development;

**(b)** create developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate their learning;

**(c)** collaborate with families, communities, colleagues, and other professionals to promote learner growth and development;

**(d)** understand how learning occurs—how learners construct knowledge, acquire skills, and develop disciplined thinking processes—and knows how to use instructional strategies that promote student learning;

**(e)** understand that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs;

**(f)** identify readiness for learning, and understands how development in any one area may affect performance in others;

**(g)** understand the role of language and culture in learning and knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging;

**(h)** respect learners' differing strengths and needs and is committed to using the information to further each learner's development;

(i) commit to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning;

(j) take responsibility for promoting learners' growth and development; and

(k) value the input and contributions of families, colleagues, and other professionals in understanding and supporting each learner's development.

**B. Learning differences:**

(1) The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards.

(2) The teacher shall:

(a) design, adapt, and deliver instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways;

(b) make appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment and response modes) for individual students with particular learning differences or needs;

(c) design instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings;

(d) bring multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms;

(e) incorporate tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency;

(f) access resource, supports, and specialized assistance and services to meet particular learning differences or needs;

(g) understand and identify differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth;

(h) understand students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs;

**(i)** know about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition;

**(j)** understand that learners bring assets for learning based on their individual experiences, abilities, talents, prior learning, and peer and social group interactions, as well as language, culture, family and community values;

**(k)** know how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures and community resources into instruction;

**(l)** believe that all learners can achieve at the high levels and persists in helping each learner reach their potential;

**(m)** respect learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents and interests;

**(n)** make learners feel valued and helps them learn to value each other; and

**(o)** value diverse languages and dialects and seeks to integrate them into their instructional practice to engage students in learning.

**C. Learning environments:**

**(1)** The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation.

**(2)** The teacher shall:

**(a)** collaborate with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry;

**(b)** develop learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally;

**(c)** collaborate with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work;

**(d)** manage the learning environment to actively and equitably engage learners by organizing allocating, and coordinating resources of time, space, and learners' attention;

**(e)** use a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments;

**(f)** communicate verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment;

**(g)** promote responsible learner use of interactive technologies to extend the possibilities for learning locally and globally;

**(h)** intentionally build learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills;

**(i)** understand the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning;

**(j)** know how to help learners work productively and cooperatively with each other to achieve learning goals;

**(k)** know how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structure;

**(l)** understand how learner diversity can affect communication and knows how to communicate effectively in differing environments;

**(m)** know how to use the technologies and how to guide learners to apply them in appropriate, safe and effective ways;

**(n)** commit to working with learners, colleagues, families and communities to establish positive and supportive learning environments;

**(o)** value the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning;

**(p)** commit to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning;

**(q)** seek to foster respectful communication among all members of the learning community; and

**(r)** be thoughtful and responsive listener and observer.

**D.** Content knowledge:

**(1)** The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) they teach and creates learning experiences that make these aspects of the discipline accessible and meaningful to learners to assure mastery of the content.

**(2)** The teacher shall:

**(a)** effectively use multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards;

**(b)** engage students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content;

**(c)** engage learners in applying methods of inquiry and standards of evidence used in the discipline;

**(d)** stimulate learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' new experiences;

**(e)** recognize learner misconceptions in a discipline that interfere with learning, and create experiences to build accurate conceptual understanding;

**(f)** evaluate and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for their learners;

**(g)** use supplementary resources and technologies effectively to ensure accessibility and relevance for all learners;

**(h)** create opportunities for students to learn, practice, and master academic language in their content;

**(i)** access school and district based resources to evaluate the learner's content knowledge in their primary language;

**(j)** understand major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) they teach;

**(k)** understand common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding;

**(l)** know and use academic language of the discipline and knows how to make it accessible to learners;



**(m)** know how to integrate culturally relevant content to build on learners' background knowledge;

**(n)** have a deep knowledge of student content standards and learning progression in the discipline(s) they teach;

**(o)** realize that content knowledge is not a fixed body of facts but a complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and understandings in the field;

**(p)** appreciate multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives;

**(q)** recognize the potential bias in their presentation of the discipline and seeks to appropriately address problems of bias; and

**(r)** commit to work toward each learner's mastery of disciplinary content and skills.

**E. Application of content:**

**(1)** The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues.

**(2)** The teacher shall:

**(a)** develop and implement projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills(e.g., a water quality study that draws upon biology or chemistry to look at factual information and social studies to examine policy implications);

**(b)** engage learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy);

**(c)** facilitate learners' use of current tools and resources to maximize content learning in varied contexts;

**(d)** engage learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts;

**(e)** develop learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes;

**(f)** engage learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work;

**(g)** facilitate learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems;

**(h)** develop and implements supports for learner literacy development across content areas;

**(i)** understand the ways of knowing their discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues and concerns;

**(j)** understand how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences;

**(k)** understand the demands of acceding and managing information as well as how to evaluate issues of ethics and quality related to the information and its use;

**(l)** understand how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals;

**(m)** understand critical thinking processes and knows how to help learners develop high level questioning skills to promote independent learning;

**(n)** understand communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning;

**(o)** understand creative thinking processes and how to engage learners in producing original work;

**(p)** know where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum;

**(q)** constantly explore how to use disciplinary knowledge as a lens to address local and global issues;

**(r)** value knowledge outside their own content area and how such knowledge enhances student learning; and

**(s)** value flexible learning environments that encourage learner exploration, discovery, and expression across content areas.

**F. Assessment:**

**(1)** The teacher understands and uses multiple measures of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making.

**(2)** The teacher shall:

**(a)** balance the use of formative and summative assessment as appropriate to support, verify, and document learning;

**(b)** design assessments that match learning objectives with assessment methods and minimize sources of bias that can distort assessment results;

**(c)** work independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning;

**(d)** engage learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work;

**(e)** engage learners in multiple ways of demonstrating knowledge and skill as part of the assessment process;

**(f)** model and structure processes that guide learners in examining their own thinking and learning as well as the performance of others;

**(g)** use multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences;

**(h)** prepare all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs;

**(i)** continually seek appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs;

**(j)** understand the differences between formative and summative applications of assessment and knows how and when to use each;

**(k)** understand the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias;

**(l)** know how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners;

**(m)** know when and how to engage learners in analyzing their own assessment results and in helping set goals for their own learning;

**(n)** understand the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback;

**(o)** know when and how to evaluate and report learner progress against standards;

**(p)** understand how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs;

**(q)** commit to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning;

**(r)** take responsibility for aligning instruction and assessment with learning goals;

**(s)** commit to providing timely and effective descriptive feedback to learners on their progress;

**(t)** commit to using multiple types of assessment processes to support, verify, and document learning;

**(u)** commit to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs; and

**(v)** commit to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.

**G. Planning for instruction:**

**(1)** The teacher plans the instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context.

**(2)** The teacher shall:

**(a)** individually and collaboratively select and create learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners;

**(b)** plan how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners;

**(c)** develop appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill;

**(d)** plan for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest;

**(e)** plan collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language and learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences that meet unique learning needs;

**(f)** evaluate plans in relation to short and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning;

**(g)** understand content and content standards and how these are organized in the curriculum;

**(h)** understand how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge;

**(i)** understand learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning;

**(j)** understand the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs;

**(k)** know a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs;

**(l)** know when and how to adjust plans based on assessment information and learner responses;

**(m)** know when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations);

**(n)** respect learners' diverse strengths and needs and is committed to using this information to plan effective instruction;

**(o)** value planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community;

**(p)** take professional responsibility to use short and long-term planning as a means of assuring student learning; and

**(q)** believe that plans must always be open to adjustment and revision based on learner needs and changing circumstances.

#### **H. Instructional strategies:**

**(1)** The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways.

**(2)** The teacher shall:

**(a)** use appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners;

**(b)** continuously monitor student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs;

**(c)** collaborate with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest;

**(d)** vary their role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners;

**(e)** provide multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performance;

**(f)** engage all learners in developing higher order questioning skills and metacognitive processes;

**(g)** engage learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information;

**(h)** use a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes;

**(i)** ask questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question);

**(j)** understand the cognitive process associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated;

**(k)** know how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals;

**(l)** know when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks;

**(m)** understand how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self-expression, and build relationships;

**(n)** know how to use a wide variety of resources, including human and technological, to engage students in learning;

**(o)** understand how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness;

**(p)** commit to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction;

**(q)** value the variety of ways people communicate and encourage learners to develop and use multiple forms of communication;

**(r)** commit to exploring how the use of new and emerging technologies can support and promote student learning; and

**(s)** value flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.

**I. Professional learning and ethical practice:**

**(1)** The teacher engages in ongoing professional learning and uses evidence to continually evaluate their practice, particularly the effects of their choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner.

**(2)** The teacher shall:

**(a)** engage in ongoing learning opportunities to develop knowledge and skills in order to provide learners with engaging curriculum and learning experiences based on local and state standards;

**(b)** engage in meaningful and appropriate professional learning experiences aligned with their own needs and the needs of the learners, school, and system;

**(c)** independently and in collaboration with colleagues use a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice;

**(d)** actively seek professional community, and technological resources, within and outside the school, as supports for analysis, reflection and problem solving;

**(e)** reflect on their personal biases and accesses resources to deepen their own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences;

**(f)** advocate, model, and teach safe, legal, and ethical use of information and technology including proper documentation of sources and respect for others in the use of social media;

**(g)** understand and know how to use a variety of self-assessment and problem-solving strategies to analyze and reflect on their practice and to plan for adaptations and adjustments;

**(h)** know how to use learner data to analyze practice and differentiate instruction accordingly;

**(i)** understand how personal identity, worldview, and prior experience affect perceptions and expectations, and recognize how they may bias behaviors and interactions with others;

**(j)** understand laws related to learners' rights and teacher responsibility (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse);

**(k)** The teacher knows how to build and implement a plan for professional growth directly aligned with their needs as a growing professional using feedback from teacher evaluations and observations, data on learner performance, and school and system-wide priorities;

**(l)** take responsibility for student learning and uses on going analysis and reflection to improve planning and practice;



**(m)** commit to deepening understanding of their own frames of references (e.g., culture, gender, language, abilities, ways of knowing), the potential biases in these frames, and their impact on expectations for and relationships with learners and their families;

**(n)** see themselves as a learner, continuously seeking opportunities to draw upon current education policy and research as sources of analysis and reflection to improve practice; and

**(o)** understand expectations of the profession including codes of ethics, professional standards of practice, and relevant law and policy.

**J. Leadership and collaboration:**

**(1)** The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession.

**(2)** The teacher shall:

**(a)** take an active role on the instructional team, giving and receiving feedback on practice, examining learn work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each students learning;

**(b)** work with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners;

**(c)** engage collaboratively in the school-wide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals;

**(d)** work collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement;

**(e)** working with school colleagues build ongoing connections with community resources to enhance student learning and wellbeing;

**(f)** engage in professional learning, contributes to the knowledge and skill of others, and works collaboratively to advance professional practice;

**(g)** use technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues;

**(h)** use and generate meaningful research on education issues an policy;

(i) seek appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles;

(j) advocate to meet the needs of learners, to strengthen the learning environment, and to enact system change;

(k) take on leadership roles at the school, district, state, and national level and advocates for the school, the community, and the profession;

(l) understand schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners;

(m) understand that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning;

(n) know how to work with other adults and develop skills in collaborative interaction appropriate for both face-to-face and virtual contexts;

(o) know how to contribute a common culture that supports high expectations for student learning;

(p) actively share responsibility for shaping and supporting the mission of their school as one of the advocacy for learners and accountability for their success;

(q) respect families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals;

(r) take initiative to grow and develop with colleagues through interactions and enhance practice and support student learning;

(s) take responsibility for contributing to and advancing the profession; and

(t) embrace the challenge of continuous improvement and change.

[6.61.4.10 NMAC - Rp, 6.61.4.10 NMAC, 8/1/2018]

## **PART 5: LICENSURE FOR GRADES PRE K-12**

### **6.61.5.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.5.1 NMAC - Rp, 6.61.5.1 NMAC, 8/1/2018]

#### **6.61.5.2 SCOPE:**

Chapter 61, Part 5, governs licensure in grades pre K-12, for those persons seeking such licensure.

[6.61.5.2 NMAC - Rp, 6.61.5.2 NMAC, 8/1/2018]

#### **6.61.5.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2 and 22-10A-6, NMSA 1978.

[6.61.5.3 NMAC - Rp, 6.61.5.3 NMAC, 8/1/2018]

#### **6.61.5.4 DURATION:**

Permanent.

[6.61.5.4 NMAC - Rp, 6.61.5.4 NMAC, 8/1/2018]

#### **6.61.5.5 EFFECTIVE DATE:**

August 1, 2018, unless a later date is cited at the end of a section.

[6.61.5.5 NMAC - Rp, 6.61.5.5 NMAC, 8/1/2018]

#### **6.61.5.6 OBJECTIVE:**

This rule governs licensure requirements in grades pre K-12 for those persons seeking such licensure.

[6.61.5.6 NMAC - Rp, 6.61.5.6 NMAC, 8/1/2018]

#### **6.61.5.7 DEFINITIONS:**

**A. "Core academic subjects"** means English, language arts, reading, mathematics, science, the arts, including music and visual arts, social studies, which includes civics, government, economics, , and geography, and modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes or pueblos.

**B. "A highly qualified beginning pre K-12 teacher"**, under this rule, means a teacher who is fully qualified to teach the core academic subjects in grades pre K-12, who is new to the profession, who has pursued a standard route to licensure and who:

**(1)** meets the requirements for pre K-12 licensure in Subsections A or B in 6.61.5.8 NMAC, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable teacher testing requirements for licensure in 6.60.5.8 NMAC.

**C. "Pre-kindergarten"** means a voluntary developmental readiness program for children who have attained their fourth birthday prior to September 1.

[6.61.5.7 NMAC - Rp, 6.61.5.7 NMAC, 08/01/2018]

#### **6.61.5.8 REQUIREMENTS:**

**A.** persons seeking pre K-12 licensure pursuant to the provisions of this rule shall meet the requirements of Subsection A of 6.61.5.8 NMAC or Subsection B of 6.61.5.8 NMAC.

(1) bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

(a) nine semester hours in communication

(b) six semester hours in mathematics

(c) eight semester hours in laboratory science

(d) nine semester hours in social and behavioral science

(e) nine semester hours in humanities and fine arts; and

(2) credits from a regionally accredited college or university which include 24 – 36 semester hours of professional education in an education program approved by the public education department (PED), including completion of the PED approved functional areas and related competencies in professional education for grades pre K-12; and including

(a) a mandatory student teaching component; and

(b) 24 to 36 semester hours in at least one teaching field such as mathematics, science(s), language arts, reading, or from among history, geography, economics, civics and government (or other content related areas), 12 hours of which must be in upper division courses as defined by the college or university; individuals must also complete the PED approved functional areas and related competencies in the teaching field; and

(3) in addition to the requirements specified in Subsection A, Paragraphs (1), (2) and (4) of 6.61.5.8 NMAC, three hours in the teaching of reading in subject matter content for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(4) passage of all portions of the New Mexico teacher assessments or any successor teacher examination adopted by the PED; and

(5) satisfy the requirements of a highly qualified beginning pre K-12 teacher;  
or

**B.** Possess a valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.5.8 NMAC - Rp, 6.61.5.8 NMAC, 8/1/2018]

#### **6.61.5.9 IMPLEMENTATION:**

All persons holding a valid pre K-12 New Mexico license or endorsement on June 30, 1989 shall be entitled to pre K-12 licensure. Such licensure may be further continued pursuant to rule(s) as established by the PED.

[6.61.5.9 NMAC - Rp, 6.61.5.9 NMAC, 8/1/2018]

#### **6.61.5.10 REFERENCED MATERIAL:**

Competencies for entry level pre K-12 teachers

##### **A.** Learner development:

(1) The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences.

##### **(2)** The teacher shall:

(a) regularly assess individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional and physical) and scaffolds the next level of development;

(b) create developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate their learning;

**(c)** collaborate with families, communities, colleagues, and other professionals to promote learner growth and development;

**(d)** understand how learning occurs - how learners construct knowledge, acquire skills, and develop disciplined thinking processes - and knows how to use instructional strategies that promote student learning;

**(e)** understand that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs;

**(f)** identify readiness for learning, and understands how development in any one area may affect performance in others;

**(g)** understand the role of language and culture in learning and knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging;

**(h)** respect learners' differing strengths and needs and is committed to using the information to further each learner's development;

**(i)** commit to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning;

**(j)** take responsibility for promoting learners' growth and development; and

**(k)** value the input and contributions of families, colleagues, and other professionals in understanding and supporting each learner's development.

**B. Learning differences:**

**(1)** The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards.

**(2)** The teacher shall:

**(a)** design, adapt, and deliver instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways;

**(b)** make appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment and response modes) for individual students with particular learning differences or needs;

**(c)** design instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings;

**(d)** bring multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms;

**(e)** incorporate tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency;

**(f)** access resource, supports, and specialized assistance and services to meet particular learning differences or needs;

**(g)** understand and identify differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth;

**(h)** understand students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs;

**(i)** know about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition;

**(j)** understand that learners bring assets for learning based on their individual experiences, abilities, talents, prior learning, and peer and social group interactions, as well as language, culture, family and community values;

**(k)** know how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures and community resources into instruction;

**(l)** believe that all learners can achieve at the high levels and persists in helping each learner reach their potential;

**(m)** respect learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents and interests;

**(n)** make learners feel valued and helps them learn to value each other; and

**(o)** value diverse languages and dialects and seeks to integrate them into their instructional practice to engage students in learning.

**C. Learning environments:**

**(1)** The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation.

**(2)** The teacher shall:

**(a)** collaborate with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry;

**(b)** develop learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally;

**(c)** collaborate with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work;

**(d)** manage the learning environment to actively and equitably engage learners by organizing allocating, and coordinating resources of time, space, and learners' attention;

**(e)** use a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments;

**(f)** communicate verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment;

**(g)** promote responsible learner use of interactive technologies to extend the possibilities for learning locally and globally;

**(h)** intentionally build learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills;

**(i)** understand the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning;

**(j)** know how to help learners work productively and cooperatively with each other to achieve learning goals;

**(k)** know how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structure;



**(l)** understand how learner diversity can affect communication and knows how to communicate effectively in differing environments;

**(m)** know how to use the technologies and how to guide learners to apply them in appropriate, safe and effective ways;

**(n)** commit to working with learners, colleagues, families and communities to establish positive and supportive learning environments;

**(o)** value the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning;

**(p)** commit to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning;

**(q)** seek to foster respectful communication among all members of the learning community; and

**(r)** be thoughtful and responsive listener and observer.

**D. Content knowledge:**

**(1)** The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) they teach and creates learning experiences that make these aspects of the discipline accessible and meaningful to learners to assure mastery of the content.

**(2)** The teacher shall:

**(a)** effectively use multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards;

**(b)** engage students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content;

**(c)** engage learners in applying methods of inquiry and standards of evidence used in the discipline;

**(d)** stimulate learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' new experiences;

**(e)** recognize learner misconceptions in a discipline that interfere with learning, and create experiences to build accurate conceptual understanding;

**(f)** evaluate and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for their learners;

**(g)** use supplementary resources and technologies effectively to ensure accessibility and relevance for all learners;

**(h)** create opportunities for students to learn, practice, and master academic language in their content;

**(i)** access school and district based resources to evaluate the learner's content knowledge in their primary language;

**(j)** understand major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) they teach;

**(k)** understand common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding;

**(l)** know and use academic language of the discipline and knows how to make it accessible to learners;

**(m)** know how to integrate culturally relevant content to build on learners' background knowledge;

**(n)** have a deep knowledge of student content standards and learning progression in the discipline(s) they teach;

**(o)** realize that content knowledge is not a fixed body of facts but a complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and understandings in the field;

**(p)** appreciate multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives; and

**(q)** recognize the potential bias in their presentation of the discipline and seeks to appropriately address problems of bias.

**(r)** commit to work toward each learner's mastery of disciplinary content and skills.

#### **E. Application of content:**

**(1)** The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues.

**(2)** The teacher shall:

**(a)** develop and implement projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills(e.g., a water quality study that draws upon biology or chemistry to look at factual information and social studies to examine policy implications);

**(b)** engage learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy);

**(c)** facilitate learners' use of current tools and resources to maximize content learning in varied contexts;

**(d)** engage learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts;

**(e)** develop learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes;

**(f)** engage learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work;

**(g)** facilitate learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems;

**(h)** develop and implements supports for learner literacy development across content areas;

**(i)** understand the ways of knowing their discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues and concerns;

**(j)** understand how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences;

**(k)** understand the demands of acceding and managing information as well as how to evaluate issues of ethics and quality related to the information and its use;

**(l)** understand how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals;

**(m)** understand critical thinking processes and knows how to help learners develop high level questioning skills to promote independent learning;

**(n)** understand communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning;

**(o)** understand creative thinking processes and how to engage learners in producing original work;

**(p)** know where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum;

**(q)** constantly explore how to use disciplinary knowledge as a lens to address local and global issues;

**(r)** value knowledge outside their own content area and how such knowledge enhances student learning; and

**(s)** value flexible learning environments that encourage learner exploration, discovery, and expression across content areas.

#### **F. Assessment:**

**(1)** The teacher understands and uses multiple measures of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making.

**(2)** The teacher shall:

**(a)** balance the use of formative and summative assessment as appropriate to support, verify, and document learning;

**(b)** design assessments that match learning objectives with assessment methods and minimize sources of bias that can distort assessment results;

**(c)** work independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning;

**(d)** engage learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work;

**(e)** engage learners in multiple ways of demonstrating knowledge and skill as part of the assessment process;

**(f)** model and structure processes that guide learners in examining their own thinking and learning as well as the performance of others;

**(g)** use multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences;

**(h)** prepare all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs;

**(i)** continually seek appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs;

**(j)** understand the differences between formative and summative applications of assessment and knows how and when to use each;

**(k)** understand the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias;

**(l)** know how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners;

**(m)** know when and how to engage learners in analyzing their own assessment results and in helping set goals for their own learning;

**(n)** understand the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback;

**(o)** know when and how to evaluate and report learner progress against standards;

**(p)** understand how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs;

**(q)** commit to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning;

**(r)** take responsibility for aligning instruction and assessment with learning goals;

**(s)** commit to providing timely and effective descriptive feedback to learners on their progress;

**(t)** commit to using multiple types of assessment processes to support, verify, and document learning;

**(u)** commit to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs; and

**(v)** commit to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.

**G. Planning for instruction:**

**(1)** The teacher plans the instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context.

**(2)** The teacher shall:

**(a)** individually and collaboratively select and create learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners;

**(b)** plan how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners;

**(c)** develop appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill;

**(d)** plan for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest;

**(e)** plan collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language and learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences that meet unique learning needs;

**(f)** evaluate plans in relation to short and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning;

**(g)** understand content and content standards and how these are organized in the curriculum;

**(h)** understand how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge;

**(i)** understand learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning;

**(j)** understand the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs;

**(k)** know a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs;

**(l)** know when and how to adjust plans based on assessment information and learner responses;

**(m)** know when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations);

**(n)** respect learners' diverse strengths and needs and is committed to using this information to plan effective instruction;

**(o)** value planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community;

**(p)** take professional responsibility to use short and long-term planning as a means of assuring student learning; and

**(q)** believe that plans must always be open to adjustment and revision based on learner needs and changing circumstances.

#### **H. Instructional strategies:**

**(1)** The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways.

**(2)** The teacher shall:

**(a)** use appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners;

**(b)** continuously monitor student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs;

**(c)** collaborate with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest;

**(d)** vary their role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners;

**(e)** provide multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performance;

**(f)** engage all learners in developing higher order questioning skills and metacognitive processes;

**(g)** engage learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information;

**(h)** use a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes;

**(i)** ask questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question);

**(j)** understand the cognitive process associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated;

**(k)** know how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals;

**(l)** know when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks;

**(m)** understand how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self-expression, and build relationships;

**(n)** know how to use a wide variety of resources, including human and technological, to engage students in learning;

**(o)** understand how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness;



**(p)** commit to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction;

**(q)** value the variety of ways people communicate and encourage learners to develop and use multiple forms of communication;

**(r)** commit to exploring how the use of new and emerging technologies can support and promote student learning; and

**(s)** value flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.

**I. Professional learning and ethical practice:**

**(1)** The teacher engages in ongoing professional learning and uses evidence to continually evaluate their practice, particularly the effects of their choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner.

**(2)** The teacher shall:

**(a)** engage in ongoing learning opportunities to develop knowledge and skills in order to provide learners with engaging curriculum and learning experiences based on local and state standards;

**(b)** engage in meaningful and appropriate professional learning experiences aligned with their own needs and the needs of the learners, school, and system;

**(c)** independently and in collaboration with colleagues use a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice;

**(d)** actively seek professional community, and technological resources, within and outside the school, as supports for analysis, reflection and problem solving;

**(e)** reflect on their personal biases and accesses resources to deepen their own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences;

**(f)** advocate, model, and teach safe, legal, and ethical use of information and technology including proper documentation of sources and respect for others in the use of social media;

**(g)** understand and know how to use a variety of self-assessment and problem-solving strategies to analyze and reflect on their practice and to plan for adaptations and adjustments;

**(h)** know how to use learner data to analyze practice and differentiate instruction accordingly;

**(i)** understand how personal identity, worldview, and prior experience affect perceptions and expectations, and recognize how they may bias behaviors and interactions with others;

**(j)** understand laws related to learners' rights and teacher responsibility (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse);

**(k)** The teacher knows how to build and implement a plan for professional growth directly aligned with their needs as a growing professional using feedback from teacher evaluations and observations, data on learner performance, and school and system-wide priorities;

**(l)** take responsibility for student learning and uses on going analysis and reflection to improve planning and practice;

**(m)** commit to deepening understanding of their own frames of references (e.g., culture, gender, language, abilities, ways of knowing), the potential biases in these frames, and their impact on expectations for and relationships with learners and their families;

**(n)** see themselves as a learner, continuously seeking opportunities to draw upon current education policy and research as sources of analysis and reflection to improve practice; and

**(o)** understand expectations of the profession including codes of ethics, professional standards of practice, and relevant law and policy.

#### **J. Leadership and collaboration:**

**(1)** The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession.

**(2)** The teacher shall:

**(a)** take an active role on the instructional team, giving and receiving feedback on practice, examining learner work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each student's learning;

**(b)** work with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners;

**(c)** engage collaboratively in the school-wide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals;

**(d)** work collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement;

**(e)** working with school colleagues build ongoing connections with community resources to enhance student learning and wellbeing;

**(f)** engage in professional learning, contributes to the knowledge and skill of others, and works collaboratively to advance professional practice;

**(g)** use technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues;

**(h)** use and generate meaningful research on education issues and policy;

**(i)** seek appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles;

**(j)** advocate to meet the needs of learners, to strengthen the learning environment, and to enact system change;

**(k)** take on leadership roles at the school, district, state, and national level and advocates for the school, the community, and the profession;

**(l)** understand schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners;

**(m)** understand that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning;

**(n)** know how to work with other adults and develop skills in collaborative interaction appropriate for both face-to-face and virtual contexts;

**(o)** know how to contribute a common culture that supports high expectations for student learning;

(p) actively share responsibility for shaping and supporting the mission of their school as one of the advocacy for learners and accountability for their success;

(q) respect families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals;

(r) take initiative to grow and develop with colleagues through interactions and enhance practice and support student learning;

(s) take responsibility for contributing to and advancing the profession; and

(t) embrace the challenge of continuous improvement and change.

[6.61.5.10 NMAC - Rp, 6.61.5.10 NMAC, 8/1/2018]

## **PART 6: LICENSURE IN SPECIAL EDUCATION PRE K-12**

### **6.61.6.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.6.1 NMAC - Rp, 6.61.6.1 NMAC, 8/1/2018]

### **6.61.6.2 SCOPE:**

Chapter 61, Part 6 governs licensure in special education, grades pre K-12, for those persons seeking such licensure.

[6.61.6.2 NMAC - Rp, 6.61.6.2 NMAC, 8/1/2018]

### **6.61.6.3 STATUTORY AUTHORITY:**

Sections 22-1-1, 22-1-1.1, 22-1-1.2, 22-2-1, 22-2-2, 22-10A-3, 22-10A-4, and 22-10A-6 NMSA 1978.

[6.61.6.3 NMAC - Rp, 6.61.6.3 NMAC, 8/1/2018]

### **6.61.6.4 DURATION:**

Permanent.

[6.61.6.4 NMAC - Rp, 6.61.6.4 NMAC, 8/1/2018]

### **6.61.6.5 EFFECTIVE DATE:**

August 1, 2018, unless a later date is cited in the history note at the end of a section.

[6.61.6.5 NMAC - Rp, 6.61.6.5 NMAC, 8/1/2018]

**6.61.6.6 OBJECTIVE:**

This rule governs licensure requirements in special education for those persons seeking such licensure.

[6.61.6.6 NMAC - Rp, 6.61.6.6 NMAC, 8/1/2018]

**6.61.6.7 DEFINITIONS:**

**A. "Core academic subjects"** means English, language arts, reading, mathematics, science, the arts, including music and visual arts, social studies, which includes civics, government, economics, history, and geography, and modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes and pueblos.

**B. "A highly qualified beginning pre K-12 special education teacher"** under this rule means a teacher who is new to the profession, has pursued a standard route to licensure and is fully qualified to teach special education students by either providing access for those students to a regular education classroom where instruction in the core academic subjects is delivered by a highly qualified regular education teacher, or being fully qualified to teach each core academic subject the special education teacher teaches, or being fully qualified to teach either language arts, mathematics or science and becoming fully qualified to teach any other core academic subjects which the teacher teaches within two years after the date of initial employment, and who:

**(1)** meets the requirements for pre K-12 special education licensure in Subsections A or B in 6.61.6.8 NMAC;

**(2)** has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

**(3)** has passed all applicable teacher testing requirements for licensure in 6.60.5.8 NMAC.

**C. "Pre-kindergarten"** means a voluntary developmental readiness program for children who have attained their fourth birthday prior to September 1.

[6.61.6.7 NMAC - Rp, 6.61.6.7 NMAC, 8/1/2018]

**6.61.6.8 REQUIREMENTS:**

**A.** Persons seeking licensure in special education pursuant to the provisions of this rule shall meet all the requirements enumerated in Subsections A or B of this section.

(1) bachelor's degree from a regionally accredited college or university and including, for those licensees or applicants first entering a college or university beginning in the fall of 2017, the following:

- (a) nine semester hours in communication
- (b) six semester hours in mathematics
- (c) eight semester hours in laboratory science
- (d) nine semester hours in social and behavioral science
- (e) nine semester hours in humanities and fine arts; and

(2) credits from a regionally accredited college or university which include: 30 semester hours of professional education in a special education program approved by the public education department ("PED") ("department"), including completion of the department's approved functional areas and related competencies; and including

(3) a mandatory student teaching component and at the option of the college or university, a practicum component; and

(4) 24 semester hours in one of the following teaching fields: mathematics, science(s), language arts, reading, and social studies (or other content related areas); and

(5) in addition to the requirements specified in Subsection A of this section, six hours of reading in subject matter content for those licensees or applicants who first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(6) passage of all required portions of the current New Mexico teacher test or any successor teacher test adopted by the department; and

(7) satisfy the requirements of a highly qualified beginning pre K-12 special education teacher; or

**B.** possess a valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.6.8 NMAC - Rp, 6.61.6.8 NMAC, 8/1/2018]

#### **6.61.6.9 IMPLEMENTATION:**

All persons holding a valid endorsement in special education areas (excluding educational diagnosticians, speech pathologists, and related services personnel who do not currently hold special education licensure) on June 30, 1987, shall be entitled to licensure in special

education. Such licensure may be further continued pursuant to regulation(s) as established by the department.

[6.61.6.9 NMAC - Rp, 6.61.6.9 NMAC, 8/1/2018]

#### **6.61.6.10 REFERENCED MATERIAL:**

Competencies for entry level special education teachers

##### **A. Learner development:**

**(1)** The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences.

##### **(2) The teacher shall:**

**(a)** regularly assess individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional and physical) and scaffolds the next level of development;

**(b)** create developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate their learning;

**(c)** collaborate with families, communities, colleagues, and other professionals to promote learner growth and development;

**(d)** understand how learning occurs—how learners construct knowledge, acquire skills, and develop disciplined thinking processes—and knows how to use instructional strategies that promote student learning;

**(e)** understand that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs;

**(f)** identify readiness for learning, and understands how development in any one area may affect performance in others;

**(g)** understand the role of language and culture in learning and knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging;

**(h)** respect learners' differing strengths and needs and is committed to using the information to further each learner's development;

**(i)** commit to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning;

**(j)** take responsibility for promoting learners' growth and development; and

**(k)** value the input and contributions of families, colleagues, and other professionals in understanding and supporting each learner's development.

**B. Learning differences:**

**(1)** The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards.

**(2)** The teacher shall:

**(a)** design, adapt, and deliver instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways;

**(b)** make appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment and response modes) for individual students with particular learning differences or needs;

**(c)** design instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings;

**(d)** bring multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms;

**(e)** incorporate tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency;

**(f)** access resource, supports, and specialized assistance and services to meet particular learning differences or needs;

**(g)** understand and identify differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth;

**(h)** understand students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs;



**(i)** know about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition;

**(j)** understand that learners bring assets for learning based on their individual experiences, abilities, talents, prior learning, and peer and social group interactions, as well as language, culture, family and community values;

**(k)** know how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures and community resources into instruction;

**(l)** believe that all learners can achieve at the high levels and persists in helping each learner reach their potential;

**(m)** respect learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents and interests; and

**(n)** make learners feel valued and helps them learn to value each other;

**(o)** value diverse languages and dialects and seeks to integrate them into their instructional practice to engage students in learning.

**C. Learning environments:**

**(1)** The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation.

**(2)** The teacher shall:

**(a)** collaborate with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry;

**(b)** develop learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally;

**(c)** collaborate with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work;

**(d)** manage the learning environment to actively and equitably engage learners by organizing allocating, and coordinating resources of time, space, and learners' attention;

**(e)** use a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments;

**(f)** communicate verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment;

**(g)** promote responsible learner use of interactive technologies to extend the possibilities for learning locally and globally;

**(h)** intentionally build learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills;

**(i)** understand the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning;

**(j)** know how to help learners work productively and cooperatively with each other to achieve learning goals;

**(k)** know how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structure;

**(l)** understand how learner diversity can affect communication and knows how to communicate effectively in differing environments;

**(m)** know how to use the technologies and how to guide learners to apply them in appropriate, safe and effective ways;

**(n)** commit to working with learners, colleagues, families and communities to establish positive and supportive learning environments;

**(o)** value the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning;

**(p)** commit to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning;

**(q)** seek to foster respectful communication among all members of the learning community; and

**(r)** be thoughtful and responsive listener and observer.

**D.** Content knowledge:

**(1)** The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) they teach and creates learning experiences that make these aspects of the discipline accessible and meaningful to learners to assure mastery of the content.

**(2)** The teacher shall:

**(a)** effectively use multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards;

**(b)** engage students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content;

**(c)** engage learners in applying methods of inquiry and standards of evidence used in the discipline;

**(d)** stimulate learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' new experiences;

**(e)** recognize learner misconceptions in a discipline that interfere with learning, and create experiences to build accurate conceptual understanding;

**(f)** evaluate and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for their learners;

**(g)** use supplementary resources and technologies effectively to ensure accessibility and relevance for all learners;

**(h)** create opportunities for students to learn, practice, and master academic language in their content;

**(i)** access school and district based resources to evaluate the learner's content knowledge in their primary language;

**(j)** understand major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) they teach;

**(k)** understand common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding;

**(l)** know and use academic language of the discipline and knows how to make it accessible to learners;

**(m)** know how to integrate culturally relevant content to build on learners' background knowledge;

**(n)** have a deep knowledge of student content standards and learning progression in the discipline(s) they teach;

**(o)** realize that content knowledge is not a fixed body of facts but a complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and understandings in the field;

**(p)** appreciate multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives;

**(q)** recognize the potential bias in their presentation of the discipline and seeks to appropriately address problems of bias; and

**(r)** commit to work toward each learner's mastery of disciplinary content and skills.

**E. Application of content:**

**(1)** The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues.

**(2)** The teacher shall:

**(a)** develop and implement projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills(e.g., a water quality study that draws upon biology or chemistry to look at factual information and social studies to examine policy implications);

**(b)** engage learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy);

**(c)** facilitate learners' use of current tools and resources to maximize content learning in varied contexts;

**(d)** engage learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts;

**(e)** develop learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes;

**(f)** engage learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work;

**(g)** facilitate learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems;

**(h)** develop and implements supports for learner literacy development across content areas;

**(i)** understand the ways of knowing their discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues and concerns;

**(j)** understand how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences;

**(k)** understand the demands of acceding and managing information as well as how to evaluate issues of ethics and quality related to the information and its use;

**(l)** understand how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals;

**(m)** understand critical thinking processes and knows how to help learners develop high level questioning skills to promote independent learning;

**(n)** understand communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning;

**(o)** understand creative thinking processes and how to engage learners in producing original work;

**(p)** know where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum;

**(q)** constantly explore how to use disciplinary knowledge as a lens to address local and global issues;

**(r)** value knowledge outside their own content area and how such knowledge enhances student learning; and

**(s)** value flexible learning environments that encourage learner exploration, discovery, and expression across content areas.

**F. Assessment:**

**(1)** The teacher understands and uses multiple measures of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making.

**(2)** The teacher shall:

**(a)** balance the use of formative and summative assessment as appropriate to support, verify, and document learning;

**(b)** design assessments that match learning objectives with assessment methods and minimize sources of bias that can distort assessment results;

**(c)** work independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning;

**(d)** engage learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work;

**(e)** engage learners in multiple ways of demonstrating knowledge and skill as part of the assessment process;

**(f)** model and structure processes that guide learners in examining their own thinking and learning as well as the performance of others;

**(g)** use multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences;

**(h)** prepare all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs;

**(i)** continually seek appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs;

**(j)** understand the differences between formative and summative applications of assessment and knows how and when to use each;

**(k)** understand the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias;

**(l)** know how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners;

**(m)** know when and how to engage learners in analyzing their own assessment results and in helping set goals for their own learning;

**(n)** understand the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback;

**(o)** know when and how to evaluate and report learner progress against standards;

**(p)** understand how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs;

**(q)** commit to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning;

**(r)** take responsibility for aligning instruction and assessment with learning goals;

**(s)** commit to providing timely and effective descriptive feedback to learners on their progress;

**(t)** commit to using multiple types of assessment processes to support, verify, and document learning;

**(u)** commit to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs; and

**(v)** commit to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.

**G. Planning for instruction:**

**(1)** The teacher plans the instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context.

**(2)** The teacher shall:

**(a)** individually and collaboratively select and create learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners;

**(b)** plan how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners;

**(c)** develop appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill;

**(d)** plan for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest;

**(e)** plan collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language and learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences that meet unique learning needs;

**(f)** evaluate plans in relation to short and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning;

**(g)** understand content and content standards and how these are organized in the curriculum;

**(h)** understand how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge;

**(i)** understand learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning;

**(j)** understand the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs;

**(k)** know a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs;

**(l)** know when and how to adjust plans based on assessment information and learner responses;

**(m)** know when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations);



**(n)** respect learners' diverse strengths and needs and is committed to using this information to plan effective instruction;

**(o)** value planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community;

**(p)** take professional responsibility to use short and long-term planning as a means of assuring student learning; and

**(q)** believe that plans must always be open to adjustment and revision based on learner needs and changing circumstances.

#### **H. Instructional strategies:**

**(1)** The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways.

**(2)** The teacher shall:

**(a)** use appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners;

**(b)** continuously monitor student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs;

**(c)** collaborate with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest;

**(d)** vary their role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners;

**(e)** provide multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performance;

**(f)** engage all learners in developing higher order questioning skills and metacognitive processes;

**(g)** engage learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information;

**(h)** use a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes;

**(i)** ask questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question);

**(j)** understand the cognitive process associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated;

**(k)** know how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals;

**(l)** know when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks;

**(m)** understand how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self-expression, and build relationships;

**(n)** know how to use a wide variety of resources, including human and technological, to engage students in learning;

**(o)** understand how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness;

**(p)** commit to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction;

**(q)** value the variety of ways people communicate and encourage learners to develop and use multiple forms of communication;

**(r)** commit to exploring how the use of new and emerging technologies can support and promote student learning; and

**(s)** value flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.

**I. Professional learning and ethical practice:**

**(1)** The teacher engages in ongoing professional learning and uses evidence to continually evaluate their practice, particularly the effects of their choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner.

**(2)** The teacher shall:

**(a)** engage in ongoing learning opportunities to develop knowledge and skills in order to provide learners with engaging curriculum and learning experiences based on local and state standards;

**(b)** engage in meaningful and appropriate professional learning experiences aligned with their own needs and the needs of the learners, school, and system;

**(c)** independently and in collaboration with colleagues use a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice;

**(d)** actively seek professional community, and technological resources, within and outside the school, as supports for analysis, reflection and problem solving;

**(e)** reflect on their personal biases and accesses resources to deepen their own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences;

**(f)** advocate, model, and teach safe, legal, and ethical use of information and technology including proper documentation of sources and respect for others in the use of social media;

**(g)** understand and know how to use a variety of self-assessment and problem-solving strategies to analyze and reflect on their practice and to plan for adaptations and adjustments;

**(h)** know how to use learner data to analyze practice and differentiate instruction accordingly;

**(i)** understand how personal identity, worldview, and prior experience affect perceptions and expectations, and recognize how they may bias behaviors and interactions with others;

**(j)** understand laws related to learners' rights and teacher responsibility (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse);

**(k)** The teacher knows how to build and implement a plan for professional growth directly aligned with their needs as a growing professional using feedback from teacher evaluations and observations, data on learner performance, and school and system-wide priorities;

**(l)** take responsibility for student learning and uses on going analysis and reflection to improve planning and practice;

**(m)** commit to deepening understanding of their own frames of references (e.g., culture, gender, language, abilities, ways of knowing), the potential biases in these frames, and their impact on expectations for and relationships with learners and their families;

**(n)** see themselves as a learner, continuously seeking opportunities to draw upon current education policy and research as sources of analysis and reflection to improve practice; and

**(o)** understand expectations of the profession including codes of ethics, professional standards of practice, and relevant law and policy.

**J. Leadership and collaboration:**

**(1)** The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession.

**(2)** The teacher shall:

**(a)** take an active role on the instructional team, giving and receiving feedback on practice, examining learner work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each student's learning;

**(b)** work with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners;

**(c)** engage collaboratively in the school-wide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals;

**(d)** work collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement;

**(e)** working with school colleagues build ongoing connections with community resources to enhance student learning and wellbeing;

**(f)** engage in professional learning, contribute to the knowledge and skill of others, and work collaboratively to advance professional practice;

**(g)** use technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues;

**(h)** use and generate meaningful research on education issues and policy;

(i) seek appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles;

(j) advocate to meet the needs of learners, to strengthen the learning environment, and to enact system change;

(k) take on leadership roles at the school, district, state, and national level and advocates for the school, the community, and the profession;

(l) understand schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners;

(m) understand that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning;

(n) know how to work with other adults and develop skills in collaborative interaction appropriate for both face-to-face and virtual contexts;

(o) know how to contribute a common culture that supports high expectations for student learning;

(p) actively share responsibility for shaping and supporting the mission of their school as one of the advocacy for learners and accountability for their success;

(q) respect families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals;

(r) take initiative to grow and develop with colleagues through interactions and enhance practice and support student learning;

(s) take responsibility for contributing to and advancing the profession; and

(t) embrace the challenge of continuous improvement and change.

[6.61.6.10 NMAC - Rp, 6.61.6.10 NMAC, 8/1/2018]

## **PART 7: LICENSURE IN SECONDARY VOCATIONAL-TECHNICAL EDUCATION**

### **6.61.7.1 ISSUING AGENCY:**

Public Education Department.

[6.61.7.1 NMAC - Rp, 6.61.7.1 NMAC, 08/01/2018]

#### **6.61.7.2 SCOPE:**

Chapter 61, Part 7 governs licensure in secondary vocational-technical education for those persons seeking such licensure.

[6.61.7.2 NMAC - Rp, 6.61.7.2 NMAC, 08/01/2018]

#### **6.61.7.3 STATUTORY AUTHORITY:**

Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978 and 22-10A-6(E) NMSA 1978.

[6.61.7.3 NMAC - Rp, 6.61.7.3 NMAC, 08/01/2018]

#### **6.61.7.4 DURATION:**

Permanent.

[6.61.7.4 NMAC - Rp, 6.61.7.4 NMAC, 08/01/2018]

#### **6.61.7.5 EFFECTIVE DATE:**

August 1, 2018, unless a later date is cited in the history note at the end of a section.

[6.61.7.5 NMAC - Rp, 6.61.7.5 NMAC, 08/01/2018]

#### **6.61.7.6 OBJECTIVE:**

This rule governs licensure requirements in secondary vocational- technical education for those persons seeking such licensure. It exempts those persons already holding a valid state vocational-technical education license as of June 30, 1989, from the requirements of this licensure.

[6.61.7.6 NMAC - Rp, 6.61.7.6 NMAC, 08/01/2018]

#### **6.61.7.7 DEFINITIONS:**

**[RESERVED]**

[6.61.7.7 NMAC - Rp, 6.61.7.7 NMAC, 08/01/2018]

#### **6.61.7.8 REQUIREMENTS:**

**A.** Persons seeking licensure in secondary vocational-technical education pursuant to the provisions of this rule shall meet the requirements of Paragraphs (1),(2),(3) or (4) of Subsection A of 6.61.7.8 NMAC and Subsection B of 6.61.7.8 NMAC.

(1) bachelor's degree which includes 32 credit hours of vocational-technical training related to the occupational area; or

(2) associate degree plus two years work experience related to the occupational area; or

(3) certificate plus three years work experience related to the occupational area; or

(4) high school diploma/(GED) plus five years work experience related to the occupational area; and

**B.** Satisfactory demonstration of the competencies as approved by the public education department ("PED") for vocational-technical teachers within three years of the date of employment. The applicant must meet this requirement through Paragraphs (1) and (2) or (3) of Subsection B of 6.61.7.8 NMAC.

(1) credits from a regionally accredited institution which include 15 semester hours of professional education which must address the PED's secondary vocational-technical competencies in accordance with 6.61.7.10 NMAC; and

(2) a supervised classroom internship/student teaching experience which may be completed at a regionally accredited college or university or under the supervision of a local school district or private school; or

(3) a school district or private school may develop and implement a professional development plan (PDP) in lieu of the required 15 semester hours of professional education and supervised student teaching experience, which on approval of the PED, shall be used to meet licensure requirements; when appropriate and feasible, more than one school district/private school may jointly prepare a PDP for PED approval; the PDP must address the PED's secondary vocational-technical competencies in accordance with 6.61.7.10 NMAC.

[11-14-98; 6.61.7.8 NMAC - Rn, 6 NMAC 4.2.3.7.8 & A, 10-13-00; A, 06-15-06; Rp, 6.61.7.8 NMAC, 08/01/2018]

#### **6.61.7.9 IMPLEMENTATION:**

All persons holding a valid New Mexico license in vocational-technical education on June 30, 1989, shall be entitled to licensure in vocational-technical education. Such licensure may be further continued pursuant to rule(s) as established by the PED.

[6.61.7.9 NMAC - Rp, 6.61.7.9 NMAC, 08/01/2018]

#### **6.61.7.10 REFERENCED MATERIAL:**

## Competencies for secondary vocational-technical teachers

### A. Learner development:

**(1)** The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences.

**(2)** The teacher shall:

**(a)** regularly assess individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional and physical) and scaffolds the next level of development;

**(b)** create developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate their learning;

**(c)** collaborate with families, communities, colleagues, and other professionals to promote learner growth and development;

**(d)** understand how learning occurs—how learners construct knowledge, acquire skills, and develop disciplined thinking processes—and knows how to use instructional strategies that promote student learning;

**(e)** understand that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs;

**(f)** identify readiness for learning, and understands how development in any one area may affect performance in others;

**(g)** understand the role of language and culture in learning and knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging;

**(h)** respect learners' differing strengths and needs and is committed to using the information to further each learner's development;

**(i)** commit to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning;

**(j)** take responsibility for promoting learners' growth and development; and



**(k)** value the input and contributions of families, colleagues, and other professionals in understanding and supporting each learner's development.

**B. Learning differences:**

**(1)** The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards.

**(2)** The teacher shall:

**(a)** design, adapt, and deliver instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways;

**(b)** make appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment and response modes) for individual students with particular learning differences or needs;

**(c)** design instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings;

**(d)** bring multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms;

**(e)** incorporate tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency;

**(f)** access resource, supports, and specialized assistance and services to meet particular learning differences or needs;

**(g)** understand and identify differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth;

**(h)** understand students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs;

**(i)** know about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition;

**(j)** understand that learners bring assets for learning based on their individual experiences, abilities, talents, prior learning, and peer and social group interactions, as well as language, culture, family and community values;

**(k)** know how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures and community resources into instruction;

**(l)** believe that all learners can achieve at the high levels and persists in helping each learner reach their potential;

**(m)** respect learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents and interests;

**(n)** make learners feel valued and helps them learn to value each other; and

**(o)** value diverse languages and dialects and seeks to integrate them into their instructional practice to engage students in learning.

**C. Learning environments:**

**(1)** The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation.

**(2)** The teacher shall:

**(a)** collaborate with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry;

**(b)** develop learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally;

**(c)** collaborate with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work;

**(d)** manage the learning environment to actively and equitably engage learners by organizing allocating, and coordinating resources of time, space, and learners' attention;

**(e)** use a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments;

**(f)** communicate verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment;

**(g)** promote responsible learner use of interactive technologies to extend the possibilities for learning locally and globally;

**(h)** intentionally build learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills;

**(i)** understand the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning;

**(j)** know how to help learners work productively and cooperatively with each other to achieve learning goals;

**(k)** know how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structure;

**(l)** understand how learner diversity can affect communication and knows how to communicate effectively in differing environments;

**(m)** know how to use the technologies and how to guide learners to apply them in appropriate, safe and effective ways;

**(n)** commit to working with learners, colleagues, families and communities to establish positive and supportive learning environments;

**(o)** value the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning;

**(p)** commit to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning;

**(q)** seek to foster respectful communication among all members of the learning community; and

**(r)** be thoughtful and responsive listener and observer.

**D. Content knowledge:**

**(1)** The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) they teach and creates learning experiences that make these aspects of the discipline accessible and meaningful to learners to assure mastery of the content.

**(2)** The teacher shall:

**(a)** effectively use multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards;

**(b)** engage students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content;

**(c)** engage learners in applying methods of inquiry and standards of evidence used in the discipline;

**(d)** stimulate learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' new experiences;

**(e)** recognize learner misconceptions in a discipline that interfere with learning, and create experiences to build accurate conceptual understanding;

**(f)** evaluate and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for their learners;

**(g)** use supplementary resources and technologies effectively to ensure accessibility and relevance for all learners;

**(h)** create opportunities for students to learn, practice, and master academic language in their content;

**(i)** access school and district based resources to evaluate the learner's content knowledge in their primary language;

**(j)** understand major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) they teach;

**(k)** understand common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding;

**(l)** know and use academic language of the discipline and knows how to make it accessible to learners;

**(m)** know how to integrate culturally relevant content to build on learners' background knowledge;

**(n)** have a deep knowledge of student content standards and learning progression in the discipline(s) they teach;

**(o)** realize that content knowledge is not a fixed body of facts but a complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and understandings in the field;

**(p)** appreciate multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives;

**(q)** recognize the potential bias in their presentation of the discipline and seeks to appropriately address problems of bias; and

**(r)** commit to work toward each learner's mastery of disciplinary content and skills.

**E. Application of content:**

**(1)** The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues.

**(2)** The teacher shall:

**(a)** develop and implement projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills(e.g., a water quality study that draws upon biology or chemistry to look at factual information and social studies to examine policy implications);

**(b)** engage learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy);

**(c)** facilitate learners' use of current tools and resources to maximize content learning in varied contexts;

**(d)** engage learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts;

**(e)** develop learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes;

**(f)** engage learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work;

**(g)** facilitate learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems;

**(h)** develop and implements supports for learner literacy development across content areas;

**(i)** understand the ways of knowing their discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues and concerns;

**(j)** understand how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences;

**(k)** understand the demands of acceding and managing information as well as how to evaluate issues of ethics and quality related to the information and its use;

**(l)** understand how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals;

**(m)** understand critical thinking processes and knows how to help learners develop high level questioning skills to promote independent learning;

**(n)** understand communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning;

**(o)** understand creative thinking processes and how to engage learners in producing original work;

**(p)** know where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum;

**(q)** constantly explore how to use disciplinary knowledge as a lens to address local and global issues;

**(r)** value knowledge outside their own content area and how such knowledge enhances student learning; and

**(s)** value flexible learning environments that encourage learner exploration, discovery, and expression across content areas.

#### **F. Assessment:**

**(1)** The teacher understands and uses multiple measures of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making.

**(2)** The teacher shall:

**(a)** balance the use of formative and summative assessment as appropriate to support, verify, and document learning;

**(b)** design assessments that match learning objectives with assessment methods and minimize sources of bias that can distort assessment results;

**(c)** work independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning;

**(d)** engage learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work;

**(e)** engage learners in multiple ways of demonstrating knowledge and skill as part of the assessment process;

**(f)** model and structure processes that guide learners in examining their own thinking and learning as well as the performance of others;

**(g)** use multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences;

**(h)** prepare all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs;

**(i)** continually seek appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs;

**(j)** understand the differences between formative and summative applications of assessment and knows how and when to use each;

**(k)** understand the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias;

**(l)** know how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners;

**(m)** know when and how to engage learners in analyzing their own assessment results and in helping set goals for their own learning;

**(n)** understand the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback;

**(o)** know when and how to evaluate and report learner progress against standards;

**(p)** understand how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs;

**(q)** commit to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning;

**(r)** take responsibility for aligning instruction and assessment with learning goals;

**(s)** commit to providing timely and effective descriptive feedback to learners on their progress;

**(t)** commit to using multiple types of assessment processes to support, verify, and document learning;

**(u)** commit to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs; and

**(v)** commit to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.

**G. Planning for instruction:**

**(1)** The teacher plans the instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context.

**(2)** The teacher shall:

**(a)** individually and collaboratively select and create learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners;



**(b)** plan how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners;

**(c)** develop appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill;

**(d)** plan for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest;

**(e)** plan collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language and learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences that meet unique learning needs;

**(f)** evaluate plans in relation to short and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning;

**(g)** understand content and content standards and how these are organized in the curriculum;

**(h)** understand how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge;

**(i)** understand learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning;

**(j)** understand the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs;

**(k)** know a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs;

**(l)** know when and how to adjust plans based on assessment information and learner responses;

**(m)** know when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations);

**(n)** respect learners' diverse strengths and needs and is committed to using this information to plan effective instruction;

**(o)** value planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community;

**(p)** take professional responsibility to use short and long-term planning as a means of assuring student learning; and

**(q)** believe that plans must always be open to adjustment and revision based on learner needs and changing circumstances.

#### **H. Instructional strategies:**

**(1)** The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways.

**(2)** The teacher shall:

**(a)** use appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners;

**(b)** continuously monitor student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs;

**(c)** collaborate with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest;

**(d)** vary their role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners;

**(e)** provide multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performance;

**(f)** engage all learners in developing higher order questioning skills and metacognitive processes;

**(g)** engage learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information;

**(h)** use a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes;

**(i)** ask questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question);

**(j)** understand the cognitive process associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated;

**(k)** know how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals;

**(l)** know when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks;

**(m)** understand how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self-expression, and build relationships;

**(n)** know how to use a wide variety of resources, including human and technological, to engage students in learning;

**(o)** understand how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness;

**(p)** commit to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction;

**(q)** value the variety of ways people communicate and encourage learners to develop and use multiple forms of communication;

**(r)** commit to exploring how the use of new and emerging technologies can support and promote student learning; and

**(s)** value flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.

**I. Professional learning and ethical practice:**

**(1)** The teacher engages in ongoing professional learning and uses evidence to continually evaluate their practice, particularly the effects of their choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner.

**(2)** The teacher shall:

**(a)** engage in ongoing learning opportunities to develop knowledge and skills in order to provide learners with engaging curriculum and learning experiences based on local and state standards;

**(b)** engage in meaningful and appropriate professional learning experiences aligned with their own needs and the needs of the learners, school, and system;

**(c)** independently and in collaboration with colleagues use a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice;

**(d)** actively seek professional community, and technological resources, within and outside the school, as supports for analysis, reflection and problem solving;

**(e)** reflect on their personal biases and accesses resources to deepen their own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences;

**(f)** advocate, model, and teach safe, legal, and ethical use of information and technology including proper documentation of sources and respect for others in the use of social media;

**(g)** understand and know how to use a variety of self-assessment and problem-solving strategies to analyze and reflect on their practice and to plan for adaptations and adjustments;

**(h)** know how to use learner data to analyze practice and differentiate instruction accordingly;

**(i)** understand how personal identity, worldview, and prior experience affect perceptions and expectations, and recognize how they may bias behaviors and interactions with others;

**(j)** understand laws related to learners' rights and teacher responsibility (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse);

**(k)** The teacher knows how to build and implement a plan for professional growth directly aligned with their needs as a growing professional using feedback from teacher evaluations and observations, data on learner performance, and school and system-wide priorities;

**(l)** take responsibility for student learning and uses on going analysis and reflection to improve planning and practice;

**(m)** commit to deepening understanding of their own frames of references (e.g., culture, gender, language, abilities, ways of knowing), the potential biases in these frames, and their impact on expectations for and relationships with learners and their families;

**(n)** see themselves as a learner, continuously seeking opportunities to draw upon current education policy and research as sources of analysis and reflection to improve practice; and

**(o)** understand expectations of the profession including codes of ethics, professional standards of practice, and relevant law and policy.

**J. Leadership and collaboration:**

**(1)** The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession.

**(2)** The teacher shall:

**(a)** take an active role on the instructional team, giving and receiving feedback on practice, examining learner work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each student's learning;

**(b)** work with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners;

**(c)** engage collaboratively in the school-wide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals;

**(d)** work collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement;

**(e)** working with school colleagues build ongoing connections with community resources to enhance student learning and wellbeing;

**(f)** engage in professional learning, contribute to the knowledge and skill of others, and work collaboratively to advance professional practice;

**(g)** use technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues;

**(h)** use and generate meaningful research on education issues and policy;

**(i)** seek appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles;

(j) advocate to meet the needs of learners, to strengthen the learning environment, and to enact system change;

(k) take on leadership roles at the school, district, state, and national level and advocates for the school, the community, and the profession;

(l) understand schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners;

(m) understand that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning;

(n) know how to work with other adults and develop skills in collaborative interaction appropriate for both face-to-face and virtual contexts;

(o) know how to contribute a common culture that supports high expectations for student learning;

(p) actively share responsibility for shaping and supporting the mission of their school as one of the advocacy for learners and accountability for their success;

(q) respect families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals;

(r) take initiative to grow and develop with colleagues through interactions and enhance practice and support student learning;

(s) take responsibility for contributing to and advancing the profession; and

(t) embrace the challenge of continuous improvement and change.

[6.61.7.10 NMAC - Rp, 6.61.7.10 NMAC, 08/01/2018]

## **PART 8: LICENSURE IN EARLY CHILDHOOD EDUCATION, BIRTH- GRADE 3**

### **6.61.8.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.8.1 NMAC - Rp, 6.61.8.1 NMAC, 8/1/2018]

### **6.61.8.2 SCOPE:**

All persons seeking licensure in early childhood education, birth - grade three.

[6.61.8.2 NMAC - Rp, 6.61.8.2 NMAC, 8/1/2018]

**6.61.8.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2 and 22-10A-6, NMSA 1978.

[6.61.8.3 NMAC - Rp, 6.61.8.3 NMAC, 8/1/2018]

**6.61.8.4 DURATION:**

Permanent.

[6.61.8.4 NMAC - Rp, 6.61.8.4 NMAC, 8/1/2018]

**6.61.8.5 EFFECTIVE DATE:**

August 1, 2018, unless a later date is cited at the end of a section.

[6.61.8.5 NMAC - Rp, 6.61.8.5 NMAC, 8/1/2018]

**6.61.8.6 OBJECTIVE:**

This rule establishes licensure requirements for those seeking to work in early childhood education, that is, with children from birth to grade three whether they are developing either typically or atypically.

[6.61.8.6 NMAC - Rp, 6.61.8.6 NMAC, 8/1/2018]

**6.61.8.7 DEFINITIONS:**

**A. "Adaptive living skills"** means the development in several skill areas such as: (1) living skills: eating, dressing, and toileting; (2) independence/safety skills: crossing the street properly and avoiding dangerous situations such as hot stoves and hot water; and (3) environmental adaptation skills: adapting behavior as a function of the limitations or demands of the particular environment, such as being quiet in a library or hospital and walking, not running, inside school hallways. Adaptive behavior means the effectiveness or degree with which the child meets the standards of personal independence and social responsibility expected of comparable age and cultural groups.

**B. "Alternative means of communication"** means other forms of communication, particularly non-vocal; such as the use of sign language with and without speech; communication boards; or other technological aids such as computers and speech output devices.

**C. "Anti-bias"** means actively confronting, transcending, and eliminating personal and institutional barriers based on race, sex, or ability.

**D. "At risk"** means the following as it applies to children birth through age two: A biological or medical risk is the presence of early medical conditions which are known to produce developmental delays in some children. An environmental risk is the presence of physical, social, or economic factors in the environment which pose a substantial threat to development as indicated by a discrepancy between chronological age, after correction for prematurity, and developmental age in two or more areas of development as documented by the evaluation process. A determination of environmental risk shall be made by an interagency team and shall not be based upon behavior related to cultural or language differences.

**E. "Individual education program" (IEP)** means a plan that describes the delivery of services to a child with a disability, age three - 21. The plan serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to decide jointly what the child's needs are, what services will be provided to meet those needs, what the anticipated outcomes may be, and how the child's progress towards meeting the projected outcomes will be evaluated.

**F. "Individualized family service plan" (IFSP)** means a plan that describes the delivery of services to a child with a developmental delay or at risk for a developmental delay, birth through two years of age, and the child's family. Components of the plan include a statement describing the child's level of functioning in developmental areas; major outcomes including criteria, procedures, and timelines to determine the degree of progress and revision of the plan; specific services needed to achieve outcomes, other services needed by the child and family, name of service coordinator, a transition plan, and an optional statement of family concerns, priorities and resources.

**G. "Integrated curriculum"** means an approach to curriculum that recognizes that content areas in instruction are naturally interrelated, as they are in real life experiences. In the resulting integrated curriculum, learning is regarded as a process rather than a collection of facts. Learning about math, science, social studies, health, and other content areas are all connected through meaningful activities.

**H. "Intervention strategies"** means various techniques utilized in teaching a child a particular skill such as physical or verbal prompts and cues, visual aids, modeling, imitation, repetition, task analysis, environmental or stimulus prompts and cues. These strategies are attempts to facilitate learning when the presentation of information or the arrangement of an environment is insufficient in assisting the developmental learning process. The proper design of intervention strategies requires careful observation, individualization and data keeping. The goal of this approach is to systematically fade the particular technique utilized as the child demonstrates abilities to practice, initiate, and generalize the skill.



**I. "Variations across cultures/cultural diversity"** means the curriculum, environment, and learning materials are reflective of distinct groups that may differ from one another physically, socially, and culturally.

**J. "A highly qualified beginning early childhood teacher"**, under this rule, means a teacher who is fully qualified for teaching children from birth through grade three, who is new to the profession, who has pursued a standard route to licensure, and who:

(1) meets the requirements for early childhood birth-three licensure in Subsections A or B of 6.61.8.8 NMAC; and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

(3) has passed all applicable teacher testing requirements for licensure in 6.60.5.8 NMAC.

[6.61.8.7 NMAC - Rp, 6.61.8.7 NMAC, 8/1/2018]

#### **6.61.8.8 REQUIREMENTS:**

All persons who perform instructional services in early childhood education (i.e., birth - grade three) in public schools or in state-supported schools, must hold a valid standard license in early childhood development issued by the PED. A candidate who applies for licensure in early childhood education on or after July 1, 2015 must meet the requirements for either birth - pre-K as stated in 6.61.11 NMAC, or pre-K-grade three as stated in 6.61.12 NMAC:

**A.** Persons seeking licensure in early childhood education pursuant to the provisions of this rule shall meet the following requirements:

(1) possess a bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

(a) nine semester hours in communication

(b) six semester hours in mathematics

(c) eight semester hours in laboratory science

(d) nine semester hours in social and behavioral science

(e) nine semester hours in humanities and fine arts; and

**(2)** earn credits from a regionally accredited college or university which include: 36-42 semester hours of professional education in an early childhood education program approved by the PED, including completion of the PED's approved early childhood education competencies; and

**(3)** earn 18 to 30 semester hours of practicum and supervised field experiences beginning in the first 18 semester hours of instruction in professional early childhood education to include a mandatory student teaching component in early childhood education for one of the following age ranges: B-three, three-five, or five-eight with children who are developing either typically or atypically; and

**(a)** 150 contact hours of practicum or supervised field experience at a developmental stage(s) other than the stage selected for student teaching set forth in Paragraph (3) above; or

**(b)** evidence of three years of documented, verified, satisfactory work experiences with at least two of the age ranges set forth in Paragraph (3) of Subsection A of 6.61.8.8 NMAC above at a center accredited by the national academy of early childhood programs, a postsecondary laboratory early care and education setting, or an early childhood program accredited by the PED; and

**(4)** in addition to the requirements specified in Paragraphs (1), (3) and (5) of Subsection A of 6.61.8.8 NMAC, six hours in the teaching of reading for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

**(5)** pass all required portions of the New Mexico teacher assessment (NMTA) or any successor teacher examination adopted by the PED; and

**(6)** if new to the profession after June 30, 2006, or hired after the first day of school of the 2002-2003 school year and assigned to work in a title I targeted assistance program or a title I school-wide, satisfies the requirements of a highly qualified beginning early childhood teacher.

**B.** Possess valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.8.8 NMAC - Rp, 6.61.8.8 NMAC, 8/1/2018]

#### **6.61.8.9 IMPLEMENTATION:**

All persons holding a current license in early childhood, birth - grade three prior to July 1, 2015 may advance or renew that license by meeting requirements stated in 6.60.6 NMAC. All persons whose license in early childhood, birth - grade three expired on or after June 30, 2015 must apply as an initial applicant and meet requirements stated in 6.61.11 NMAC, or 6.61.12 NMAC.

**6.61.8.10 REFERENCED MATERIAL:**

**COMPETENCIES FOR EARLY CHILDHOOD EDUCATION:**

**A.** Child growth, development and learning: Foundations for all learning are established during early childhood. Biological-physical, social, cultural, emotional, cognitive, and language domains are inherently intertwined in growth and development. Early childhood professionals must understand this process of development and the adult's role in supporting each child's growth, development, and learning.

**(1)** Incorporate understanding of developmental stages, processes, and theories of growth, development, and learning into developmentally appropriate practice.

**(2)** Demonstrate knowledge of the interaction between maturation and environmental factors that influence physical, social, emotional, cognitive, and cultural domains in the healthy development of each child.

**(3)** Demonstrate knowledge of the significance of individual differences in development and learning. Demonstrate knowledge of how certain differences may be associated with rate of development and developmental patterns associated with developmental delays and specific disabilities.

**(4)** Demonstrate knowledge of the similarities between children who are developing typically and those with special needs.

**(5)** Provide a variety of activities that facilitate development of the whole child in the following areas: physical/motor, social/emotional, language/cognitive, and adaptive/living skills.

**(6)** Apply knowledge of cultural and linguistic diversity and the significance of socio-cultural and political contexts for development and learning and recognize that children are best understood in the contexts of family, culture and society.

**(7)** Demonstrate knowledge of the many functions that language serves in the cognitive, social, and emotional aspects of development in the formative years.

**(8)** Demonstrate knowledge of the developmental sequence of language and literacy, including the influence of culture and home factors.

**(9)** Demonstrate knowledge of how children acquire and use verbal, non-verbal, and alternative means of communication.

**(10)** Demonstrate knowledge of the relationship among emotions, behaviors, and communication skills to assist children in identifying and expressing their feelings in appropriate ways.

**(11)** Use appropriate guidance to support the development of self-regulatory capacities in young children.

**B. Health, safety and nutrition:** Early childhood professionals promote physical and mental health and appropriate nutrition and provide an emotionally and physically safe environment for young children in partnership with their families. Sound health, safety, and nutritional practices provide the foundation for development and learning. Good nutrition is appropriate and important to the total development of young children and their families. Meals and snacks encourage good nutrition and eating habits. A safe environment prevents and reduces injuries for young children who are only beginning to recognize dangerous situations.

**(1)** Recognize and respond to each child's physical health, intellectual and emotional well-being, and nutritional and safety needs.

**(2)** Appropriately plan, maintain, and facilitate the use of the indoor and outdoor learning environments to promote each child's physical and emotional well-being.

**(3)** Use appropriate health appraisal and management procedures and makes referrals when necessary.

**(4)** Recognize signs of emotional distress, child abuse, and neglect in young children and use procedures appropriate to the situation, such as initiating discussions with families, referring to appropriate professionals, and, in cases of suspected abuse or neglect, reporting to designated authorities.

**(5)** Establish an environment that provides opportunities and reinforcement for children's practice of healthy behaviors that promote appropriate nutrition and physical and psychological well-being.

**(6)** Provide a consistent daily schedule for rest/sleep, as developmentally appropriate.

**(7)** Implement health care and educational activities for children and families based on health and nutritional information that is responsive to diverse cultures.

**(8)** Assist young children and their families, as individually appropriate, in developing decision-making and interpersonal skills that enable them to make healthy choices and establish health-promoting behaviors.

**C. Family and community collaboration:** Early childhood professionals are committed to family-centered practices. They maintain an open, friendly, and cooperative relationship with each child's family, encouraging family involvement, and supporting the child's relationship with his or her family. The diverse cultures and languages representative of families in New Mexico's communities are honored.

**(1)** Seek and maintain a collaborative relationship with parents, guardians, families, community agencies, and other professionals to meet the needs each child.

**(2)** Create and maintain a safe and welcoming environment for families and community members.

**(3)** Establish frequent contact with parents and guardians through a variety of communication strategies, including communication in the home language of each child to provide ongoing, relevant information to families about child growth, development, and learning.

**(4)** Demonstrate knowledge of and respect for variations across cultures, in terms of family strengths, expectations, values, and child-rearing practices.

**(5)** Demonstrate understanding of the complexity and dynamics of family systems.

**(6)** Demonstrate understanding of the effects of family stress on the behavior of children and other family members.

**(7)** Demonstrate the ability to incorporate the families' desires/goals for their children into classroom and intervention strategies.

**(8)** Develop partnerships with family members to promote early literacy in the home.

**(9)** Involve families and community members in contributing to the learning environment.

**(10)** Establish partnerships with community members in promoting literacy.

**(11)** Demonstrate ability to communicate to families the program's policies, procedures, and those procedural safeguards that are mandated by state and federal regulations.

**D. Developmentally appropriate content:** Early childhood professionals demonstrate knowledge of child development and learning, as well as content knowledge, both in terms of academic disciplines and interdisciplinary integration. Their approach to curriculum content emerges from multiple sources, such as play and exploration, and is appropriate for the ages and developmental levels of the children with whom they work.

Content includes, but is not limited to, the arts, literacy, mathematics, physical education, health, social studies, science, and technology. Children's initial experiences with these content areas form the foundation for later understanding and success.

**(1)** Demonstrate knowledge of relevant content for young children and developmentally appropriate ways of integrating content into teaching and learning experiences for children from birth through age eight.

**(2)** Demonstrate the integration of knowledge of how young children develop and learn with knowledge of the concepts, inquiry tools, and structure of content areas appropriate for different developmental levels.

**(3)** Demonstrate knowledge of what is important in each content area, why it is of value, and how it links with earlier and later understandings within and across areas.

**(4)** Demonstrate knowledge of the reading and writing components of literacy at each developmental level.

**(5)** Develop, implement, and evaluate an integrated curriculum that focuses on children's development and interests, using their language, home experiences and cultural values.

**(6)** Adapt content to meet the needs of each child, including the development of individualized family service plans (IFSP) and individualized education plans (IEP) for children with special needs through the team process with families and other team members.

**(7)** Provides and uses anti-bias materials/literature and experiences in all content areas of the curriculum.

**E.** Learning environment and curriculum implementation: Teaching and learning with young children is a complex process embedded in relationships. These teaching and learning relationships provide the scaffold for jointly constructing meanings about self, others, and the world. Early childhood professionals use their child development knowledge, their knowledge of developmentally appropriate practices, and their content knowledge to design, implement, and evaluate experiences that promote optimal development and learning for all children from birth through age eight. In addition, their use of observations is grounded in a thorough understanding of children's families, cultures, and communities. Early childhood professionals encourage young children's problem solving, critical thinking, and academic and social competence within a supportive and challenging learning environment. These challenging teaching and learning experiences build children's confidence in themselves as competent learners.

**(1)** Demonstrate knowledge of varying program models and learning environments that meet the individual needs of all young children, including those with special needs.

**(2)** Create environments that encourage active involvement, initiative, responsibility, and a growing sense of autonomy through the selection and use of materials and equipment that are suitable to individual learning, developmental levels, special needs, and the language and cultures in New Mexico.

**(3)** Demonstrate knowledge and skill in the use of developmentally appropriate guidance techniques and strategies that provide opportunities to assist children in developing positive thoughts and feelings about themselves and others through cooperative interaction with peers and adults.

**(4)** Create and manage learning environments that provide individual and cooperative opportunities for children to construct their own knowledge through various strategies that include decision-making, problem-solving, and inquiry experiences.

**(5)** Demonstrate understanding that each child's creative expression is unique and can be encouraged through diverse ways, including creative play.

**(6)** Plan blocks of uninterrupted time for children to persist at self-chosen activities, both indoors and out.

**(7)** Demonstrate understanding of the influence of the physical setting, schedule, routines, and transitions on children and use these experiences to promote children's development and learning.

**(8)** Use and explain the rationale for developmentally appropriate methods that include play, small group projects, open-ended questioning, group discussion, problem solving, cooperative learning, and inquiry experiences to help young children develop intellectual curiosity, solve problems, and make decisions.

**(9)** Create and manage a literacy-rich environment that is responsive to each child's unique path of development.

**(10)** Use a variety of language strategies during adult-child and child-child interactions and facilitate dialogue of expressive language and thought.

**(11)** Demonstrate a variety of developmentally appropriate instructional strategies that facilitate the development of literacy skills.

**(12)** Demonstrate knowledge of developmentally appropriate uses of technology, including assistive technology.

**(13)** Demonstrate the ability to work collaboratively with educational assistants, volunteers, and others to individualize the curriculum and to meet program goals.

**(14)** Demonstrate effective written and oral communication skills when working with children, families, and early care, education, and family support professionals.

**F.** Assessment of children and evaluation of programs: Early childhood professionals must develop knowledge of diverse assessment approaches, including observational skills. They use appropriate ongoing documentation and report information to families and professionals. Appropriate early childhood assessment is responsive to cultural and linguistic differences. It includes information from multiple sources, e.g., observations, checklists, interviews, and both formal and informal standardized measures in diverse settings for making educational decisions about children. The assessment data gathered from multiple sources that has a major impact on children should be made by a team of family members, teachers, and other professionals. In addition, early childhood professionals engage in systematic, ongoing evaluation of their programs.

**(1)** Demonstrate knowledge of assessment and evaluation practices that are valid and appropriate.

**(2)** Demonstrate knowledge of maintaining appropriate records of children's development and behavior that safeguard confidentiality and privacy.

**(3)** Demonstrate knowledge of the educator's role as a participating member of the assessment process as described and mandated by state and federal regulations for Individual family service plans (IFSP) and individual education plans (IEP).

**(4)** Demonstrate understanding of the influences of environmental factors, cultural/linguistic differences, and diverse ways of learning on assessment outcomes.

**(5)** Involve the family and, as appropriate, other team members in assessing the child's development, strengths, and needs in order to set goals for the child.

**(6)** Share assessment results as appropriate with families in clear, supportive ways.

**(7)** Involve all stakeholders in program evaluations.

**(8)** Demonstrate knowledge of a variety of techniques and procedures to evaluate and modify program goals for young children and their families.

**(9)** Develop and use formative and summative program evaluation to ensure comprehensive quality of the total environment for children, families, and the community.



**(10)** Use both self and collaborative evaluations as part of ongoing program evaluations.

**G. Professionalism:** Professionalism is built upon individual integrity, responsibility, and ethical practices that demonstrate a profound respect for all children and their families. Early childhood professionals embrace a multicultural perspective that is responsive to individuals in culturally diverse communities in New Mexico. Professionals make decisions based upon knowledge of early childhood theories and practices that recognize diversity of ability, developmental level, and family characteristics. Early childhood professionals advocate for excellence in early childhood programs and participate in one-going professional development to enhance their knowledge and skills.

**(1)** Consistently adheres to professional codes of ethics and conduct.

**(2)** Demonstrate knowledge of federal, state, and local regulations regarding programs and services for children birth through eight years of age.

**(3)** Demonstrate understanding of conditions of children, families, and professionals; current issues and trends; legal issues; and legislation and other public policies affecting children, families, and programs for young children and the early childhood profession.

**(4)** Articulate a personal philosophy of appropriate early care and education that responds to practices that support inclusion and cultural and linguistic diversity through actions and attitudes.

**(5)** Demonstrate critical reflection of one's own professional and educational practices from community, state, national, and global perspectives.

**(6)** Demonstrate understanding of the early childhood profession, its multiple, historical, philosophical and social foundations, and how these foundations influence current thought and practice.

**(7)** Demonstrate a commitment to advocacy for excellence in programs and services for young children and their families.

**(8)** Demonstrate knowledge of other professions that provide related services for young children and their families.

**(9)** Participate in professional organizations and in ongoing professional development to enhance knowledge and skills in working with young children and adults.

**(10)** Demonstrate knowledge of basic principles of administration, organization, and operation of early childhood programs, including supervision of staff and volunteers.

[6.61.8.10 NMAC - Rp, 6.61.8.10 NMAC, 8/1/2018]

## **PART 9: CERTIFICATES OF ENDORSEMENT WAIVER**

### **6.61.9.1 ISSUING AGENCY:**

Public Education Department (PED), hereinafter the department.

[6.61.9.1 NMAC - Rp, 6.61.9.1 NMAC, 11/13/2018]

### **6.61.9.2 SCOPE:**

This rule governs the requirements for the issuance and duration of endorsement waivers to those individuals who do not meet the requirements for endorsements as required for providing instructional services in certain areas.

[6.61.9.2 NMAC - Rp, 6.61.9.2 NMAC, 11/13/2018]

### **6.61.9.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-14, NMSA 1978

[6.61.9.3 NMAC - Rp, 6.61.9.3 NMAC, 11/13/2018]

### **6.61.9.4 DURATION:**

Permanent.

[6.61.9.4 NMAC - Rp, 6.61.9.4 NMAC, 11/13/2018]

### **6.61.9.5 EFFECTIVE DATE:**

November 13, 2018, unless a later date is cited in the history note at the end of a section.

[6.61.9.5 NMAC - Rp, 6.61.9.5 NMAC, 11/13/2018]

### **6.61.9.6 OBJECTIVE:**

This rule establishes the process and requirements for school districts, state-chartered charter schools, and state institutions to request and receive endorsement waivers.

[6.61.9.6 NMAC - Rp, 6.61.9.6 NMAC, 11/13/2018]

### **6.61.9.7 DEFINITIONS:**

**[RESERVED]**

[6.61.9.7 NMAC - Rp, 6.61.9.7 NMAC, 11/13/2018]

**6.61.9.8 REQUIREMENTS FOR INITIAL ENDORSEMENT WAIVER REQUESTS:**

**A. Endorsement waivers shall:**

- (1)** be authorized by the department, in writing;
- (2)** permit a superintendent, state-charter administrator, or governing authority of a state institution to fill an existing licensed teaching position in a public school or state institution with an individual holding a standard license who does not hold the specific endorsement required for that position; and
- (3)** be issued for up to one school year.

**B. Endorsement waivers may be requested in the following areas:**

- (1)** agriculture;
- (2)** business education;
- (3)** family and consumer sciences;
- (4)** gifted education;
- (5)** health;
- (6)** information tech coordinator;
- (7)** language arts;
- (8)** library media;
- (9)** mathematics;
- (10)** performing arts;
- (11)** physical education;
- (12)** psychology;
- (13)** reading;
- (14)** science;

- (15) social studies;
- (16) technology education; and
- (17) visual arts.

**C.** Endorsement waivers in mathematics, language arts, science, and social studies shall be limited to individuals with teaching licensure in secondary education, grades 7 - 12; middle level licensure, grade 5 - 9; and licensure for grades pre-K - 12.

**D.** Requests for endorsement waivers shall:

- (1) be based on an emergency in which, due to circumstances beyond the control of the district, state-chartered charter school, or state institution, and as determined by the department, a vacancy exists in a teaching position requiring an endorsement listed in Subsection A of 6.61.9.8 NMAC that must be filled immediately or as soon as practicable to avoid a deterioration of significant services;
- (2) be submitted within 60 calendar days of the beginning date of the endorsement waiver candidate's employment contract with the district, state-chartered charter school, or state institution;
- (3) include documentation of unsuccessful recruitment efforts to fill the vacant position including the methods used and the dates and duration of efforts;
- (4) demonstrate that the request has been made with the knowledge and consent of the candidate for the endorsement waiver;
- (5) include documentation of the candidate's degree and coursework taken; and
- (6) include a detailed plan completed and signed by the candidate identifying how they will gain the needed endorsements, including the completion at least nine college credit hours within one school year.

[6.61.9.8 NMAC - Rp, 6.61.9.8 NMAC, 11/13/2018]

#### **6.61.9.9 REVIEW OF INITIAL ENDORSEMENT WAIVER REQUESTS:**

**A.** The department shall review all requests for endorsement waivers within 60 calendar days of receipt. Waiver requests shall be valid for one school year unless granted renewal according to the terms stated in 6.61.9.11 NMAC.

- (1) Approved waivers shall detail the conditions under which the waiver has been approved.

**(2)** Denied waivers shall state the reasons for the denial and shall provide details regarding the right of the district, state-chartered charter school, or state institution to request a review or appeal.

**B.** The department shall consider the following criteria when determining whether to approve or deny an endorsement waiver request:

**(1)** whether the candidate's plan for gaining the endorsement meets the criteria defined in Subsection C of 6.61.9.8 NMAC;

**(2)** the waiver history of the candidate;

**(3)** whether the degree and coursework taken by the endorsement waiver candidate could later qualify the candidate to receive an endorsement in the area requested;

**(4)** whether the candidate will be reasonably capable of completing required coursework or passing required content tests for the waiver; and

**(5)** the NMTEACH effectiveness rating of the waiver candidate.

**C.** Endorsement waivers shall not be approved if:

**(1)** the waiver request does not have the written consent of the candidate;

**(2)** the request is for endorsements in teaching English to speakers of other languages, bilingual education, or modern and classical languages pursuant to Subsection F of 6.32.2.10 NMAC; or

**(3)** the candidate's NMTEACH effectiveness rating from the prior year is ineffective or minimally effective.

**D.** The department may deny a request for an endorsement waiver for the following reason:

**(1)** the candidate's degree or college coursework is too far removed from the focus area of the endorsement waiver;

**(2)** the application is submitted without supporting documentation or a certification attesting to the specific methods, dates, and duration of recruitment efforts;

**(3)** the candidate has held an endorsement waiver for more than three years, whether consecutive or not;

(4) the candidate has previously been issued an endorsement waiver and has failed to comply with the conditions of the department, including taking and passing required assessments; or

(5) the request is submitted beyond the 60-day deadline without demonstrating good cause for the delay.

[6.61.9.9 NMAC - Rp, 6.61.9.9 NMAC, 11/13/2018]

#### **6.61.9.10 RENEWAL OF AN ENDORSEMENT WAIVER:**

Endorsement waivers may be renewed if evidence of enrollment in or pending completion of required coursework and testing requirements is provided. It shall be the sole responsibility of the district, state-chartered charter school, or state institution to submit this documentary evidence to the department's licensure bureau.

##### **A. Requests for the renewal of an endorsement waiver shall:**

(1) be submitted by the superintendent, state-chartered charter school administrator, or the governing authority of a state institution, on a department-approved form;

(2) document all courses completed and exams taken by the candidate in the prior school year;

(3) demonstrate the candidate's compliance with all conditions required by the department for issuance of an endorsement waiver in the prior school year; and

(4) contain a detailed plan for completion of endorsement requirements within the current school year by the educator.

##### **B. Endorsement renewals shall not be approved if:**

(1) the candidate does not consent to providing the instructional services required of the position for which the waiver is being sought;

(2) prior non-use of an endorsement waiver is used as the reason for renewing the waiver; or

(3) the request for renewal does not comply with the requirements of 6.61.9.8 NMAC.

**C.** Endorsement renewals may not be approved if the candidate fails to complete and earn credit for college coursework to obtain the requisite credentials or obtain the degree required for the endorsement without good cause as determined by the department.

**D.** Provided that the holder of an endorsement waiver has complied with all conditions for the issuance of an endorsement imposed during the preceding school year, there shall be no need for the public school or state institution to reestablish the existence of an emergency.

[6.61.9.10 NMAC - Rp, 6.61.9.10 NMAC, 11/13/2018]

#### **6.61.9.11 REQUESTS FOR REVIEW OF DENIED WAIVERS:**

**A.** Candidates with a denied waiver, denied waiver renewal, or a waiver under review shall not provide instructional services in the classroom for which the endorsement waiver is being sought unless the candidate also has a valid substitute certificate and is performing services as a substitute teacher pursuant to Section 22-0A-15 NMSA 1978 and 6.63.10 NMAC.

**B.** Requests for review of a denied initial endorsement waiver shall:

- (1)** be in writing;
- (2)** be addressed to and received by the director of the department's licensure bureau within 30 calendar days of receipt of the denial by the district, state-chartered charter school, or state institution;
- (3)** contain a statement of reasons why the endorsement waiver should be issued;
- (4)** document the candidate's progress to-date toward completion of the required coursework and tests necessary to obtain the endorsement and what steps will be taken to fulfill said requirements within the duration of the endorsement waiver.

**C.** Requests for review of a denied renewal endorsement waiver shall:

- (1)** be in writing;
- (2)** be addressed to and received by the director of the department's licensure bureau within 30 calendar days of receipt of the denial by the district, state-chartered charter school, or state institution;
- (3)** contain a statement of reasons why the endorsement waiver should be renewed; and
- (4)** provide documentation justifying the reasons for the candidate's failure to satisfy the requirements for issuance of an endorsement during the preceding school year.

**D.** After review of a denied waiver, the decision of the department shall be communicated as soon as practicable. The decision of the department shall constitute a final agency decision and may be appealed pursuant to a district court in accordance with applicable law.

[6.61.9.11 NMAC - Rp, 6.61.9.11 NMAC, 11/13/2018]

## **PART 10: TEACHERS OF STUDENTS WITH BLINDNESS/VISUAL IMPAIRMENT B-12**

### **6.61.10.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.10.1 NMAC - Rp, 6.61.10.1 NMAC, 8/1/2018]

### **6.61.10.2 SCOPE:**

Chapter 61, Part 10 governs licensure of teachers of students with blindness and visual impairment, birth through grade 12, for those persons seeking such licensure.

[6.61.10.2 NMAC - Rp, 6.61.10.2 NMAC, 8/1/2018]

### **6.61.10.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2 and 22-10A-6, NMSA 1978.

[6.61.10.3 NMAC - Rp, 6.61.10.3 NMAC, 8/1/2018]

### **6.61.10.4 DURATION:**

Permanent

[6.61.10.4 NMAC - Rp, 6.61.10.4 NMAC, 8/1/2018]

### **6.61.10.5 EFFECTIVE DATE:**

August 1, 2018, unless a later date is cited in the history note at the end of a section.

[6.61.10.5 NMAC - Rp, 6.61.10.5 NMAC, 8/1/2018]

### **6.61.10.6 OBJECTIVE:**

This rule governs licensure requirements in teaching of students with blindness and visual impairment, birth through grade 12, for persons seeking such licensure.



**6.61.10.7 DEFINITIONS:**

**A. "Assistive technology"** means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

**B. "Aural literacy skills"** means listening skills that must be developed for students who have an impaired visual system. These skills provide a solid foundation for learning, reading, mobility clues, social conversation, and interpretation of a variety of auditory signals received from the environment. These skills begin to develop in infancy and need to be sequentially and deliberately expanded during the school years. Listening becomes particularly important in secondary and post-secondary schools, when Braille or print reading assignments become long and laborious.

**C. "Braille"** means a system of reading and writing that uses dot codes that are embossed on paper, developed by Louis Braille around 1829.

**D. "Braillewriter"** means a machine used to produce embossed Braille symbols.

**E. "Career education"** means a curriculum designed to teach individuals the skills and knowledge necessary in the world of work. This instruction may include field trips into the community to explore work opportunities and job requirements that would be gained by others with normal vision through incidental learning.

**F. "Compensatory skills"** means any technique, habit, or activity that must be developed to overcome a severe visual impairment; e.g., daily living skills, social and emotional skills.

**G. "Continuum of services"** means a full range of educational placements arranged in a stair step fashion, where one level of service leads directly to the next one.

**H. "Daily living skills"** means skills that enable a visually impaired student to live independently.

**I. "Educational placement"** means the location or type of classroom program (for example, resource room) arranged for a child's education; the setting in which a student receives educational services.

**J. "Functional vision"** means the presence of enough usable vision, giving the student the ability to use sight as a primary channel for learning. This term also means the total act of seeing and how the student uses sight to function educationally.

**K. "Functionally blind"** means a student whose primary channels for learning are tactual and auditory.

**L. "Least restrictive environment"** (LRE) means the environment, on the scale of a full continuum of services, where the student is given the maximum opportunity to learn.

**M. "Mobility"** means the ability to navigate from one's present fixed position to one's desired position in another part of the environment.

**N. "Nemeth"** means a system for reading and writing mathematical symbols based on the six-cell Braille cell and developed by Dr. Abraham Nemeth.

**O. "Orientation"** means the process of using the remained senses in establishing one's position and relationship to all other significant objects in the environment.

**P. "Residual vision"** means the amount and degree of functional vision that one retains despite a visual handicap.

**Q. "Social interaction skills"** means that persons with normal vision most often learn social interaction skills social skills incidentally. The visual cues are not available for students with poor or no vision. These skills must be taught from infancy to adulthood in order for persons with visual impairment to gain the necessary skills.

**R. "Tactual skills"** means tactual awareness must be developed in infancy and need to be sequentially and deliberately expanded during the school years. These skills will become an effective method of literacy as well provide a method to gain information. This skill will have a major impact on concept development and future learning.

**S. "Visual efficiency"** means how well a person can use sight.

**T. "Visual impairments"** is overall term that refers to all levels of vision loss.

[6.61.10.7 NMAC - Rp, 6.61.10.7 NMAC, 8/1/2018]

#### **6.61.10.8 REQUIREMENTS:**

**A.** Persons seeking licensure to teach students with blindness and visual impairment pursuant to the provisions of this rule shall meet the requirements of Subsection A of 6.61.10.8 NMAC.

**(1)** Bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

**(a)** nine semester hours in communication

(b) six semester hours in mathematics

(c) eight semester hours in laboratory science

(d) nine semester hours in social and behavioral science

(e) nine semester hours in humanities and fine arts; and

(2) credits from a regionally accredited college or university which include 24 - 36 semester hours of professional education in a program of studies that prepares candidates to teach blind and visually impaired students, including completion of the PED's approved functional areas and related competencies in professional education; and

(3) a mandatory student teaching or practicum component; and

(4) 24 - 36 semester hours in one teaching field such as mathematics, science(s), language arts, reading, or from among history, geography, economics, civics and government (or other social studies content related areas). Individuals must also complete the PED's approved functional areas and related competencies in the teaching field; and

(5) in addition to the requirements specified in Subsection A, Paragraphs (1), (3), (4) and (6) of 6.61.10.8 NMAC, six hours of reading for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(6) passage of all required portions of the New Mexico teacher assessments (NMTA) or any successor teacher examination adopted by the PED.

**B.** Possess a valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.10.8 NMAC - Rp, 6.61.10.8 NMAC, 8/1/2018]

#### **6.61.10.9 REFERENCED MATERIAL:**

Competencies for entry level teachers of blind and visual impairment.

**A.** Philosophical, historical, and legal foundations of special education for students with visual impairment. The teacher demonstrates his/her understanding of the unique role of the teacher of students with blindness/visual impairment including those with multiple impairment, through the knowledge of philosophical, historical, and legal foundations of special education for students with visual impairment.

**(1)** Teacher understands federal entitlements (e.g., American printing house for the Blind quota funds).

**(2)** Teacher understands historical foundations for education of children with visual impairments, including the array of service options.

**(3)** Teacher understands current educational definitions of students with visual disabilities, including identification criteria, labeling issues, and current incident and prevalence figures.

**B.** Characteristics of the learner with blindness/visual impairment including those with multiple impairments to be addressed by the teacher:

**(1)** Teacher demonstrates an understanding of the unique learning needs of the child/student with blindness/visual impairment, including those with multiple impairment, through implementation showing knowledge of the unique characteristics of loss or impairment of vision;

**(2)** Teacher understands normal development of the human visual system;

**(3)** Teacher understands basic terminology related to the structure and function of human visual system;

**(4)** Teacher understands basic terminology related to diseases and disorders of the human visual system;

**(5)** Teacher understands development of secondary senses (hearing, touch, taste, smell) when the primary sense is impaired;

**(6)** Teacher understands the effects of a visual impairment on early development (motor system, cognition, social/emotional interactions, self-help, language);

**(7)** Teacher understands the effects of a visual impairment on social behaviors and independence;

**(8)** Teacher understands the effects of a visual impairment on language and communication;

**(9)** Teacher understands the effects of a visual impairment on the individual's family and the reciprocal impact on the individual's self-esteem;

**(10)** Teacher understands the psychosocial aspects of a visual impairment;

**(11)** Teacher understands effects of medications on the visual system;

**(12)** Teacher understands the impact of additional exceptionalities on students with visual impairments.

**C.** Implications of diagnosis, assessment and evaluation. The teacher effectively utilizes assessment techniques and procedures by understanding the implications of loss or impairment of vision.

**(1)** Teacher understands the impact of visual disorders on learning and experience.

**(2)** Teacher understands specialized terminology used in assessing individuals with visual impairments, both as it relates to the visual system and in areas of importance.

**(3)** Teacher understands ethical considerations and legal provisions, regulations, and guidelines (federal, state/provincial, and local) related to assessment of students with visual impairments (including the legal versus functional definitions of blindness and low vision.)

**(4)** Teacher understands specialized policies regarding referral and placement procedures for students with visual impairments.

**(5)** Teacher understands procedures used for screening, pre-referral, referral, and classifications of students with visual impairments, including vision screening methods, functional vision evaluation, and learning media assessment.

**(6)** Teacher understands alternative assessment techniques for students who are blind or have low vision.

**(7)** Teacher understands appropriate interpretation and application of scores obtained as a result of assessing individuals with visual impairments.

**(8)** Teacher understands relationships among assessment, IEP development, and placement as they affect vision-related services.

**D.** Instructional content and practice. The teacher demonstrates the skills required to plan for and teach students with blindness/visual impairment, including those with multiple impairments, by understanding current instructional content and practices.

**(1)** Teacher understands methods for the development of special auditory, tactual, and modified visual communication skills for students with visual impairments, including:

**(a)** Braille reading and writing;

**(b)** handwriting for students with low vision and signature writing for students who are blind;

**(c)** listening skills and compensatory auditory skills;

**(d)** typing and keyboarding skills;

**(e)** the use of unique technology for individuals with visual impairments;

**(f)** the use of alternatives to nonverbal communication.

**(2)** Teacher understands methods to acquire disability-unique academic skills, including, but not exclusive to:

**(a)** the use of an abacus;

**(b)** the use of a talking calculator;

**(c)** tactile graphics (including maps, charts, tables, etc.);

**(d)** adapted science equipment

**(3)** Teacher understands methods for the development of basic concepts needed by young students who do not learn visually.

**(4)** Teacher understands methods for the development of visual efficiency, including instruction in the use of print adaptations, optical devices, and non-optical devices.

**(5)** Teacher understands methods to develop alternative reasoning and decision-making skills in students with visual impairments.

**(6)** Teacher understands methods to develop alternative organization and study skills for students with visual impairments.

**(7)** Teacher understands methods to prepare students with visual impairments for structured pre-cane orientation and mobility assessment and instruction.

**(8)** Teacher understands methods to develop tactual perceptual skills for students who are or will be primarily tactual learners.

**(9)** Teacher understands methods to teach human sexuality to students who have visual impairments, using tactual models that are anatomically accurate.

**(10)** Teacher understands methods to develop adapted physical and recreation skills for individuals who have visual impairments.

**(11)** Teacher understands methods to develop social and daily living skills that are normally learned or reinforced by visual means.

**(12)** Teacher understands strategies for developing career awareness in and providing vocational counseling for students with visual impairments.

**(13)** Teacher understands strategies for promoting self-advocacy in individuals with visual impairments.

**(14)** Teacher understands functional life skills instruction relevant to independent, community, and personal living and employment for individuals with visual impairments including:

**(a)** methods for accessing printed public information;

**(b)** methods for accessing public transportation;

**(c)** methods for accessing community resources;

**(d)** methods for acquiring practical skills (e.g., keeping personal records, time management, personal banking, emergency procedures).

**(15)** Teacher understands sources of specialized materials for students with visual impairments.

**(16)** Teacher understands techniques for modifying instructional methods and materials for students with visual impairments, and assisting classroom teachers in implementing these modifications.

#### **E. Planning and managing the teaching/learning environment.**

**(1)** The teacher demonstrates the ability to plan and managing the teaching/learning environment.

**(2)** Teacher understands a variety of input and output enhancements to computer technology that address the specific access needs of students with visual impairments in a variety of environments.

**(3)** Teacher understands model programs, including career-vocational and transition, which have been effective for students with visual impairments.

**F. Managing student behavior and social skills.** The teacher is able to manage student behavior and social interaction skills of students with loss or impairment of vision.

(1) Teacher understands teacher attitudes and behaviors that affect the behaviors of students with visual impairments.

(2) Teacher creates an atmosphere conducive to the promotion of positive student involvement and self-concept.

**G. Communication and collaborative partnerships.** The teacher promotes communication and collaborative partnerships.

(1) Teacher understands strategies for assisting parents and other professionals in planning appropriate transitions for students who have visual impairments.

(2) Teacher understands sources of unique services, networks, and organizations for students with visual impairments.

(3) Teacher understands roles of paraprofessionals who work directly with students who have visual impairments (e.g., sighted readers, transcribers, aids) or who provide special materials to them.

(4) Teacher understands the need for role models who have visual impairments, and who are successful.

**H. Professionalism and ethical practices.** The teacher demonstrates professionalism and ethical practices.

(1) Teacher understands the consumer and professional organizations, publications, and journals relevant to the field of visual impairment.

(2) Teacher adheres to the code of ethics for teachers of students with visual impairments.

[6.61.10.9 NMAC - Rp, 6.61.10.9 NMAC, 8/1/2018]

## **PART 11: LICENSURE IN EARLY CHILDHOOD EDUCATION, BIRTH - PRE-K**

### **6.61.11.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.11.1 NMAC - Rp, 6.61.11.1 NMAC, 8/1/2018]



#### **6.61.11.2 SCOPE:**

All persons seeking licensure in early childhood education, birth - pre-K.

[6.61.11.2 NMAC - Rp, 6.61.11.2 NMAC, 8/1/2018]

#### **6.61.11.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2 and 22-2-8.7, NMSA 1978.

[6.61.11.3 NMAC - Rp, 6.61.11.3 NMAC, 8/1/2018]

#### **6.61.11.4 DURATION:**

Permanent.

[6.61.11.4 NMAC - Rp, 6.61.11.4 NMAC, 8/1/2018]

#### **6.61.11.5 EFFECTIVE DATE:**

August 1, 2018, unless a later date is cited in the history note at the end of a section.

[6.61.11.5 NMAC - Rp, 6.61.11.5 NMAC, 8/1/2018]

#### **6.61.11.6 OBJECTIVE:**

This rule establishes licensure requirements for those seeking to work in early childhood education, that is, with children from birth to age four years, whether they are developing either typically or atypically.

[6.61.11.6 NMAC - Rp, 6.61.11.6 NMAC, 8/1/2018]

#### **6.61.11.7 DEFINITIONS:**

**A. "Adaptive living skills"** means the development in several skill areas such as **(1)** living skills: eating, dressing, and toileting; **(2)** independence/safety skills: avoiding dangerous situations; and **(3)** environmental adaptation skills: adapting behavior as a function of the limitations or demands of the particular environment. Adaptive behavior means the effectiveness or degree with which the child meets the standards of personal independence and social responsibility expected of comparable age and cultural groups.

**B. "Alternative means of communication"** means other forms of communication, particularly non-vocal; such as the use of sign language with and without speech; communication boards; or other technological aids such as computers and speech output devices.

**C. "Anti-bias"** means actively confronting, transcending, and eliminating personal and institutional barriers based on race, ethnicity, language, gender sexual orientation, or ability.

**D. "At risk"** means the following as it applies to children birth to two years of age: A biological or medical risk is the presence of early medical conditions, which are known to produce developmental delays in some children. An environmental risk is the presence of physical, social, or economic factors in the environment, which pose a substantial threat to development as indicated by a discrepancy between chronological age, after correction for prematurity, and developmental age in two or more areas of development as documented by the evaluation process. A determination of environmental risk shall be made by an interagency team and shall not be based upon behavior related to cultural or language differences.

**E. "Diverse abilities"** means any young child with an identified disability, developmental delay, or who may be "at risk" for learning challenges, as well as children who may be challenged as second language learners, or with cognitive, social/emotional, motor, language, or mental health/well-being differences.

**F. "Inclusion/inclusive"** is a philosophically based approach to providing accessibility and participation in typical early childhood settings for children with diverse abilities.

**G. "Inclusive practices"** are those strategies, which educators, administrators, and families implement to ensure accessibility and full participation of children with diverse abilities in all activities.

**H. "Individual education program"** (IEP) means a plan that describes the delivery of services to a child with a disability, age three - 21. The plan serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to decide jointly what the child's needs are, what services will be provided to meet those needs, what the anticipated outcomes may be, and how the child's progress towards meeting the projected outcomes will be evaluated.

**I. "Individualized family service plan"** (IFSP) means a plan that describes the delivery of services to a child with a developmental delay or at risk for a developmental delay, birth to two years of age, and the child's family. Components of the plan include a statement describing the child's level of functioning in developmental areas; major outcomes including criteria, procedures, and timelines to determine the degree of progress and revision of the plan; specific services needed to achieve outcomes, other services needed by the child and family, name of service coordinator, a transition plan, and an optional statement of family concerns, priorities and resources.

**J. "Integrated curriculum"** means an approach to curriculum that recognizes that content areas in instruction are naturally interrelated, as they are in real life experiences. In the resulting integrated curriculum, learning is regarded as a process

rather than a collection of facts. Learning about math, science, social studies, health, and other content areas are all connected through meaningful activities.

**K. "Intervention strategies"** means various techniques utilized in teaching a child a particular skill such as physical or verbal prompts and cues, visual aids, modeling, imitation, repetition, task analysis, environmental or stimulus prompts and cues. These strategies are attempts to facilitate learning when the presentation of information or the arrangement of an environment is insufficient in assisting the developmental learning process. The proper design of intervention strategies requires careful observation, individualization, and data keeping. The goal of this approach is to systematically fade the particular technique utilized as the child demonstrates abilities to practice, initiate, and generalize the skill.

**L. "Variations across cultures/cultural diversity"** means the curriculum, environment, and learning materials are reflective of distinct groups that may differ from one another physically, socially, and culturally.

[6.61.11.7 NMAC - Rp, 6.61.11.7 NMAC, 8/1/2018]

#### **6.61.11.8 REQUIREMENTS:**

All persons who perform instructional services in early childhood education (i.e., birth to four years of age) as defined in this rule in public schools or in those special state-supported schools within state agencies must hold valid standard licensure in early childhood education issued by the ("PED").

**A.** persons seeking licensure in early childhood education pursuant to the provisions of this rule shall meet the following requirements:

**(1)** possess a bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

- (a)** nine semester hours in communication
- (b)** six semester hours in mathematics
- (c)** eight semester hours in laboratory science
- (d)** nine semester hours in social and behavioral science
- (e)** nine semester hours in humanities and fine arts; and

**(2)** earn 45 semester credits of professional education coursework at a regionally accredited college or university in an early childhood education program approved by the PED in the competencies identified in 6.61.11.10; and

**(3)** earn a minimum of 15 semester hours, six of which would be practicum or supervised field experience nine semester hours of student teaching component in early childhood education for one of the following ranges: birth to four years of age with children who are developing either typically or atypically; and

**(a)** earn at least 135 contact hours of practicum or supervised field experience at a developmental stage (s) other than the stage selected for student teaching set forth in Paragraph (3) above; or

**(b)** evidence of three years of documented, verified, satisfactory work experiences with at least two of the age ranges set forth in Paragraph (3) of Subsection A of 6.61.8.8 NMAC above at a center accredited by the national academy of early childhood programs, a postsecondary laboratory early care and education setting, or an early childhood program accredited by the PED; and

**(4)** in addition to the requirements specified in Paragraphs (1), (3) and (5) Subsection A of 6.61.11.8 NMAC, six hours in the teaching of reading for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

**(5)** pass all required portions of the New Mexico teacher assessment (NMTA) or any successor teacher examination adopted by the PED; and

**B.** Possess valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.11.8 NMAC - Rp, 6.61.11.8 NMAC, 8/1/2018]

#### **6.61.11.9 DELAYED IMPLEMENTATION [RESERVED]**

[6.61.11.9 NMAC - Rp, 6.61.11.9 NMAC, 8/1/2018]

#### **6.61.11.10 REFERENCED MATERIAL: COMPETENCIES FOR EARLY CHILDHOOD EDUCATION:**

**A.** Child growth, development, and learning: Foundations for all learning are established during early childhood. Biological-physical, social, cultural, emotional, cognitive, and language domains are inherently intertwined in growth and development. Early childhood professionals must understand this process of development and the adult's role in supporting each child's growth, development, and learning.

**(1)** Incorporate understanding of developmental stages, processes, and theories of growth, development, and learning into developmentally appropriate practice.

**(2)** Demonstrate knowledge of the interaction between maturation and environmental factors that influence physical, social, emotional, cognitive, and cultural domains in the healthy development of each child.

**(3)** Demonstrate knowledge of the significance of individual differences in development and learning. Demonstrate knowledge of how certain differences may be associated with rate of development and developmental patterns associated with developmental delays or specific disabilities.

**(4)** Demonstrate knowledge of the similarities between children who are developing typically and those with diverse abilities.

**(5)** Provide a variety of activities that facilitate development of the whole child in the following areas: physical/motor, social/emotional, language/cognitive and adaptive/living skills.

**(6)** Apply knowledge of cultural and linguistic diversity and the significance of socio-cultural and political contexts for development and learning and recognize that children are best understood in the contexts of family, culture, and society.

**(7)** Demonstrate knowledge of the many functions that language serves in the cognitive, social, and emotional aspects of development in the formative years.

**(8)** Demonstrate knowledge of the developmental sequence of language and literacy, including the influence of culture and home factors.

**(9)** Demonstrate knowledge of how children acquire and use verbal, non-verbal, and alternative means of communication.

**(10)** Demonstrate knowledge of the relationship among emotions, behaviors, and communication skills to assist children in identifying and expressing their feelings in appropriate ways.

**(11)** Use appropriate guidance to support the development of self-regulatory capacities in young children.

**B. Health, safety and nutrition:** Early childhood professionals promote physical and mental health and appropriate nutrition and provide an emotionally and physically safe environment for young children in partnership with their families. Sound health, safety, and nutritional practices provide the foundation for development and learning. Good nutrition is critical to the overall development of young children. Meals and snacks encourage good nutrition and eating habits. A safe environment prevents and reduces injuries for young children who are only beginning to recognize dangerous situations.

**(1)** Recognize and respond to each child's physical health, intellectual and emotional well-being, and nutritional and safety needs.

**(2)** Articulate an understanding of indoor and outdoor learning environments that provide opportunities for children to put into practice healthy behaviors (physically, socially, and emotionally).

**(3)** Use appropriate health appraisal and management procedures and makes referrals when necessary.

**(4)** Recognize signs of emotional distress, child abuse, and neglect in young children and use procedures appropriate to the situation, such as initiating discussions with families, referring to appropriate professionals, and, in cases of suspected abuse or neglect, reporting to designated authorities.

**(5)** Establish an environment that provides opportunities and reinforcement for children's practice of healthy behaviors that promote appropriate nutrition and physical and psychological well-being.

**(6)** Provide and assure a consistent daily schedule for meals, rest, and sleep, as developmentally appropriate.

**(7)** Implement health care and educational activities for children and families based on health and nutritional information that is responsive to diverse cultures.

**(8)** Assist young children and their families, as individually appropriate, in developing decision-making and interpersonal skills that enable them to make healthy choices and establish health-promoting behaviors.

**C.** Family and community collaboration: Early childhood professionals are committed to family-centered practices. They maintain an open, friendly, and collaborative relationship with each child's family, encouraging family involvement, and supporting the child's relationship with their family. The diverse cultures and languages representative of families in New Mexico's communities are honored.

**(1)** Demonstrate knowledge and skill in building positive, reciprocal relationships with families.

**(2)** Articulate an understanding of a safe and welcoming environment for families and community members.

**(3)** Develop and maintain ongoing contact with families through a variety of communication strategies.

**(4)** Demonstrate knowledge of and respect for variations across cultures, in terms of family strengths, expectations, values, and child-rearing practices.

**(5)** Articulate understanding of the complexity and dynamics of family systems.

**(6)** Demonstrate understanding of the importance of families as the primary educator of their child.

**(7)** Demonstrate the ability to incorporate the families' desires and goals for their children into classroom or intervention strategies.

**(8)** Develop partnerships with family members to promote early literacy in the home.

**(9)** Involve families and community members in contributing to the learning environment.

**(10)** Establish partnerships with community members in promoting literacy.

**(11)** Demonstrate ability to communicate to families the program's policies, procedures, and those procedural safeguards that are mandated by state and federal regulations.

**(12)** Apply knowledge of family theory and research to understand family and community characteristics including socioeconomic conditions, family structures, relationships, stressors, and supports (including the impact of having a child with diverse abilities), home language and ethnicity.

**(13)** Demonstrate knowledge of and skill to access community resources that assist families and contribute directly or indirectly to children's positive development such as mental health services, health care, adult education, native and English language instruction, and economic assistance.

**D.** Developmentally appropriate content: Early childhood professionals demonstrate knowledge of child development and learning, as well as content knowledge, both in terms of academic disciplines and in terms of interdisciplinary integration. Their approach to curriculum content emerges from multiple sources, such as play and exploration, and is appropriate for the ages and developmental levels of the children with whom they work. Content includes, but is not limited to, the arts, literacy, mathematics, physical education, health, social studies, science, and technology. Children's initial experiences with these content areas form the foundation for later understanding and success.

**(1)** Demonstrate knowledge of relevant content for young children and developmentally appropriate ways of integrating content into teaching and learning experiences for children from birth to four years of age.

**(2)** Demonstrate the integration of knowledge of how young children develop and learn with knowledge of the concepts, inquiry tools, and structure of content areas appropriate for different developmental levels.

**(3)** Demonstrate knowledge of what is important in each content area, why it is of value, and how it links with earlier and later understandings within and across areas.

**(4)** Demonstrate knowledge of the language, reading and writing components of emergent literacy at each developmental level.

**(5)** Develop, implement, and evaluate an integrated curriculum that focuses on children's development and interests, using their language, home experiences, and cultural values.

**(6)** Adapt content to meet the needs of each child, including the development of individualized family service plans (IFSP) or individualized education plans (IEP) for children with diverse abilities through the team process with families and other team members.

**(7)** Provides and uses anti-bias materials and literature, and experiences in all content areas of the curriculum.

**E.** Learning environment and curriculum implementation: Teaching and learning with young children is a complex process embedded in relationships. These teaching and learning relationships provide the scaffold for jointly constructing meanings about self, others, and the world. Early childhood professionals use their child development knowledge, their knowledge of developmentally appropriate practices, and their content knowledge to design, implement, and evaluate experiences that promote optimal learning and development for all children from birth to eight years of age. In addition, their use of observations is grounded in a thorough understanding of children's families, cultures, and communities. Early childhood professionals encourage young children's problem solving, critical thinking, and academic and social competence within a supportive and challenging learning environment. These challenging teaching and learning experiences build children's confidence in themselves as competent learners.

**(1)** Demonstrate knowledge of varying program models and learning environments that meet the individual needs of all young children, including those with diverse abilities.

**(2)** Create environments that encourage active involvement, initiative, responsibility, and a growing sense of autonomy through the selection and use of materials and equipment that are suitable to individual learning, developmental levels, diverse abilities, and the language and cultures in New Mexico.

**(3)** Demonstrate knowledge and skill in the use of developmentally appropriate guidance techniques and strategies that provide opportunities to assist children in developing positive thoughts and feelings about themselves and others through cooperative interaction with peers and adults.



- (4)** Create and manage inclusive learning environments that provide individual and cooperative opportunities for children to construct their own knowledge through various strategies that include decision-making, problem solving, and inquiry experiences.
- (5)** Demonstrate understanding that each child's creative expression is unique and can be encouraged through diverse ways, including creative play.
- (6)** Plan blocks of uninterrupted time for children to persist at self-chosen activities, both indoors and outdoors.
- (7)** Demonstrate understanding of the influence of the physical setting, schedule, routines, and transitions on children and use these experiences to promote children's development and learning.
- (8)** Use and explain the rationale for developmentally appropriate methods that include play, small group projects, open-ended questioning, group discussion, problem solving, cooperative learning, and inquiry experiences to help young children develop intellectual curiosity, solve problems, and make decisions.
- (9)** Create and manage a literacy-rich environment that is responsive to each child's unique path of development.
- (10)** Use a variety of language strategies during adult-child and child-child interactions and facilitate communication and dialogue of expressive language and thought.
- (11)** Demonstrate a variety of developmentally appropriate instructional strategies that facilitate the development of emergent literacy skills.
- (12)** Demonstrate knowledge of developmentally appropriate uses of technology, including assistive technology.
- (13)** Demonstrate the ability to work collaboratively with educational assistants, volunteers, and others to individualize the curriculum and to meet program goals.
- (14)** Demonstrate effective written and oral communication skills when working with children, families, and early care, education, and family support professionals.

**F. Assessment of children and evaluation of programs:** Early childhood professionals must develop knowledge of diverse assessment approaches, including observational skills. They use appropriate ongoing documentation and report information to families and professionals. Appropriate early childhood assessment is responsive to cultural and linguistic differences. It includes information from multiple sources, e.g., observations, checklists, interviews, and both formal and informal standardized measures in diverse settings for making educational decisions about

children. The assessment data gathered from multiple sources that has a major impact on children should be made by a team of family members, teachers, and other professionals. In addition, early childhood professionals engage in systematic, ongoing evaluation of their programs.

**(1)** Demonstrate ability to choose valid tools that are developmentally, culturally, and linguistically appropriate; use the tools correctly; make appropriate referrals; and interpret assessment results, with the goal of obtaining valid, useful information to inform practice and decision-making.

**(2)** Demonstrate knowledge of maintaining appropriate records of children's development and behavior that safeguard confidentiality and privacy.

**(3)** Demonstrate knowledge of the educator's role as a participating member of the assessment process as described and mandated by state and federal regulations for Individual family service plans (IFSP) and individual education plans (IEP).

**(4)** Demonstrate an understanding of the influences of environmental factors, cultural/linguistic differences, and diverse ways of learning on assessment outcomes.

**(5)** Involve the family and, as appropriate, other team members in accessing the child's development, strengths, and needs in order to set goals for the child.

**(6)** Articulate an understanding of the distinctions and definitions of assessment concepts (e.g. authentic, screening, diagnostic assessment, standardized, testing, accountability, assessment).

**(7)** Apply understanding of assessment concepts toward selection of appropriate formal assessment measures, critiquing the limitations of inappropriate measures, and discussing assessment issues as part of interdisciplinary teams.

**(8)** Articulate an understanding that responsible assessment is legally and ethically grounded and guided by sound professional standards. It is collaborative and open with the goal of supporting diverse children and families.

**(9)** Demonstrate knowledge of assessment techniques, interpretation of assessment information in the application of this data to curriculum development or intervention planning.

**(10)** Demonstrate knowledge of a variety of techniques and procedures to evaluate and modify program goals for young children and their families.

**(11)** Demonstrate knowledge and use of program evaluation to ensure comprehensive quality of the total environment for children, families, and the community.

**(12)** Use both self and collaborative evaluations as part of ongoing program evaluations.

**G. Professionalism:** Professionalism is built upon individual integrity, responsibility, and ethical practices that demonstrate a profound respect for all children and their families. Early childhood professionals embrace a multicultural perspective that is responsive to individuals in culturally diverse communities in New Mexico. Professionals make decisions based upon knowledge of early childhood theories and practices that recognize diversity of ability, developmental level, and family characteristics. Early childhood professionals advocate for excellence in early childhood programs and participate in ongoing professional development to enhance their knowledge and skills.

**(1)** Adhere to early childhood professional codes of ethical conduct and issues of confidentiality.

**(2)** Demonstrate knowledge of federal, state, and local regulations and public policies regarding programs and services for children birth to eight years of age.

**(3)** Demonstrate understanding of conditions of children, families, and professionals; the historical and current issues and trends; legal issues; and legislation and other public policies affecting children, families, and programs for young children and the early childhood profession.

**(4)** Demonstrate critical reflection of one's own professional and educational practices from community, state, national, and global perspectives.

**(5)** Demonstrate understanding of the early childhood profession, its multiple, historical, philosophical and social foundations, and how these foundations influence current thought and practice.

**(6)** Demonstrate a commitment to leadership and advocacy for excellence in programs and services for young children and their families.

**(7)** Demonstrate knowledge in technology resources to engage in ongoing professional development.

**H. Advanced child development knowledge.**

**(1)** Demonstrate and facilitate conceptual understanding of family roles in the development of their infant and toddler, including support for family acquisition of knowledge concerning infant and toddler's growth, learning, and development and cultural and linguistic diversity represented within the home setting.

**(2)** Apply theoretical knowledge of and ability to provide screening and assessment unique for infants and toddlers.

**(3)** Demonstrate ability to work collaboratively as an advocate with families and IFSP and IEP team members to provide developmentally supportive environment.

**(4)** Demonstrate conceptual understanding of curriculum development and implementation for children birth to four years of age and the ability to articulate theoretically-based rationale for differences between infant/toddler curriculum and learning environments, and for children older than four.

**(5)** Articulate and demonstrate conceptual understanding of respectful, responsive, and reciprocal interactions that serve as basis for infant/toddler curriculum and learning environments.

**(6)** Articulate and apply coherent theoretical knowledge and understanding of young children's characteristics and needs as encompassing multiple, interrelated areas of children's development and learning - including physical, cognitive, social, emotional, language, and aesthetic domains, play, activity, and learning processes, and motivation to learn.

**(7)** Apply a conceptual understanding of the multiple influences on development and learning to working with children, including cultural and linguistic contexts for development, children's close relationships with adults and peers, economic conditions of children and families, health status and disabilities, children's individual developmental variations and learning styles, opportunities to play and learn, technology and the media, and family and community characteristics.

#### **I. Curriculum and content knowledge.**

**(1)** Demonstrate content knowledge (e.g., art, music, movement, science, math, literacy, social studies, and technology) and familiarity with a wide variety of resource in academic disciplines and apply that knowledge in the development, implementation, and evaluation of curriculum.

**(2)** Demonstrate skill in collaboration with professionals from other disciplines (e.g., mental health, psychology, speech and language, occupational therapy) when planning curriculum and teaching strategies for young children in diverse abilities.

**(3)** Demonstrate an understanding and application of flexible teaching approaches that span a continuum from child-initiated to adult-directed and from free exploration to scaffolded support or teacher modeling.

**(4)** Apply understanding of young children's need for balance, order, depth, variety, and challenge through curriculum planning, routines, and scheduling (e.g., daily, weekly, and longer-term).

**(5)** Link child characteristics, needs, and interests with informal opportunities to build children's language, concept development, and skills.

(6) Apply knowledge to create environments that enrich and extend children's play including intervention strategies (i.e., questioning), respect of cultural diversity and gender equity.

(7) Support a position of the fundamental importance of play in young children's learning and development from birth to four years of age.

(8) Demonstrate sound knowledge and skills in using technology as a teaching and learning tool.

(9) Demonstrate the ability to promote positive social interactions and engage children in learning activities while actively working to increase social and emotional competence of all children.

(10) Demonstrate the ability to analyze and critique early childhood curriculum experiences in terms of the relationship of the experiences to the research base and professional standards.

(11) Establish priorities for high-quality and meaningful language and pre-literacy experiences across the developmental continuum, using language, pre-reading and pre-writing to facilitate skill development while strengthening children's cultural identity.

(12) Demonstrate knowledge of second-language acquisition and bilingualism including the diversity of home language environments.

(13) Facilitate family involvement so that families are engaged with curriculum planning, assessing of children's learning, and planning for children's transitions to new programs.

(14) Establish integrated experiences (art, music, movement, science, math, literacy, social studies, and technology) across a developmental continuum.

(15) Demonstrate conceptual knowledge of the principles and standards derived from professional organizations (Zero to Three, NAEYC, DEC) for curriculum-decision making.

(16) Demonstrate the use of reflective practice.

[6.61.11.10 NMAC - N, 8/1/2018]

## **PART 12: LICENSURE IN EARLY CHILDHOOD EDUCATION, PRE K - GRADE 3**

**6.61.12.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.61.12.1 NMAC - Rp, 6.61.12.1 NMAC, 8/1/2018]

**6.61.12.2 SCOPE:**

All persons seeking licensure in early childhood education, pre-K - grade 3.

[6.61.12.2 NMAC - Rp, 6.61.12.2 NMAC, 8/1/2018]

**6.61.12.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2 and 22-2-8.7, NMSA 1978.

[6.61.12.3 NMAC – Rp, 6.61.12.3 NMAC, 8/1/2018]

**6.61.12.4 DURATION:**

Permanent

[6.61.12.4 NMAC - Rp, 6.61.12.4 NMAC, 8/1/2018]

**6.61.12.5 EFFECTIVE DATE:**

August 1, 2018 unless a later date is cited in the history note at the end of a section.

[6.61.12.5 NMAC - Rp, 6.61.12.5 NMAC, 8/1/2018]

**6.61.12.6 OBJECTIVE:**

This rule establishes licensure requirements for those seeking to work in early childhood education, that is, with children from age three to grade 3 whether they are developing either typically or atypically.

[6.61.12.6 NMAC - Rp, 6.61.12.6 NMAC, 8/1/2018]

**6.61.12.7 DEFINITIONS:**

**A. "Adaptive living skills"** means the development in several skill areas such as **(1)** living skills: eating, dressing, and toileting; **(2)** independence/safety skills: avoiding dangerous situations; and **(3)** environmental adaptation skills: adapting behavior as a function of the limitations or demands of the particular environment. Adaptive behavior means the effectiveness or degree with which the child meets the standards of personal independence and social responsibility expected of comparable age and cultural groups.

**B. "Alternative means of communication"** means other forms of communication, particularly non-vocal; such as the use of sign language with and without speech; communication boards; or other technological aids such as computers and speech output devices.

**C. "Anti-bias"** means actively confronting, transcending, and eliminating personal and institutional barriers based on race, ethnicity, language, gender sexual orientation, or ability.

**D. "At risk"** means the following as it applies to children birth to two years of age: A biological or medical risk is the presence of early medical conditions, which are known to produce developmental delays in some children. An environmental risk is the presence of physical, social, or economic factors in the environment, which pose a substantial threat to development as indicated by a discrepancy between chronological age, after correction for prematurity, and developmental age in two or more areas of development as documented by the evaluation process. A determination of environmental risk shall be made by an interagency team and shall not be based upon behavior related to cultural or language differences.

**E. "Diverse abilities"** means any young child with an identified disability, developmental delay, or who may be "at risk" for learning challenges, as well as children who may be challenged as second language learners, or with cognitive, social/emotional, motor, language, or mental health/well-being differences.

**F. "Inclusion/inclusive"** is a philosophically based approach to providing accessibility and participation in typical early childhood settings for children with diverse abilities.

**G. "Inclusive practices"** are those strategies, which educators, administrators, and families implement to ensure accessibility and full participation of children with diverse abilities in all activities.

**H. "Individual education program"** (IEP) means a plan that describes the delivery of services to a child with a disability, age three to 21. The plan serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to decide jointly what the child's needs are, what services will be provided to meet those needs, what the anticipated outcomes may be, and how the child's progress towards meeting the projected outcomes will be evaluated.

**I. "Individualized family service plan"** (IFSP) means a plan that describes the delivery of services to a child with a developmental delay or at risk for a developmental delay, birth to two years of age, and the child's family. Components of the plan include a statement describing the child's level of functioning in developmental areas; major outcomes including criteria, procedures, and timelines to determine the degree of progress and revision of the plan; specific services needed to achieve outcomes, other

services needed by the child and family, name of service coordinator, a transition plan, and an optional statement of family concerns, priorities and resources.

**J. "Integrated curriculum"** means an approach to curriculum that recognizes that content areas in instruction are naturally interrelated, as they are in real life experiences. In the resulting integrated curriculum, learning is regarded as a process rather than a collection of facts. Learning about math, science, social studies, health, and other content areas are all connected through meaningful activities.

**K. "Intervention strategies"** means various techniques utilized in teaching a child a particular skill such as physical or verbal prompts and cues, visual aids, modeling, imitation, repetition, task analysis, environmental or stimulus prompts and cues. These strategies are attempts to facilitate learning when the presentation of information or the arrangement of an environment is insufficient in assisting the developmental learning process. The proper design of intervention strategies requires careful observation, individualization, and data keeping. The goal of this approach is to systematically fade the particular technique utilized as the child demonstrates abilities to practice, initiate, and generalize the skill.

**L. "Least restrictive environment"** is that environment which all children are most generally found in a public education setting (i.e., general education classroom). Children with identified disabilities are to have access to the general education curriculum and have the opportunity to participate fully with their peers without disabilities to the maximum extent possible. Supports may be necessary for the "least restrictive environment" to be most successful.

**M. "Variations across cultures/cultural diversity"** means the curriculum, environment, and learning materials are reflective of distinct groups that may differ from one another physically, socially, and culturally.

**N. "A highly qualified beginning early childhood teacher"**, under this rule, means a teacher who is fully qualified for teaching children from age three to grade 3, who is new to the profession, who has pursued a standard route to licensure, and who:

(1) meets the requirements for early childhood pre K - grade 3 licensure in Subsections A or B of 6.61.12.8 NMAC, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable teacher-testing requirements for licensure in 6.60.5.8 NMAC.

[6.61.12.7 NMAC - Rp, 6.61.12.7 NMAC, 8/1/2018]

## **6.61.12.8 REQUIREMENTS:**



All persons who perform instructional services in early childhood education (i.e., age three to grade 3) as defined in this rule in public schools or in those special state-supported schools within state agencies must hold valid standard licensure in early childhood education issued by the PED:

**A.** persons seeking licensure in early childhood education pursuant to the provisions of this rule shall meet the following requirements:

**(1)** possess a bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

**(a)** nine semester hours in communication

**(b)** six semester hours in mathematics

**(c)** eight semester hours in laboratory science

**(d)** nine semester hours in social and behavioral science

**(e)** nine semester hours in humanities and fine arts; and

**(2)** earn 45 semester credits of professional education coursework at a regionally accredited college or university in an early childhood education program approved by the PED in the competencies identified in 6.61.12.10 NMAC, and

**(3)** earn a minimum of 15 semester hours, six of which would be practicum or supervised field experience and nine semester hours of student teaching component in early childhood education for one of the following age ranges: age three to grade 3 with children who are developing either typically or atypically; and

**(a)** earn at least 135 contact hours of practicum or supervised field experience at a developmental stage (s) other than the stage selected for student teaching set forth in Paragraph (3) above; or

**(b)** evidence of three years of documented, verified, satisfactory work experiences with at least two of the age ranges set forth in Paragraph (3) of Subsection A of 6.61.8.8 NMAC above at a center accredited by the national academy of early childhood programs, a postsecondary laboratory early care and education setting, or an early childhood program accredited by the PED; and

**(4)** in addition to the requirements specified in Paragraphs (1), (3) and (5) Subsection A of 6.61.12.8 NMAC, six hours in the teaching of reading for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(5) pass all required portions of the New Mexico teacher assessment (NMTA) or any successor teacher examination adopted by the PED; and

(6) satisfy the requirements of a highly qualified beginning early childhood teacher if new to the profession after June 30, 2006, or

B. possess valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[6.61.12.8 NMAC - Rp, 6.61.12.8 NMAC, 8/1/2018]

#### **6.61.12.9 [RESERVED]**

[6.61.12.9 NMAC - Rp, 6.61.12.9 NMAC, 8/1/2018]

#### **6.61.12.10 REFERENCED MATERIAL:**

### **COMPETENCIES FOR EARLY CHILDHOOD EDUCATION**

A. Child growth, development, and learning: Foundations for all learning are established during early childhood. Biological-physical, social, cultural, emotional, cognitive, and language domains are inherently intertwined in growth and development. Early childhood professionals must understand this process of development and the adult's role in supporting each child's growth, development, and learning.

(1) Incorporate understanding of developmental stages, processes, and theories of growth, development, and learning into developmentally appropriate practice.

(2) Demonstrate knowledge of the interaction between maturation and environmental factors that influence physical, social, emotional, cognitive, and cultural domains in the healthy development of each child.

(3) Demonstrate knowledge of the significance of individual differences in development and learning. Demonstrate knowledge of how certain differences may be associated with rate of development and developmental patterns associated with developmental delays or specific disabilities.

(4) Demonstrate knowledge of the similarities between children who are developing typically and those with diverse abilities.

(5) Provide a variety of activities that facilitate development of the whole child in the following areas: physical/motor, social/emotional, language/cognitive and adaptive/living skills.

**(6)** Apply knowledge of cultural and linguistic diversity and the significance of socio-cultural and political contexts for development and learning and recognize that children are best understood in the contexts of family, culture, and society.

**(7)** Demonstrate knowledge of the many functions that language serves in the cognitive, social, and emotional aspects of development in the formative years.

**(8)** Demonstrate knowledge of the developmental sequence of language and literacy, including the influence of culture and home factors.

**(9)** Demonstrate knowledge of how children acquire and use verbal, non-verbal, and alternative means of communication.

**(10)** Demonstrate knowledge of the relationship among emotions, behaviors, and communication skills to assist children in identifying and expressing their feelings in appropriate ways.

**(11)** Use appropriate guidance to support the development of self-regulatory capacities in young children.

**B. Health, safety and nutrition:** Early childhood professionals promote physical and mental health and appropriate nutrition and provide an emotionally and physically safe environment for young children in partnership with their families. Sound health, safety, and nutritional practices provide the foundation for development and learning. Good nutrition is critical to the overall development of young children. Meals and snacks encourage good nutrition and eating habits. A safe environment prevents and reduces injuries for young children who are only beginning to recognize dangerous situations.

**(1)** Recognize and respond to each child's physical health, intellectual and emotional wellbeing, and nutritional and safety needs.

**(2)** Articulate an understanding of indoor and outdoor learning environments that provide opportunities for children to put into practice healthy behaviors (physically, socially, and emotionally).

**(3)** Use appropriate health appraisal and management procedures and makes referrals when necessary.

**(4)** Recognize signs of emotional distress, child abuse, and neglect in young children and use procedures appropriate to the situation, such as initiating discussions with families, referring to appropriate professionals, and, in cases of suspected abuse or neglect, reporting to designated authorities.

**(5)** Establish an environment that provides opportunities and reinforcement for children's practice of healthy behaviors that promote appropriate nutrition and physical and psychological well-being.

**(6)** Provide a consistent daily schedule for rest/sleep, as developmentally appropriate.

**(7)** Implement health care and educational activities for children and families based on health and nutritional information that is responsive to diverse cultures.

**(8)** Assist young children and their families, as individually appropriate, in developing decision-making and interpersonal skills that enable them to make healthy choices and establish health-promoting behaviors.

**C. Family and community collaboration:** Early childhood professionals are committed to family-centered practices. They maintain an open, friendly, and collaborative relationship with each child's family, encouraging family involvement, and supporting the child's relationship with their family. The diverse cultures and languages representative of families in New Mexico's communities are honored.

**(1)** Demonstrate knowledge and skill in building positive, reciprocal relationships with families.

**(2)** Articulate an understanding of a safe and welcoming environment for families and community members.

**(3)** Develop and maintain ongoing contact with families through a variety of communication strategies.

**(4)** Demonstrate knowledge of and respect for variations across cultures, in terms of family strengths, expectations, values, and child-rearing practices.

**(5)** Articulate understanding of the complexity and dynamics of family systems.

**(6)** Demonstrate understanding of the importance of families as the primary educator of their child.

**(7)** Demonstrate the ability to incorporate the families' desires and goals for their children into classroom or intervention strategies.

**(8)** Develop partnerships with family members to promote early literacy in the home.

**(9)** Involve families and community members in contributing to the learning environment.

**(10)** Establish partnerships with community members in promoting literacy.

**(11)** Demonstrate ability to communicate to families the program's policies, procedures, and those procedural safeguards that are mandated by state and federal regulations.

**(12)** Apply knowledge of family theory and research to understand family and community characteristics including socioeconomic conditions; family structures, relationships, stressors, and supports (including the impact of having a child with diverse abilities); home language and ethnicity.

**(13)** Demonstrate knowledge of and skill to access community resources that assist families and contribute directly or indirectly to children's positive development such as mental health services, health care, adult education, native and English language instruction, and economic assistance.

**D.** Developmentally appropriate content: Early childhood professionals demonstrate knowledge of child development and learning, as well as content knowledge, both in terms of academic disciplines and in terms of interdisciplinary integration. Their approach to curriculum content emerges from multiple sources, such as play and exploration, and is appropriate for the ages and developmental levels of the children with whom they work. Content includes, but is not limited to, the arts, literacy, mathematics, physical education, health, social studies, science, and technology. Children's initial experiences with these content areas form the foundation for later understanding and success.

**(1)** Demonstrate knowledge of relevant content for young children and developmentally appropriate ways of integrating content into teaching and learning experiences for children from age three to grade 3.

**(2)** Demonstrate the integration of knowledge of how young children develop and learn with knowledge of the concepts, inquiry tools, and structure of content areas appropriate for different developmental levels.

**(3)** Demonstrate knowledge of what is important in each content area, why it is of value, and how it links with earlier and later understandings within and across areas.

**(4)** Demonstrate knowledge of the language, reading, and writing components of emergent literacy at each developmental level.

**(5)** Develop, implement, and evaluate an integrated curriculum that focuses on children's development and interests, using their language, home experiences, and cultural values.

**(6)** Adapt content to meet the needs of each child, including the development of individualized family service plans (IFSP) or individualized education plans (IEP) for

children with diverse abilities through the team process with families and other team members.

**(7)** Provides and uses anti-bias materials/literature and experiences in all content areas of the curriculum.

**E.** Learning environment and curriculum implementation: Teaching and learning with young children is a complex process embedded in relationships. These teaching and learning relationships provide the scaffold for jointly constructing meanings about self, others, and the world. Early childhood professionals use their child development knowledge, their knowledge of developmentally appropriate practices, and their content knowledge to design, implement, and evaluate experiences that promote optimal development and learning for all children from birth to eight years. In addition, their use of observations is grounded in a thorough understanding of children's families, cultures, and communities. Early childhood professionals encourage young children's problem solving, critical thinking, and academic and social competence within a supportive and challenging learning environment. These challenging teaching and learning experiences build children's confidence in themselves as competent learners.

**(1)** Demonstrate knowledge of varying program models and learning environments that meet the individual needs of all young children, including those with diverse abilities.

**(2)** Create environments that encourage active involvement, initiative, responsibility, and a growing sense of autonomy through the selection and use of materials and equipment that are suitable to individual learning, developmental levels, diverse abilities, and the language and cultures in New Mexico.

**(3)** Demonstrate knowledge and skill in the use of developmentally appropriate guidance techniques and strategies that provide opportunities to assist children in developing positive thoughts and feelings about themselves and others through cooperative interaction with peers and adults.

**(4)** Create and manage inclusive learning environments that provide individual and cooperative opportunities for children to construct their own knowledge through various strategies that include decision-making, problem solving, and inquiry experiences.

**(5)** Demonstrate understanding that each child's creative expression is unique and can be encouraged through diverse ways, including creative play.

**(6)** Plan blocks of uninterrupted time for children to persist at self-chosen activities, both indoors and out.

**(7)** Demonstrate understanding of the influence of the physical setting, schedule, routines, and transitions on children and use these experiences to promote children's development and learning.

**(8)** Use and explain the rationale for developmentally appropriate methods that include play, small group projects, open-ended questioning, group discussion, problem solving, cooperative learning, and inquiry experiences to help young children develop intellectual curiosity, solve problems, and make decisions.

**(9)** Create and manage a literacy-rich environment that is responsive to each child's unique path of development.

**(10)** Use a variety of language strategies during adult-child and child-child interactions and facilitate communication and dialogue of expressive language and thought.

**(11)** Demonstrate a variety of developmentally appropriate instructional strategies that facilitate the development of emergent literacy skills.

**(12)** Demonstrate knowledge of developmentally appropriate uses of technology, including assistive technology.

**(13)** Demonstrate the ability to work collaboratively with educational assistants, volunteers, and others to individualize the curriculum and to meet program goals.

**(14)** Demonstrate effective written and oral communication skills when working with children, families, and early care, education, and family support professionals.

**F.** Assessment of children and evaluation of programs: Early childhood professionals must develop knowledge of diverse assessment approaches, including observational skills. They use appropriate ongoing documentation and report information to families and professionals. Appropriate early childhood assessment is responsive to cultural and linguistic differences. It includes information from multiple sources, e.g., observations, checklists, interviews, and both formal and informal standardized measures in diverse settings for making educational decisions about children. The assessment data gathered from multiple sources that has a major impact on children should be made by a team of family members, teachers, and other professionals. In addition, early childhood professionals engage in systematic, ongoing evaluation of their programs.

**(1)** Demonstrate ability to choose valid tools that are developmentally, culturally, and linguistically appropriate; use the tools correctly; make appropriate referrals; and interpret assessment results, with the goal of obtaining valid, useful information to inform practice and decision-making.

**(2)** Demonstrate knowledge of maintaining appropriate records of children's development and behavior that safeguard confidentiality and privacy.

**(3)** Demonstrate knowledge of the educator's role as a participating member of the assessment process as described and mandated by state and federal regulations for individual family service plans (IFSP) and individual education plans (IEP).

**(4)** Demonstrate understanding of the influences of environmental factors, cultural/linguistic differences, and diverse ways of learning on assessment outcomes.

**(5)** Involve the family and, as appropriate, other team members in assessing the child's development, strengths, and needs in order to set goals for the child.

**(6)** Articulate an understanding of the distinctions and definitions of assessment concepts (e.g., authentic, screening, diagnostic assessment, standardized, testing, accountability assessment).

**(7)** Apply understanding of assessment concepts toward selection of appropriate formal assessment measures, critiquing the limitations of inappropriate measures, and discussing assessment issues as part of interdisciplinary teams.

**(8)** Articulate an understanding that responsible assessment is legally and ethically grounded and guided by sound professional standards. It is collaborative and open with the goal of supporting diverse children and families.

**(9)** Demonstrate knowledge of assessment techniques, interpretation of assessment information in the application of this data to curriculum development or intervention planning.

**(10)** Demonstrate knowledge of a variety of techniques and procedures to evaluate and modify program goals for young children and their families.

**(11)** Demonstrate knowledge and use of program evaluation to ensure comprehensive quality of the total environment for children, families, and the community.

**(12)** Use both self and collaborative evaluations as part of ongoing program evaluations.

**G. Professionalism:** Professionalism is built upon individual integrity, responsibility, and ethical practices that demonstrate a profound respect for all children and their families. Early childhood professionals embrace a multicultural perspective that is responsive to individuals in culturally diverse communities in New Mexico. Professionals make decisions based upon knowledge of early childhood theories and practices that recognize diversity of ability, developmental level, and family characteristics. Early



childhood professionals advocate for excellence in early childhood programs and participate in ongoing professional development to enhance their knowledge and skills.

**(1)** Adhere to early childhood professional codes of ethical conduct and issues of confidentiality.

**(2)** Demonstrate knowledge of federal, state, and local regulations and public policies regarding programs and services for children birth to eight years of age.

**(3)** Demonstrate understanding of conditions of children, families, and professionals; the historical and current issues and trends; legal issues; and legislation and other public policies affecting children, families, and programs for young children and the early childhood profession.

**(4)** Demonstrate critical reflection of one's own professional and educational practices from community, state, national, and global perspectives.

**(5)** Demonstrate understanding of the early childhood profession, its multiple, historical, philosophical and social foundations, and how these foundations influence current thought and practice.

**(6)** Demonstrate a commitment to leadership and advocacy for excellence in programs and services for young children and their families.

**(7)** Demonstrate knowledge in technology resources to engage in ongoing professional development.

**H. Knowledge of Content:** Early childhood teachers demonstrate content knowledge and knowledge of child development and learning both in terms of academic disciplines and interdisciplinary integration. Early childhood professionals demonstrate content knowledge including, but not limited to, the arts, literacy, mathematics, social studies, science, and technology. Early childhood teachers understand that children's initial experiences with these content areas form the foundation for later understanding and success. Thus early childhood teachers develop, implement, and evaluate a content-rich, integrated curriculum that focuses on children's development and interests, using their language, home experiences, and cultural values.

**(1)** Reading and language arts

**(a)** Demonstrate an understanding of the foundations of reading and language including research on children's literacy development, the relationship between oral and written language, and how children learn to speak, read, write, and listen.

**(b)** Demonstrate knowledge of the cultural, linguistics, environmental, and physiological factors in reading and language arts development.

**(c)** Articulate characteristics of proficient and non-proficient readers and the teacher's role in support of all literacy development.

**(d)** Demonstrate an understanding of language structure including graphophonics, semantics, syntax, and pragmatics systems.

**(e)** Demonstrated understandings of the use of classroom reading assessment to understand students' instructional needs and modify instruction appropriately.

**(f)** Link assessment and instruction to New Mexico language arts content standards, benchmarks and performance standards.

**(g)** Apply strategies of differentiated instruction based on the needs of children in all areas of literacy development including oral language development.

**(h)** Facilitate activities to develop fluency; the ability to read text accurately and rapidly.

**(i)** Facilitate vocabulary development, including both explicit instruction and indirect vocabulary development through authentic literature, cultural relevancy, and students' experiences.

**(j)** Facilitate comprehension strategies, including: instruction on predicting, re-reading, questioning, sequencing, summarizing, retelling, reading for pleasure and analytical and critical reading, activities to develop fluency, the ability to read text accurately and rapidly; and study strategies.

**(k)** Facilitate writing instruction, including different types of writing for different audiences and purposes, spelling generalizations; grammar instruction within authentic contexts; and writing processes, including drafting, revising, and editing;

**(l)** demonstrate knowledge of how children develop literacy through the use of culturally relevant pedagogy that promotes an understanding of the importance of resources students bring to the classroom; evaluation of text for quality, cultural, and linguistic appropriateness; and the creation of opportunities for students to consider, respond to and discuss spoken and written materials including children's literature, non-fiction, technological media, stories, poems, biographies, texts from various subject areas.

## **(2)** Mathematics

**(a)** Demonstrate an understanding and apply the following mathematical concepts:

**(i)** the arithmetic of real numbers and their subsets of rational numbers, integers, and whole numbers including a large repertoire of interpretations of the four basic operations and ways they can be applied, and an understanding of place value and its implications for ordering numbers and estimation;

**(ii)** three dimensional geometry based on the concept of distance, and two dimensional geometry as a method of drawing plans and representing three dimensional objects;

**(iii)** measurement of length, perimeter, area, time, weights, and temperature;

**(iv)** handling money problems such as cost and unit price.

**(b)** Demonstrate understanding and skill in the constructions of solids, measurements of their volumes and surface areas, drawing their projections, and making plans for their construction; defining relevant variables and writing formulas describing their relationships in problem-solving activities; and using measurement tools and appropriate techniques for recording data and displaying results.

**(c)** Facilitate curriculum with open-ended activities that promote children's expansion of the material learned, and in which children learn to use a variety of mathematical skills and concepts, including problem solving, reasoning, and logic.

**(d)** Provide opportunities for children to learn how to use tools, technology, and manipulatives in problem solving.

**(e)** Establish a classroom environment of respect for cultural diversity and gender equity in which all children develop skills in communicating, discussing, and displaying mathematical ideas.

### **(3)** Science

**(a)** Demonstrate understanding and apply the fundamental concepts in the subject matter of science including physical, life, and earth and space sciences as well as concepts in science and technology, science in personal and social perspectives, the history and nature of science, the unifying concepts of science, and the inquiry process scientists use in discovery of new knowledge to build a base of scientific inquiry.

**(b)** Apply scientific methods to develop children's abilities to identify and communicate a problem, and to design, implement, and evaluate a solution.

**(c)** Demonstrate the ability to integrate a variety of technologies into planned science activities.

**(d)** Establish a classroom environment of respect for cultural diversity and gender equity where all children participate fully in science learning.

**(4)** Social studies

**(a)** Demonstrate an understanding of the principles of teaching and learning processes that underline social studies concepts and can translate these into meaningful learning activities focusing on inquiry, authenticity, and collaboration.

**(b)** Demonstrates understanding that the social studies encompass history, geography, anthropology, archeology, economics, political science, psychology, sociology, and the interdisciplinary relationship of all facets of the social studies.

**(c)** Demonstrate understanding that the definition of social studies requires that children be socially aware of and are active participants in local, state, national, and global issues; and that children recognize and respect diverse local and global perspectives concerning cultures other than their own.

**(d)** Implement a variety of teaching strategies to assist children to use multiple resources including primary (e.g., documents, artifacts/regalia, direct observation, human resources, personal background) and secondary (e.g., books, newspapers, internet) as part of the inquiry/research process.

**(e)** Create curriculum experiences that provide opportunities for children to appreciate the historical development of democratic values, institutions, nations, and cultures.

**(f)** Demonstrate the ability to plan for and engage children in activities that require them to formulate, analyze, synthesize, and critique issues by using well-reasoned, clearly supported arguments, policies, and positions.

**(g)** Demonstrate the ability to plan for and engage children in the presentation of social studies knowledge using a variety of sign systems including writing, charts, graphs, maps, art, music, drama, dance, and technology.

**(5)** Fine arts and movement

**(a)** Demonstrate an understanding and implementation of arts activities such as history, art making, appreciation, and criticism through dance, music, theater, and the visual arts, appropriate to young children's developmental levels interests.

**(b)** Demonstrate knowledge of the distinctions, connections, and integration between arts disciplines and arts experiences and encourages study and active participation that leads to skill development and appreciation.

**(c)** Facilitate curriculum in which children communicate at a basic level in the four art disciplines of dance, music, theater, and visual arts, including knowledge and skills in the use of basic vocabularies, materials, tools, techniques, and thinking processes of each discipline.

**(d)** Create a classroom environment with exemplary works of art from a variety of cultures and historical periods and provide opportunities for students to discuss and respond to them.

**(e)** Demonstrate an understanding of motor skill development in young children and apply knowledge of age and developmentally appropriate psychomotor and cognitive activities.

**(f)** Create and use appropriate instructional cues and prompts for motor skills, rhythms, and physical activity.

**(g)** Apply an understanding of child development knowledge coupled with child performance data to make informed instructional decisions.

#### **I. Curriculum and content knowledge**

**(1)** Demonstrate skill in collaboration with professionals from other disciplines (e.g., mental health, psychology, speech and language) when planning curriculum and teaching strategies for young children with diverse abilities.

**(2)** Demonstrate an understanding and application of flexible teaching approaches that span a continuum from child-initiated to an adult-directed and from free exploration to scaffolded support or teacher modeling.

**(3)** Apply an understanding of young children's need for balance, order, depth, variety, and challenge through curriculum planning, routines, and scheduling (e.g., daily, weekly, and longer-term).

**(4)** Link child characteristics, needs, and interests with informal opportunities to build children's language, concept development, and skills.

**(5)** Apply knowledge to create environments that enrich and extend children's play including intervention strategies (i.e., questioning), respect of cultural diversity and gender equity.

**(6)** Support play in young children's learning and development from age three to grade 3.

**(7)** Demonstrate sound knowledge and skills in using technology as a teaching and learning tool.

**(8)** Demonstrate the ability to promote positive social interactions and engage children in learning activities while actively working to increase social and emotional competence of all children.

**(9)** Demonstrate the ability to analyze and critique early childhood curriculum experiences in terms of the relationship of the experiences to the research base and professional standards.

**(10)** Establish high-quality and meaningful language and pre-literacy experiences across the developmental continuum, using language, reading and writing to facilitate skill development while strengthening children's cultural identity.

**(11)** Demonstrate knowledge of second-language acquisition and bilingualism including the diversity of home language environments.

**(12)** Facilitate family involvement so that families are engaged with curriculum planning, assessing of children's learning, and planning for children's transitions to new programs.

**(13)** Demonstrate conceptual knowledge of the principles and standards derived from professional content organizations (zero to three, NAEYC, DEC) for curriculum-decision making.

**(14)** Demonstrate the use of reflective practice.

[6.61.12.10 NMAC - Rp, 6.61.12.10 NMAC, 8/1/2018]

## **CHAPTER 62: SCHOOL PERSONNEL - LICENSURE REQUIREMENTS FOR ADMINISTRATORS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: LICENSURE FOR EDUCATIONAL ADMINISTRATION, GRADES PRE K-12**

#### **6.62.2.1 ISSUING AGENCY:**

Public Education Department (PED).

[6-15-98; 7-30-99; 6.62.2.1 NMAC - Rn, 6 NMAC 4.2.3.18.1, 8-15-03; A, 6-15-06; A, 10-31-07]

#### **6.62.2.2 SCOPE:**

This rule governs licensure in educational administration, grades pre K-12, for those persons seeking such licensure.

[6-15-98; 6.62.2.2 NMAC - Rn, 6 NMAC 4.2.3.18.2, 8-15-03; A, 6-15-06]

#### **6.62.2.3 STATUTORY AUTHORITY:**

Sections 22-2-1, NMSA 1978, 22-2-2, 22-10A-11, and 22-10A-11.3 NMSA 1978.

[6-15-98; 6.62.2.3 NMAC - Rn, 6 NMAC 4.2.3.18.3, 8-15-03; A, 6-15-06; A, 01-29-10]

#### **6.62.2.4 DURATION:**

Permanent

[6-15-98; 6.62.2.4 NMAC - Rn, 6 NMAC 4.2.3.18.4, 8-15-03]

#### **6.62.2.5 EFFECTIVE DATE:**

June 15, 1998, unless a later date is cited in the history note at the end of a section.

[6-15-98; 6.62.2.5 NMAC - Rn, 6 NMAC 4.2.3.18.5 & A, 8-15-03]

#### **6.62.2.6 OBJECTIVE:**

This rule governs the requirements for New Mexico licensure for persons seeking licensure in educational administration, grades pre K-12, for those persons seeking such licensure on or after July 1, 1989.

[6-15-98; 6.62.2.6 NMAC - Rn, 6 NMAC 4.2.3.18.6, 8-15-03; A, 6-15-06]

#### **6.62.2.7 DEFINITIONS:**

**"Full school year"** means a minimum of 160 instructional days in a school year or 480 instructional days or equivalent number of days in schools or school districts on alternative schedules over multiple school years of full-time or part-time teaching during which the teacher is the teacher of record or serves as an instructional coach or resource teacher in at least one class each school year while holding a standard teaching license. An equivalent number of instructional hours may be accepted for those teachers who do not teach every day. Instructional days may include teaching in summer school or similar educational setting.

[6.62.2.7 NMAC - N, 10-31-07; A, 01-29-10]

#### **6.62.2.8 REQUIREMENTS FOR STANDARD LICENSURE:**

Persons seeking standard licensure in educational administration pursuant to the provisions of this rule shall meet the following requirements:

**A.** hold a level 2 teaching license and have met all of the requirements for a level 3-A teaching license in Subsection B of 6.60.6.9 NMAC, or hold a level 2 teaching license and for at least four years have held a level 3 school counselor license while working as a teacher or school counselor; and

**B.** hold a bachelor's degree and a post-baccalaureate degree from a regionally accredited college or university or hold current certification by the national board for professional teaching standards; and

**C.** have completed a PED approved administration apprenticeship program:

**(1)** at a college or university through an educational administration program consisting of a minimum of 180 clock hours for one calendar year to include time at the beginning and end of the school year; a passing grade on the apprenticeship will verify completion of this requirement; or

**(2)** under the supervision of a local school superintendent, private school official, charter school licensed administrator, or state agency educational administrator consisting of a minimum of 180 clock hours for one calendar year to include time at the beginning and end of the school year; the superintendent, school official or administrator will verify that the apprenticeship has met the PED's adopted competencies for educational administration; such verification will be considered completion of this requirement; and

**D.** a minimum of eighteen (18) semester hours of graduate credit in an educational administration program approved by the PED which addresses PED's approved functional areas and related competencies in educational administration; colleges and universities may offer these hours through their educational administration, educational leadership, public administration, business administration, or other appropriate departments; and

**E.** a candidate who applies for licensure in educational administration on or after the September, 2007 administration of the PED's specialty area licensure examinations shall take and pass the licensure test in administration as stated in 6.60.5 NMAC prior to the issuance of the license.

[6-15-98; 6.62.2.8 NMAC - Rn, 6 NMAC 4.2.3.18.8 & A, 8-15-03; A, 6-15-06; A, 10-31-07; A, 01-29-10]

#### **6.62.2.9 REQUIREMENTS FOR PROVISIONAL LICENSURE FOR SCHOOL PRINCIPALS AND ASSISTANT PRINCIPALS:**



**A.** A school district, charter school, private school or state agency school that has a shortage of qualified school principal or assistant principal candidates may request the PED to issue a provisional level 3-B license in educational administration to a candidate believed to be a potentially effective school leader; PED shall grant the request, if the candidate:

**(1)** has met all of the licensure and degree requirements in Subsections A and B of 6.62.2.8 NMAC; and

**(2)** is enrolled in a PED approved induction and mentoring program provided by the requesting school district, charter school, private school or state agency school, which presents high quality professional development that is sustained and intensive, and consists of structured guidance and regular ongoing support both before and throughout the time that the candidate serves as a principal or assistant principal under the provisional license; and

**(3)** has been accepted into a PED approved school administrator preparation program.

**B.** The provisional license is a four (4) year, non-renewable license which is valid only in the requesting school district, charter school, private school or state agency school that submitted the request on behalf of the candidate. In the event that a provisionally licensed principal or assistant principal transfers to another New Mexico school district, charter school, private school or state agency school and the new employer requires the transferred individual to provide services of a principal or assistant principal, that employer must request in writing that a successor provisional license be issued. Provided, however, that the expiration date of the successor provisional license shall not be extended beyond the initial expiration date of the provisional license.

**C.** PED may deny the provisionally licensed principal or assistant principal continuing licensure if the candidate fails to receive satisfactory evaluations annually from the mentoring program or from the administrator preparation program. If the candidate does not receive satisfactory mentoring evaluations, as determined by the school district, charter school, private school or state agency school or is not performing satisfactorily in the preparation program in school administration as determined by the administrator preparation institution, the district, school or institution shall report their findings and evidence of unsatisfactory performance to the PED. Failure to receive the described satisfactory evaluations shall constitute failure to meet continuing education requirements under of 6.68.2.9 NMAC, and may subject the candidate to denial of the provisional license.

**D.** At the end of the four (4) year effective period of the provisional license or when the candidate completes the mentoring program and school administrator preparation program, whichever occurs first, the candidate may be granted a standard level 3-B administrator license.

**6.62.2.10 REFERENCED MATERIAL:**

Administrator licensure competencies and indicators

**A.** Ethical leadership - The ethical school leader demonstrates the knowledge and ability to promote the success of educational community by acting with integrity, fairness, and in an ethical manner. The administrator:

- (1) models a respect for the rights of others with regard to confidentiality and dignity;
- (2) engages in honest interactions with all groups and individuals;
- (3) demonstrates the ability to combine objectivity, sensitivity, fairness and ethical considerations in decisions as well as interactions with others;
- (4) makes and explains decisions based upon ethical and legal principles;
- (5) understands the New Mexico code of ethics of the education profession;
- (6) demonstrates an understanding of major historical, philosophical, social and economic influences affecting education in a democratic society.

**B.** Visionary leadership - The visionary leader promotes the success of all students including students with disabilities and students who are culturally and linguistically diverse by facilitating the development, articulation, implementation and stewardship of learning that is shared and supported by the learning community. The administrator:

- (1) develops and demonstrates the skills needed to work with a board of education to facilitate the development of a vision of learning for a school district that promotes the success of all students including students with disabilities and students who are culturally and linguistically diverse;
- (2) bases development of the vision on relevant knowledge and theories applicable to school- level leaders applied to a school district context;
- (3) uses data-based research strategies to create a vision that takes into account the diversity of learners in a district;
- (4) demonstrates knowledge of ways to use a district's vision to mobilize additional resources to support the vision;
- (5) demonstrates the ability to articulate the components of this vision for a district and the leadership processes necessary to implement and support the vision;

**(6)** demonstrates the ability to use data- based research strategies and strategic planning processes that focus on student learning to develop a vision, drawing on relevant information sources such as student assessment results, student and family demographic data, and an analysis of community needs;

**(7)** demonstrates the ability to communicate the vision to school boards, staff, parents, students, and community members through the use of symbols, ceremonies, stories, and other activities;

**(8)** demonstrates the ability to plan programs to motivate staff, students, and families to achieve a school district's vision;

**(9)** designs research- based processes to effectively implement a district vision throughout an entire school district and community;

**(10)** demonstrates the ability to align and, as necessary, redesign administrative policies and practices required for full implementation of a district vision;

**(11)** understands the theory and research related to organizational and educational leadership and engage in the collection, organization, and analysis of a variety of information, including student performance data, required to assess progress toward a district's vision, mission, and goals;

**(12)** demonstrates the ability to bring together and communicate effectively with stakeholders within the district and the larger community concerning implementation and realization of the vision.

**C. Instructional leadership** - The instructional leader promotes the success of all students including students with disabilities and students who are culturally and linguistically diverse by maintaining a positive school culture, ensuring a successful instructional program, applying best practice to student learning, and designing comprehensive professional growth plans for staff. The administrator:

**(1)** develops a sustained approach to improve and maintain a positive district culture for learning that capitalizes on multiple aspects of diversity to meet the learning needs of all students including students with disabilities and students who are culturally and linguistically diverse;

**(2)** demonstrates an understanding of a variety of instructional research methodologies and can analyze the comparable strengths and weaknesses of each method;

**(3)** uses qualitative and quantitative data, appropriate research methods, technology, and information systems to develop a long-range plan for a district that assesses the district's improvement and accountability systems;

**(4)** demonstrates the ability to use and promote technology and information systems to enrich district curriculum and instruction, monitor instructional practices, and provide assistance to administrators who have needs for improvement;

**(5)** demonstrates the ability to allocate and justify resources to sustain the instructional program;

**(6)** demonstrates the ability to facilitate and engage in activities that use best practices and sound educational research to improve instructional programs;

**(7)** demonstrates an ability to assist school and district personnel in understanding and applying best practices for student learning;

**(8)** understands and applies human development theory, proven learning, and motivational theories, and concern for diversity to the learning process;

**(9)** understands how to use appropriate research strategies to profile student performance in a district and analyze differences among subgroups;

**(10)** demonstrates knowledge of adult learning strategies and the ability to apply technology and research to professional development design focusing on authentic problems and tasks, mentoring, coaching, conferencing, and other techniques that promote new knowledge and skills in the workplace;

**(11)** demonstrates the ability to use strategies such as observations and collaborative reflection to help form comprehensive professional growth plans with district and school personnel;

**(12)** develops personal professional growth plans that reflect commitment to life-long learning and best practices.

**D. Multicultural leadership** - The multicultural leader promotes the success of all students by addressing the needs of multicultural, multilingual diverse populations. The administrator:

**(1)** ensures that programs for linguistically and culturally diverse students are implemented and fully integrated into all district curricula and programs;

**(2)** disaggregates and analyzes student achievement data by home languages, race/ethnicity, gender and disability in order to ensure all students are learning;

**(3)** understands and facilitates that the cultural and community needs and concerns are adequately identified and integrated into the educational process;

- (4)** reviews the assessment process through collaborative efforts between school and community to ensure sensitivity to local cultural values and norms;
- (5)** facilitates the development of curriculum that values and uses the experiences that students from diverse backgrounds bring to the classroom;
- (6)** understands the need for administrators, teachers and all support staff to become familiar with the cultural and socio-linguistic background as well as the learning and behavior needs of their students;
- (7)** continually researches assessment and curricula that promotes a culturally diverse model for recognizing differences as strengths that are valuable and enriching for schools and school districts;
- (8)** facilitates staff development for school personnel to recognize, appreciate and value diversity in language, culture, and social class;
- (9)** understands the importance of addressing in all aspects of the education system the unique cultural and linguistically diverse (CLD) needs of students;
- (10)** ensures through policy development that students with language/cultural differences who may have a disability be identified early and as comprehensively as possible, within their appropriate cultural/language context;
- (11)** establishes or participates in a forum for parents, administrators and teachers to discuss school policies that fail to value or address cultural, linguistic and/or community needs;
- (12)** understands the need for schools to work with families to alter structural elements that maintain unjust practices within the schools.

**E. Disability leadership** - The disability leader promotes the success of all students by addressing the needs of students with disabilities. The administrator:

- (1)** ensures that programs for students with disabilities are implemented and fully integrated into all district curricula and programs;
- (2)** disaggregates and analyzes student achievement data by home languages, race/ethnicity, gender and disability in order to ensure all students are learning;
- (3)** understands and facilitates that the needs and concerns of students with disabilities are adequately identified and integrated into the educational process;

**(4)** reviews the assessment process through collaborative efforts between school and community to ensure the appropriate assessment of students with disabilities;

**(5)** facilitates the development of curriculum that values and uses the experiences that students with disabilities bring to the classroom;

**(6)** understands the need for administrators, teachers and all support staff to become familiar with the learning and behavior needs of their students with disabilities;

**(7)** continually researches assessment and curricula that promotes a variety of models that recognize differences as strengths that are valuable and enriching for schools and school districts;

**(8)** facilitates staff development for school personnel to recognize, appreciate and value students with disabilities;

**(9)** understands the importance of addressing in all aspects of the education system the unique needs of students with disabilities;

**(10)** ensures through policy development that students with language/cultural differences who may have a disability be identified early and as comprehensively as possible, within their appropriate cultural/language context.

**F. Leadership in community relations** - The leader in community relations has the knowledge and ability to promote the success of all students including students with disabilities and students who are culturally and linguistically diverse by collaborating with families and other community members, responding to diverse community interests and needs, and mobilizing community resources. The administrator:

**(1)** demonstrates the ability to facilitate the planning and implementation of programs and services that bring together the resources of families and the community to positively affect student learning;

**(2)** demonstrates an ability to use public information and research-based knowledge of issues and trends to collaborate with community members and community organizations to have a positive affect on student learning;

**(3)** applies an understanding of community relations models, marketing strategies and processes, data driven decision-making, and communication theory to craft frameworks for school, business, community, government, and higher education partnerships;

**(4)** demonstrates an ability to develop and implement a plan for nurturing relationships with community leaders and reaching out to different business, religious, political, and service organizations to strengthen programs and support district goals;

**(5)** demonstrates the ability to involve community members, groups, and other stakeholders in district decision-making, reflecting an understanding of strategies to capitalize on the district's integral role in the larger community;

**(6)** demonstrates the ability to collaborate with community agencies to integrate health, social, and other services in the schools to address student and family conditions that affect learning;

**(7)** demonstrates the ability to conduct community relations that reflects knowledge of effective media relations and that models effective media relations practices;

**(8)** facilitates and engages in activities that reflect an ability to inform district decision-making by collecting and organizing formal and informal information from multiple stakeholders;

**(9)** demonstrates the ability to promote maximum involvement with, and visibility within the community;

**(10)** demonstrates the ability to interact effectively with individuals and groups that reflect conflicting perspectives;

**(11)** demonstrates the ability to effectively and appropriately assess, research, and plan for diverse district and community conditions and dynamics and capitalize on the diversity of the community to improve district performance and student achievement;

**(12)** demonstrates the ability to advocate for students with special and exceptional needs;

**(13)** demonstrates an understanding of and ability to use community resources, including youth services that enhance student achievement, to solve district problems and accomplish district goals;

**(14)** demonstrates how to use district resources to the community to solve issues of joint concern;

**(15)** demonstrates an understanding of ways to use public resources and funds appropriately and effectively to encourage communities to provide new resources to address emerging student problems;

**(16)** understands the need for schools to work with families to alter structural elements that maintain unjust practices within the schools;

**(17)** facilitates for families to receive all information regarding school, district and state educational initiatives and decisions;

**(18)** ensures that parents are provided an accurate account of the history of educational reform so that they can become active participants in supporting or rejecting new policies.

**G. Political leadership** - The political leader has the knowledge and ability to promote the success of all students including students with disabilities and students who are culturally and linguistically diverse through their understanding of the political, economic, legal, and social climate that exists in school settings. The administrator:

**(1)** demonstrates the ability to use appropriate research methods, theories, and

concepts to improve district operations;

**(2)** demonstrates an understanding of the complex causes of poverty and other disadvantages and their effects on families, communities, children, and learning;

**(3)** demonstrates an understanding of the policies, laws, and regulations enacted by local, state, and federal authorities affecting a specific district;

**(4)** explains the system for financing public schools and its effects on the equitable distribution of educational opportunities within a district;

**(5)** demonstrates the ability to work with political leaders at the local, state, and national level;

**(6)** applies an understanding of how specific laws at the local, state, and federal level affect school districts and residents;

**(7)** espouses positions in response to proposed policy changes that would benefit or harm districts and explain how proposed policies and laws might improve educational and social opportunities for specific communities;

**(8)** demonstrates the ability to engage students, parents, members of the school board, and other community members in advocating for adoption of improved policies and laws;

**(9)** applies understanding of the larger political, social, economic, legal, and cultural context to develop activities and policies that benefit their district and its students;

**(10)** demonstrates the ability to communicate regularly with all segments of the district community concerning trends, issues, and policies affecting the district;

**(11)** demonstrates the ability to advocate for policies and programs that promote equitable learning opportunities and success for all students including students



with disabilities and students who are culturally and linguistically diverse regardless of socioeconomic background, ethnicity, gender, disability, or other individual characteristics.

**H. Legal and fiscal leadership** - The legal and fiscal leader promotes the success of all students including students with disabilities and students who are culturally and linguistically diverse by managing the organization, operations, and resources within a legally sound framework to promote a safe, efficient, and effective learning environment. The administrator:

- (1)** understands the state laws governing the relationship of school boards and superintendents;
- (2)** applies knowledge of the laws related to service providers;
- (3)** analyzes and applies knowledge of the major U.S. legal landmark decisions and their effect on school contexts;
- (4)** demonstrates the ability to use research-based knowledge of learning, teaching, student development, organizational development, and data management to optimize learning for all students including students with disabilities and students who are culturally and linguistically diverse;
- (5)** demonstrates effective organization of fiscal, human, and material resources, giving priority to student learning and safety, and demonstrating an understanding of district budgeting processes and fiduciary responsibilities;
- (6)** demonstrates an ability to manage time effectively and to deploy financial and human resources in a way that promotes student achievement;
- (7)** demonstrates the ability to involve stakeholders in aligning resources and priorities to maximize ownership and accountability;
- (8)** uses appropriate and effective needs assessment, research-based data, and group process skills to build consensus, communicate, and resolve conflicts in order to align resources with the district vision;
- (9)** develops staff communication plans for integrating district's schools and divisions;
- (10)** develops a plan to promote and support community collaboration among district personnel;
- (11)** uses problem-solving skills and knowledge of strategic, long-range, and operational planning (including applications of technology) in the effective, legal, and

equitable use of fiscal, human, and material resource allocation that focuses on teaching and learning;

(12) seeks new resources to facilitate learning;

(13) applies an understanding of school district finance structures and models to ensure that adequate financial resources are allocated equitably for the district;

(14) applies and assess current technologies for management, business procedures, and scheduling.

I. Personal and professional leadership - The personal and professional leader promotes the success of all students including students with disabilities and students who are culturally and linguistically diverse by maintaining a process of continuous personal and professional development. The administrator:

(1) keeps current with school district guidelines, policies, and professional literature that enhance the educational opportunities for all learners;

(2) nurtures and mentors the development of other educators;

(3) participates in local, state, and other professional learning opportunities;

(4) promotes leadership through active involvement in professional organizations;

(5) models life-long learning.

[6-15-98; 6.62.2.10 NMAC - Rn, 6 NMAC 4.2.3.18.10 & A, 8-15-03]

## **CHAPTER 63: SCHOOL PERSONNEL - LICENSURE REQUIREMENTS FOR ANCILLARY AND SUPPORT PERSONNEL**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: LICENSURE FOR SCHOOL NURSES, GRADES PRE K-12**

#### **6.63.2.1 ISSUING AGENCY:**

Public Education Department (PED).

[07-31-97; 07-30-99; 6.63.2.1 NMAC - Rn, 6 NMAC 4.2.3.1.1, 10-31-01; A, 06-15-06; A, 07-01-08]

#### **6.63.2.2 SCOPE:**

Chapter 63, Part 2, governs licensure for school nurses, grades pre K-12, for those persons seeking such licensure.

[07-31-97; 6.63.2.2 NMAC - Rn, 6 NMAC 4.2.3.1.2, 10-31-01; A, 06-15-06]

#### **6.63.2.3 STATUTORY AUTHORITY:**

Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978, and 22-10-A-17 NMSA 1978.

[07-31-97; 6.63.2.3 NMAC - Rn, 6 NMAC 4.2.3.1.3, 10-31-01; A, 06-15-06]

#### **6.63.2.4 DURATION:**

Permanent.

[07-31-97; 6.63.2.4 NMAC - Rn, 6 NMAC 4.2.3.1.4, 10-31-01]

#### **6.63.2.5 EFFECTIVE DATE:**

July 31, 1997.

[07-31-97; 6.63.2.5 NMAC - Rn, 6 NMAC 4.2.3.1.5, 10-31-01]

#### **6.63.2.6 OBJECTIVE:**

This rule establishes the requirements for three types of school nurse licensure for persons seeking licensure as an associate school nurse, a professional school nurse, or a supervisory school nurse.

[07-31-97; 6.63.2.6 NMAC - Rn, 6 NMAC 4.2.3.1.6, 10-31-01; A, 06-15-06]

#### **6.63.2.7 DEFINITIONS:**

[RESERVED]

#### **6.63.2.8 REQUIREMENTS:**

**A.** Persons seeking an associate school nurse license pursuant to the provisions of this rule shall meet the following requirements:

**(1)** associate's degree in nursing from a regionally accredited college or university or from an institution accredited by the national league of nursing or a diploma program in nursing accredited by the national league of nursing; and

(2) a valid New Mexico registered nurse license issued by the New Mexico board of nursing or any successor licensing board for nurses or license from another state based on current compact state license according to New Mexico nursing board rule, 16.12.2 NMAC.

**B.** Persons seeking a professional school nurse license pursuant to the provisions of this rule shall meet the following requirements:

(1) bachelor's degree in nursing or in a health related field from a regionally accredited college or university or from an institution accredited by the national league of nursing; and

(2) a valid New Mexico registered nurse license issued by the New Mexico board of nursing or any successor licensing board for nurses or license from another state based on current compact state license according to New Mexico nursing board rule, 16.12.2 NMAC.

**C.** Persons seeking a supervisory school nurse license pursuant to the provisions of this rule shall meet the following requirements:

(1) master's degree in nursing or in a health related field from a regionally accredited college or university or from an institution accredited by the national league of nursing; and

(2) a valid New Mexico registered nurse license issued by the New Mexico board of nursing or any successor licensing board for nurses or license from another state based on current compact state license according to New Mexico nursing board rule, 16.12.2 NMAC.

[07-31-97; 6.63.2.8 NMAC - Rn, 6 NMAC 4.2.3.1.8, 10-31-01; A, 9/30/03; A, 06-15-06; A, 07-01-08]

#### **6.63.2.9 IMPLEMENTATION:**

**A.** All persons holding a valid New Mexico license for school nurses on the day that this rule is effective and who meet the provisions of Subsection A, Paragraphs (1) and (2) of 6.63.2.8 NMAC shall be entitled to licensure as an associate school nurse.

**B.** All persons holding a valid New Mexico license for school nurses on the day that this rule is effective and who meet the provisions of Subsection B, Paragraphs (1) and (2) of 6.63.2.8 NMAC shall be entitled to licensure as a professional school nurse.

**C.** All persons holding a valid New Mexico license for school nurses on the day that this rule is effective and who meet the provisions of Subsection C, Paragraphs (1) and (2) of 6.63.2.8 NMAC shall be entitled to licensure as a supervisory school nurse.

[07-31-97; 6.63.2.9 NMAC - Rn, 6 NMAC 4.2.3.1.9, 10-31-01]

#### **6.63.2.10 CONTINUING SCHOOL NURSE LICENSURE:**

Persons holding a valid level 1 associate, professional, or supervisory school nurse license and seeking a level 2 associate or professional school nurse license or a level 3 supervisory school nurse license; persons holding a valid level 2 associate or professional school nurse license and seeking continuation of the level 2 license; and persons holding a level 3 supervisory license and seeking continuation of the level 3 license shall meet the following requirements:

**A.** a completed application for continuing New Mexico licensure shall be submitted to the director of professional licensure;

**B.** a copy of a valid registered nurse license shall be submitted with the application for continuing New Mexico licensure; and

**C.** the superintendent of the local school district or the governing authority of the state institution or private school by which the applicant has been most recently employed as of the date of application for continuing licensure must submit verification that the applicant has satisfactorily demonstrated the competencies for school nurses for the level and type of school nurse license sought.

[07-31-97; 6.63.2.10 NMAC - Rn, 6 NMAC 4.2.3.1.10, 10-31-01]

#### **6.63.2.11 REFERENCED MATERIAL:**

##### **A. Competencies for associate school nurses**

**(1)** In collaboration with educational staff and others, the associate school nurse establishes and manages a coordinated school health program under the direction of a nurse supervisor consistent with New Mexico guidelines, regulations, and statutes governing nursing and school health, as well as local school district policy by:

**(a)** consulting with the school administrators, physicians and others to establish, review and revise policies, procedures and specific programs for coordinated school health education and services; performance of this task requires clinical supervision;

**(b)** assisting in the development of a needs assessment procedure and data collection procedure, as well as a plan to evaluate health services; also prepares regular written reports for school officials and state agencies; performance of this task requires clinical supervision;

**(c)** implementing state mandated programs such as immunization surveillance and health screening programs;

**(d)** facilitating the orientation, training, supervision, and evaluation of health assistant personnel as needed to provide a safe level of health services and to comply with the N.M. Nurse Practice Act and other relevant statutes and regulations;

**(e)** developing effective methods of documentation and a coordinated school health record system;

**(f)** assisting in the prevention of communicable diseases in the school by providing necessary school-based education and interventions in collaboration with and under the direction of the local health authority and the professional school nurse;

**(g)** promoting positive safety practices both within and outside of school buildings, and participating in the development of an emergency plan which is communicated to personnel and students;

**(h)** interpreting school health service needs and the role of the school nurse to the school and community; also serves on school health advisory committees as appropriate;

**(i)** participating in the planning for health in-service programs for school personnel;

**(2)** Using the nursing process, the associate school nurse plans and implements health care in collaboration with educational staff, families, and students by:

**(a)** collecting information about the health and developmental status of students, staff, and families in a continuous and systematic manner, including health and social histories, screening results, physical assessments, emotional status, performance levels and health goals;

**(b)** developing and implementing student health management plans;

**(c)** providing for medically prescribed interventions, including medication administration and medical/nursing treatments and/or arranging for the standard care of ill and injured students and staff members as needed;

**(d)** responding to health issues, providing preliminary counseling and crisis intervention, and providing reference services in areas such as teen pregnancy, substance abuse, death of family members, suicide, and child neglect or abuse when required;

**(e)** managing communicable disease issues in the school by providing school-based education and interventions in collaboration with and under the direction of the local health authority, and pursuant to appropriate federal regulations and guidelines;

**(f)** assessing student response to nursing actions in order to revise the database as needed, nursing diagnoses and nursing care plans and to determine the progress made toward goal achievement.

**(3)** The associate school nurse collaborates with other professionals, team members, and community providers in assessing, planning, implementing, and evaluating programs and other school health activities in order to maximize and coordinate services and prevent duplication by:

**(a)** establishing a process to identify students at risk for physical and psychosocial problems, communicating health needs to other school personnel as appropriate and establishing a referral system using both internal and community resources;

**(b)** participating as a team member and, with parental consent when indicated, sharing information with other team members about student health problems and needs; also acting as an advocate for students and families when appropriate;

**(c)** including students and families in team conferences whenever possible and appropriate;

**(d)** identifying health-related needs for inclusion in the student's individual education plan and developing the health management plan if appropriate;

**(e)** serving as a member of pertinent committees and teams such as the school district's long-range strategic planning committee, special education committee, intervention committee, crisis intervention team, and support groups for students;

**(f)** participating in the planning, implementation, evaluation, and acting as the leader in the ongoing operation of school-based health centers if appropriate. Performance of this task requires clinical supervision;

**(g)** participating in the planning and implementation of staff and student health promotion and wellness programs;

**(h)** working with community agencies addressing school/community health care needs.

**(4)** The associate school nurse applies nursing theory as the basis for decision-making in the school setting while expanding knowledge and skills in response to student health needs by:

**(a)** demonstrating current knowledge in such areas as:

**(i)** professional issues in school nursing;

- (ii) school and community health;
- (iii) communicable disease control;
- (iv) growth and development;
- (v) health assessment;
- (vi) acute and chronic health conditions;
- (vii) injury prevention and emergency care;
- (viii) student issues;
- (ix) legal/ethical health policy;

(b) participating, where appropriate, in pilot projects/research projects related to school health;

(c) collaborating with local schools of nursing to provide student practice in community health as well as to obtain nursing education resources;

(d) assuming responsibility for continuing her/his own education and obtaining expert consultation, supervision and peer review as needed.

#### **B. Competencies for professional school nurses**

(1) In collaboration with educational staff and others, the professional school nurse establishes and manages a coordinated school health program consistent with New Mexico guidelines, regulations and statutes governing nursing and school health, as well as local school district policy by:

(a) consulting with the school administrators, physicians and others to establish, review and revise policies, procedures and specific programs for coordinated school health education and services;

(b) developing a needs assessment procedure and data collection procedure, as well as a plan to evaluate health services; also preparing regular written reports for school officials and state agencies;

(c) organizing and implementing state-mandated programs such as immunization surveillance and health screening programs;

(d) facilitating the orientation, training, supervision, and evaluation of health assistant personnel as needed to provide a safe level of health services and to comply with the NM Nurse Practice Act and other relevant statutes and regulations;



**(e)** developing effective methods of documentation and a coordinated school health record system;

**(f)** developing programs for communicable disease prevention and infection control based on current guidelines for universal precautions, prevention of blood borne pathogens exposure and hazardous medical waste disposal;

**(g)** promoting positive safety practices both within and outside of school buildings and participating in the development of an emergency plan which is communicated to personnel and students;

**(h)** interpreting school health service needs and the role of the school nurse to the school and community; also serving on school health advisory committees as appropriate.

**(2)** Using the nursing process, the professional school nurse plans and implements health care in collaboration with educational staff, families, and students by:

**(a)** collecting and analyzing information about the health and developmental status of students, staff, and families in a continuous and systematic manner, including health and social histories, screening results, physical assessments, emotional status, performance levels and health goals;

**(b)** developing a nursing diagnosis and student health management plan with specific goals and interventions delineating school nursing actions specific to student needs and coordinated with the efforts of other providers and school personnel; also implementing this plan in a manner aimed at improving health and educational status;

**(c)** providing for medically prescribed interventions, including medication administration and medical/nursing treatments and arranging for the standard care of ill and injured students and staff members as needed;

**(d)** responding to health issues, providing counseling and crisis intervention when required in areas such as teen pregnancy, substance abuse, death of family members, suicide, and child neglect or abuse;

**(e)** managing communicable disease issues in the school by providing school-based education and interventions in collaboration with and under the direction of the local health authority, and pursuant to appropriate federal regulations and guidelines;

**(f)** assessing student response to nursing actions in order to revise the database as needed, nursing diagnoses and nursing care plan and to determine the progress made toward goal achievement.

**(3)** The professional school nurse collaborates with other professionals, team members, and community providers in assessing, planning, implementing and evaluating programs and other school health activities in order to maximize and coordinate services and prevent duplication by:

**(a)** establishing a process to identify students at risk for physical and psychosocial problems, communicating health needs to other school personnel as appropriate and establishing a referral system using both internal and community resources;

**(b)** participating as a team member and, with parental consent when indicated, sharing information with other team members about student health problems and needs; also acting as an advocate for students and families when appropriate;

**(c)** including students and families in team conferences whenever possible and appropriate;

**(d)** identifying health-related needs for inclusion in the student's individual education plan and developing the health management plan if appropriate;

**(e)** serving as a member of pertinent committees and teams such as the school district's long range strategic planning committee, special education committee, intervention committee, crisis intervention team, and support groups for students;

**(f)** participating in the planning, implementation and evaluation of school-based health centers, and acting as the leader of these centers if appropriate;

**(g)** participating in the planning and implementation of staff and student health promotion and wellness programs;

**(h)** working with community agencies addressing school/community health care needs.

**(4)** The professional school nurse assists students, families, and staff to achieve optimal levels of wellness through health education and promotion by:

**(a)** identifying needs for health education and teaching the basic principles of health promotion and disease prevention to students and staff, using principles of learning and appropriate teaching methods;

**(b)** participating in the planning of health in-service programs for school personnel;

**(c)** acting as a resource person to health education programs and classes and to the curriculum committee for health education.

**(5)** The professional school nurse participates with other members of the community in assessing, planning, implementing, and evaluating school health services and community services which include the broad continuum of primary, secondary, and tertiary prevention programs by:

**(a)** serving as a member of the school team which assesses the health/social aspects of the school district's long-range strategic plan;

**(b)** using community and population-based data;

**(c)** understanding and applying core public health functions of assessment, policy development, evaluation, and assurance;

**(d)** using community resources for referral of students with unmet health needs, including the need for a primary care provider; participating in the planning and implementation of new services;

**(e)** working with the community to convey health information and acting as an advocate for the role of the school health program in promoting the health of the student population.

**(6)** The professional school nurse applies nursing theory as the basis for decision-making in the school setting while expanding knowledge and skills in response to student health needs by:

**(a)** demonstrating current knowledge in such areas as:

**(i)** professional issues in school nursing

**(ii)** school and community health

**(iii)** communicable disease control

**(iv)** growth and development

**(v)** health assessment

**(vi)** acute and chronic health conditions

**(vii)** injury prevention and emergency care

**(viii)** student issues

**(ix)** legal/ethical health policy

**(b)** participating, where appropriate, in pilot projects/research projects related to school health;

**(c)** collaborating with local schools of nursing to provide student practice in community health as well as to obtain nursing education resources;

**(d)** assuming responsibility for continuing her/his own education and obtaining expert consultation, supervision and peer review as needed.

### **C. Competencies for supervisory school nurses**

**(1)** In collaboration with educational staff and others, the supervisory school nurse provides leadership in the establishment and management of a coordinated school health program consistent with New Mexico guidelines, regulations and statutes governing nursing and school health, as well as local school district policy by:

**(a)** using available demographic, health and school system data, to identify health needs of the student population;

**(b)** developing surveys, questionnaires and other tools for obtaining information;

**(c)** developing program goals, objectives and action steps based on needs assessment;

**(d)** assuming leadership in the establishment of a school health service advisory committee with representation from such groups as school administration, faculty, students, parents, and community providers;

**(e)** coordinates planning with interdisciplinary colleagues at the national, state, and local levels, in the coordinated school health education and human services program;

**(f)** preparing and administering the health services budget; seeking opportunities to apply for outside sources of funding for the school health service program.

**(2)** Using the nursing process, the supervisory school nurse provides leadership in the planning and implementation of health care in collaboration with educational staff, families and students by:

**(a)** employing, orienting and assigning qualified personnel to implement the school health program as appropriate;

**(b)** implementing communication systems which promote participatory management;

**(c)** participating in the development of an interdisciplinary plan for each building to ensure that students in need of services are identified in a timely manner and that appropriate intervention is initiated;

**(d)** developing and implementing written policies and procedures for the clinical services and programs addressing health issues such as immunizations, medication administration, services for children with special health care needs, school-wide injury prevention programs, special programs such as groups addressing eating disorders, smoking cessation and violence prevention;

**(e)** developing and implementing documentation systems at both the individual student level and programmatic level;

**(f)** providing clinical consultation to the health education staff, physical educators, and other administrative and teaching staff;

**(g)** participating in interdisciplinary teams such as the crisis team and child abuse team, to ensure that integrated systems are in place which address the coordinated health needs of the student population;

**(h)** carrying out communicable disease prevention and infection control based on current guidelines for universal precautions, prevention of blood borne pathogens exposure and hazardous medical waste disposal;

**(i)** assisting in the development of a district emergency care plan;

**(j)** collaborating with other school administrators and teachers to promote a physically and psychologically healthy school environment;

**(k)** promoting positive linkages and referral mechanisms to community providers for a range of services related to student health;

**(l)** seeking opportunities to interpret the health needs of school-age children and adolescents, the goals of the health service program, and the importance of health education to administrators, school committee members, faculty, families, and the general community through special reports, the media, health fairs and other special events.

**(3)** The supervisory school nurse participates with other members of the community in assessing, planning, implementing and evaluating school health services and community health services which include the broad continuum of primary, secondary and tertiary prevention programs by:

**(a)** compiling statistical reports as required by the school system and state agencies;

**(b)** evaluating nursing and other health service staff;

**(c)** evaluating and making recommendations with regard to changing trends in health service staffing;

**(d)** evaluating and making recommendations with regard to changing trends in health needs and program outcomes to determine need for revision of goals and objectives;

**(e)** assessing liability issues.

**(4)** The supervisory school nurse collaborates with other professionals, team members and community providers in assessing, planning, implementing and evaluating programs and other school health activities in order to maximize and coordinate services and prevent duplication by:

**(a)** implementing an ongoing continuing education program for all staff;

**(b)** encouraging staff to participate in pertinent conferences and workshops addressing a range of school health issues;

**(c)** providing ongoing formal and informal feedback to staff about their progress in achieving goals of the program and encouraging their continued educational and professional development;

**(d)** understanding and applying core public health functions of assessment, policy development, evaluation, and assurance.

**(5)** The supervisory school nurse applies nursing theory and core public health theory as the basis for decision-making in the school setting while expanding knowledge and skills in response to student health needs by:

**(a)** demonstrating current knowledge in such areas as:

**(i)** professional issues in school nursing;

**(ii)** school and community health;

**(iii)** communicable disease control;

**(iv)** growth and development;

**(v)** health assessment;

**(vi)** acute and chronic health conditions;

(vii) injury prevention and emergency care;

(viii) student issues;

(ix) legal/ethical health policy;

(b) participating, where appropriate, in pilot projects/research projects related to school health;

(c) collaborating with local schools of nursing to provide student practice in community health as well as to obtain nursing education resources;

(d) assuming responsibility for continuing her/his own education and obtaining expert consultation, supervision and peer review as needed;

(e) collaborating with local nursing education institutions in providing student practice in the school health programs, guest lecturers and the opportunity to participate in nursing research; seeking opportunities to give consultation on the specific issues of school-age children and adolescents; publishing when possible.

[07-31-97; 6.63.2.11 NMAC - Rn, 6 NMAC 4.2.3.1.11, 10-31-01]

### **PART 3: LICENSURE FOR INSTRUCTIONAL SUPPORT PROVIDERS PRE K-12 NOT COVERED IN OTHER RULES**

#### **6.63.3.1 ISSUING AGENCY:**

Public Education Department (PED).

[11-14-98, 07-30-99; 6.63.3.1 NMAC - Rn, 6 NMAC 4.2.3.8.1, 03-31-01; A, 08-31-04; A, 10-31-07]

#### **6.63.3.2 SCOPE:**

All persons seeking related service licensure on or after July 1, 1989.

[11-14-98; 6.63.3.2 NMAC - Rn, 6 NMAC 4.2.3.8.2 & A, 03-31-01]

#### **6.63.3.3 STATUTORY AUTHORITY:**

Sections 22-1-2(F), NMSA 1978, 22-2-2, NMSA 1978, and 22-10A-17, NMSA 1978 (being Laws 2003, Chapter 153, Section 48, as amended).

[11-14-98; 6.63.3.3 NMAC - Rn, 6 NMAC 4.2.3.8.3, 03-31-01; A, 08-31-04]

#### **6.63.3.4 DURATION:**

Permanent.

[11-14-98; 6.63.3.4 NMAC - Rn, 6 NMAC 4.2.3.8.4, 03-31-01]

#### **6.63.3.5 EFFECTIVE DATE:**

November 14, 1998, unless a later date is cited in the history note at the end of a section.

[11-14-98; 6.63.3.5 NMAC - Rn, 6 NMAC 4.2.3.8.5 & A, 03-31-01]

#### **6.63.3.6 OBJECTIVE:**

This rule governs licensure of instructional support providers for those persons seeking such licensure on or after July 1, 1989.

[11-14-98; 6.63.3.6 NMAC - Rn, 6 NMAC 4.2.3.8.6 & A, 03-31-01; A, 08-31-04; A, 06-30-06]

#### **6.63.3.7 DEFINITIONS:**

**A. "Instructional support providers"** formerly referred to as related service or ancillary providers, shall mean anyone who provides services for a public school or state institution as an educational assistant, school counselor, school social worker, school nurse, speech-language pathologist, psychologist, physical therapist, physical therapy assistant, occupational therapist, marriage and family therapist, occupational therapy assistant, recreational therapist, signed language interpreter, educational, alcohol and drug abuse counselor, substance abuse associate and other service providers who are employed to support the instructional program of a school district or charter school.

**B. "Full school year"** in this rule means a minimum of 160 service days in a school year or 480 service days or equivalent number of days in schools or school districts on alternative schedules over multiple school years of full-time or part-time service while holding a standard instructional support provider license in the provider's service area. An equivalent number of service hours may be accepted for those providers who do not work every day. Service days may include working in summer school or similar educational settings.

[6.63.3.7 NMAC - N, 08-31-04; A, 06-30-06; A, 10-31-07; A, 06-15-09; A, 01-29-10]

#### **6.63.3.8 REQUIREMENTS:**

All persons who perform any duties as instructional support provider identified in Subsections A through H of this section in public schools, including charter schools, or in those special state-supported schools within state agencies, must hold valid licensure issued by the PED. A person seeking an initial, instructional support provider license shall



file a completed application for an initial license with the professional licensure bureau ("PLB") of the PED, and shall provide a copy of their current license from their respective licensing authority or a copy of any optional certification listed below, and an official transcript of their coursework. A person seeking instructional support provider licensure shall hold the licensure or certification issued by the named authority as follows:

**A.** Interpreter for the deaf: Obtain community signed language interpreter license, educational signed language interpreter license, or provisional signed language interpreter license from signed language interpreting practices board.

**B.** Orientation and mobility specialists:

(1) obtain certification from the association for education and rehabilitation of the blind and visually impaired, or

(2) obtain certification from the academy for certification of vision rehabilitation and education professionals.

**C.** Physical therapist: Obtain licensure from the New Mexico physical therapy licensing board.

**D.** Occupational therapist:

(1) obtain licensure from the New Mexico occupational therapy licensing board; or

(2) obtain certification from the American occupational therapy certification board.

**E.** Certified occupational therapy assistant:

(1) obtain licensure from the New Mexico occupational therapy licensing board; or

(2) obtain certification from the American occupational therapy certification board.

**F.** Physical therapy assistant: obtain licensure from the New Mexico physical therapists licensing board.

**G.** Recreational therapist: obtain national council for therapeutic recreation certification.

**H.** Marriage and family therapist: obtain licensure from the New Mexico counseling and therapy practices board.

**I.** Speech language pathologist: obtain licensure from the New Mexico speech language pathology and audiology board.

**J.** Alcohol abuse counselor: obtain licensure from the New Mexico counseling and therapy practices board.

**K.** Drug abuse counselor: obtain licensure from the New Mexico counseling and therapy practices board.

**L.** Alcohol and drug abuse counselor: obtain licensure from the New Mexico counseling and therapy practices board.

**M.** Substance abuse associate: obtain licensure from the New Mexico counseling and therapy practices board.

[11-14-98; 6.63.3.8 NMAC - Rn, 6 NMAC 4.2.3.8.8 & A, 03-31-01; A, 08-15-03; A, 08-31-04; A, 06-30-06; A, 10-31-07; A, 06-15-09; A, 01-29-10]

#### **6.63.3.9 IMPLEMENTATION:**

Endorsements in bilingual education and teaching English to speakers of other languages may be added to the speech language pathologist license if the candidate meets the requirements for those endorsements.

[11-14-98; 6.63.3.9 NMAC - Rn, 6 NMAC 4.2.3.8.9 & A, 03-31-01; A, 08-31-04; A, 06-30-06; A, 06-15-09]

#### **6.63.3.10 LEVELS AND DURATION OF LICENSURE:**

**A.** Licensure levels for instructional support provider applicants covered by this rule shall be issued as follows:

**(1)** level 1, three-year provisional licensure for those providers with fewer than three full school years of school experience in the service area of the license;

**(2)** level 2, nine-year professional licensure for those providers with three to five full school years of school experience in the service area of the license; and

**(3)** level 3, nine-year instructional support leader, for those providers with six or more full years of school experience in the service area of the license.

**B.** All renewed licenses shall be level 2 or 3 licenses and shall be valid for nine (9) years.

**C.** Regardless of their level, all instructional support provider licenses shall commence on July 1st in the year of issuance and expire June 30th in the year of their expiration.

[6.63.310 NMAC - N, 03-31-01; A, 08-31-04; A, 06-15-09]

**6.63.3.11 NOTIFICATION REQUIREMENT:**

All persons issued an instructional support provider license by the secretary who are also required to hold a valid license or certificate issued by their respective licensing or certifying authority, shall continuously hold such underlying licensure or certification for so long as they hold licensure issued by the secretary.

**A.** Should this underlying professional license or certificate expire, be suspended, or revoked, or its renewed or initial issuance denied, a person seeking or holding instructional service provider licensure from the secretary shall notify the local school superintendent and PLB in writing within fourteen (14) calendar days of such suspension, revocation, denial, or expiration.

**B.** Suspension, revocation, denial or expiration of an underlying professional license or certificate shall constitute just cause for discharge or termination from employment, and for suspension, revocation or denial of renewed or initial issuance of an instructional support provider license.

[6.63.3.11 NMAC - N, 08-31-04; A, 06-15-09]

**PART 4: LICENSURE IN EDUCATIONAL DIAGNOSIS PRE K-12**

**6.63.4.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.63.4.1 NMAC - Rp, 6.63.4.1 NMAC, 11-30-05; A, 06-15-09]

**6.63.4.2 SCOPE:**

All persons seeking licensure in educational diagnosis.

[6.63.4.2 NMAC - Rp, 6.63.4.2 NMAC, 11-30-05]

**6.63.4.3 STATUTORY AUTHORITY:**

Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978, and 22-10A-17 NMSA 1978.

[6.63.4.3 NMAC - Rp, 6.63.4.3 NMAC, 11-30-05; A, 06-30-06]

#### **6.63.4.4 DURATION:**

Permanent.

[6.63.4.4 NMAC - Rp, 6.63.4.4 NMAC, 11-30-05]

#### **6.63.4.5 EFFECTIVE DATE:**

November 30, 2005, unless a later date is cited in the history note at the end of a section.

[6.63.4.5 NMAC - Rp, 6.63.4.5 NMAC, 11-30-05]

#### **6.63.4.6 OBJECTIVE:**

This rule establishes the licensure requirements for persons seeking licensure in educational diagnosis.

[6.63.4.6 NMAC - Rp, 6.63.4.6 NMAC, 11-30-05; A, 06-30-06]

#### **6.63.4.7 DEFINITIONS:**

**A. "Level 1 licensure"** means a provisional license in educational diagnosis granted for five (5) years. The license is nonrenewable unless the license holder verifies to the PED that they have not worked using the license during its effective dates and provides evidence of current employment as an educational diagnostician.

**B. "Level 2 licensure"** means a renewable nine (9) year license in educational diagnosis awarded after successful completion of at least three (3) full school years at level 1 educational diagnostician licensure and including documentation of professional development requirements and verification by the superintendent or the governing authority of a private school or state institution that the individual is meeting level 1 competencies and is capable of demonstrating the competencies at level 2.

**C. "Level 3 licensure"** means a renewable nine (9) year license in educational diagnosis awarded after successful completion of at least three (3) full school years at level 2 educational diagnostician licensure and including documentation of completion of supervised experience requirements and verification by the superintendent or the governing authority of a private school or state institution that the individual is meeting level 2 competencies and is capable of demonstrating the competencies at level 3.

**D. "Supervision for an entry-level educational diagnostician"** means a level 1 educational diagnostician will be required to have a minimum of one-hour per week individual supervision with a level 3 licensed educational diagnostician.

**E. Satisfactory experience** means the individual has:

(1) satisfactorily carried out the duties and responsibilities of the position as verified by the superintendent or the governing authority of a private school or state institution, and

(2) satisfactorily met the quality of the practice of educational diagnosis and professional responsibilities as reported by the supervising educational diagnostician.

**F. "New Mexico diagnostician examination"** means a comprehensive examination that evaluates the knowledge and competencies which must be passed no later than the end of the first year of level 1 licensure.

**G. "Full school year"** means a minimum of 160 days in a school year or 480 days over multiple school years or equivalent number of days in school districts on alternative schedules of full-time or part-time educational diagnostician work, including summer work in a variety of educational settings. An equivalent number of hours may be accepted for those educational diagnosticians who do not work every day.

[6.63.4.7 NMAC - Rp, 6.63.4.7 NMAC, 11-30-05; A, 06-30-06; A, 06-15-09]

#### **6.63.4.8 REQUIREMENTS FOR PERSONS SEEKING LEVEL 1 EDUCATIONAL DIAGNOSIS LICENSURE:**

All persons who perform services in educational diagnosis in public schools or in those special state-supported schools within state agencies, must hold a valid, educational diagnosis licensure issued by the PED. Persons seeking level 1 licensure in educational diagnosis pursuant to the provisions of this rule shall meet the following requirements:

**A.** bachelor's degree and master's degree from a regionally accredited college or university; and

**B.** 30 graduate hours, which may be completed as a part of the master's degree program or in addition to the master's, meeting the applicable program requirements as follows:

(1) the 30 graduate hours, if awarded by a New Mexico college or university, must be from an educational diagnostic or school psychology program approved by the PED and include an internship as follows:

(a) 240 hours, if the applicant began a program in education diagnosis prior to July 1, 2006;

(b) 300 hours, if the applicant began a program in education diagnosis on or after July 1, 2006; or

(2) the 30 graduate hours awarded by a college or university outside New Mexico must be from an educational diagnostic or school psychology program accepted

by the PED and include an internship as provided in Paragraph (1) of Subsection B of 6.63.4.8 NMAC; and

(3) all persons previously licensed as educational diagnosticians or special education teachers may substitute two years of verified, successful employment as educational diagnosticians or special education teachers for these requirements if a diagnostic internship was not part of their educational program; and

C. background experience to be met by:

(1) holding a valid New Mexico teaching license, counseling license, or professional licensure in another area of instructional support; or

(2) demonstrating three (3) years of documented, verified satisfactory experience in one or a combination of the following areas: work in community-based programs serving children or adults with special needs or developmental disabilities; mental health work related to educational diagnosis; clinical practice related to educational diagnosis; vocational evaluation; or teaching; and

D. a candidate who applies for licensure as an educational diagnostician on or after the September, 2007 administration of the PED's specialty area licensure examinations shall take and pass the content knowledge assessment for educational diagnostician as stated in 6.60.5.8 NMAC, or hold national certification from the national association of school psychologists (NASP) or from the council for educational diagnostician services (CEDS) prior to the issuance of the license.

[6.63.4.8 NMAC - Rp, 6.63.4.8 NMAC, 11-30-05; A, 06-30-06; A, 06-15-09]

#### **6.63.4.9 REQUIREMENTS FOR PERSONS SEEKING LEVEL 2 EDUCATIONAL DIAGNOSIS LICENSURE:**

Persons seeking level 2 educational diagnosis licensure shall meet the following requirements:

A. hold a valid level 1 license in education diagnosis for at least three (3) full school years; and

B. demonstrate the educational diagnostician competencies as verified by the superintendent or the governing authority of a private school or state institution; and

C. satisfactory completion of 1200 hours of supervised experience as an educational diagnostician (i.e., minimum of 400 internship hours and 800 post internship supervised hours in a school-related setting).

[6.63.4.9 NMAC - Rp, 6.63.4.9 NMAC, 11-30-05; A, 06-15-09]

#### **6.63.4.10 REQUIREMENTS FOR PERSONS SEEKING LEVEL 3 EDUCATIONAL DIAGNOSIS LICENSURE:**

Persons seeking level 3 educational diagnosis licensure shall meet the following requirements:

- A.** hold a valid level 2 license in education diagnosis for at least three (3) full school years; and
- B.** demonstrate the educational diagnostician competencies as verified by the superintendent or the governing authority of a private school or state institution;
- C.** successfully complete 600 hours of mentorship in educational diagnosis in a school-related setting.

[6.63.4.10 NMAC - N, 11-30-05; A, 06-15-09]

#### **6.63.4.11 REFERENCED MATERIAL:**

Competencies for educational diagnosticians

**A.** Professional knowledge required for the preparation of educational diagnosticians for all licensure levels:

- (1)** Professional demeanor:
  - (a)** demonstrate knowledge of models and strategies of consultation and collaboration;
  - (b)** demonstrate knowledge of roles of individuals with exceptional learning needs, families, and school, community personnel in planning of an individualized program;
  - (c)** describe issues and problems faced by parents of exceptional children;
  - (d)** demonstrate knowledge of culturally responsive factors that promote effective communication and collaboration with individuals with exceptional learning needs, families, and school personnel, and community members;
  - (e)** demonstrate knowledge of common service delivery models;
  - (f)** demonstrate knowledge of state rules and federal regulations and ability to communicate these rules and regulations and due process rights to parents, teachers, and other professionals (eg., IDEA, Individuals With Disabilities Education Act), Section 504 of the Rehabilitation Act; New Mexico Standards for Excellence, and the No Child Left Behind Act;

**(g)** demonstrate knowledge of community resources available to parents;

**(h)** demonstrate knowledge of and ability to describe rationale for least restrictive environment considerations;

**(i)** demonstrate knowledge of and need for related services and related service delivery options;

**(j)** demonstrate skill in making recommendations to facilitate integration into the general education curriculum.

**(2)** Development and characteristic of learners:

**(a)** demonstrate knowledge of exceptionalities and ability to define/discuss them:

**(i)** exceptionalities and eligibility criteria as delineated in federal, state, and local regulations;

**(ii)** general nature and etiology of disabilities and learning styles of students with various disabilities;

**(b)** demonstrate knowledge of the range of individual abilities within categories of exceptionalities and:

**(i)** typical and atypical human growth and development in the areas of motor, language, social-emotional, and cognitive development;

**(ii)** educational implications of characteristics of various exceptionalities;

**(iii)** describe current theories of learning;

**(c)** demonstrate awareness of the following medical variables:

**(i)** common medical syndromes (and their characteristics) that impact learning;

**(ii)** etiology of common medical syndromes;

**(iii)** effects of various medications on individuals with exceptional learning needs.

**(3)** Culturally and linguistically diverse populations:



**(a)** demonstrate knowledge and sensitivity to address linguistic, cultural, social, and ethnic values and attitudes of diverse populations;

**(b)** identify characteristics and needs as related to cultural and linguistic differences;

**(c)** demonstrate skills in selecting and administering appropriate assessment instruments;

**(d)** demonstrate skill in utilizing language background, language dominance and language proficiency in the assessment process;

**(e)** demonstrate understanding of the impact of acculturation on learning and language acquisition;

**(f)** demonstrate knowledge of variations in beliefs, traditions, and values across and within cultures and their effects on relationships among individuals with exceptional learning needs, family, and schooling;

**(g)** demonstrate knowledge of teaching strategies addressing learning styles and learning needs of children from culturally and linguistically diverse backgrounds.

**(4)**     Assessment/evaluation:

**(a)** demonstrate skills and knowledge in the screening, referral, and evaluation process for preschool through post-secondary levels;

**(b)** demonstrate skills in selecting, administering, scoring and interpreting a variety of assessments in the following areas: cognitive, achievement, processing, creativity/divergent thinking, critical thinking/problem solving, language, social-emotional behavior, adaptive behavior, and vocational aptitude, ability and interests;

**(c)** demonstrate skills in formal and informal observational techniques of data collection.

**(5)**     Demonstrate knowledge and application of psychometric theory and descriptive statistics necessary for interpretation of psycho-educational measures to include: reliability, validity, standardization, error of measurement, and test bias.

**(6)**     Demonstrate ability to keep accurate and detailed records of assessment and related proceedings.

**(7)**     Demonstrate ability to select or modify appropriate assessment procedures and instruments to ensure non-biased results:

**(8)** Demonstrate ability to use assessment results in making recommendations for eligibility, instruction, accommodations and transition as part of IEP development.

**(9)** Demonstrate skill in considering assessment information for exiting from special education services.

**(10)** Psycho-educational diagnostic report:

**(a)** demonstrate ability to prepare professional, understandable reports consistent with acceptable professional standards and official guidelines;

**(b)** demonstrate skill in preparing and presenting comprehensive report information keyed to the individual student's needs and parent's level of understanding including:

**(i)** background information which includes developmental history, educational/school history, language proficiency, and screening results;

**(ii)** assessment information including past evaluations, current test information, any variation from test administration and or standardization, and summaries of strengths and weaknesses;

**(iii)** related services evaluations, results, and recommendations;

**(iv)** individualized recommendations for eligibility, instruction, accommodations, and transition, based on assessment results;

**(v)** provision of explanation and copy of the psycho-educational diagnostic report to the parent/guardian;

**(vi)** use of multidisciplinary team processes in development of individual education plans.

**B.** professional and ethical practice for levels 1, 2, and 3 educational diagnosticians:

**(1)** maintain a professional demeanor as defined in local education agency policy;

**(2)** maintain professional codes of conduct and ethics;

**(3)** demonstrate knowledge of the scope and role of an educational diagnostician;

**(4)** demonstrate knowledge of organizations and publications relevant to the field of educational diagnosis;

- (5) demonstrate knowledge of confidentiality issues and rules.

**C. Multicultural competencies for levels 1, 2, and 3 educational diagnosticians:**

- (1) demonstrate knowledge of cultural and linguistic issues in evaluation, assessment, and intervention techniques;
- (2) demonstrate skills in interpreting and communicating evaluation results within a cultural and linguistic context;
- (3) exhibit knowledge of the techniques in multicultural assessment and interventions.

[6.63.4.11 NMAC - Rp, 6.63.4.11 NMAC, 11-30-05; A, 06-30-06; A, 06-15-09]

**6.63.4.12 IMPLEMENTATION:**

All persons holding a valid New Mexico license in educational diagnosis on the filing date of this rule shall be entitled to licensure in educational diagnosis at the same level that they hold on that date. Such licensure may be further continued pursuant to this rule.

[6.63.4.12 NMAC - Rp, 6.63.4.10, NMAC, 11-30-05]

**PART 5: LICENSURE FOR SCHOOL PSYCHOLOGISTS, PRE K-12**

**6.63.5.1 ISSUING AGENCY:**

Public Education Department hereinafter referred to as the department.

[6.63.5.1 NMAC - Rp, 6.63.5.1 NMAC, 1/28/2020]

**6.63.5.2 SCOPE:**

Chapter 63, Part 5 governs licensure for school psychologists, pre k-12, for those persons seeking such licensure.

[6.63.5.2 NMAC - Rp, 6.63.5.2 NMAC, 1/28/2020]

**6.63.5.3 STATUTORY AUTHORITY:**

Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978, and 22-10A-17 NMSA 1978.

[6.63.5.3 NMAC - Rp, 6.63.5.3 NMAC, 1/28/2020]

**6.63.5.4 DURATION:**

Permanent.

[6.63.5.4 NMAC - Rp, 6.63.5.4 NMAC, 1/28/2020]

#### **6.63.5.5 EFFECTIVE DATE:**

January 28, 2020, unless a later date is cited at the end of a section.

[6.63.5.5 NMAC - Rp, 6.63.5.5 NMAC, 1/28/2020]

#### **6.63.5.6 OBJECTIVE:**

This rule establishes requirements for a level 1 school psychologist, a level 2 school psychologist, and a level 3 supervising school psychologist, practicing in a school-related setting. These licenses shall not be used to provide service outside a school-related setting and shall not be used in a public setting.

[6.63.5.6 NMAC - Rp, 6.63.5.6 NMAC, 1/28/2020]

#### **6.63.5.7 DEFINITIONS:**

**A. "School psychologist"** means a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions that attempt to improve the learning, adjustment, and behavior of students, including assessment and psychological pre-referral/intervention procedures in a school-related setting.

**B. "School-related setting"** means limited to a public school, state institution, or department-accredited nonpublic school.

**C. "Psychological interventions and practices"** means the inclusion, but not limitation of, consultation, behavioral assessment/intervention, psychological evaluation, psycho-educational evaluation, counseling, family therapy, individual or group therapy, workshops in self-understanding, human relations, communication, and tutorial programs, and organizational development, parent counseling, vocational development, parent education programs, program planning and evaluation, crisis intervention, specific behavior management, skill training, and transition planning and evaluation. All psychological interventions and practices are to be provided within the scope of the psychologist's training and practice.

[6.63.5.7 NMAC - Rp, 6.63.5.7 NMAC, 1/28/2020]

#### **6.63.5.8 REQUIREMENTS FOR LEVEL 1 SCHOOL PSYCHOLOGIST LICENSURE:**

A level 1 school psychologist shall have documentation in their personnel file with the school district, local education agency, or school-related setting from a level 3 clinical supervising school psychologist who holds pre k-12 licensure pursuant to the provisions of this rule, and shall meet the following requirements:

**A.** a master's degree or educational specialist degree, or doctorate degree in school psychology from a regionally accredited college or university;

**B.** qualifications meeting Paragraph (1), (2), or (3):

**(1)** 60 graduate hours incorporating the department-approved competencies in school psychology, which may be completed as part of a master's or educational specialist degree program or in addition to the master's degree, meeting the applicable program requirements as follows:

**(a)** the 60 graduate hours awarded by a New Mexico college or university must include a 1,200-hour internship supervised by an appropriately licensed psychologist, 600 hours of which must be in a school-related setting; psychological assessment, counseling, and other psychological interventions with students with emotional disturbances shall comprise a minimum of 300 hours of the internship; or

**(b)** the 60 graduate hours awarded by a college or university outside New Mexico must be for a school psychology or equivalent program accepted by the department and include an internship in a school setting as described in Paragraph (1) of Subsection B of 6.63.5.8 NMAC; or

**(c)** the 60 graduate hours as described in Paragraph (1) of Subsection B of 6.63.5.8 NMAC, with documentation of 1,200 hours within a two-year period of successful supervised experience in one of the following areas:

**(i)** school psychology;

**(ii)** psychological assessment and counseling; and

**(iii)** other psychological interventions with at least 600 hours in a school-related setting;

**(2)** a doctorate degree in psychology, that includes 12 semester hours of child-focused course work in development, assessment, intervention, and 600 hours of supervised experience in a school-related setting; or

**(3)** a valid psychologist or psychologist associate license issued by the New Mexico board of psychologist examiners and that includes 12 semester hours of child-focused course work in development, assessment, and intervention and 600 hours of supervised experience in a school-related setting; and

**C.** fulfill the requirements of Paragraph (1) or (2):

**(1)** the specialty area examination of the praxis series exam in school psychology with at least a score of 147; or

**(2)** hold an active nationally certified school psychologist credential issued by the national association of school psychologists.

[6.63.5.8 NMAC - Rp, 6.63.5.8 NMAC, 1/28/2020]

#### **6.63.5.9 REQUIREMENTS FOR LEVEL 2 SCHOOL PSYCHOLOGIST LICENSURE:**

A level 2 school psychologist shall meet the following requirements:

**A.** a valid level 1 license with at least three full school years of school-related experience;

**B.** successful completion or demonstration of competencies for a level 1 school psychologist, and

**C.** satisfactory completion of supervised experience as a level 1 school psychologist, consisting of a minimum of 600 internship hours and 1,200 post-internship supervised hours in a school-related setting.

[6.63.5.9 NMAC - Rp, 6.63.5.9 NMAC, 1/28/2020]

#### **6.63.5.10 REQUIREMENTS FOR LEVEL 3 SCHOOL PSYCHOLOGIST LICENSURE:**

A level 3 clinical supervising school psychologist shall meet the following requirements:

**A.** a valid level 2 license with at least three full school years of school-related experience, including 750 hours of satisfactory post-graduate experience as reported by a level 3 supervising school psychologist;

**B.** 60 graduate hours in a master's or master's plus certificate of advance graduate studies (CAGS) program, educational specialist degree, master's or doctorate degree in school psychology from a regionally accredited college or university. The master's CAGS and educational specialist programs shall include at least one academic year of pre-degree supervised internship experience, consisting of a minimum of 1,200 hours of which at least 600 hours must be in a school-related setting;

**C.** successful completion or demonstration of competencies for the school psychologist level 1 and 2 licenses;

**D.** hold one of the following valid and current certifications or licenses:

- (1)** a license as a psychologist issued by the New Mexico board of psychology examiners;
- (2)** a license as a psychologist associate issued by the New Mexico board of psychology examiners; or
- (3)** an active nationally certified school psychologist credential issued by the national association of school psychologists.

[6.63.5.10 NMAC - Rp, 6.63.5.10 NMAC, 1/28/2020]

#### **6.63.5.11 IMPLEMENTATION:**

All persons holding a valid New Mexico license in psychological counseling on June 30, 2002 shall be entitled to licensure in school psychology at level 1, 2, or 3. Such licensure may be continued pursuant to rule as established by the department.

[6.63.5.11 NMAC - Rp, 6.63.5.11 NMAC, 1/28/2020]

#### **6.63.5.12 COMPETENCIES FOR LEVEL 1 SCHOOL PSYCHOLOGISTS:**

**A.** Personal characteristics. The school psychologist shall provide evidence that their professional work or demeanor is characterized by the following behaviors and developed and evaluated through courses, course content, practicum, internships, work experience, or other appropriate means:

- (1)** flexibility
- (2)** communication skills
- (3)** conscientiousness
- (4)** cooperation
- (5)** motivation
- (6)** personal stability
- (7)** productivity
- (8)** professional ethics; and
- (9)** respect for and valuing of individual and cultural diversity.

**B. Psychological foundations.** The school psychologist shall demonstrate knowledge of basic psychological principles including:

- (1)** the relationship between biological principles and psychological functioning in normal and abnormal development;
- (2)** the manner in which concepts of social and cultural diversity relate to an understanding of individuality;
- (3)** using developmental principles to identify potential exceptionalities in students;
- (4)** methods and models for identifying and diagnosing conditions of exceptionality;
- (5)** principles, concepts and processes related to human learning;
- (6)** basic research methodology as applicable to school-related problems; and
- (7)** the relationship between social setting and the psychological functioning of students.

**C. Educational foundations.** The school psychologist shall demonstrate knowledge of educational foundations including:

- (1)** organization and operation of schools;
- (2)** the organization and administration of school psychological services, including record keeping; the social, philosophical, historical, and cultural issues in education; state standards and benchmarks; school curriculum, intervention programs and strategies; and
- (3)** the current identification, referral, evaluation, and placement procedures for students with exceptionalities based upon state and federal regulations.

**D.** The school psychologist shall possess the knowledge and professional expertise to collaborate with families and school and community-based professionals in designing, implementing, and evaluating interventions that effectively respond to the educational and mental health needs of students. The school psychologist shall demonstrate knowledge of ability to:

- (1)** conduct multi-method psychological and psycho-educational assessments of students as appropriate;
- (2)** conduct psychological and educational assessments to include fair and non-discriminatory evaluation of the areas of:



- (a) personality;
  - (b) emotional status;
  - (c) social skills and adjustment;
  - (d) intelligence and cognitive functioning;
  - (e) scholastic aptitude;
  - (f) functional and adaptive behavior;
  - (g) language and communication skills;
  - (h) academic knowledge and achievement;
  - (i) sensory and perceptual-motor functioning;
  - (j) family, environmental, and cultural influences;
  - (k) level of acculturation;
  - (l) career and vocational development;
  - (m) aptitude; and
  - (n) interests;
- (3) utilize formal assessment instruments, procedures, and techniques such as interviews, observations, and behavioral evaluations;
- (4) have particular regard for the context and setting in which their assessments take place and will be used; and
- (5) adhere to the regulations and standards of state and national professional organizations regarding assessment techniques, non-biased assessment, and programming for all students.
- E.** Interventions, direct and indirect. The school psychologist shall demonstrate the ability to implement direct and indirect intervention using educational and psychological principles when participating as a member of a team of school, school-related, and community professional personnel, as outlined in Subsection F of 6.63.5.12 NMAC.
- F.** Learning/cognitive setting. The school psychologist shall demonstrate the ability to:

(1) plan and implement procedures for assessing the needs of students and recommending strategies for increasing learning and efficiency;

(2) consult with appropriate personnel in the development of instructional programs, including vocational programs;

(3) assist schools in working with parents to foster positive approaches to student's learning;

(4) assist school personnel in developing, monitoring, and evaluating appropriate and measurable instructional, vocational, and transitional objectives; and

(5) consult with school personnel about the classroom environment.

**G. Social/affective setting.** The school psychologist shall demonstrate the ability to:

(1) plan, develop, and implement district-wide procedures for assessing the social and emotional needs of students and for recommending strategies for increasing social and emotional growth;

(2) assist schools in working with parents to foster positive emotional growth in their children;

(3) assist school personnel in developing, monitoring, and evaluating objectives for social and emotional growth; and

(4) consult with school personnel about fostering a healthy social and emotional environment in the school.

**H. Intervention techniques.** The school psychologist shall demonstrate the ability to plan, implement, monitor, and evaluate intervention strategies which may include the following:

(1) individual and group counseling with students;

(2) remediation, including the provision of direct assistance to students receiving special education;

(3) consultation with individuals and groups which may include parents, school personnel, and community agencies;

(4) risk and threat assessment; and

(5) behavioral management.

**I.** Prevention, crisis intervention, and mental health. The school psychologist shall have knowledge of human development and psychopathology and of associated biological, cultural, and social influences on human behavior. The school psychologist shall provide or contribute to prevention and intervention programs that promote the mental health and physical well-being of students.

**J.** Family and community interventions. The school psychologist shall demonstrate the ability to:

- (1)** describe community resources available to families;
- (2)** describe issues and problems faced by families or students with exceptionalities;
- (3)** describe a continuum of services available to students and their families;
- (4)** explain state and federal regulations and due process rights to families, school personnel and community professionals; and
- (5)** communicate information regarding state mental health and children's codes, and the Mandatory Reporting Child Abuse and Neglect Act.

**K.** Statistics and research methodologies. The school psychologist is a competent consumer of research and new knowledge, and is able to use diverse methodologies to evaluate professional practices and programs. That knowledge base shall include research and evaluation methods, statistics, and measurement.

**L.** Professional school psychology. The school psychologist shall demonstrate the ability to:

- (1)** practice school psychology in accordance with the ethics of the profession;
- (2)** practice the profession of school psychology within the laws and regulations of the local, state, and federal governments;
- (3)** continue education for the promotion of professional growth;
- (4)** demonstrate knowledge of different models, concepts, and current issues concerning the practice of school psychology; and
- (5)** examine interactions between systems and individuals within the schools and between schools and outside agencies to determine strengths, weaknesses, and problem areas and aid in maximizing effective functioning.

**M.** A level 1 school psychologist shall be required to have individual supervision with a level 3 clinical supervising school psychologist or a credentialed supervisor as outlined in 6.63.5.8 NMAC for a minimum of one hour per week. At least one session per month shall be in person with the level 3 clinical supervising school psychologist or a credentialed supervisor as outlined in 6.63.5.8 NMAC. Supervision will not be provided to level 1 school psychologists who have not reached the level 2 requirements in the time period established by department.

[6.63.5.12 NMAC - Rp, 6.63.5.12 NMAC, 1/28/2020]

### **6.63.5.13 COMPETENCIES FOR LEVEL 2 SCHOOL PSYCHOLOGISTS:**

A level 2 school psychologist shall meet all competencies required for the level 1 school psychologist in Subsections A through L of 6.63.5.12 NMAC. The level 2 school psychologist shall have knowledge and ability to:

**A.** conduct risk and threat assessments, interventions, and referrals as necessary; and

**B.** cooperate with institutions of higher education in the training of students in school psychology.

[6.63.5.13 NMAC - Rp, 6.63.5.13, 1/28/2020]

### **6.63.5.14 COMPETENCIES FOR LEVEL 3 SCHOOL PSYCHOLOGISTS:**

The supervising school psychologist shall meet all competencies required for the level 1 school psychologist in Subsections A through L of 6.63.5.12 NMAC and for the level 2 school psychologist 6.63.5.13 NMAC. The level 3 supervising school psychologist shall demonstrate:

**A.** knowledge of models of consultation and supervision;

**B.** ability to utilize appropriate models of consultation and supervision in various school-related situations;

**C.** ability to form a collaborative relationship with school administrators, professional supervisees and consultees and other school personnel;

**D.** ability to form a collaborative relationship with school administration and other personnel regarding the assessment of the supervisee and ability to make recommendations as to whether the supervisee has demonstrated proficiency in required areas of competencies;

**E.** ability to formulate a plan of supervision and consultation to assist supervisees and consultees in attaining professional goals and remediating areas of difficulty;

**F.** ability to cooperate with the institutions of higher education while providing supervision to school psychologists in training; and

**G.** ability to pursue monthly guidance from a more experienced supervising school psychologist for the first year of being a supervisor.

[6.63.5.14 NMAC - Rp, 6.63.5.14 NMAC, 1/28/2020]

## **PART 6: LICENSURE FOR SCHOOL COUNSELORS, PRE K-12**

### **6.63.6.1 ISSUING AGENCY:**

Public Education Department. (PED).

[6.63.6.1 NMAC - Rp 6 NMAC 4.2.3.12.1, 02-14-03; A, 06-30-06; A, 06-15-09]

### **6.63.6.2 SCOPE:**

All persons seeking licensure in school counseling on or after July 1, 1993.

[6.63.6.2 NMAC - Rp 6 NMAC 4.2.3.12.2, 02-14-03]

### **6.63.6.3 STATUTORY AUTHORITY:**

Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978, and 22-10A-17 NMSA 1978.

[6.63.6.3 NMAC - Rp 6 NMAC 4.2.3.12.3, 02-14-03; A, 06-30-06]

### **6.63.6.4 DURATION:**

Permanent.

[6.63.6.4 NMAC - Rp 6 NMAC 4.2.3.12.4, 02-14-03]

### **6.63.6.5 EFFECTIVE DATE:**

February 14, 2003, unless a later date is cited in the history note at the end of a section.

[6.63.6.5 NMAC - Rp 6 NMAC 4.2.3.12.5, 02-14-03]

### **6.63.6.6 OBJECTIVE:**

This rule governs licensure in school counseling, grades pre k-12 for those persons seeking such licensure on or after July 1, 1993.

[6.63.6.6 NMAC - Rp 6 NMAC 4.2.3.12.6, 02-14-03; A, 06-30-06]

#### **6.63.6.7 DEFINITIONS:**

**[RESERVED]**

#### **6.63.6.8 REQUIREMENTS:**

Applicants may meet this requirement by meeting requirements of Subsections A or B or C of 6.63.6.8 NMAC:

**A.** national certified school counselor credential issued by the national board for certified counselors;

**B.** licensed professional mental health counselor (LPC) or licensed professional clinical mental health counselor (LPCC) credential issued by the New Mexico counseling and therapy practice board and a minimum of six (6) semester hours of graduate credit in school counseling coursework;

**C.** master's degree from a regionally accredited college or university; the master's degree requirement shall be satisfied by meeting the requirements of Paragraphs (1) and (2) of Subsection C of 6.63.6.8 NMAC:

**(1)** master's degree in school counseling from a regionally accredited college or university and meeting the applicable program requirements as follows:

**(a)** A master's degree awarded by a New Mexico college or university must incorporate the New Mexico PED approved competencies in the area of school counseling.

**(b)** A master's degree awarded by a college or university outside of New Mexico must be for a school counseling program approved by the PED.

**(2)** master's degree in a discipline other than school counseling and 36-42 graduate hours in school counseling, (which may be completed as a part of the master's degree program or in addition to the master's) meeting the applicable program requirements as follows:

**(a)** The 36-42 graduate hours awarded by a New Mexico college or university must incorporate the PED approved competencies in the area of school counseling and include a 300 hour practicum or internship in a school setting.

**(b)** The 36-42 graduate hours awarded by a college or university outside of New Mexico must be for a school counseling program approved by the PED and include a practicum in a school setting.

**D.** a candidate who applies for licensure as a school counselor on or after the September, 2007 administration of the PED's specialty area licensure examinations

shall take and pass the content knowledge assessment for school counselor as stated in 6.60.5.8 NMAC, prior to the issuance of the license.

[6.63.6.8 NMAC - Rp 6 NMAC 4.2.3.12.8, 02-14-03; A, 09-30-03; A, 06-30-06; A, 06-15-09]

#### **6.63.6.9 REFERENCED MATERIAL:**

Competencies for school counselors

**A.** The counselor will develop and implement a comprehensive school level guidance program based on the American school counseling association national standards and focused on the physical, social, intellectual, emotional, and vocational growth of each student by:

- (1) determining guidance priorities based on local assessed needs;
- (2) formulating measurable objectives from identified needs and priorities;
- (3) formulating specific tasks relating to achieving the objectives;
- (4) coordinating a continuing evaluation of the program;
- (5) serving all students at the prevention level;

(6) coordinating with the appropriate administration to achieve items in Paragraphs (1) to (4) of Subsection A of 6.63.6.9 NMAC.

**B.** The counselor will coordinate activities in the guidance and counseling program by:

- (1) communicating the curriculum based on content standards and benchmarks;
- (2) working with other staff members to encourage the inclusion of a student-oriented philosophy in all school activities;
- (3) helping to integrate the guidance and counseling program within the total school program;
- (4) communicating with parents and the community about services available within the guidance and counseling program;
- (5) learning about available school and community resources;

(6) establishing and maintaining contact with school and community resources;

(7) working with the administration to utilize community resources related to the guidance program.

**C.** The counselor will provide information and facilitate guidance activities for students, staff, and parents by:

(1) assisting others in their understanding of personal and social development;

(2) serving as a resource to facilitate groups and presentations on pertinent issues;

(3) providing prevention strategies which address current issues such as chemical dependency, teenage pregnancy, suicide, dropping out, and various forms of abuse;

(4) conducting activities on educational career themes;

(5) conducting orientation/training programs for students, parents, and staff;

(6) interpreting test results to students, parents, and staff.

**D.** The counselor will serve as a consultant to the school and community by:

(1) providing mediation for change in behavior and conflict resolution;

(2) serving as a liaison for issues pertinent to the learning environment of the school;

(3) supporting the staff with assistance in developing positive rapport with students to maximize learning potential by reducing or mitigating the impact of learning barriers;

(4) assisting teachers in identifying students who would benefit from counseling and providing feedback on referred students as appropriate;

(5) providing information to parents and students to aid in their understanding of educational goals and barriers to learning;

(6) providing resource materials and expertise dealing with issues affecting students, staff, and family;



(7) providing information about appropriate community resources or organizations which provide services to students and their families;

(8) developing strategies and methods of working with parents and guardians.

E. The counselor will provide individual and group counseling by:

(1) providing crisis intervention;

(2) using appropriate interventions in situations detrimental to the physical, mental, educational, and emotional well-being of the individual;

(3) providing support to individuals by addressing topics such as interpersonal relations, communication, decision-making, problem-solving skills, academic programs, and career and life planning;

(4) making referrals to school and community resources when necessary.

F. The counselor will uphold the standards of the counseling profession by:

(1) meeting the state competency standard and the requirements for preparation;

(2) participating in the development of policies concerning guidance and counseling;

(3) keeping informed about developments and innovations within the profession at the local, state, and national levels;

(4) following the legal and ethical standards of the counseling profession;

(5) realizing personal and professional limitations.

G. The counselor will understand the cultural context of relationships, issues and trends in a multicultural and diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual beliefs, and socioeconomic status, and unique characteristics of individuals, couples, families, ethnic groups, and communities.

H. The counselor will be able to use technology in the design, implementation, monitoring, and evaluation of a comprehensive school counseling program.

[6.63.6.9 NMAC - Rp 6 NMAC 4.2.3.12.9, 02-14-03]

## **PART 7: LICENSURE FOR SCHOOL SOCIAL WORKERS, PRE K-12**

**6.63.7.1 ISSUING AGENCY:**

Public Education Department (PED).

[11-14-98; 07-30-99; 6.63.7.1 NMAC - Rn, 6 NMAC 4.2.3.13.1, 10-31-01; A, 10-17-05; A, 10-31-07]

**6.63.7.2 SCOPE:**

Chapter 63, Part 7 governs licensure for school social workers, pre K-12 for those persons seeking such licensure on or after July 1, 1993.

[11-14-98; 6.63.7.2 NMAC - Rn, 6 NMAC 4.2.3.13.2, 10-31-01; A, 06-30-06]

**6.63.7.3 STATUTORY AUTHORITY:**

Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978, and 22-10A-17, NMSA 1978.

[11-14-98; 6.63.7.3 NMAC - Rn, 6 NMAC 4.2.3.13.3, 10-31-01; A, 06-30-06]

**6.63.7.4 DURATION:**

Permanent.

[11-14-98; 6.63.7.4 NMAC - Rn, 6 NMAC 4.2.3.13.4, 10-31-01]

**6.63.7.5 EFFECTIVE DATE:**

November 14, 1998.

[11-14-98; 6.63.7.5 NMAC - Rn, 6 NMAC 4.2.3.13.5, 10-31-01]

**6.63.7.6 OBJECTIVE:**

This rule governs licensure in school social work for those persons seeking such licensure on or after July 1, 1993.

[11-14-98; 6.63.7.6 NMAC - Rn, 6 NMAC 4.2.3.13.6, 10-31-01; A, 06-30-06]

**6.63.7.7 DEFINITIONS:**

**[RESERVED]**

**6.63.7.8 REQUIREMENTS:**

Persons seeking licensure in school social work, grades pre K-12 pursuant to the provisions of this rule shall meet the following requirements of Subsections A or B or C of 6.63.7.8 NMAC;

**A. Level 1, entry level school social worker**

**(1)** Bachelor's or master's degree in social work from a regionally accredited college or university and meeting the applicable program requirements as follows:

**(a)** the bachelor's or master's degree awarded by a New Mexico college or university must incorporate the New Mexico public education department's (PED) approved competencies in the area of social work; OR

**(b)** the bachelor's or master's degree awarded by a college or university outside of New Mexico must be for a social work program approved by the PED; AND

**(2)** valid social work license issued by the New Mexico social work examiners board.

**B. Level 2, school social worker**

**(1)** valid level 1 school social work license;

**(2)** verification by the superintendent of the local school district or the governing authority of the private school or state institution that the social worker has satisfactorily demonstrated the entry level social work competencies approved by the PED; AND

**(3)** valid social work license issued by the New Mexico social work examiners board.

**C. Level 3, independent school social worker**

**(1)** master's degree in social work from a regionally accredited college or university;

**(2)** valid level 2 school social work license;

**(3)** valid independent social worker license issued by the New Mexico board of social work examiners with specializations in clinical social work or school social work;

**(4)** evidence of a minimum of 875 hours of supervised experience in providing therapeutic services to children, including children with severe emotional disturbances and behavioral disorders, in the school setting; AND

(5) verification by the superintendent of the local school district or the governing authority of the private school or state institution that the social worker has satisfactorily demonstrated the independent social worker competencies approved by the PED.

[11-14-98; 6.63.7.8 NMAC - Rn, 6 NMAC 4.2.3.13.8, 10-31-01; A, 10-17-05; A, 06-30-06]

#### **6.63.7.9 IMPLEMENTATION:**

All persons holding a valid PED license in school social work and a valid social work license issued by the New Mexico board of social work examiners on June 30, 1993 shall be entitled to licensure in school social work, pre K-12. Such licensure may be continued pursuant to rule(s) established by the PED.

[11-14-98; 6.63.7.9 NMAC - Rn, 6 NMAC 4.2.3.13.9, 10-31-01; A, 10-17-05; A, 06-30-06]

#### **6.63.7.10 PROVISIONAL LICENSE FOR SCHOOL SOCIAL WORKER:**

When the social work examiners board has issued a provisional license to an applicant, because the applicant has not completed the social work examiners board licensure exam or the required three credit hour course in New Mexico cultures, the PED can issue a one year temporary license to the applicant for a school social worker license. When the applicant receives the standard social work examiners board license, a copy must be sent to PED to update the school social worker license.

[11-14-98; 6.63.7.10 NMAC -Rn, 6 NMAC 4.2.3.10, 10-31-01;A, 06-30-06; 6.63.7.10 NMAC - N, 10-31-07]

#### **6.63.7.11 REFERENCED MATERIAL:**

Competencies for school social workers

##### **A. Competencies for entry level school social workers**

(1) The school social worker shall demonstrate professional knowledge and skills in dealing with social phenomena as they relate to students' functioning and achievement in school by:

(a) interpreting to school personnel the relationship between the student's social, emotional, or home problems, and the social workers academic performance;

(b) interpreting to school personnel the wide range of social, emotional, cultural, and economic differences among children, families, and communities;

(c) consulting with school personnel on current mental health practices and concepts;

**(d)** expanding knowledge through consultation with coordinators, specialists, psychologists, psychiatrists, and colleagues, as well as through reading, research, and course work; and

**(e)** keeping abreast of current community resources, and determining how their services may be beneficial to the student, their family, and the family's involvement in the academic process.

**(2)** The school social worker shall establish basic case management procedures for effective social work intervention by:

**(a)** opening a case as soon after referral as possible;

**(b)** prioritizing cases according to severity and seriousness of identified concerns;

**(c)** establishing routines for the assessment of case referrals;

**(d)** coordinating multidisciplinary efforts for the management of cases, when appropriate;

**(e)** consulting with and assisting school and community personnel regarding case management;

**(f)** participating in interdisciplinary team meetings relevant to the assessment and disposition of individual cases;

**(g)** presenting and interpreting social work assessment results and recommendations to school and community agency personnel; and

**(h)** employing the process of terminating and closing cases upon completion of social work services.

**(3)** The school social worker shall structure the method of social intervention by appropriate planning and preparation by:

**(a)** investigating all relevant information regarding a referred case;

**(b)** consulting with school personnel, community agencies or family members to assess the identified concerns;

**(c)** conducting an individualized social, emotional, and adaptive assessment of the student, the student's family, and the educational and social communities;

**(d)** formulating individual goals and objectives for the management of each case; and

**(e)** consulting with the social work supervisor, psychologist, or psychiatrist regarding individual cases as needed.

**(4)** The school social worker shall employ appropriate methods of practice which enables students and families to function adequately within their educational and community settings by:

**(a)** providing individual, group, and family counseling to students and families;

**(b)** providing intensive crisis intervention to remedy effects of abuse, neglect, or exploitation of children;

**(c)** preparing and interpreting social histories or assessments;

**(d)** participating in planning for student transitions to help ensure continuity of services appropriate to the unique needs of individual students leaving school or transferring between programs;

**(e)** helping ensure parents' understanding of decisions, procedures, and meetings affecting their children, particularly when cultural differences make communication between school staff and parents difficult;

**(f)** helping ensure participation of parents in school conferences which affect their children through home visits, telephone calls, correspondence, and other means;

**(g)** identifying school district and community services appropriate to the needs of students and families, executing referrals, and providing follow-up;

**(h)** serving as an advocate for parents to ensure that their wishes and concerns regarding their children are registered and considered by school personnel and agencies; and

**(i)** recognizing the need for, and actively seeking the supervision of, and independent school social worker or clinically supervising school psychologist when providing psychological counseling services for children with severe emotional disturbances and behavior disorders as designated by the student's individual education program.

**(5)** The school social worker shall demonstrate a professional and helpful demeanor in relationships with students, parents, and school personnel by:

**(a)** providing support and encouragement to students, parents, and staff in an atmosphere of mutual respect;

**(b)** developing a caring relationship with students and parents and showing consideration of their feelings;

**(c)** communicating openly with students and parents by listening and responding to their opinions and suggestions;

**(d)** promoting respect and positive interpersonal relationships among students and families;

**(e)** working cooperatively with fellow employees to develop and maintain effective interaction;

**(f)** promoting free and easy communication between home and school;

**(g)** communicating to parents the significance of school program; and

**(h)** emphasizing positive achievements of students.

**(6)** The school social worker shall utilize appropriate methods to continuously evaluate the student's services by:

**(a)** keeping a personal, confidential file on all cases;

**(b)** completing a social worker activity form which will be included in the student's permanent record;

**(c)** maintaining an up-to-date log, indicating types of referrals received, dates, and status of referral and referral sources;

**(d)** completing any written reports that may be required, such as family assessments, as promptly as possible; and

**(e)** assessing the effectiveness of and further need for social work services.

**B. Competencies for level 3 independent school social workers**

**(1)** The school social worker shall demonstrate professional knowledge and skills in dealing with social phenomena as they relate to students' functioning and achievement in school by:

**(a)** interpreting to school personnel the relationship between the student's social, emotional, and/or home problems, and the student's academic performance;

**(b)** interpreting to school personnel the wide range of social, emotional, cultural, and economic differences among children, families, and communities;

**(c)** consulting with school personnel on current mental health practices and concepts;

**(d)** expanding knowledge through consultation with coordinators, specialists, psychologists, psychiatrists, and colleagues, as well as through reading, research, and course work; and

**(e)** keeping abreast of current community resources, and determining how their services may be beneficial to the student, their family, and the family's involvement in the academic process.

**(2)** The school social worker shall establish basic case management procedures for effective social work intervention by:

**(a)** opening a case as soon after referral as possible;

**(b)** prioritizing cases according to severity and seriousness of identified concerns;

**(c)** establishing routines for the assessment of case referrals;

**(d)** coordinating multidisciplinary efforts for the management of cases, when appropriate;

**(e)** consulting with and assisting school and community personnel regarding case management;

**(f)** participating in interdisciplinary team meetings relevant to the assessment and disposition of individual cases;

**(g)** presenting and interpreting social work assessment results and recommendations to school and community agency personnel; and

**(h)** employing the process of terminating and closing cases upon completion of social work services.

**(3)** The school social worker shall structure the method of social intervention by appropriate planning and preparation by:

**(a)** investigating all relevant information regarding a referred case;

**(b)** consulting with school personnel, community agencies, or family members to assess the identified concerns;

**(c)** conducting an individualized social, emotional, and adaptive assessment of the student, the student's family, and the educational and social communities;

**(d)** formulating individual goals and objectives for the management of each case; and



**(e)** consulting with the social work supervisor, psychologist, or psychiatrist regarding individual cases as needed.

**(4)** The school social worker shall employ appropriate methods of practice which enables students and families to function adequately within their educational and community settings by:

**(a)** providing individual, group, and family counseling to students and families;

**(b)** providing intensive crisis intervention to remedy effects of abuse, neglect, or exploitation of children;

**(c)** preparing and interpreting social histories or assessments;

**(d)** participating in planning for student transitions to help ensure continuity of services appropriate to the unique needs of individual students leaving school or transferring between programs;

**(e)** helping ensure parents' understanding of decisions, procedures, and meetings affecting their children, particularly when cultural differences make communication between school staff and parents difficult;

**(f)** helping ensure participation of parents in school conferences which affect their children through home visits, telephone calls, correspondence, and other means;

**(g)** identifying school district and community services appropriate to the needs of students and families, executing referrals, and providing follow-up ;

**(h)** serving as an advocate for parents to ensure that their wishes and concerns regarding their children are registered and considered by school personnel and agencies; and

**(i)** demonstrating skill in interventions directed to interpersonal interactions, intrapsychic dynamics, or life support and management issues in the provision of psychological counseling services for children with severe emotional disturbances and behavior disorders; and

**(j)** supervising level 1 and level 2 school social workers who are providing psychological counseling services as designated by the student's individual education program for children with severe emotional disturbances and behavior disorders.

**(5)** The school social worker shall demonstrate a professional and helpful demeanor in relationships with students, parents, and school personnel by:

**(a)** providing support and encouragement to students, parents, and staff in an atmosphere of mutual respect;

(b) developing a caring relationship with students and parents and showing consideration of their feelings;

(c) communicating openly with students and parents by listening and responding to their opinions and suggestions;

(d) promoting respect and positive interpersonal relationships among students and families;

(e) working cooperatively with fellow employees to develop and maintain effective interaction;

(f) promoting free and easy communication between home and school;

(g) communicating to parents the significance of school program; and

(h) emphasizing positive achievements of students.

(6) The school social worker shall utilize appropriate methods to continuously evaluate the student's services by:

(a) keeping a personal, confidential file on all cases;

(b) completing a social worker activity form which will be included in the student's permanent record;

(c) maintaining an up-to-date log, indicating types of referrals received, dates, and status of referral and referral sources;

(d) completing any written reports that may be required, such as family assessments, as promptly as possible; and

(e) assessing the effectiveness of and further need for social work services.

[11-14-98; 6.63.7.10 NMAC - Rn, 6 NMAC 4.2.3.13.10, 10-31-01; A, 06-30-06; A, 10-31-07]

## **PART 8: LICENSURE IN ATHLETIC COACHING, 7-12**

### **6.63.8.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.63.8.1 NMAC – Rp, 6.63.8.1 NMAC, 7/31/2023]

### **6.63.8.2 SCOPE:**

All persons seeking licensure in athletic coaching in grades seven through 12.

[6.63.8.2 NMAC – Rp, 6.63.8.2 NMAC, 7/31/2023]

**6.63.8.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-13-31.2 NMSA 1978.

[6.63.8.3 NMAC – Rp, 6.63.8.3 NMAC, 7/31/2023]

**6.63.8.4 DURATION:**

Permanent.

[6.63.8.4 NMAC – Rp, 6.63.8.4 NMAC, 7/31/2023]

**6.63.8.5 EFFECTIVE DATE:**

July 31, 2023, unless a later date is cited in the history note at the end of a section.

[6.63.8.5 NMAC – Rp, 6.63.8.5 NMAC, 7/31/2023]

**6.63.8.6 OBJECTIVE:**

This regulation governs the requirements for persons seeking initial and continued licensure in athletic sports including cheer, dance, and drill coaching, in grades seven through 12.

[6.63.8.6 NMAC – Rp, 6.63.8.6 NMAC, 7/31/2023]

**6.63.8.7 DEFINITIONS:**

**A. "Athletic coaching"** means athletic services in grades seven through 12 performed by a head coach or assistant coach, paid or volunteer, for any athletic sport, including cheer, dance, or drill.

**B. "Public schools"** means school districts, charter schools, or state-supported educational institutions;

**C. "Superintendent"** means a school district superintendent, charter school director, or the superintendent of a state-supported educational institution.

[6.63.8.7 NMAC – Rp, 6.63.8.7 NMAC, 7/31/2023]

**6.63.8.8 REQUIREMENTS:**

All persons who perform athletic coaching in grades seven through 12 in public schools shall hold valid licenses in athletic coaching issued by the department and maintain current certification in cardiopulmonary resuscitation (CPR), including training in the use of an automated external defibrillator (AED). Certification shall include in-person, hands-on training. Schools shall verify that their coaches maintain current certification in CPR with AED training.

**A.** Persons seeking a level 1 license in athletic coaching pursuant to the provisions of this regulation shall:

- (1) possess a high school diploma or its equivalent;
- (2) complete the New Mexico activities association's (NMAA's) coaches' training program to include state competencies established by the department in 6.63.8.14 NMAC
- (3) provide verification of completion of first aid training as approved by NMAA; and
- (4) provide verification of current certification in CPR, including the use of an AED.

**B.** Persons seeking a level 2 license in athletic coaching shall:

- (1) possess a valid level 1 athletic coaching license with at least three complete athletic seasons of coaching experience at level 1;
- (2) submit verification by the superintendent that the coach has satisfactorily demonstrated the coaches' competencies established by the department in 6.63.8.14 NMAC;
- (3) provide verification of completion of first aid training as approved by NMAA; and
- (4) provide verification of current certification in CPR, including the use of an AED.

**C.** Persons seeking a level 3 advanced licensure in athletic coaching shall meet the following requirements:

- (1) possess a valid level 2 athletic coaching license with at least three athletic seasons of coaching experience at level 2;
- (2) submit verification by the superintendent that the coach has satisfactorily demonstrated the coaches' competencies established by the department in 6.63.8.14 NMAC;

(3) possess one of the following:

(a) a New Mexico teaching license with an endorsement in physical education; or

(b) an undergraduate/graduate minor in coaching consisting of at least 24 semester hours of post-secondary coursework at a regionally accredited college or university; or

(c) confirmation of successful completion of an advanced coaching principles course approved by the department;

(4) provide verification of completion of first aid training as approved by NMAA; and

(5) provide verification of current certification in CPR, including the use of an AED.

[6.63.8.8 NMAC – Rp, 6.63.8.8 NMAC, 7/31/2023]

#### **6.63.8.9 IMPLEMENTATION:**

**A.** Level 1 initial licenses shall be valid for a maximum of three years and may not be continued or renewed. Level 2 and 3 licenses are renewable and shall be valid for nine years.

**B.** All athletic coaching licenses shall commence on July 1st of the year of issuance and expire June 30th of the year of their expiration.

[6.63.8.9 NMAC – Rp, 6.63.8.9 NMAC, 7/31/2023]

#### **6.63.8.10 CONTINUING LICENSURE:**

Persons holding a level 2 or 3 coaching license shall renew their license every nine years upon verification by the superintendent that the coach has satisfactorily demonstrated the coaches' competencies established by the department in 6.63.8.14 NMAC.

[6.63.8.10 NMAC – Rp, 6.63.8.10 NMAC, 7/31/2023]

#### **6.63.8.11 [RESERVED]**

[6.63.8.11 NMAC – Rp, 6.63.8.11 NMAC, 7/31/2023]

#### **6.63.8.12 [RESERVED]**

[6.63.8.12 NMAC – Rp, 6.63.8.12 NMAC, 7/31/2023]

**6.63.8.13 [RESERVED]**

[6.63.8.13 NMAC – Rp, 6.63.8.13 NMAC, 7/31/2023]

**6.63.8.14 REFERENCED MATERIAL:**

Competencies for Athletic Coaches for grades seven through 12:

**A. Philosophy and ethics - coaches will:**

- (1) develop and implement an athlete-centered philosophy;
- (2) identify, model, and teach athletes positive values learned through sport participation;
- (3) demonstrate ethical conduct in all facets of the sport program; and
- (4) teach and reinforce responsible personal, social, and ethical behavior of all people involved in the sport program.

**B. Sport safety and injury prevention - coaches will:**

- (1) prevent injuries by ensuring that facilities are safe for sport participation;
- (2) ensure that necessary protective equipment is available, properly fitted, and used appropriately;
- (3) monitor environmental conditions and modify participation as needed to ensure the health and safety of participants;
- (4) identify physical conditions that predispose athletes to injuries;
- (5) recognize injuries and provide immediate and appropriate care;
- (6) facilitate a coordinated sports health care program of prevention, care, and management of injuries; and
- (7) identify and address the psychological implications of injury.

**C. Physical conditioning - coaches will:**

- (1) design programs of training, conditioning, and recovery that properly utilize exercise physiology and biomechanical principles;

(2) be an advocate for drug-free sport participation and provide accurate information about drugs and supplements; and

(3) plan conditioning programs to help athletes return to full participation following injury.

**D. Growth and development - coaches will:**

(1) apply knowledge of how developmental change influences the learning and performance of sport skills; and

(2) facilitate the social and emotional growth of athletes by supporting a positive sport experience and life-long participation in physical activity.

**E. Teaching and communication - coaches will:**

(1) provide a learning environment that is appropriate to the characteristics of the athletes and goals of the program;

(2) develop and monitor goals for the athletes and program;

(3) organize practice based on a seasonal or annual practice plan to maintain motivation, manage fatigue, and allow for peak performance at the appropriate time;

(4) plan and implement daily practice activities that maximize time on task and available resources;

(5) utilize appropriate instructional strategies to facilitate athlete development and performance;

(6) teach and incorporate mental skills to enhance performance and reduce sport anxiety;

(7) use effective communication skills to enhance individual learning, group success and enjoyment in the sport experience; and

(8) demonstrate and utilize appropriate and effective motivational techniques to enhance athlete performance and satisfaction.

**F. Sport skills and tactics - coaches will:**

(1) know the skills, elements of skill combinations, and techniques associated with the sport being coached;

(2) identify, develop, and apply specific competitive sport strategies and specific tactics appropriate for the age and skill levels of the participating athletes; and

(3) use scouting methods for planning practices, game preparation, and game analysis.

**G. Organization and administration - coaches will:**

- (1) demonstrate efficiency in contest management;
- (2) be involved in public relations activities for the sport program;
- (3) manage human resources for the program;
- (4) manage fiscal resources for the program;
- (5) facilitate planning, implementation, and documentation of the emergency action plan;
- (6) manage all information, documents, and records for the program; and
- (7) fulfill all legal responsibilities and risk management procedures associated with coaching.

**H. Evaluation - coaches will:**

- (1) implement effective evaluation techniques for team performance in relation to established goals;
- (2) use a variety of strategies to evaluate athlete motivation and individual performance as they relate to season objectives and goals; and
- (3) utilize an effective and objective process for evaluation of athletes to assign roles or positions and establish individual goals;
- (4) utilize an objective and effective process for the evaluation of self and staff.

[6.63.8.14 NMAC – Rp, 6.63.8.14 NMAC, 7/31/2023]

## **PART 9: LICENSURE FOR EDUCATIONAL ASSISTANTS PRE K-12**

### **6.63.9.1 ISSUING AGENCY:**

Public Education Department (PED).

[11-14-98, 07-30-99; 6.63.9.1 NMAC - Rn, 6 NMAC 4.2.3.15.1, 03-31-01; A, 06-30-06; A, 10-31-07]



#### **6.63.9.2 SCOPE:**

All those persons seeking licensure as educational assistants.

[11-14-98; 6.63.9.2 NMAC - Rn, 6 NMAC 4.2.3.15.2 & A, 03-31-01]

#### **6.63.9.3 STATUTORY AUTHORITY:**

Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978, 22-10A-17 NMSA 1978, and 20 U.S.C. 6319, Public Law 107-110.

[11-14-98; 6.63.9.3 NMAC - Rn, 6 NMAC 4.2.3.15.3, 03-31-01; A, 06-30-06]

#### **6.63.9.4 DURATION:**

Permanent.

[11-14-98; 6.63.9.4 NMAC - Rn, 6 NMAC 4.2.3.15.4, 03-31-01]

#### **6.63.9.5 EFFECTIVE DATE:**

November 14, 1998, unless a later date is cited in the history note at the end of a section.

[11-14-98; 6.63.9.5 NMAC - Rn, 6 NMAC 4.2.3.15.5 & A, 03-31-01]

#### **6.63.9.6 OBJECTIVE:**

This rule establishes three levels of licensure for educational assistants and governs the licensure requirements for persons seeking level 1, level 2, and level 3 educational assistant licensure.

[11-14-98; 6.63.9.6 NMAC - Rn, 6 NMAC 4.2.3.15.6, 03-31-01; A, 06-30-06]

#### **6.63.9.7 DEFINITIONS:**

**A. "Paraprofessionals"** means education assistants who assist a teacher in instruction and hold Level 3 education assistant licensure.

**B. [RESERVED]**

[6.63.9.7 NMAC - N, 06-30-03; A, 06-30-06]

#### **6.63.9.8 LEVEL 1 AND LEVEL 2 REQUIREMENTS:**

All persons who perform services as educational assistants ("EAs") in public schools, in those special state-supported schools within state agencies, must hold valid, educational

assistants licensure issued by the ("PED"). EAs shall be assigned, and serve as assistants, to school staff duly licensed by the PED. While there may be brief periods when EAs are alone with and in control of a classroom of students, their primary use shall be to work alongside or under the direct supervision of duly licensed staff.

**A.** Persons seeking licensure in level 1 educational assistance pursuant to the provisions of this rule shall meet the following requirements:

- (1) high school diploma or equivalency; and
- (2) eighteen years of age; and
- (3) certification by the public school superintendent, state-supported school superintendent, charter school administrator, private school official that the educational assistant has satisfactorily completed an orientation session pertinent to the assignment.

**B.** Persons seeking licensure in level 2 educational assistance pursuant to the provisions of this rule shall meet the following requirements:

- (1) high school diploma or equivalency; and
- (2) eighteen years of age; and
- (3) certification by the public school superintendent, state-supported school superintendent, charter school administrator or private school official that the educational assistant has satisfactorily completed an orientation session pertinent to the assignment; and
- (4) certification by the public school superintendent, state-supported school superintendent, charter school administrator, private school official that the educational assistant has satisfactorily demonstrated the PED's educational assistant competencies.

[11-14-98; 6.63.9.8 NMAC - Rn, 6 NMAC 4.2.3.15.8, 03-31-01; A, 06-30-03; A, 06-30-06; A, 10-31-07]

#### **6.63.9.9 [RESERVED]**

[11-14-98; 6.63.9.9 NMAC - Rn, 6 NMAC 4.2.3.15.9, 03-31-01; N, 06-30-03; A, 06-30-06; Repealed, 10-31-07]

#### **6.63.9.10 LEVEL 3/PARAPROFESSIONAL REQUIREMENTS:**

EAs who are assigned to work in a title I targeted assistance program or in a title I school-wide program under the act, must hold a level 3 license. Level 3 EAs shall be assigned and serve as assistants to school staff duly licensed by the PED. While there may be brief periods when EAs are alone with and in control of a classroom of students,

their primary use shall be to work alongside or under the direct supervision of duly licensed staff.

**A.** A person who seeks a level 3 educational assistant license, shall meet the following requirements:

- (1)** hold a high school diploma or equivalency; and
- (2)** be eighteen years of age; and
- (3)** provide certification from the public school superintendent, state supported school superintendent, charter school administrator, private school official that the educational assistant has satisfactorily completed an orientation session pertinent to the assignment; and
- (4)** if the EA holds a level 2 EA license, provide certification from the public school superintendent, state supported school superintendent, charter school administrator, private school official that the educational assistant has satisfactorily demonstrated the PED's educational assistant competencies.

**B.** In addition to satisfying the requirements of Subsection A of 6.63.9.10 NMAC, a person who seeks a level 3 educational assistant license, shall meet the requirements of Paragraph (1) or Paragraph (2) or Paragraph (3) of Subsection B before being hired to work in a title I program:

**(1)** earn an associate degree from a nationally or regionally accredited college or university that includes at least 15 semester hours in non-remedial degree coursework, broken down as follows:

- (a)** 3 hours of language arts/reading or language arts/reading pedagogy;
- (b)** 3 hours of writing or writing pedagogy;
- (c)** 3 hours of mathematics or mathematics pedagogy;
- (d)** 6 hours of reading, writing, and math readiness, or professional education, or classroom management, or teaching assistance, or special education; or

**(2)** complete forty-eight (48) semester hours of academic credit awarded by a nationally or regionally accredited college or university that includes at least 15 semester hours in non-remedial coursework, broken down as follows:

- (a)** 3 hours of language arts/reading, or language arts/reading pedagogy;
- (b)** 3 hours of writing or writing pedagogy;

(c) 3 hours of mathematics or mathematics pedagogy;

(d) 6 hours of reading, writing, and math readiness, or professional education, or classroom management, or teaching assistance, or special education; or

(3) obtain a passing score of at least seventy (70) percent on a test administered pursuant to Section 11 of 6.63.9 NMAC.

[11-14-98; 6.63.9.10 NMAC - Rn, 6 NMAC 4.2.3.15.10, 03-31-01; N, 06-30-03; A, 06-30-06; A, 10-31-07]

#### **6.63.9.11 LOCAL DISTRICT TESTING TO OBTAIN LEVEL 3 LICENSURE:**

**A.** A local district shall develop or obtain a test for the purpose of determining if an EA/paraprofessional has demonstrated a knowledge of and ability to assist in instructing in reading/language arts, writing, and mathematics; or reading readiness, writing readiness, and mathematics readiness, provided that any such test contains at a minimum:

(1) an assessment of basic skill in reading, writing, and mathematics at an 8th grade level as established in the New Mexico Content Standards and Benchmarks for Language Arts and Mathematics set forth in 6.30.2 NMAC; and

(2) an assessment of the ability to assist in instruction in reading, writing, and mathematics, which may include knowledge of professional education practices, or classroom management, or teaching assistance techniques, or special education, and

(3) a sufficient number of high quality, reliable test items that demonstrate that the test is a valid measure of competence and knowledge.

**B.** The PED is hereby authorized to approve a local district's EA test and shall approve such test provided that it contains at least each of the factors set forth in Subsection A of 6.63.9.11 NMAC.

**C.** Once approved as described in this section, a local district shall administer its EA test as frequently as it determines is necessary, under conditions ensuring test security.

**D.** The local district shall file a record of the candidate's test results with the PED along with the application for level 3 EA licensure and shall maintain a documented record of the test results on file in the local district.

[11-14-98; 6.63.9.11 NMAC - Rn, 6 NMAC 4.2.3.15.11 & A, 03-31-01; N, 06-30-03; A, 06-30-06; A, 10-31-07]

#### **6.63.9.12 [RESERVED]**

[6.63.9.12 NMAC - N, 06-30-03; A, 06-30-06; Repealed, 10-31-07]

**6.63.9.13 IMPLEMENTATION:**

**A.** Level 1 licenses shall be issued for a maximum of three (3) years and may not be continued or renewed. Level 2 and 3 licenses shall be issued for nine (9) years.

**B.** No EA assigned to work in a title I targeted assistance program or in a title I school-wide program under the act may continue to perform EA services in those programs without obtaining a level 3 license. Failure to obtain a level 3 license while continuing to perform EA services in those programs shall constitute good and just cause to revoke or suspend that person's licensure.

**C.** An applicant who meets all of the requirements of level 3 educational assistant licensure may be granted a level 3 license without previously holding level 1 or level 2 licensure.

[6.63.9.13 NMAC - Rn & A, 6.63.9.9 NMAC, 06-30-03; A, 06-30-06]

**6.63.9.14 CONTINUING LICENSURE:**

**A.** Persons holding a level 1 license may apply for a higher level of licensure any time during the maximum three (3) year level 1 licensure period provided all requirements for the higher level of licensure are satisfied.

**B.** Persons holding level 2 or level 3 licenses and seeking to continue such licensure may do so based upon verification by the public school superintendent or private school official that the holder has demonstrated the PED's educational assistant competencies.

**C.** Persons holding level 2 licenses may apply for level 3 licensure provided all requirements for level 3 licensure have been satisfied.

[6.63.9.14 NMAC - Rn & A, 6.63.9.10 NMAC, 06-30-03; A, 06-30-06]

**6.63.9.15 REFERENCED MATERIAL:**

Competencies for educational assistants. The educational assistant shall understand and be able to:

- A.** assist licensed personnel in school environment;
- B.** provide assistance with individualized program materials;
- C.** assist licensed personnel with student discipline;
- D.** assist in maintaining students' involvement in appropriate tasks;

**E.** assist with supplementary work for students and supervise independent study in the school environment;

**F.** respond to students as individuals;

**G.** help maintain cohesiveness in school environment;

**H.** display a desire to work with students;

**I.** serve as a role model;

**J.** work as a member of a team;

**K.** communicate effectively both verbally and in writing;

**L.** use current technology for instructional and management needs.

[6.63.9.15 NMAC - Rn, 6.63.9.11 NMAC, 06-30-03]

## **PART 10: LICENSURE FOR SUBSTITUTE TEACHERS**

### **6.63.10.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.63.10.1 NMAC - N, 09-29-00; A, 08-31-04; A, 10-31-07]

### **6.63.10.2 SCOPE:**

All certified substitute teachers and all applicants for substitute teacher certification. This rule governs standards and qualifications for those persons seeking initial or renewed certification as a substitute teacher.

[6.63.10.2 NMAC - N, 09-29-00; A, 09-30-03; A, 10-31-07]

### **6.63.10.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-15, and 22-10A-16, NMSA 1978.

[6.63.10.3 NMAC - N, 09-29-00; A, 09-30-03]

### **6.63.10.4 DURATION:**

Permanent.

[6.63.10.4 NMAC - N, 09-29-00]

#### **6.63.10.5 EFFECTIVE DATE:**

September 29, 2000, unless a later date is cited in the history note at the end of a section.

[6.63.10.5 NMAC - N, 09-29-00]

#### **6.63.10.6 OBJECTIVE:**

This rule establishes licensure requirements for substitute teachers who provide temporary instructional services when an assigned licensed instructor is absent from class. This rule also seeks to comply with amended legislation that set a minimum age requirement and allowed the PED to establish the duration of a substitute teaching license.

[6.63.10.6 NMAC - N, 09-29-00; A, 08-31-04; A, 10-31-07]

#### **6.63.10.7 DEFINITIONS:**

**A. "High school diploma equivalency"** means a New Mexico high school diploma issued after a person has passed all five (5) subtests of the general education diploma ("GED"), a GED issued by the proper authority from any other state, an international baccalaureate ("IB"), and any other diploma issued by any schools accredited by the PED, the north central accreditation ("NCA") or western states accreditation ("WSA").

**B. "Teaching experience"** means any person as of the effective date of this rule, who shall have taught a minimum of 3 hours per day for 60 days as a paid substitute teacher in any school classroom in New Mexico during a regular school year.

[6.63.10.7 NMAC - N, 09-29-00; A, 08-31-04; A, 10-31-07]

#### **6.63.10.8 REQUIREMENTS:**

Unless otherwise stated in this rule, any person seeking to perform services as a substitute teacher must hold a certificate authorizing that person to perform the duties of a substitute teacher. Substitute teacher certificates shall be issued by the PED to persons who at a minimum meet the requirements of this section. Such certificates authorize the substitute teacher to work as a substitute teacher in any public school district or charter school in New Mexico. At the very minimum, all applicants for initial substitute teacher licensure shall have attained eighteen (18) years of age for those seeking to perform instructional services in grades K-8, and twenty-one (21) years of age for those seeking to perform instructional services in grades 9-12, and have earned a high school diploma or high school diploma equivalency. Any such certificate issued by the PED shall be in writing. Additionally, each applicant shall meet the requirements of either Subsection H or I below, or shall meet the requirements of two or more of Subsections A through G:

**A.** have, within 12 months of their date for initial employment with a local district, received on the job training by serving as a voluntary assistant to a licensed teacher in a school classroom for a minimum of three hours during three days;

**B.** have observed 3 hours or more of teaching in a school system and at the grade level of students in which the substitute will serve;

**C.** have completed a substitute teacher workshop conducted by or acceptable to the local school district in which the substitute teacher is employed or seeking employment;

**D.** have, within the past three school years of application for employment or licensure, performed at least three hours of instructional services as a substitute teacher in any school accredited or recognized by the New Mexico PED;

**E.** have engaged in any paid employment in the three years prior to applying for substitute teaching licensure or employment, which, after verification by and in the opinion of the superintendent of the local district, invests that applicant with relevant work or life experience;

**F.** have completed at least 60 hours of college-credit courses in a regionally accredited college;

**G.** have completed or currently be enrolled in an approved college course or program from a regionally accredited college, where the course or program is structured to provide primary/secondary school teacher preparation;

**H.** have completed an approved teacher preparation program from a regionally accredited college or university;

**I.** is in possession of a current substitute or standard teaching license issued by another state's educator licensure issuing agency.

[6.63.10.8 NMAC - N, 09-29-00; A, 09-30-03; A, 08-31-04; A, 10-31-07]

#### **6.63.10.9 BACKGROUND CHECKS:**

As a condition for issuance of a substitute teacher certificate, all applicants for such initial certification shall submit to a fingerprint-based background check. The background checks procedures and requirements set forth in 22-10A-5, NMSA 1978 and 6.60.8 NMAC shall apply.

[6.63.10.9 NMAC - N, 09-29-00; A, 09-30-03]

#### **6.63.10.10 SUBSTITUTE TEACHER TRACKING:**



Local school districts, state institutions and nonpublic schools that utilize substitute teachers shall each develop and promulgate substitute teacher policies that at a minimum address substitute teacher qualifications, hiring guidelines, workshop guidelines, disciplinary action guidelines, and guidelines that permit the tracking of a substitute by specific classroom placement and by dates and hours in placement.

[6.63.10.10 NMAC - N, 09-29-00]

#### **6.63.10.11 VERIFICATION OF REQUIREMENTS:**

As part of the initial and continuing licensure process for substitutes, the superintendent or the superintendent's appointed designee of the local district seeking to employ a substitute, is hereby authorized to verify that applicant's qualifications set forth at Sections 8 and 12 herein. When an unlicensed individual seeks substitute teaching employment or consideration for future employment in a local school district, state institution, or nonpublic school, the superintendent or the superintendent's appointed designee shall verify the various requirements set forth at Sections 8 and 12 herein. Such verification shall be maintained by the local school districts.

[6.63.10.11 NMAC - N, 09-29-00; A, 09-30-03; A, 10-31-07]

#### **6.63.10.12 CONTINUING CERTIFICATION:**

An initial substitute teaching certificate is considered to be a level 1 certificate and all renewed certificates are considered to be level 2 certificates.

**A.** An initial substitute teacher certificate is valid for three (3) years and commences on July first of a year and expires the 30th of June three years thereafter.

**B.** A renewed substitute teacher certificate is valid for nine (9) years and commences on July first of a year and expires the 30th of June nine years thereafter.

**C.** Local school districts and state institutions that utilize substitute teachers shall each develop and promulgate substitute teacher advancement policies for level 2 certification that requires substitutes at a minimum:

**(1)** to complete with a passing grade three (3) semester hours of credit from a regionally accredited college or university in areas related to the school's long range plan, student standards, or the substitute teacher's classroom assignment; or,

**(2)** to complete forty-eight (48) contact hours in professional development activities approved by the local school district, state educational institutions, or nonpublic schools in areas related to the school's long range plan, student standards, or the substitute teacher's classroom assignment; or,

(3) obtain written verification from the superintendent of a local district, or from the governing authority of the state institution or nonpublic school where that substitute is employed that the substitute has satisfactorily completed at least 270 hours of providing instructional services.

D. Substitute teachers who, on the effective date of this rule, hold valid, current school district or charter school issued certificates, shall present the certificates along with an application for state certification and application fee to the PED and be issued new certificates by the PED.

[6.63.10.12 NMAC - N, 09-29-00; A, 09-30-03; A, 08-31-04; A, 10-31-07]

#### **6.63.10.13 PARENTAL NOTIFICATION:**

A local superintendent or governing body of a charter school shall give written notice to parents of those students who are being taught for longer than four consecutive weeks by a substitute teacher or by a person who is not qualified to teach the grade or subject.

[6.63.10.13 NMAC - Rp, 6 NMAC 4.2.3.16.10, 09-29-00; A, 09-30-03]

#### **6.63.10.14 EXCEPTIONS:**

No person holding valid New Mexico teaching or administrative licensure is required to obtain substitute teacher certification in order to perform instructional services as a substitute teacher.

[6.63.10.14 NMAC - N, 09-29-00; A, 09-30-03; A, 08-31-04]

### **PART 11: LICENSURE IN REHABILITATION COUNSELING, PRE K-12**

#### **6.63.11.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.63.11.1 NMAC – Rp, 6.63.11.1 NMAC, 9/27/2022]

#### **6.63.11.2 SCOPE:**

All persons seeking licensure in rehabilitation counseling, grades prekindergarten to 12.

[6.63.11.2 NMAC – Rp, 6.63.11.2 NMAC, 9/27/2022]

#### **6.63.11.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-10A-17 NMSA 1978.

[6.63.11.3 NMAC – Rp, 6.63.11.3 NMAC, 9/27/2022]

**6.63.11.4 DURATION:**

Permanent.

[6.63.11.4 NMAC – Rp, 6.63.11.4 NMAC, 9/27/2022]

**6.63.11.5 EFFECTIVE DATE:**

September 27, 2022, unless a later date is cited in the history note at the end of a section.

[6.63.11.5 NMAC – Rp, 6.63.11.5 NMAC, 9/27/2022]

**6.63.11.6 OBJECTIVE:**

The purpose of this rule is to establish the requirements for individuals seeking licensure in rehabilitation counseling. Individuals with a license in rehabilitation counseling may provide rehabilitation counseling services and assist with providing transition services, developing individualized education programs (IEPs), and similar plans and services for students in public and private schools, institutions, and agencies. Public or private agencies unable to hire an individual with a license in rehabilitation counseling may provide required transition and rehabilitation counseling services to students through an alternate delivery system approved by the department.

[6.63.11.6 NMAC – Rp, 6.63.11.6 NMAC, 9/27/2022]

**6.63.11.7 DEFINITIONS:**

**A. "Ancillary provider certificate"** means a one-year, non-renewable certificate issued to a candidate who holds a baccalaureate degree in a field of study reasonably related to vocational rehabilitation and who is working toward a level 1 license in rehabilitation counseling under a one-year individualized mentorship plan approved by the department.

**B. "Individualized mentorship plan"** means a plan developed by the employer of an individual holding an ancillary provider certificate that describes the training and skills required for an individual to achieve competency in rehabilitation counseling.

**C. "Rehabilitation counseling"** means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability who receives services under the federal Individuals with Disabilities Education Act (IDEA). The term also includes vocational rehabilitation

services provided to a student with disabilities by vocational rehabilitation programs funded under the federal Rehabilitation Act of 1973, as amended.

**D. "Related field" means a:**

(1) baccalaureate degree in a field of study reasonably related to vocational rehabilitation that demonstrates basic preparation in a field of study, such as vocational rehabilitation counseling, social work, psychology, disability studies, business administration, human resources, special education, management, public administration, or another field that reasonably provides competence in the employment sector, in a disability field, or in both business-related and rehabilitation-related fields; or

(2) master's or doctoral degree in a field of study, such as vocational rehabilitation counseling, law, social work, psychology, disability studies, business administration, human resources, special education, management, public administration, or another field that reasonably provides competence in the employment sector, in a disability field, or in both business-related and rehabilitation-related fields.

**E. "Transition services"** means a coordinated set of activities for a student with a disability, as defined in the Individuals with Disabilities Education Act, that:

(1) is designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) is based on the individual student's needs, taking into account the student's preferences and interests; and

(3) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

[6.63.11.7 NMAC – Rp, 6.63.11.7 NMAC, 9/27/2022]

**6.63.11.8 REQUIREMENTS FOR LEVEL 1 LICENSE:**

Individuals seeking licensure in rehabilitation counseling shall be at least 18 years of age and meet the requirements of subsections A, B, or C of this section.

**A.** Attainment of a baccalaureate degree and demonstration of experience as follows:

(1) Baccalaureate degree in a field of study reasonably related to vocational rehabilitation, that demonstrates basic preparation in a field of study, such as vocational rehabilitation counseling, social work, psychology, disability studies, business

administration, human resources, special education, supported employment, customized employment, economics, or another field that reasonably prepares individuals to work with consumers and employers; and

(2) Paid or unpaid work experience, for not less than one year, consisting of:

(a) Direct work with individuals with disabilities in a setting such as an independent living center;

(b) Direct service or advocacy activities that provide experience and skills in working with individuals with disabilities; or

(c) Direct experience in competitive and integrated employment environments as an employer, a small business owner or operator, as self-employed, or in other capacities that provide experience in human resources or recruitment, or experience in supervising employees, training, or other activities.

**B.** Attainment of a master's or doctoral degree in a field of study, such as vocational rehabilitation counseling, law, social work, psychology, disability studies, business administration, human resources, special education, management, public administration, or another field that reasonably provides competence in the employment sector, in a disability field, or in both business-related and rehabilitation-related fields.

**C.** Attainment of a certificate as a rehabilitation counselor issued by the Commission on Rehabilitation Counselor Certification.

[6.63.11.8 NMAC – Rp, 6.63.11.8 NMAC, 9/27/2022]

#### **6.63.11.9 REQUIREMENTS FOR AN ANCILLARY PROVIDER CERTIFICATE:**

**A.** An ancillary provider certificate may be issued to an individual who:

(1) is at least 18 years of age;

(2) holds at least a baccalaureate degree in vocational rehabilitation counseling or a related field; and

(3) possesses a one-year individualized mentorship plan approved by the department and signed by the individual's direct supervisor or program manager as well as the employing agency's human resources division.

**B.** Upon successful completion of a department-approved mentorship plan, an individual holding an ancillary provider certificate shall be eligible for a level 1 license in rehabilitation counseling.

[6.63.11.9 NMAC – Rp, 6.63.11.9 NMAC, 9/27/2022]

#### **6.63.11.10 REFERENCED MATERIAL:**

Competencies for rehabilitation counselors. The rehabilitation counselor will be able to:

**A.** provide those individualized and/or group services, which will assist in career development, employment preparation, self-determination development; vocational assessment, and integration in the workplace and community for all students;

**B.** demonstrate job development skills and address application of job modification assistance;

**C.** provide technical assistance to special education teachers in developing transition plans and implementing those plans;

**D.** provide program development at the high school and middle school level that supports transition planning and provides a continuum of career development activities from exploration through planning;

**E.** provide assistance with course selection and registration for middle school and high school students including special education students;

**F.** demonstrate strong leadership skills and teamwork through interagency collaboration; working with general education staff, vocational education staff, parents, students, employers, adult service providers and post secondary education representatives;

**G.** demonstrate knowledge of labor markets, post-secondary opportunities, curricula and materials that support the identification of student aptitudes, interests, preferences, and strengths;

**H.** participate in meetings of individualized educational program teams that address transition requirements for students served under the IDEA;

**I.** provide staff development in the area of transition for students with disabilities including training for students, employers, counselors, teachers, parents, and other service providers;

**J.** provide leadership in self-determination, including facilitating the participation of students in their own IEP team meetings;

**K.** work with the department to ensure compliance with applicable state and federal regulations;

**L.** participate in professional development activities to maintain knowledge of preferred practices in rehabilitation counseling.

[6.63.11.10 NMAC – Rp, 6.63.11.10 NMAC, 9/27/2022]

## **PART 12: SCHOOL BUSINESS OFFICIAL LICENSURE**

### **6.63.12.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.63.12.1 NMAC - N, 01-01-03; A, 05-28-04; A, 10-31-07]

### **6.63.12.2 SCOPE:**

All individuals seeking initial or continuing school business licensure in public schools, including charter schools.

[6.63.12.2 NMAC - N, 01-01-03]

### **6.63.12.3 STATUTORY AUTHORITY:**

Sections 22-1-1, 22-1-1.1, 22-1-1.2, 22-2-1 22-2-2, 22-10A-3, and 22-10A-4, NMSA 1978.

[6.63.12.3 NMAC - N, 01-01-03, A, 05-28-04]

### **6.63.12.4 DURATION:**

Permanent.

[6.63.12.4 NMAC - N, 01-01-03]

### **6.63.12.5 EFFECTIVE DATE:**

January 1, 2003, unless a later date is cited in the history note at the end of a section.

[6.63.12.5 NMAC - N, 01-01-03]

### **6.63.12.6 OBJECTIVE:**

This rule establishes guidelines, procedures and competencies for those individuals serving or seeking to serve as the school business official of a local school district, including charter schools. It also establishes guidelines, procedures and competencies for those individuals serving or seeking to serve at the district level in a local school district, charter school district, or in a charter school not within a charter school district, in the capacity of a supervisor or director or manager of accounting or bookkeeping.

[6.63.12.6 NMAC - N, 01-01-03; A, 10-31-07]

#### **6.63.12.7 DEFINITIONS:**

**[RESERVED]**

#### **6.63.12.8 REQUIREMENTS FOR RECEIVING THIS LICENSE:**

**A.** Any person serving or seeking to serve as the school business official of a local school district, including charter schools, and any person seeking to serve in a local school district, including charter schools, in the capacity of a business manager, or any district official charged with the direct management of the business of a school district, excluding the superintendent, or a supervisor or director or manager of accounting or bookkeeping shall be required to hold this license. A person seeking this license shall have earned or completed one or more of the following:

- (1)** a current certified public accountant certificate; or
- (2)** a bachelor's, master's, or doctorate degree in accounting, business, or a related field with at least 24 semester hours in accounting or business coursework from a regionally accredited or department approved college or university; or
- (3)** an associate's degree in accounting or a related field from a regionally accredited or department approved college or university including at least 24 semester hours in accounting or business courses from a regionally accredited or approved college or university plus at least three years of verifiable, employment experience as a school business official; or
- (4)** a high school diploma or high school equivalency credential and at least five years of verifiable employment experience working under the supervision of a licensed school business official and 40 hours of licensure credit for school business official license continuing education.

**B.** In addition to satisfying the requirements contained in Subsection A of Section 8 of this rule, a person receiving an initial school business license shall be issued a one-year conditional license that shall convert automatically to a three-year level 1 license provided that during this first year the person satisfactorily completes a training program approved by the PED.

**C.** A business manager of a school district with a membership in excess of 3,000 students must hold or be eligible to hold a level 2 school business official license.

[6.63.12.8 NMAC - N, 01-01-03; A, 05-28-04; A, 10-31-07; A, 04-30-16]

#### **6.63.12.9 COMPETENCIES:**

To qualify for receipt of a level 2 license, a person shall comply with the competency requirements enumerated as follows:



**A. Legal issues:** The school business official understands and demonstrates the ability to:

- (1)** identify the state and federal constitutional rights that apply to individuals within the public education system;
- (2)** review and analyze appropriate statutory and constitutional authority regarding the administration of public schools;
- (3)** review and analyze significant statutory issues relative to financial resource management.

**B. Financial resource management:** School business officials must be able to demonstrate, understand, and comprehend the principles associated with school finance, budgeting, financial planning, accounting, auditing, financial reporting, cash management, investments, debt management and technology for school business operations.

**(1)** Principles of school finance: The school business official understands and demonstrates the ability to apply all New Mexico state statutes and regulations as they apply to public schools including but not limited to:

**(a)** Procurement Code, Sections 13-1-28 to 13-1-199, NMSA 1978, as may be amended or reenacted;

**(b)** New Mexico PED manual of procedures in its most current form;

**(c)** department of finance and administration rules as set forth in Title 2 of the NMAC, as may be amended, replaced, or otherwise changed; and

**(d)** New Mexico state auditor rules as set forth in Title 2 of the NMAC, as may be amended, replaced, or otherwise changed;

**(2)** Budgeting and financial planning: The school business official understands and demonstrates the ability to:

**(a)** apply the legal requirements for budget adoption;

**(b)** prepare a local budget calendar to meet the time constraints of budget preparation;

**(c)** recognize and analyze significant social, demographic and economic changes which may impact the financial plan of the district;

**(d)** recognize and forecast the major sources of revenue available to public schools from local, state and federal levels of government;

**(e)** analyze the impact of shifts in local, state and federal funding and its effect on local spending plans;

**(f)** recognize and explain internal and external influences on the budget;

**(g)** recognize multiple approaches to determine reliable enrollment and personnel projections;

**(h)** interpret the state funding model;

**(i)** prepare revenue projections and estimates of expenditures for school sites and district-wide budgets;

**(j)** identify various methods of budget analysis and management;

**(k)** exercise budgetary management; and

**(l)** apply analytical procedures for budgetary analysis;

**(3)** Accounting, auditing, and financial reporting: The school business official understands and demonstrates the ability to:

**(a)** understand the use and role of internal and external audits;

**(b)** prepare and analyze interim and annual financial statements;

**(c)** report the financial status and operating results to the local board of education;

**(d)** determine revenues and expenditures by fund using state-approved charts of accounts;

**(e)** develop and maintain all fixed assets inventory in accordance with applicable governmental accounting standards board pronouncements;

**(f)** use the annual audit report to improve financial tracking and reporting; and

**(g)** apply the appropriate basis of accounting in accordance with applicable governmental accounting standards board pronouncements in measuring financial position and operating results.

**(4)** Cash management, investments, and debt management: If applicable to the school district in which he or she is employed, the school business official understands and demonstrates the ability to:

**(a)** use lease purchasing and joint powers agreements;

(b) select banking and other financial services;

(c) recognize the statutory limitations on investment options available to a school district;

(d) apply procedures for implementing and monitoring internal transfers and loans; and

(e) apply the process of issuing long-term general obligation bonds including the bond rating process and the role of the bonding attorney and rating services.

[6.63.12.9 NMAC - N, 01-01-03; A, 05-28-04; A, 10-31-07]

#### **6.63.12.10 ETHICS AND REPORTING REQUIREMENTS:**

Applicants for and holders of a school business official license shall discharge their duties in a manner that maximizes the public's confidence and trust in the integrity of public school fiscal practices. Accordingly, they shall be held to the highest standards of accounting practices with a goal of maintaining the public trust and ethical management of their school district's financial assets.

**A.** Applicants for and holders of a school business official license are bound by the prohibited practices enumerated in the Standards of Professional Conduct (6.60.9 NMAC), and any failure to comply therewith may constitute grounds for such adverse licensure action as authorized by the Uniform Licensing Act, Sections 61-1-1 et seq., NMSA 1978, including but not limited to denial, non-renewal, suspension or revocation.

**B. [RESERVED]**

**C. [RESERVED]**

**D.** Material deviations from accepted accounting standards that result in substantial financial loss to a local school district shall constitute grounds for adverse licensure action.

**E.** Use of public school funds for other than approved official school purposes shall constitute grounds for adverse licensure action.

**F.** School business official licensees shall promptly report material misuse of public school funds to their superintendent, and/or whichever person or entity seems most appropriate under the circumstances. Non-reporting of material misuse of public school funds that results in substantial financial loss to a local school district may constitute grounds for adverse licensure action.

**G.** Falsifying any record, account or report required to be kept or filed pursuant to the Public School Finance Act (Sections 22-8-1 through 22-8-45 NMSA 1978) shall constitute grounds for adverse licensure action pursuant to the Uniform Licensing Act.

[6.63.12.10 NMAC - N, 01-01-03, A, 05-28-04]

#### **6.63.12.11 CONTINUING LICENSURE:**

An initial school business license is considered to be a level 1 license and renewed licenses shall be level 2 licenses except as provided in 6.60.6 NMAC, Continuing Licensure for Licensed Educators in New Mexico.

**A.** The one-year conditional license shall be considered as part of the three-year level 1 license. The initial school business official license is valid for three (3) years and becomes effective on July first of a year and expires the 30th of June three years thereafter.

**B.** As a condition for receipt of a level 2 license, a person applying for such licensure shall satisfactorily demonstrate the competencies contained in this rule and must have three (3) full school years of experience under a level 1 license.

**C.** All renewed level 2 school business official licenses are valid for nine (9) years and become effective on July first of a year and expire the 30th of June nine years thereafter.

**D.** The holder of a level 1 or level 2 school business official license must complete sixteen (16) contact hours per year of training or coursework in any combination of subjects identified in section 9 of this rule.

[6.63.12.11 NMAC - N, 01-01-03; A, 05-28-04; A, 10-31-07]

#### **6.63.12.12 [RESERVED]**

[6.63.12.12 NMAC - N, 01-01-03; A, 10-31-07; Repealed, 04-30-16]

### **PART 13: [RESERVED]**

## **PART 14: CERTIFICATION IN NATIVE AMERICAN LANGUAGE AND CULTURE, PRE K-12**

#### **6.63.14.1 ISSUING AGENCY:**

Public Education Department.

[6.63.14.1 NMAC - N, 9/30/03; A, 06-30-06]

#### **6.63.14.2 SCOPE:**

All certified Native American language and culture teachers and all applicants for Native American language and culture teacher certification. This rule governs standards and qualifications for those persons seeking initial or renewed certification as a Native American language and culture teacher.

[6.63.14.2 NMAC - N, 9/30/03; A, 06-30-06]

#### **6.63.14.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-13, 22-10A-5, 22-10A-31, NMSA 1978.

[6.63.14.3 NMAC - N, 9/30/03]

#### **6.63.14.4 DURATION:**

Permanent.

[6.63.14.4 NMAC - N, 9/30/03]

#### **6.63.14.5 EFFECTIVE DATE:**

September 30, 2003, unless a later date is cited in the history note at the end of a section.

[6.63.14.5 NMAC - N, 9/30/03]

#### **6.63.14.6 OBJECTIVE:**

This rule provides a certification system whereby school districts may employ non-degreed individuals to teach the native language and cultures of specific tribes and pueblos in any grade K through 12.

[6.63.14.6 NMAC - N, 9/30/03]

#### **6.63.14.7 DEFINITIONS:**

**A. "Collaboration with the "secretary of education"** means those Native American tribes and pueblos in New Mexico that have signed a memorandum of agreement with the secretary of education.

**B. "Tribe"** means an Indian nation, tribe or pueblo located within New Mexico.

**C. "Verifying in writing"** means signing a memorandum of agreement as between a tribe or pueblo and the secretary of education.

[6.63.14.7 NMAC - N, 9/30/03; A, 06-30-06]

**6.63.14.8 REQUIREMENTS:**

**A.** Persons seeking level one certification (for three years) in Native American language and culture pursuant to the provisions of this rule shall meet the requirements established by each New Mexico Native American tribe and pueblo to determine an acceptable standard of competence and language proficiency to teach the language and culture.

**B.** Persons seeking level one certification in Native American language and culture pursuant to the provisions of this rule shall provide the professional certification unit with verification from a New Mexico Native American tribe or pueblo authority that the candidate has met the standards and criteria for competence and language proficiency to teach the language and culture. Such verification shall be provided on a form acceptable to the public education department ("PED").

**C.** Persons seeking certification in Native American language and culture pursuant to the provisions of this rule shall comply with all provisions of 6.60.7 NMAC [Educator Licensure Application Fee], 6.60.8 NMAC [Background Checks for Educator Licensure], the standards of professional conduct at 6.60.9.9 NMAC [Licensure Requirements, Code of Ethical Responsibility of the Education Profession], and the Parental Responsibility Act, Sections 40-5A-1 to 40-5A-13, NMSA 1978.

**D.** Holders of the certificate in Native American language and culture, pre K-12 may not use this certificate to provide instruction in any other subject matter or discipline, unless they hold a valid PED license authorizing them to provide such instructional services.

**E.** Persons denied certification required by this rule who desire a hearing pursuant to the Uniform Licensing Act, Sections 61-1-1 through 61-1-33, NMSA 1978, must first exhaust the procedures set forth in a memorandum of agreement with the applicable tribe or pueblo.

[6.63.14.8 NMAC - N, 9/30/03; A, 06-30-06]

**6.63.14.9 STANDARDS FOR COMPETENCE AND LANGUAGE PROFICIENCY:**

**A.** Each New Mexico Native American tribe and pueblo in collaboration with the PED in certifying Native American language and culture teachers, shall develop standards and criteria for determining competency for initial certification and renewal of certification, and shall verify in writing to the PED that these standards and criteria have been developed and that they are maintained on file with the certifying community, tribe or pueblo.

**B.** Each New Mexico Native American tribe and pueblo in collaboration with the PED in certifying Native American language and culture teachers, shall develop and consistently use a process for determining if candidates for the initial or continuing certification for Native American language and culture have met the standards of competence and language proficiency required for certification and shall verify in writing to the PED that the process has been developed and is the sole basis for determining language and culture competence, and that a description of the process is maintained on file with the certifying tribe or pueblo.

[6.63.14.9 NMAC - N, 9/30/03; A, 06-30-06]

**6.63.14.10 RENEWAL OF CERTIFICATION IN NATIVE AMERICAN LANGUAGE AND CULTURE, PRE K-12:**

A level two certificate (for nine years) may be issued upon verification that the Native American language and culture teacher satisfactorily completed renewal activities required, authorized, and verified by the authority of the Native American tribe and pueblo, and that the renewal process was carried out in collaboration with the superintendent of the employing school district.

[6.63.14.10 NMAC - N, 9/30/03; A, 06-30-06]

**PART 15: LICENSURE FOR SCHOOL HEALTH ASSISTANTS, GRADES PRE K-12**

**6.63.15.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.63.15.1 NMAC - Rp, 6.63.15.1 NMAC, 9/26/2017]

**6.63.15.2 SCOPE:**

This rule governs licensure for school health assistants, grades pre k-12, for those persons seeking such licensure.

[6.63.15.2 NMAC - Rp, 6.63.15.2 NMAC, 9/26/2017]

**6.63.15.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-3, and 22-10A-17, NMSA 1978.

[6.63.15.3 NMAC - Rp, 6.63.15.3 NMAC, 9/26/2017]

**6.63.15.4 DURATION:**

Permanent

[6.63.15.4 NMAC - Rp, 6.63.15.4 NMAC, 9/26/2017]

**6.63.15.5 EFFECTIVE DATE:**

September 12, 2017, unless a later date is cited in the history note at the end of a section.

[6.63.15.5 NMAC - Rp, 6.63.15.5 NMAC, 9/26/2017]

**6.63.15.6 OBJECTIVE:**

This rule establishes the requirements for school health assistant licensure for persons seeking such licensure.

[6.63.15.6 NMAC - Rp, 6.63.15.6 NMAC, 9/26/2017]

**6.63.15.7 DEFINITIONS:**

**A. "Administration of medications"** as defined in Paragraph (2) of Subsection A of 16.12.2.7 NMAC is a process whereby a prescribed drug or biological agent, as allowed by any applicable state or federal law, is given to a patient/client by a person licensed or certified by the board to administer medications.

**B. "Assessment"** as defined in Paragraph (9) of Subsection A of 16.12.2.7 NMAC means the review and interpretation by a licensed individual of specific data necessary to determine the patient/client's care and treatment needs (also see data collection).

**C. "Assignment of nursing activity"** as defined in Paragraph (10) of Subsection A of 16.12.2.7 NMAC means appointing or designating another licensed nurse or assistive personnel that is consistent with his/her scope of practice (licensed person) or role description (unlicensed person).

**D. "Data collection"** as defined in Paragraph (1) of Subsection D of 16.12.2.7 NMAC means the process of obtaining information, material, fact, or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals.

**E. "Delegation"** as defined in Paragraph (2) of Subsection D of 16.12.2.7 NMAC means the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation. As stipulated in Subsection B of 16.12.2.12 NMAC the nurse shall assign/delegate to licensed and unlicensed persons only those nursing functions which that person is prepared, qualified, licensed, or certified to perform.



(1) The nurse is accountable for assessing the situation and is responsible for the decision to delegate or make the assignment.

(2) The delegating nurse is accountable for each activity delegated, for supervising the delegated function or activity, and for assessing the outcome of the delegated function or activity.

(3) The nurse may not delegate the specific functions of nursing assessment, evaluation, and nursing judgment to non-licensed persons.

(4) Registered nurses engaged in school nursing practice may delegate medication

administration, including emergency medication, to adults affiliated with school operations.

**F. "Supervision/direction"** as defined in Paragraph (5) of Subsection S of 16.12.2.7 NMAC, means initial verification of a person's knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction, and evaluation of that person's knowledge and skills as related to the specific functions or activity.

[6.63.15.7 NMAC - Rp, 6.63.15.7 NMAC, 9/26/2017]

#### **6.63.15.8 REQUIREMENTS:**

Persons seeking licensure as a school health assistant pursuant to the provisions of this rule shall meet the following requirements:

- A.** high school diploma or equivalency;
- B.** be at least eighteen years of age;
- C.** provide verification of current valid certification in cardiopulmonary resuscitation, which includes hands-on demonstration;
- D.** provide verification of current valid certification in first aid;
- E.** provide verification of completion of a one-time New Mexico department of health and public education department approved training for school health assistants, related to state/federal laws, regulations and guidelines;
- F.** provide verification by the public school superintendent or private school official that a local orientation related to assigned duties, and facilitated by the public education department licensed registered nurse, was satisfactorily completed; and

**G.** submit to and satisfactorily clear a fingerprint-based background check per local school board or regional education cooperatives policy pursuant to Section 22-10A-5, NMSA 1978.

[6.63.15.8 NMAC - Rp, 6.63.15.8 NMAC, 9/26/2017]

#### **6.63.15.9 CONTINUING SCHOOL HEALTH ASSISTANT LICENSURE:**

Persons holding a valid school health assistant license and seeking continuation of this license shall meet the following requirements:

**A.** a completed application for continuing New Mexico licensure shall be submitted to the public education department;

**B.** a copy of a current valid certification in cardiopulmonary resuscitation (CPR) which includes hands-on demonstration;

**C.** a copy of a current valid certification in first aid; and

**D.** the superintendent of the local school district or the governing authority of the state institution or private school by which the applicant has been most recently employed as of the date of application for continuing licensure must submit verification that the applicant has satisfactorily been employed as a PED licensed school health assistant.

[6.63.15.9 NMAC - Rp, 6.63.15.9 NMAC, 9/26/2017]

#### **6.63.15.10 COMPETENCIES FOR ENTRY LEVEL SCHOOL HEALTH ASSISTANTS:**

The school health assistant assists the public education department licensed school registered nurse with the implementation of the school health program, by providing delegated nursing services in the health room, including health screening, assisting with the administration of medications, basic first aid procedures, maintenance of student health records, and maintenance of a clean and orderly health room. The school health assistant may also perform nursing tasks as appropriately delegated by the public education department licensed registered nurse for the care of individual students with special needs, including diapering, range of motion exercises, and feeding assistance. To carry out the duties, the school health assistant:

**A.** collects and reports data regarding health status of students, under the direction and supervision of the public education department licensed registered nurse by:

**(1)** assisting with routine vision, hearing, height, and weight screening;

(2) assisting with the monitoring of students per individualized health care plan; and

(3) sharing relevant information/observations with the public education department licensed registered nurse in a timely manner.

**B.** implements aspects of the nursing plan of care, commensurate with training and verified competency, under the direction and supervision of the public education department licensed registered nurse by:

(1) performing student-specific delegated nursing procedures and treatments in accordance with the individualized health plan;

(2) assisting with administration of medications in accordance with school district medication policy and in compliance with the Nursing Practice Act;

(3) assisting with the implementation of policies and procedures regarding the control of communicable diseases in schools; and

(4) performing basic first aid and CPR, as needed.

**C.** assists with the maintenance of student health records, including immunization records, and shares relevant information with the public education department licensed registered nurse;

**D.** maintains confidentiality in accordance with state and federal laws and district policy;

**E.** shares responsibility for the care of district inventory, as well as the proper and safe use of facilities, equipment, and supplies, reporting safety hazards promptly;

**F.** maintains a clean, organized, and orderly health room environment;

**G.** demonstrates effective interpersonal and communication skills (written and oral) with diverse populations, including students, parents, co-workers, and supervisor(s);

**H.** displays a desire to work with students and responds to students as individuals;

**I.** serves as a healthy role model for students, families, and staff;

**J.** maintains competency through training and in-service educational activities.

[6.63.15.10 NMAC - Rp, 6.63.15.10 NMAC, 9/26/2017]

## **PART 16: LICENSURE FOR SCHOOL LICENSED PRACTICAL NURSES, GRADES PRE K-12**

**6.63.16.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.63.16.1 NMAC - Rp, 6.63.16.1 NMAC, 9/26/2017]

**6.63.16.2 SCOPE:**

This rule governs licensure for school licensed practical nurses, grades Pre K-12.

[6.63.16.2 NMAC - Rp, 6.63.16.2 NMAC, 9/26/2017]

**6.63.16.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-3, and 22-10A-17, NMSA 1978.

[6.63.16.3 NMAC - Rp, 6.63.16.3 NMAC, 9/26/2017]

**6.63.16.4 DURATION:**

Permanent

[6.63.16.4 NMAC - Rp, 6.63.16.4 NMAC, 9/26/2017]

**6.63.16.5 EFFECTIVE DATE:**

September 12, 2017, unless a later date is cited in the history note at the end of a section.

[6.63.16.5 NMAC - Rp, 6.63.16.5 NMAC, 9/26/2017]

**6.63.16.6 OBJECTIVE:**

This rule establishes the requirements for school licensed practical nurses, grades Pre K-12, for persons seeking such licensure.

[6.63.16.6 NMAC - Rp, 6.63.16.6 NMAC, 9/26/2017]

**6.63.16.7 DEFINITIONS:**

**A. "Administration of medications"** as defined in Paragraph (2) of Subsection A of 16.12.2.7 NMAC means a process whereby a prescribed drug or biological agent, as allowed by an applicable state or federal law, is given to a patient/client by a person licensed or certified by the board to administer medications.

**B. "Assessment"** as defined in Paragraph (9) of Subsection A of 16.12.2.7 NMAC means the review and interpretation by a licensed individual of specific data necessary to determine the patient/client's care and treatment needs (also see data collection).

**C. "Assignment of nursing activity"** as defined in Paragraph (10) of Subsection A of 16.12.2.7 NMAC means appointing or designating another licensed nurse or assistive personnel that is consistent with his/her scope of practice (licensed person) or role description (unlicensed person).

**D. "Competency in nursing"** as defined by Paragraph (4) of Subsection C of 16.12.2.7 NMAC, means the ability to perform skillfully and proficiently the role of the licensee. The role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity. Competency is a dynamic concept and is based on educational training, preparation, and expertise.

**E. "Data collection"** as defined in Paragraph (1) of Subsection D of 16.12.2.7 NMAC means the process of obtaining information, material, fact, or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals.

**F. "Delegation"** as defined in Paragraph (2) of Subsection D of 16.12.2.7 NMAC means the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation. As stipulated in Subsection B of 16.12.2.12 NMAC the nurse shall assign/delegate to licensed and unlicensed persons only those nursing functions which that person is prepared, qualified, or licensed or certified to perform.

(1) The nurse is accountable for assessing the situation and is responsible for the decision to delegate or make the assignment.

(2) The delegating nurse is accountable for each activity delegated, for supervising the delegated function or activity, and for assessing the outcome of the delegated function or activity.

(3) The nurse may not delegate the specific functions of nursing assessment, evaluation, and nursing judgment to non-licensed persons.

(4) Registered nurses engaged in school nursing practice may delegate medication

administration, including emergency medication, to adults affiliated with school operations.

**G. "Licensed practical nursing"** as defined in Subsection I of Section 61-3-3, NMSA 1978, means the practice of a directed scope of nursing requiring basic knowledge of the biological, physical, social and behavioral sciences, and nursing

procedures, which practice is at the direction of a registered nurse, physician, or dentist licensed to practice in this state. This practice includes:

- (1) contributing to the assessment of the health status of individuals, families, and communities;
- (2) participating in the development and modification of the plan of care;
- (3) implementing appropriate aspects of the plan of care commensurate with education and verified competence;
- (4) collaborating with other health care professionals in the management of health care; and
- (5) participating in the evaluation of responses to interventions.

**H. "Nursing Practice Act"** means Chapter 61, Article 3 NMSA 1978 regulating the practice of nursing, schools of nursing, hemodialysis technicians, and medication aides in the state.

**I. "Professional registered nursing"** as defined in Subsection M of Section 61-3-3, NMSA 1978, means the practice of the full scope of nursing requiring substantial knowledge of the biological, physical, social and behavioral sciences, and of nursing theory and may include advanced practice pursuant to the Nursing Practice Act. This practice includes:

- (1) assessing the health status of individuals, families, and communities;
- (2) establishing a nursing diagnosis;
- (3) establishing goals to meet identified health care needs;
- (4) developing a plan of care;
- (5) determining nursing interventions to implement the plan of care;
- (6) implementing the plan of care commensurate with education and verified competence;
- (7) evaluating responses to interventions;
- (8) teaching based on the theory and practice of nursing;
- (9) managing and supervising the practice of nursing;

(10) collaborating with other health care professionals in the management of health care; and

(11) conducting nursing research.

**J. "Scope of practice"** as defined in Subsection O of Section 61-3-3, NMSA 1978, means the parameters within which nurses practice based upon education, experience, licensure, certification, and expertise.

**K. "Supervision/direction"** as defined in Paragraph (5) of Subsection S of 16.12.2.7 NMAC, means initial verification of a person's knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person's knowledge and skills as related to the specific functions or activity.

[6.63.16.7 NMAC - Rp, 6.63.16.7 NMAC, 9/26/2017]

#### **6.63.16.8 REQUIREMENTS:**

Persons seeking licensure as a school licensed practical nurse (LPN) pursuant to the provisions of this rule shall meet the following requirements:

**A.** high school diploma or equivalency; and

**B.** minimum 18 years of age; and

**C.** current valid certification in cardiopulmonary resuscitation (CPR), which includes hands-on skills demonstration;

**D.** provide verification of current valid certification in basic first aid; and

**E.** completion of a state approved or nationally accredited program of study for practical nursing; and

**F.** current valid practical nursing license issued by the New Mexico board of nursing or a multi-state license to practice practical nursing pursuant to the nurse licensure compact or any successor licensing board for;

**G.** minimum of one year of supervised clinical nursing experience, outside of a school setting; and

**H.** verification by the public school superintendent or private school official that a local orientation related to assigned duties, and facilitated by the PED licensed registered nurse, was satisfactorily completed; and

I. submit to and satisfactorily clear a fingerprint-based background check per local school board or regional education cooperatives policy pursuant to Section 22-10A-5, NMSA 1978.

[6.63.16.8 NMAC - Rp, 6.63.16.8 NMAC, 9/26/2017]

**6.63.16.9 CONTINUING LICENSURE FOR SCHOOL LICENSED PRACTICAL NURSES:**

Persons holding a valid school licensed practical nurse license and seeking continuation of this license shall meet the following requirements:

A. A completed application for continuing PED licensure shall be submitted to the director of professional licensure; and

B. a copy of a current valid certification in cardiopulmonary resuscitation which includes hands-on demonstration; and

C. a copy of a current valid certification in first aid; and

D. the superintendent of the local school district or the governing authority of the state institution or private school by which the applicant has been most recently employed as of the date of application for continuing licensure must submit verification that the applicant has satisfactorily been employed as a PED school licensed practical nurse; and

E. a copy of a current valid practical nursing license shall be submitted with the application for continuing PED licensure.

[6.63.16.9 NMAC - Rp, 6.63.16.9 NMAC, 9/26/2017]

**6.63.16.10 COMPETENCIES FOR ENTRY LEVEL SCHOOL LICENSED PRACTICAL NURSES:**

The principle role of the school licensed practical nurse is to assist the PED licensed registered nurse with the implementation of the school health program, by providing practical nursing care for students in the health room, and by meeting the complex needs of medically fragile/severely disabled students. This includes, but is not limited to, nursing procedures, medication administration, assisting in the assessment and monitoring of the health and immunization status of students, and communicating effectively with parents, students, medical providers, and school staff. These functions may be carried out in the health room or classroom, traveling to and from school, and on field trips for community based instruction.

A. Contributes to the assessment of the health status of individual students and schools.



(1) uses basic nursing knowledge to assess and monitor the status of individual students;

(2) participates in the routine health screening, and assists in the assessment of screening results; and

(3) assists in the assessment of the immunization status of the student population.

**B.** Participates in the development of the nursing plan for care for individual students and the school population.

(1) assists with the development of individualized health/emergency care plans; and

(2) assists with school planning related to health and safety.

**C.** Implements aspects of the nursing plan of care, commensurate with education and verified competency, under the direction and supervision of the PED licensed registered nurse.

(1) provides nursing/medically prescribed interventions including tube feeding, urinary catheterization, glucose monitoring, tracheal suctioning, nebulizer treatment, peak flow measurement, and ventilator care;

(2) administers medications to students in compliance with the Nursing Practice Act;

(3) assists in the implementation of policies and procedures regarding the control of communicable diseases in schools;

(4) prepares and maintains accurate and complete records and reports as required by law, state directives, district policy, and administrative regulations.

**D.** Collaborates with PED licensed registered nurses, health assistants, site administrators, school staff, parents, and students regarding the provision of health care for individual students and the school population as a whole.

**E.** Participates in the evaluation of responses to nursing interventions.

**F.** Maintains professional competence through individual and staff training, in-service educational activities and self-selected professional growth activities.

**G.** Shares the responsibility for the care of district inventory, as well as the proper and safe use of facilities, equipment, and supplies, reporting safety hazards promptly.

**H.** Maintains confidentiality in accordance with state and federal laws and district policy.

**I.** Demonstrates effective interpersonal and communication skills (written and oral) with diverse populations.

[6.63.16.10 NMAC - Rp, 6.63.16.10 NMAC, 9/26/2017]

#### **6.63.16.11 NOTIFICATION REQUIREMENT:**

All persons issued a license as school licensed practical nurses, grades Pre K-12, by the PED shall continuously hold a license issued by the board of nursing for so long as they hold licensure issued by the PED.

**A.** Should this underlying license expire, be suspended or revoked, or its renewed or initial issuance denied, a person seeking or holding a license as a school licensed practical nurse, grades Pre K-12 from the PED shall notify the local school superintendent and the professional licensure bureau in writing within fourteen (14) calendar days of such suspension, revocation, denial, or expiration.

**B.** Suspension, revocation, denial, or expiration of the license issued by the board of nursing shall constitute just cause for discharge or termination from employment, and for suspension, revocation, or denial of renewed or initial issuance of an instructional support provider license.

[6.63.16.11 NMAC - Rp, 6.63.16.11 NMAC, 9/26/2017]

### **PART 17: LICENSURE FOR ATTENDANCE COACHES PRE K-12**

#### **6.63.17.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.63.17.1 NMAC - N, 11/15/2018]

#### **6.63.17.2 SCOPE:**

Chapter 63, Part 17 governs all persons seeking licensure as attendance coaches for students in grades pre-k through 12.

[6.63.17.2 NMAC - N, 11/15/2018]

#### **6.63.17.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-17 and 22-10A-5 NMSA 1978.

[6.63.17.3 NMAC - N, 11/15/2018]

**6.63.17.4 DURATION:**

Permanent.

[6.63.17.4 NMAC - N, 11/15/2018]

**6.63.17.5 EFFECTIVE DATE:**

November 15, 2018, unless a later date is cited in the history note at the end of a section.

[6.63.17.5 NMAC - N, 11/15/2018]

**6.63.17.6 OBJECTIVE:**

This rule establishes two levels of licensure for attendance coaches and governs the licensure requirements for persons seeking level 1 and level 2 attendance coach licensure.

[6.63.17.6 NMAC - N, 11/15/2018]

**6.63.17.7 DEFINITIONS:**

**A. "Attendance coach"** means an individual, not including truancy officers who are employed by law enforcement agencies, licensed by the department whose primary role is to support students in grades pre-k through 12 to improve their school attendance during their academic career through prevention, non-punitive tiered interventions, parent notification, and community partnerships.

**B. "Department"** means the New Mexico public education department.

**C. "Non-remedial degree coursework"** means college-level coursework that counts toward a student's degree and that is not focused on remediation for those students who have failed to demonstrate competency in one or more core content areas.

**D. "Prior professional experience"** means full-time work experience or part-time work experience in a relevant field.

[6.63.17.7 NMAC - N, 11/15/2018]

**6.63.17.8 LEVEL 1 REQUIREMENTS:**

**A.** Persons seeking licensure as a level 1 attendance coach pursuant to the provisions of this rule shall meet the following requirements:

- (1)** possess a high school diploma or equivalency;
- (2)** complete and satisfy background check procedures and requirements in accordance with Section 22-10A-5 NMSA 1978;
- (3)** complete department-approved attendance coach professional development; and
- (4)** possess at least two years of prior professional experience in one or more of the following areas:
  - (a)** corrections;
  - (b)** counseling;
  - (c)** criminal justice;
  - (d)** education;
  - (e)** guidance counseling;
  - (f)** juvenile justice;
  - (g)** law enforcement;
  - (h)** psychology;
  - (i)** public administration;
  - (j)** social work;
  - (k)** sociology; or
  - (l)** other closely related fields, as determined by the department.

**B.** In addition to satisfying the requirements of Subsection A of 6.63.17.8 NMAC, a person who seeks a level 1 attendance coach license shall meet one of the following requirements:

- (1)** hold an associate's degree from a nationally or regionally accredited college or university that includes at least 15 semester hours in non-remedial degree coursework; or
- (2)** have completed 48 semester hours of academic credit awarded by a nationally or regionally accredited college or university that includes at least 15 semester hours in non-remedial coursework.

**C.** Persons holding a level 1 license may apply for a higher level of licensure at any time during the licensure period provided:

- (1)** all requirements for the higher level of licensure are satisfied; and
- (2)** the applicant provides certification from the superintendent or charter school administrator that the attendance coach has satisfactorily completed attendance coach duties on a form developed by the department.

**D.** Individuals holding a teaching license or other instructional support license shall be able to take a position as an attendance coach without seeking level 1 license.

[6.63.17.8 NMAC - N, 11/15/2018]

#### **6.63.17.9 LEVEL 2 REQUIREMENTS:**

**A.** Persons seeking a level 2 attendance coach license pursuant to the provisions of this rule shall meet the following requirements:

**(1)** hold a bachelor's degree from a nationally or regionally accredited college or university that includes at least 30 semester hours in non-remedial degree coursework;

**(2)** complete and satisfy background check procedures and requirements in accordance with Section 22-10A-5 NMSA 1978;

**(3)** complete department-approved attendance coach professional development; and

**(4)** possess at least three years of prior professional experience in one or more of the following areas:

**(a)** corrections;

**(b)** counseling;

**(c)** criminal justice;

**(d)** education;

**(e)** guidance counseling;

**(f)** juvenile justice;

**(g)** law enforcement;

- (h) psychology;
- (i) public administration;
- (j) social work;
- (k) sociology; or
- (l) other closely related fields, as determined by the department.

**B.** Individuals holding a teaching license or other instructional support license shall be able to take a position as an attendance coach without seeking level 2 license.

[6.63.17.9 NMAC - N, 11/15/2018]

#### **6.63.17.10 ATTENDANCE COACH COMPETENCIES:**

The attendance coach shall, at a minimum, understand and be able to:

- A.** provide individualized, non-punitive intervention to address chronic absenteeism;
- B.** lead schoolwide attendance initiatives;
- C.** develop and maintain community partnerships;
- D.** collect and analyze attendance data;
- E.** communicate analyses of attendance data and interventions to school administration and staff; and
- F.** connect students and families to appropriate, available services.

[6.63.17.10 NMAC - N, 11/15/2018]

#### **6.63.17.11 RENEWAL LICENSURE:**

Persons seeking renewal of a level 1 or level 2 attendance coach license shall demonstrate, at a minimum, the competencies outlined in 6.63.17.10 NMAC and provide documentation of such signed by the superintendent or charter school administrator.

[6.63.17.11 NMAC - N, 11/15/2018]

#### **6.63.17.12 IMPLEMENTATION:**

**A.** Holders of the attendance coach license, pre-k through 12 may not use this license to provide instruction in any other subject matter, unless they hold a valid department license authorizing them to provide such instructional services.

**B.** Level 1 licenses shall be issued for a period of three years and may be continued or renewed by meeting requirements outlined in 6.63.17.8 NMAC.

**C.** Level 2 licenses shall be issued for a period of nine years and may be continued or renewed by meeting requirements outlined in 6.63.17.9 NMAC.

**D.** All attendance coach pre-k through 12 licenses shall commence on July 1st of the year of issuance and expire June 30th of the year of their expiration. No licenses issued pursuant to this rule shall be effective retroactively to any time before the effective date of this regulation.

**E.** Applicants for attendance coach licensure shall pay an application fee of \$35 at the time of initial licensure and at the time of renewal.

**F.** The department shall provide professional development regarding the attendance coach competencies outlined in 6.63.17.10 NMAC.

[6.63.17.12 NMAC - N, 11/15/2018]

## **PART 18 LICENSURE FOR SCHOOL BEHAVIORAL HEALTH COUNSELORS, PRE K-12**

### **6.63.18.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.63.18.1 NMAC – N, 11/29/2022]

### **6.63.18.2 SCOPE:**

Individuals seeking licensure in school behavioral health counseling.

[6.63.18.2 NMAC – N, 11/29/2022]

### **6.63.18.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-10A-17 NMSA 1978.

[6.63.18.3 NMAC – N, 11/29/2022]

### **6.63.18.4 DURATION:**

Permanent.

[6.63.18.4 NMAC – N, 11/29/2022]

**6.63.18.5 EFFECTIVE DATE:**

November 29, 2022, unless a later date is cited at the end of a section.

[6.63.18.5 NMAC – N, 11/29/2022]

**6.63.18.6 OBJECTIVE:**

This rule governs licensure in school behavioral health counseling in prekindergarten through 12th grade.

[6.63.18.6 NMAC – N, 11/29/2022]

**6.63.18.7 DEFINITIONS:**

[RESERVED]

**6.63.18.8 REQUIREMENTS:**

Individuals seeking licensure in school behavioral health counseling shall meet the requirements in Subsection A, B, C, D, or E of this section.

**A.** Hold a department-issued license for school counseling or rehabilitation counseling and be certified by the New Mexico counseling and therapy practice board as one of the following types of counselors:

- (1) licensed professional counselor (LPC);
- (2) licensed mental health counselor (LMHC);
- (3) licensed professional clinical mental health counselor (LPCC).

**B.** Hold a department-issued license for school social workers.

**C.** Hold a department-issued license for school psychologists.

**D.** Hold a national certified counselor credential issued by the national board for certified counselors and be certified by the New Mexico counseling and therapy practice board as one of the following types of counselors:

- (1) licensed professional counselor (LPC);



- (2) licensed mental health counselor (LMHC);
- (3) licensed professional clinical mental health counselor (LPCC).

**E.** Be certified by the New Mexico counseling and therapy practice board as one of the following types of therapists of counselors:

- (1) licensed marriage and family therapist (LMFT);
- (2) licensed alcohol and drug abuse counselor;
- (3) licensed professional art therapist (LPAT).

**F.** An individual who meets the requirements of Subsection A, B, C, D, or E of this section and who is seeking a level 2 school behavioral health counselor license shall provide, on a form acceptable to the department, evidence of experience working with children or adolescents in any state or foreign country or combination of other states or countries other than New Mexico for at least three full school years at any time preceding their application for licensure while holding at least one standard out-of-state or New Mexico teaching license or foreign country authorization to teach or combination of any of the aforementioned licenses or authorizations.

**G.** An individual who meets the requirements of Subsection A, B, C, D, or E of this section and who is seeking a level 3 school behavioral health counselor license shall provide, on a form acceptable to the department, evidence of experience working with children or adolescents in any state or foreign country or combination of other states or countries other than New Mexico for at least six full school years at any time preceding their application for licensure while holding at least one standard out-of-state or New Mexico teaching license or foreign country authorization to teach or combination of any of the aforementioned licenses or authorizations.

[6.63.18.8 NMAC – N, 11/29/2022]

#### **6.63.18.9 SUPERVISION:**

Until the LPC or LMHC has acquired the official LPCC, LMFT, or LPAT license, the LPC or LMHC shall be supervised by a LPCC, LMFT, LPAT, licensed psychologist, licensed psychiatrist, or licensed independent social worker. It is the responsibility of the individual seeking supervision to ensure the supervision is acceptable for the level of licensure requested after the required supervision. The relationship between the supervisor and the applicant shall demonstrate that skill development and responsibility in delivering counseling or therapy services is being provided. During the tenure of the license, the licensee must provide confirmation of supervised hours signed by the supervisor and superintendent and their updated license issued by the New Mexico counseling therapy practice board.

[6.63.18.9 NMAC – N, 11/29/2022]

**6.63.18.10 COMPETENCIES FOR SCHOOL BEHAVIORAL HEALTH COUNSELORS:**

A school behavioral health counselor shall:

**A.** Demonstrate professional knowledge and skills in dealing with mental health as they relate to students' functioning and achievement in school by:

- (1) interpreting to school personnel the relationship between the student's social, emotional, or home problems and the student's behavior or academic performance;
- (2) interpreting to school personnel the wide range of social, emotional, cultural, and economic differences among children, families, and communities;
- (3) consulting with school personnel on current mental health practices and concepts;
- (4) expanding knowledge through consultation with coordinators, specialists, psychologists, psychiatrists, and colleagues, as well as through reading, research, and course work; and
- (5) keeping abreast of current community resources and determining how their services may be beneficial to the student, their family, and the family's involvement in the academic process.

**B.** Establish basic counseling management procedures for intervention by:

- (1) opening a case as soon after referral as possible;
- (2) prioritizing cases according to severity and seriousness of identified concerns;
- (3) establishing routines for the assessment of case referrals;
- (4) coordinating multidisciplinary efforts for the management of cases when appropriate;
- (5) consulting with and assisting school and community personnel regarding case management; and
- (6) participating in interdisciplinary team meetings relevant to the assessment and disposition of individual cases.

**C.** Structure the method of student intervention by appropriate planning and preparation by:

- (1) investigating all relevant information regarding a referred case;
- (2) consulting with school personnel, community agencies, or family members to assess the identified concerns;
- (3) formulating individual goals and objectives for the management of each case; and
- (4) consulting with another school behavioral health personnel, supervisor, psychologist, or psychiatrist regarding individual cases as needed.

**D.** Employ appropriate methods of practice that enable students and families to function adequately within their educational and community settings by:

- (1) providing individual, group, and family counseling to students and families;
- (2) providing intensive crisis intervention to remedy effects of abuse, neglect, adverse childhood events, or exploitation of children;
- (3) identifying school district and community services appropriate to students' and families' needs, execute referrals, and provide follow-up; and
- (4) serving as an advocate for parents to ensure that their wishes and concerns regarding their children are registered and considered by school personnel and agencies.

**E.** Demonstrate a professional and helpful demeanor in relationships with students, parents, and school personnel by:

- (1) providing support and encouragement to students, parents, and staff in an atmosphere of mutual respect;
- (2) developing a caring relationship with students and parents and showing consideration of their feelings;
- (3) communicating openly with students and parents by listening and responding to their opinions and suggestions;
- (4) promoting respect and positive interpersonal relationships among students and families;
- (5) working cooperatively with fellow employees to develop and maintain effective interaction; and

(6) promoting free and easy communication between home and school.

**F.** Utilize appropriate methods to evaluate the student's services by continuously:

(1) keeping a personal, confidential file on all cases;

(2) maintaining an up-to-date log, indicating types of referrals received, dates, and status of referral and referral sources; and

(3) assessing the effectiveness of any further need for behavioral health services.

**G.** Demonstrate knowledge of educational foundations, including:

(1) organization and operation of schools;

(2) the organization and administration of school counseling services, including record keeping; the social, philosophical, historical, and cultural issues in education; setting intervention programs and strategies; and

(3) the current identification, referral, and placement procedures for students with mental health issues.

**H.** Demonstrate knowledge of human development and psychopathology and associated biological, cultural, and social influences on human behavior.

**I.** Provide or contribute to prevention and intervention programs that promote the mental health and physical well-being of students; including, but not limited to, delivering individual and group counseling services to identified students.

**J.** Have knowledge and ability to conduct risk and threat assessments, interventions, and referrals as necessary for crisis intervention.

**K.** Understand the cultural context of relationships, issues, and trends in a multicultural and diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual beliefs, and socioeconomic status, and unique characteristics of individuals, couples, families, ethnic groups, and communities.

[6.63.18.10 NMAC – N, 11/29/2022]

#### **6.63.18.11 CONTINUING SCHOOL BEHAVIORAL HEALTH COUNSELOR LICENSURE:**

**A.** An individual with a level one school behavioral health counselor license seeking a level two school behavioral health counselor license shall:

- (1) have worked at level one licensure for three full school years;
- (2) submit an application for continuing New Mexico licensure through the online licensure portal;
- (3) submit a copy of a valid board license issued by the New Mexico counseling therapy practice board along with the online application for continuing New Mexico licensure; and
- (4) submit verification that the applicant has satisfactorily demonstrated the competencies for school behavioral health counselor for the level and type of school behavioral health counselor license sought by the superintendent of the most current school in which the applicant is employed.

**B.** An individual with a level two school behavioral health counselor license seeking a level three school behavioral health counselor license shall:

- (1) have worked at the level two licensure for three full school years;
- (2) submit an application for continuing New Mexico licensure through the online licensure portal;
- (3) submit a copy of a valid board license issued by the New Mexico counseling therapy practice board along with the online application for continuing New Mexico licensure; and
- (4) submit verification that the applicant has satisfactorily demonstrated the competencies for school behavioral health counselor for the level and type of school behavioral health counselor license sought by the superintendent of the most current school in which the applicant is employed.

**C.** An individual with a level three school behavioral health counselor license continuing a level three school behavioral health counselor license shall:

- (1) have worked at level three licensure for three full school years;
- (2) submit an application for continuing New Mexico licensure through the online licensure portal;
- (3) submit a copy of a valid board license issued by the New Mexico counseling therapy practice board along with the online application for continuing New Mexico licensure; and
- (4) submit verification that the applicant has satisfactorily demonstrated the competencies for school behavioral health counselor for the level and type of school

behavioral health counselor license sought by the superintendent of the most current school in which the applicant is employed.

[6.63.18.11 NMAC – N, 11/29/2022]

## **CHAPTER 64: SCHOOL PERSONNEL - COMPETENCIES FOR LICENSURE**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: COMPETENCIES FOR ENTRY-LEVEL LANGUAGE ARTS TEACHERS**

#### **6.64.2.1 ISSUING AGENCY:**

Public Education Department (PED).

[07-15-99; 6.64.2.1 NMAC - Rn, 6 NMAC 4.7.1.1.1, 10-31-01; A, 06-30-06; A, 10-31-07]

#### **6.64.2.2 SCOPE:**

Chapter 64, Part 2, governs the competencies that will be used by New Mexico institutions of higher education to establish a curriculum for persons seeking an endorsement in language arts to a New Mexico educator license.

[07-15-99; 6.64.2.2 NMAC - Rn, 6 NMAC 4.7.1.1.2, 10-31-01]

#### **6.64.2.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[07-15-99; 6.64.2.3 NMAC - Rn, 6 NMAC 4.7.1.1.3, 10-31-01; A, 09-30-03]

#### **6.64.2.4 DURATION:**

Permanent.

[07-15-99; 6.64.2.4 NMAC - Rn, 6 NMAC 4.7.1.1.4, 10-31-01]

#### **6.64.2.5 EFFECTIVE DATE:**

July 15, 1999, unless a later date is cited at the end of a section or paragraph.

[07-15-99; 6.64.2.5 NMAC - Rn, 6 NMAC 4.7.1.1.5, 10-31-01]

#### **6.64.2.6 OBJECTIVE:**

This rule is adopted by the (PED) for the purpose of establishing entry-level language arts competencies that are based on what beginning language arts teachers must know and be able to do to provide effective language arts programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for language arts and with the national standards of the national council of teachers of English.

[07-15-99; 6.64.2.6 NMAC - Rn, 6 NMAC 4.7.1.1.6, 10-31-01; A, 06-30-06; A, 10-31-07]

#### **6.64.2.7 DEFINITIONS:**

**[RESERVED]**

#### **6.64.2.8 REQUIREMENTS:**

**A.** Beginning teachers seeking an endorsement in language arts to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in PED rule for that license, which includes, among other requirements, 24-36 semester hours in language arts and passage of a content area test in language arts.

**B.** Teachers seeking to add an endorsement in language arts to an existing New Mexico teaching license of any level shall meet one of the following requirements:

**(1)** pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in language arts; or

**(2)** successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in language arts; or

**(3)** obtain certification in language arts for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[07-15-99; 6.64.2.8 NMAC - Rn, 6 NMAC 4.7.1.1.8, 10-31-01; A, 09-30-03; A, 06-30-06; A, 10-31-07]

#### **6.64.2.9 COMPETENCIES FOR ENTRY-LEVEL LANGUAGE ARTS TEACHERS:**

##### **A. LANGUAGE DEVELOPMENT**

**(1)** Teachers of English language arts shall demonstrate knowledge that growth in language maturity is a developmental process.

**(a)** Elementary language arts teachers shall understand developmental theories and processes by which children acquire, understand and use language from infancy through childhood.

**(b)** Elementary language arts teachers shall apply this understanding for diagnosing and strengthening students' language abilities.

**(c)** Secondary language arts teachers shall understand these developmental theories and processes and shall continue the development of students' language maturity through adolescence and beyond.

**(2)** Teachers of English language arts will demonstrate knowledge that students must develop in understanding and using language.

**(a)** Elementary language arts teachers must know fundamental principles and characteristics of child growth and development.

**(b)** Elementary language arts teachers shall set their expectations of a child's language use according to that child's readiness and achievement level.

**(c)** Secondary teachers must know fundamental principles and characteristics of adolescent growth in order to set appropriate expectations for adolescents' developmental levels.

**(d)** All language arts teachers shall be able to reduce learning anxiety and assist students in becoming linguistically mature.

**(3)** Teachers of English language arts will demonstrate knowledge that speaking, listening, writing, reading and thinking are interrelated.

**(a)** All language arts teachers shall understand that language development occurs as students use all the language processes.

**(b)** All language arts teachers shall understand the relationships among the language processes of speaking, listening, writing, reading, and thinking.

**(c)** All language arts teachers shall understand how oral language serves as the basis for learning reading and writing skills.

**(d)** All language arts teachers shall understand the relationships between language and thought development and of the holistic nature of language.

**(e)** All language arts teachers shall be able to use integrated approaches in teaching the language arts, particularly in teaching critical thinking.



**(4)** Teachers of English language arts shall demonstrate knowledge that social, cultural, and economic environments influence language learning.

**(a)** All language arts teachers shall understand how students' environments influence their language development.

**(b)** All teachers shall understand the history and diversity of language, including dialects and levels of usage in particular environments and be able to help students recognize and use language during all occasions.

**B. COMPOSING AND ANALYZING LANGUAGE:** Teachers of English language arts shall demonstrate knowledge of the processes and elements involved in the acts of composing in oral and written forms such as considerations of subject, purpose, audience, point-of-view, mode, tone, and style and understand how such processes and elements are interrelated.

**(1)** All language arts teachers shall demonstrate knowledge of research on how composing processes have contributed insights into the language arts teaching profession.

**(2)** Elementary language arts teachers shall understand the importance of rich oral language experiences in the early grades and how those experiences can lead to writing skills.

**(3)** All language arts teachers shall understand the importance of practice with expressive language (oral conversations and writing with one's self as the primary audience) and how that practice leads to writing with various purposes and with a wide variety of forms for many different audiences.

**(4)** All language arts teachers shall understand the importance of learning about and practicing various aspects of composing processes (prewriting, writing, revising, editing, and evaluating) in order to achieve the knowledge required to teach those processes well.

**(5)** All language arts teachers shall understand how the grammar system is an essential part of oral and written language.

**(6)** All language arts teachers shall know the sound system, the grammatical system, and the semantic system of English to be able to help students understand their own oral and written language, as well as that of others.

**(7)** All language arts teachers shall understand how people use language and visual images to influence the thinking and actions of others.

**(8)** All language arts teachers shall understand that verbal and visual languages are powerful influences upon human thinking and behavior.

**(9)** By examining various relationships between verbal and visual languages, all language arts teachers shall learn how to distinguish among various purposes of language and learn how to achieve these purposes to be able to help students recognize differences such as between fact and opinion and between truth and propaganda.

### **C. READING AND LITERATURE**

**(1)** Teachers of English language arts shall demonstrate knowledge and understanding that the teaching of reading must be an ongoing process.

**(a)** Elementary language arts teachers shall effectively instruct young students in foundational reading skills.

**(b)** All reading teachers shall understand that reading appreciation backed by literacy concepts is core to student success.

**(c)** Secondary language arts teachers shall recognize deficiencies in student reading abilities and shall understand that reading comprehension skills positively impact not only the language arts classroom but all other subjects as well.

**(2)** Teachers of English language arts shall demonstrate knowledge and understanding of how students respond personally to literature, thus influencing their interpretations.

**(a)** All language arts teachers shall be able to help students read, interpret, and respond personally to literature.

**(b)** All language arts teachers must be able to guide students toward becoming independently able readers by encouraging self-monitoring of reading habits and processes.

**(c)** All language arts teachers shall be able to teach students to ask questions that elicit both oral and written responses at a variety of levels.

**(3)** Teachers of English language arts shall understand that students may better understand cultural diversity through literature.

**(a)** All language arts teachers shall be knowledgeable about the Southwest's regional literature and regional authors.

**(b)** All language arts teachers shall understand that literature reflecting the cultural pluralism of the Southwest is crucial to student appreciation and understanding of themselves and others.

**(4)** Teachers of English language arts shall demonstrate knowledge of the extensive body of literature and literary types in English and in translation that exist and understand that literature is a source of exploring and interpreting human experience, its achievements, frustrations, foibles, values, and conflicts.

**(a)** All language arts teachers shall have broad and deep experiences with literature.

**(b)** Elementary language arts teachers shall be familiar with children's literature.

**(c)** Secondary language arts teachers must be widely read in literature for adolescents, as well as in standard classic works.

**(d)** All teachers must be able to draw from the classics of adult literature and from classics and current works written specifically for students of the ages they teach in order to be able to discuss with their students the literature that those students have read and enjoyed.

**(e)** All teachers must be able to use strategies to expand their students' experiences with literature and encourage them to be lifelong readers.

**(f)** All language arts teachers shall be knowledgeable about literature by male and female writers, by people of many racial and ethnic groups and by authors from many countries and cultures.

**(g)** All language arts teachers shall draw on literature in many genres from many historical periods, and of varying degrees of complexity in order to develop and elicit critical insights from their students.

**(h)** All teachers of language arts shall understand the unique opportunities literature provides for understanding human experience, how literature affirms our common humanity, illuminates our differences and documents how different people at different times have perceived and approached an infinite variety of human problems and aspirations.

**(i)** All language arts teachers shall demonstrate an awareness that literature is the center of the English curriculum.

**D. NONPRINT MEDIA:** Teachers of English language arts shall demonstrate knowledge and understanding of how nonprint and nonverbal media differ from print and verbal media.

**(1)** All language arts teachers must know how the electronic media such as television and computers differ from printed media and how students are influenced by these media.

**(2)** All language arts teachers must know how to teach through these various media, as well as know how and what to teach about them to be able to help students recognize and interpret verbal language.

**(3)** All language arts teachers shall be familiar with such aspects of electronic media as the Internet, word processing, CD ROM, desktop publishing, and other relevant media to be able to effectively teach through the use of both verbal and visual media.

## **E. EVALUATION**

**(1)** Teachers of English language arts shall demonstrate knowledge of evaluative techniques to be used to describe a student's progress in English.

**(a)** All language arts teachers at all levels shall demonstrate competence in applying a number of evaluative techniques, including the use of individual conferences, for determining and reporting student progress.

**(b)** All language arts teachers shall be knowledgeable about multiple ways of evaluating student performances, such as holistic scoring and analytic scoring writing.

**(c)** All language arts teachers shall be proficient at "student watching" and other informal ways of describing student progress in all language processes.

**(2)** Teachers of English language arts shall demonstrate knowledge of the appropriate uses of testing instruments and procedures that can assist in evaluating students.

**(a)** All language arts teachers shall understand the limitations of the uses of test data and the impact of these tests on curriculum and instruction.

**(b)** All language arts teachers shall be able to select the most appropriate formal and informal ways to assess or evaluate growth in oral and written language and reading skills.

**(c)** All language arts teachers shall be able to consistently use a variety of testing instruments and testing procedures.

## **F. RESEARCH**

**(1)** Teachers of English language arts shall understand that major historical and current research findings influence the content of the English curriculum.

**(a)** All language arts teachers shall be knowledgeable about the major sources, such as books and periodicals, for research findings in both the content of their discipline and the issues and trends which influence their curricula.

**(b)** All language arts teachers shall be aware of current research in English language arts in order to maintain a relevant teaching and learning environment for their students.

**(2)** Teachers of English language arts shall understand how people create and discover meaning from print, as well as monitor their own comprehension.

**(a)** All language arts teachers shall understand how people read to be able to identify students' difficulties and capabilities with printed material.

**(b)** All language arts teachers shall be able to use this understanding to inform any curriculum designed to increase literacy.

**(c)** All language arts teachers shall understand:

**(i)** that reading is an interactive process in which readers use structures of previous knowledge and experience to make meanings from print;

**(ii)** that readers tend to respond in similar ways as well as in singular ways;

**(iii)** that responses are sustained by readers' awareness of how satisfactorily they are comprehending what they read; and

**(iv)** that students of diverse cultures interpret written and oral language in different ways.

## **G. PEDAGOGY**

**(1)** Teachers of English language arts are able to effectively deliver instruction using a variety of approaches.

**(a)** All language arts teachers shall have knowledge and an understanding of the wide range of backgrounds, experiences, and learning styles that students in New Mexico bring to the classroom.

**(b)** All language arts teachers shall be aware of the variety of materials available to them and how to adapt these for individual students.

**(c)** All language arts teachers shall be aware of techniques of classroom management and lesson planning and implementation for effective teaching, as well as strategies to engage students in discussion, cooperative learning, and interdisciplinary activities.

**(2)** Teachers of English language arts shall understand that the classroom is composed of students with varied needs such as physical disabilities, learning disabilities, limited English proficiency, and cultural diversity.

**(a)** All language arts teachers shall be knowledgeable about issues surrounding inclusion, particularly with respect to language arts.

**(b)** All language arts teachers need to be aware of varied student needs and how to modify and implement instruction for diverse learners.

**(c)** All language arts teachers need to be aware of strategies for helping students be sensitive to and tolerant of each other's learning and social needs.

**(3)** Teachers of English language arts shall understand that the educational process includes families, and the social and economic communities.

**(a)** All language arts teachers shall be able to involve and work with student families in conferences, as aides and mentors in the classroom, and as participants in school-wide programs such as science night, open house, and parent/teacher organizations.

**(b)** All language arts teachers shall understand the benefits of community and school partnerships and business/school partnerships.

**(c)** All language arts teachers shall be aware of community resources to support instruction whether school-wide, across a particular grade level, or in an individual classroom.

**(d)** All language arts teachers shall be able to apply knowledge of such partnerships and resources to provide students with education in career opportunities.

[07-15-99; 6.64.2.9 NMAC - Rn, 6 NMAC 4.7.1.1.9, 10-31-01]

#### **6.64.2.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit.

[07-15-99; 6.64.2.10 NMAC - Rn, 6 NMAC 4.7.1.1.10, 10-31-01; A, 06-30-06]

### **PART 3: COMPETENCIES FOR ENTRY-LEVEL READING TEACHERS**

#### **6.64.3.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.64.3.1 NMAC - Rp, 6.64.3.1, 4/5/2022]

**6.64.3.2 SCOPE:**

Chapter 64, Part 3, governs the competencies used by New Mexico institutions of higher education to establish a curriculum for persons seeking an endorsement in reading to a New Mexico educator license.

[6.64.3.2 NMAC - Rp, 6.64.3.2, 4/5/2022]

**6.64.3.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-10A-3 NMSA 1978.

[6.64.3.3 NMAC - Rp, 6.64.3.3, 4/5/2022]

**6.64.3.4 DURATION:**

Permanent

[6.64.3.4 NMAC - Rp, 6.64.3.4, 4/5/2022]

**6.64.3.5 EFFECTIVE DATE:**

April 5, 2022, unless a later date is cited at the end of a section.

[6.64.3.5 NMAC - Rp, 6.64.3.5, 4/5/2022]

**6.64.3.6 OBJECTIVE:**

This rule establishes entry-level reading competencies based on what beginning reading teachers are required to know and be able to do to provide effective reading instruction in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for reading and with the national standards of the international reading association.

[6.64.3.6 NMAC - Rp, 6.64.3.6, 4/5/2022]

**6.64.3.7 DEFINITIONS:**

[RESERVED]

**6.64.3.8 REQUIREMENTS:**

**A.** Beginning teachers seeking an endorsement in reading to an initial level 1 New Mexico teaching license shall complete 24 to 36 hours in the teaching of reading and pass a content area test in the teaching of reading.

**B.** Teachers seeking to add an endorsement in the teaching of reading to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in reading; or

(2) successfully complete an undergraduate academic major comprising 24 to 36 semester hours, or coursework equivalent to an undergraduate major or a graduate degree in the teaching of reading; or

(3) obtain certification in reading for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards; or

(4) successfully complete a minimum of 80 hours of professional development and submit a statement of impact that includes the instructional changes the teacher made based on the teacher's learning within the professional development. The professional development shall include 40 hours of documented live sessions – virtually or in person – with a certified facilitator and a minimum of 40 hours of online coursework, which shall include assessments of knowledge and understanding, for which a score of at least eighty percent is required. The professional development shall be provided by an organization accredited by the international dyslexia association, and which aligns with the science of reading and a structured literacy approach that:

(a) promotes explicit, systematic, and cumulative instruction as the primary approach;

(b) promotes an understanding of how language, reading, and writing relate to one another;

(c) promotes strategies for differentiated instruction for students with reading difficulties and disabilities and English language learners;

(d) focuses on all five components of literacy instruction – phonemic awareness, phonics, fluency, vocabulary, and comprehension; and

(e) allows participants to implement the strategies into a classroom environment with the opportunity for feedback throughout the professional development experience.



### **6.64.3.9 COMPETENCIES FOR ENTRY-LEVEL READING TEACHERS:**

#### **A. Philosophy of reading instruction.**

(1) Reading as a complex, interactive, and constructive process.

(a) Recognizes the importance of teaching reading as a balanced process incorporating skills and strategies in a meaningful context.

(b) Recognizes the importance of using a wide variety of print throughout the curriculum, including high-quality children's or adolescent literature and diverse expository materials appropriate to the age and developmental level of learners.

(c) Has knowledge of current and historical perspectives about the nature and purposes of reading and about widely used approaches to reading instruction.

(d) Recognizes and appreciates the role and value of language, language diversity, and culture in the reading and learning processes.

(e) Recognizes the importance of embedding reading instruction in a meaningful context for the purpose of accomplishing specific, authentic tasks or for pleasure.

(f) Recognizes the value of reading aloud to learners.

(g) Recognizes the influence and value of family in reading development.

(2) Professionalism.

(a) Pursues knowledge of reading, learning processes, and other key educational developments by reading professional journals and publications and participating in conferences and other professional activities such as technology, bilingualism, and multiculturalism.

(b) Uses what is learned through professional inquiry and reflection to improve teaching and assessment techniques.

(c) Interacts and participates in decision-making with teachers, teacher educators, parents, and researchers and plays an active role in schools, classrooms, and the wider professional community.

(d) Supports and participates in efforts to improve the reading profession by being knowledgeable about licensure, certification, and other professional issues.

(e) Participates in local, state, national, and international professional organizations whose mission is the improvement of literacy.

(f) Promotes collegiality with other literacy professionals through regular conversations, discussions, and consultations about learners, literacy theory, and instruction.

(g) Shares knowledge, collaborates, and teaches with colleagues, across the full range of school and educational programs.

(3) Moral dimensions and values.

(a) Recognizes the importance of literacy as a mechanism for personal and social growth.

(b) Recognizes that literacy can be a means for transmitting moral and cultural values within a community.

(c) Recognizes values and is sensitive to human diversity.

(d) Recognizes and is sensitive to the needs and rights of individual learners.

(4) Perspectives about readers and reading.

(a) Understands and accepts the importance of reading as a means to learn, to access information, and to enhance the quality of life.

(b) Understands and is sensitive to differences among learners and how these differences influence reading.

(c) Understands and respects cultural, linguistic, and ethnic diversity, and recognizes the positive contributions of diversity.

(d) Understands importance of integrated community and school efforts in meeting the needs of diverse learners.

(e) Understands the importance of making reading relevant to the learners' lives.

(f) Believes all students can learn to read and share in the communication process.

(g) Recognizes the importance of using reading in positive ways in the classroom.

(h) Recognizes the value and importance of creating a supportive and positive environment for literacy learning.

(i) Recognizes the importance of providing learners opportunities in all aspects of literacy.

(j) Recognizes the importance of implementing literacy programs designed to meet the needs of the students.

(k) Recognizes the importance of building on the strengths of individual learners.

(5) Language development, cognition, and learning.

(a) Understands that language is a symbolic system.

(b) Understands and uses major theories of language development, cognition, and learning and uses them in a well-planned and comprehensive reading program.

(c) Is aware of the linguistic, sociological, cultural, cognitive, and psychological bases of the reading process.

(d) Is aware of the impact of physical, emotional, social, cultural, environmental, and intellectual factors on learning, language development, and reading.

(e) Recognizes dialect variations and respects linguistic differences.

(6) Knowledge of the reading process.

(a) Perceives reading as the process of constructing meaning through the interaction of the reader's existing knowledge, the information suggested by the written language, and the context of the reading situation.

(b) Understands the spectrum of the pre-K-12 reading process and how to effectively address the needs of learners of different ages.

(c) Uses the relationships among reading, writing, listening, and speaking to reinforce learning.

(d) Has knowledge of developmentally appropriate practices that support emergent literacy, particularly of diverse learners.

(e) Is aware that reading develops best through activities that embrace concepts about the purpose and function of reading and writing and the conventions of print.

(f) Is able to explain and model the various word recognition, vocabulary, and comprehension strategies used by fluent readers.

(g) Understands the role of metacognition in reading.

(h) Has knowledge of the importance of reading for language development; listening ability; cognitive, social, and emotional development; and perceptual motor abilities.

(i) Understands the nature and multiple causes of reading disabilities.

(j) Understands the relationship of phonemic, morphemic, and semantic syntactic systems of language to the reading process.

(7) A literate environment.

(a) Promotes the development of a literate environment that fosters interest and growth in all aspects of literacy.

(b) Uses texts to stimulate interest, promote reading growth, foster appreciation for the written word, and increase the motivation of learners to read widely and independently for information and for pleasures.

(c) Models and discusses reading as a valuable activity.

(d) Engages students in activities that develop their image of themselves as literate.

(e) Promotes feelings of pride and ownership for the process and content of reading.

(f) Provides regular opportunities for learners to select from and be exposed to a wide variety of books or other quality written materials.

(g) Provides opportunities for students to be exposed to various purposes for reading and writing, to experience reading and writing as relevant to themselves, and to write and have their writing responded to in a positive way.

(h) Recognizes the importance of providing time for reading of extended text for authentic purposes.

(i) Provides opportunities for students to respond personally, analytically, and critically to a variety of texts.

## **B. Organization of effective instruction.**

(1) Knowledge of contextual factors.

(a) Understands that all students have the ability to learn to read and that certain conditions are necessary for this to happen.

(b) Understands how factors such as content, purpose, tasks, and settings influence the reading process.

(c) Provides flexible grouping based on students' instructional levels, rates of progress, interests, or instructional goals.

(d) Understands how assessment and grouping procedures can influence motivation and learning.

(e) Understands the relationship between environmental factors, cultural factors, and students' performance on measures of reading achievement.

(f) Understands the relationship home factors, social factors, cultural factors, and reading habits have in students' performance.

(g) Understands the influence of school programs (e.g., remedial, gifted, tracking) on students' learning.

(2) Knowledge of individual differences (possesses strategies to deal with differences).

(a) Understands what the reader brings to the reading experience (e.g., prior knowledge, metacognitive abilities, aptitudes, motivation, attitude).

(b) Understands the influence of cultural, ethnic, and linguistic backgrounds on the reading process.

(c) Understands the relationship among reader's self-concept, attitudes, and learning.

(d) Understands the interactive nature and multiple causes of reading difficulties.

(3) Knowledge of instructional materials.

(a) Understands how to design, select, modify, and evaluate materials that reflect curriculum goals, current knowledge, and the interests, motivation, and needs of individual learners.

(b) Has a thorough understanding of literature for children and young adults, including multicultural literature.

(c) Understands the structure and content of various texts used for instruction.

(d) Understands and uses new instructional technologies.

(e) Understands methods for determining whether materials are clear and appropriate for individual students.

### **C. Knowledge of instructional strategies.**

#### **(1) Teaching strategies.**

(a) Understands the importance of using a balanced approach to the teaching of reading that integrates the full range of effective instructional strategies.

(b) Has a thorough understanding of phonics including effective strategies for teaching sounds, blends, digraphs, diphthongs, and other key aspects of reading.

(c) Has a thorough understanding of comprehension including effective strategies for teaching the use of background knowledge, summarizing, prediction, synthesizing, and other key aspects of reading.

(d) Has a thorough understanding of children's literature including strategies for teaching children to use language and literature to gain insight into their own and others' lives, to build understanding of moral and aesthetic dimensions of human experience, and other key aspects of reading.

(e) Understands the importance of modeling reading for children, including strategies for oral reading, questioning strategies, reading for pleasure, and reading for understanding.

(f) Provides direct instruction and models what, when, and how to use reading strategies with narrative and expository texts.

(g) Uses strategies to encourage and motivate students to pursue and respond to reading and writing for personal growth and fulfillment.

(h) Teaches effective study strategies.

#### **(2) Learning strategies.**

(a) Helps students learn and apply comprehension strategies for a variety of purposes.

(b) Helps students monitor their comprehension and reading processes.

(c) Understands and helps students learn and apply reading comprehension strategies in the content areas.

(d) Helps students gain understanding of the conventions of language and literacy.

(e) Teaches word recognition through the use of phonics, contextual analysis, word analysis, and syntactic cueing strategies.

(f) Helps students learn that word recognition strategies aid comprehension.

(g) Helps students learn effective techniques and strategies for the ongoing development of vocabulary.

(h) Helps students analyze information presented in a variety of texts including narratives, expository, practical, and technical documents.

(i) Helps students connect prior knowledge with new information.

(j) Assists students in becoming self-sufficient and independent readers.

(k) Helps students use new technology and media effectively.

(3) Demonstrate knowledge of assessment principles and techniques.

(a) Recognizes that a critical goal of assessment is to help the student become a more reflective and self-sufficient learner.

(b) Recognizes assessment as an ongoing and indispensable part of reflective teaching and learning.

(c) Recognizes and understands that assessment must consider the complex nature of reading, writing, and language, and must be based on a range of authentic literacy tasks using a variety of texts.

(d) Is able to conduct assessments that involve multiple measures over time and in different contexts.

(e) Uses information from norm-referenced tests, criterion-referenced tests, formal and informal inventories, constructed-response measures, portfolio-based assessment, observations, anecdotal records, journals, and other indicators of students' progress as basis for instruction.

(f) Recognizes and understands the importance of using meaningful assessment to improve curriculum and instruction.

(4) Communicate information about reading.

(a) Communicates effectively with students, parents, teachers, and support personnel about strengths and areas that need improvement.

(b) Able to communicate to parents important information about the developmental nature of reading and expectations for achievement.

(c) Understands how to involve parents in cooperative efforts and programs to help students with reading development.

(d) Communicates information about reading programs to administrators, staff members, school board members, parents, and the community.

(e) Effectively communicates information and data about reading to the media, policymakers, and the public.

(f) Interprets and communicates research findings related to the improvement of instruction to colleagues and the wider community.

(g) Communicates with allied professionals in assessing and planning instruction.

**D. Planning and enhancing programs.**

(1) Curriculum and development.

(a) Initiates and participates in ongoing curriculum development and assessment.

(b) Adapts programs to the needs of different learners to accomplish different purposes.

(c) Is able to coordinate and support all services associated with reading programs.

(d) Understands and uses multiple indicators of curriculum effectiveness.

(e) Is able to evaluate adoption materials and other instructional materials to best support and develop a balanced curriculum.

(2) Professional development.

(a) Engages in an ongoing program of personal professional development.



(b) Has a knowledge of resources, organizations, web sites, and other sources that provide opportunities and support for professional development.

(c) Incorporates what is learned from personal professional development into the classroom and is able to share this information with others.

(d) Facilitates an inclusive approach to professional development by respecting and appreciating each participant's potential contributions.

(e) Provides professional development experiences that effectively meet and are appropriate for school needs.

(f) Understands and uses multiple indices of professional growth.

(3) Research.

(a) Initiates, participates in, or applies research on reading.

(b) Reads or conducts research within a range of methodologies (e.g., ethnographic, descriptive, experimental, historical).

(c) Promotes and facilitates teacher- and classroom-based research.

(d) Is a knowledgeable consumer of research.

(4) Reading instruction in New Mexico.

(a) Is knowledgeable about the New Mexico Standards of Excellence, including goals for all students, educational plan for student success, and the content standards with benchmarks for pre-K-12.

(b) Is knowledgeable about current policy and legislation that affects reading.

[6.64.3.9 NMAC - Rp, 6.64.3.9, 4/5/2022]

**6.64.3.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED-approved endorsement program within a range of 24 to 36 semester hours of credit, 12 semester hours of which must be upper division credit.

[6.64.3.10 NMAC - Rp, 6.64.3.10, 4/5/2022]

**PART 4: COMPETENCIES FOR ENTRY-LEVEL MATHEMATICS TEACHERS**

#### **6.64.4.1 ISSUING AGENCY:**

Public Education Department (PED).

[07-15-99; 6.64.4.1 NMAC - Rn, 6 NMAC 4.7.1.3.1, 10-31-01; A, 06-30-06; A, 10-31-07]

#### **6.64.4.2 SCOPE:**

Chapter 64, Part 4, governs the competencies that will be used by New Mexico institutions of higher education to establish a curriculum for persons seeking an endorsement in mathematics to a New Mexico educator license.

[07-15-99; 6.64.4.2 NMAC - Rn, 6 NMAC 4.7.1.3.2, 10-31-01]

#### **6.64.4.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[07-15-99; 6.64.4.3 NMAC - Rn, 6 NMAC 4.7.1.3.3, 10-31-01; A, 09-30-03]

#### **6.64.4.4 DURATION:**

Permanent

[07-15-99; 6.64.4.4 NMAC - Rn, 6 NMAC 4.7.1.3.4, 10-31-01]

#### **6.64.4.5 EFFECTIVE DATE:**

July 15, 1999, unless a later date is cited at the end of a section or paragraph.

[07-15-99; 6.64.4.5 NMAC - Rn, 6 NMAC 4.7.1.3.5, 10-31-01]

#### **6.64.4.6 OBJECTIVE:**

This rule is adopted by the (PED) for the purpose of establishing entry-level mathematics competencies that are based on what beginning mathematics teachers must know and be able to do to provide effective mathematics programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for mathematics and with the national standards of the national council of teachers of mathematics.

[07-15-99; 6.64.4.6 NMAC - Rn, 6 NMAC 4.7.1.3.6, 10-31-01; A, 06-30-06; A, 10-31-07]

#### **6.64.4.7 DEFINITIONS:**

**[RESERVED]**

#### **6.64.4.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in mathematics to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in PED rule for that license, which includes, among other requirements, 24-36 semester hours in mathematics and passage of a content area test in mathematics.

B. Teachers seeking to add an endorsement in mathematics to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in mathematics; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in mathematics; or

(3) obtain certification in mathematics for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[07-15-99; 6.64.4.8 NMAC - Rn, 6 NMAC 4.7.1.3.8, 10-31-01; A, 09-30-03; A, 06-30-06; A, 10-31-07]

#### **6.64.4.9 COMPETENCIES FOR ENTRY-LEVEL MATHEMATICS TEACHERS:**

A. Teachers will understand and use mathematics in problem-solving.

(1) Teachers for grades K-8 will be able to:

(a) use problem-solving approaches to investigate and understand mathematical content;

(b) formulate and solve problems from both mathematical and everyday situations;

(c) identify, select and use appropriate problem-solving strategies; as well as develop and apply their own strategies;

(d) verify and interpret solutions to problems;

(e) use mathematical language and symbolism to model problem situations.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) use a problem solving approach to investigate and understand mathematical concepts;

(b) formulate and solve problems from both mathematical and everyday experiences;

(c) develop their own processes and techniques for solving problems.

B. Teachers will understand and use mathematics in communication.

(1) Teachers for grades K-8 will be able to:

(a) identify and define mathematical concepts in a variety of situations;

(b) communicate mathematical ideas both verbally and in writing;

(c) use drawings, discussion, reading, and listening to learn and communicate mathematical ideas;

(d) use a variety of electronic media and manipulatives to explore and communicate mathematical concepts and problem solutions.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) develop skills in both written and oral communication of mathematical concepts;

(b) learn to communicate effectively at various levels of formality and with people who have differing levels of mathematical understanding.

C. Teachers will understand and use mathematics in reasoning.

(1) Teachers for grades K-8 will be able to:

(a) describe logical conclusions;

(b) use information sources, models and known facts to explain mathematical thinking;

(c) make and evaluate mathematical conjectures and validate their own mathematical thinking;

(d) recognize and construct logical arguments for mathematical statements, concepts, and principles;

(e) apply a variety of reasoning processes to include deductive and inductive reasoning.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) recognize patterns, make and refine conjectures and definitions, and construct both formal and heuristic proofs;

(b) judge the validity of mathematical arguments;

(c) formulate counterexamples.

D. Teachers will understand and use mathematical connections.

(1) Teachers for grades K-8 will be able to:

(a) show an understanding of the interrelationships within mathematics;

(b) connect mathematics to other disciplines and everyday situations.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) develop an understanding of the interrelationships within mathematics and an appreciation of its unity;

(b) understand and appreciate the power of mathematical language and symbolism in the development of mathematical concepts;

(c) explore the connections between mathematics and other disciplines;

(d) apply mathematics learned in one context to other contexts.

E. Teachers will understand and use numbers, and their relationships, systems and theory.

(1) Teachers for grades K-8 will be able to:

(a) construct number meanings through everyday experiences and the use of physical materials;

(b) understand prenumeration concepts.

(c) describe and compare ancient and modern numeration systems by relating counting, grouping, and place value concepts;

(d) develop number sense;

(e) identify different sets of numbers in the real number system;

(f) understand representations of numbers, including mixed numbers, fractions, decimals, and scientific notation;

(g) demonstrate ability to use models to explore and explain relationships among fractions, decimals, percents, ratios, and proportions;

(h) use the relations of equality and inequality.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to: Explore and discuss the properties, relations, and extensions of the real and complex numbers.

F. Teachers will understand and use computation and estimation.

(1) Teachers for grades K-8 will be able to:

(a) model, explain, and develop proficiency with the basic number facts and algorithms, including addition, subtraction, multiplication and division;

(b) recognize alternative algorithms for the four basic operations;

(c) select and use computation techniques appropriate to specific problems and determine the reasonableness of solutions;

(d) use estimation strategies;

(e) recognize when estimates are appropriate.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) understand and apply numerical computational and estimation techniques and extend them to symbolic expressions;

(b) use estimation to assess the reasonableness of solutions.

G. Teachers will have a foundation in geometric concepts.

(1) Teachers for grades K-8 will be able to:

(a) describe, model, draw and classify geometric figures;

(b) investigate, predict, and describe the results of combining, subdividing and changing shapes;

(c) develop spatial sense and relationships;

(d) relate geometric and measurement ideas;

(e) use geometric concepts and relationships to describe and model mathematical ideas and relationships to the world;

(f) solve simple problems in two- and three-dimensional geometry involving parallelism, perpendicularity, congruence, similarity, translation, reflection, rotation, symmetry, and incidence.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) understand the role of axiomatic systems in geometry;

(b) develop both synthetic and algebraic geometric concepts using coordinates and vectors;

(c) use geometry as a source of mathematical models for a variety of applications;

(d) employ geometric reasoning as a problem solving strategy;

(e) model features of the real world using different geometries.

H. Teachers will understand and use measurement.

(1) Teachers for grades K-8 will be able to:

(a) determine what needs to be measured, select an appropriate unit of measurement, and then select an appropriate tool with which to measure;

(b) use standard and nonstandard units for measurement to an appropriate degree of accuracy;

(c) use estimation, informal procedures, and formulas to solve problems involving linear measures, area, volume, mass, and temperature by using both traditional and metric systems.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) identify and use the appropriate units, tools of measurement, and degree of accuracy required in particular problems, making calculations of relative error as necessary;

(b) apply measurement as a tool in other disciplines.

I. Teachers will understand and use statistics and probability.

(1) Teachers for grades K-8 will be able to:

(a) collect data from real world experiences or surveys, organize and display data using various charts/graphs manually and by using appropriate technology, analyze and interpret the data, and write convincing arguments based on the data;

(b) solve elementary statistical problems relating to measures of central tendency, measures of dispersion, regression equations, and non-linear regression;

(c) critically examine and analyze data for reliability and validity;

(d) demonstrate an understanding of randomness by conducting sampling experiments;

(e) find experimental and theoretical discrete probabilities using sample spaces, tree diagrams, and other representations;

(f) plan and conduct simulations to determine experimental probabilities;

(g) compute the mathematical expectation of simple games and lotteries;

(h) solve simple problems involving probability, inference, and the testing of hypotheses;



- (i) use simple combinations and permutations to solve counting problems.
- (2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.
- (3) Teachers for grades 7-12 will be able to:
  - (a) understand measures of central tendency, variability, and correlation;
  - (b) collect, display, analyze, and interpret sample data in a variety of situations;
  - (c) investigate the role of estimation and probability in statistical analysis;
  - (d) use experimental and theoretical probabilities to formulate and solve problems;
  - (e) develop strategies for reasoning and making decisions based on uncertainty;
  - (f) explore the probabilistic nature of statistical analyses including hypothesis testing, correlation, analysis of variance, and nonparametric methods.

J. Teachers will understand and use patterns and functions.

- (1) Teachers for grades K-8 will be able to:
  - (a) recognize, describe, extend, and create a wide variety of patterns;
  - (b) represent relationships with manipulatives, tables, graphs, verbal and written statements, and formulas;
  - (c) describe what a function means both intuitively and using formal mathematical language;
  - (d) demonstrate a basic understanding of classes of functions and their properties; e.g. linear, exponential, polynomial, and periodic.
- (2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.
- (3) Teachers for grades 7-12 will be able to:
  - (a) use multiple representations of functions, including symbolic expressions, verbal descriptions, tables, and graphs, and relate one representation to another;

(b) use the language of functions to describe and model change;

(c) use the concept of function in the study of mathematics and other disciplines.

K. Teachers will understand and apply algebraic concepts.

(1) Teachers for grades K-8 will be able to:

(a) explore and use variables and open sentences to express mathematical relationships;

(b) solve real world problems involving linear and quadratic equations and inequalities by using traditional techniques and graphing methods that use technology.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) understand and apply the major concepts of linear and abstract algebra;

(b) use theoretical results to understand tangible situations.

L. Teachers will understand and apply concepts of calculus.

(1) Not required of teachers for grades K-8.

(2) Teachers for grade 5-9 will be able to:

(a) recognize particular types of change such as linear, quadratic and exponential;

(b) use graphs, diagrams, charts, physical models, and graphing technology to explore the notions of limit, differentiation, and integration, and interpret the relationships among them;

(c) construct infinite sequences and series, relating them to non-terminating decimals and the approximation of functions;

(d) solve real world problems involving average and instantaneous rates of change, area, volume, and curve length, and relate those to differentiation and integration.

(3) Teachers for grades 7-12 will be able to:

- (a) investigate the phenomenon of change as a limiting process;
- (b) explore intuitively and in depth the concepts of limit, continuity, differentiation, and integration;
- (c) demonstrate an understanding of the underlying theory of analysis;
- (d) use properties and techniques of calculus to model phenomena in diverse settings.

M. Teachers will understand and apply discrete processes.

- (1) not required of teachers for grades K-8;
- (2) not required of teachers for grades 5-9;
- (3) teachers for grades 7-12 will be able to: understand concepts and applications of discrete mathematics, such as graph theory, recurrence relations, linear programming, difference equations, and combinatorics.

N. Teachers will understand the use of technology.

- (1) Teachers for grades K-8 will be able to:
  - (a) use calculators and computers to represent mathematical ideas and construct different representations of mathematical concepts;
  - (b) use calculators and computers to develop and use alternate strategies for solving problems;
  - (c) use networking and information technologies to solve problems and broaden the scope of inquiry.
- (2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.
- (3) Teachers for grades 7-12 will be able to:
  - (a) engender a broad array of mathematical modes of thinking through the use of powerful computing tools (including function graphers, curve fitters, symbolic manipulators, dynamic geometric software, and programming languages);
  - (b) use calculators, spreadsheets, and statistical packages to solve problems;
  - (c) use technology to explore probabilities through simulations;

(d) use graphing calculators and computer algebra systems in the study and application of the calculus.

O. Teachers will develop perspectives on mathematics as a human endeavor.

(1) Teachers for grades K-8 will be able to:

(a) understand the dynamic nature of mathematics and its increasingly significant role in social, cultural, and economic development;

(b) develop an appreciation for the contributions made by various cultures to the growth and development of mathematical ideas;

(c) investigate the contributions made by individuals, both female and male, and from a variety of cultures, in the development of ancient, modern, and current mathematical topics;

(d) gain an understanding of the historical development of major school mathematics concepts.

(2) Teachers for grades 5-9 will be able to meet the standards set for K-8 teachers.

(3) Teachers for grades 7-12 will be able to:

(a) explore the dynamic nature of mathematics and its increasingly significant role in social, cultural, and economic development;

(b) gain an understanding of the historical development of major school mathematics concepts;

(c) understand the historical development of non-Euclidean geometries and the questions relating to the parallel postulate involved in this development;

(d) develop an appreciation of the contributions made by the various cultures to the growth and development of mathematical ideas;

(e) investigate the contributions made by individuals, both female and male, and from a variety of cultures, in the development of ancient, modern, and current mathematical topics.

[07-15-99; 6.64.4.9 NMAC - Rn, 6 NMAC 4.7.1.3.9, 10-31-01]

#### **6.64.4.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit.

[07-15-99; 6.64.4.10 NMAC - Rn, 6 NMAC 4.7.1.3.10, 10-31-01; A, 06-30-06]

## **PART 5: COMPETENCIES FOR ENTRY-LEVEL SCIENCE TEACHERS**

### **6.64.5.1 ISSUING AGENCY:**

Public Education Department (PED).

[01-14-00; 6.64.5.1 NMAC - Rn, 6 NMAC 4.7.1.4.1, 07-31-01; A, 06-30-06; A, 10-31-07]

### **6.64.5.2 SCOPE:**

All institutions of higher education in New Mexico that establish or maintain a curriculum for persons seeking an endorsement in science to a state educator license.

[01-14-00; 6.64.5.2 NMAC - Rn, 6 NMAC 4.7.1.4.2 & A, 07-31-01]

### **6.64.5.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[01-14-00; 6.64.5.3 NMAC - Rn, 6 NMAC 4.7.1.4.3 & A, 07-31-01; A, 09-30-03]

### **6.64.5.4 DURATION:**

Permanent

[01-14-00; 6.64.5.4 NMAC - Rn, 6 NMAC 4.7.1.4.4, 07-31-01]

### **6.64.5.5 EFFECTIVE DATE:**

January 14, 2000, unless a later date is cited in the history note at the end of a section.

[01-14-00; 6.64.5.5 NMAC - Rn, 6 NMAC 4.7.1.4.5 & A, 07-31-01]

### **6.64.5.6 OBJECTIVE:**

This rule establishes entry-level science competencies that are based on what beginning science teachers must know and be able to do to provide effective science programs in New Mexico schools. These competencies shall be incorporated into all college or university curricula for persons seeking a science endorsement to their state educator license. The competencies were developed to ensure alignment with the New

Mexico's content standards and benchmarks for science and with the national standards of the national science teachers association. In addition, the national science education standards developed by national research council and the American association for the advancement of science benchmarks were used as guidelines for the development of the entry-level science competencies.

[01-14-00; 6.64.5.6 NMAC - Rn, 6 NMAC 4.7.1.4.6 & A, 07-31-01; A, 06-30-06]

#### **6.64.5.7 DEFINITIONS:**

A. "Applied science" means such disciplines as agriculture, health fields, forensics, engineering and technology.

B. "Design technology" means developing the ability to design a solution to a problem and understanding the relationship of science and technology and the way people are involved in both. This standard helps establish design as the technological parallel to inquiry in science. Like the science as inquiry standard, this standard begins the understanding of the design process, as well as the ability to solve simple design problems.

C. "Inquiry" means a multifaceted activity that involves making observations; posing questions; examining books and other sources of information to see what is already known; planning investigations; reviewing what is already known in light of experimental evidence; using tools to gather, analyze, and interpret data; proposing answers, explanations, and predictions; and communicating the results. Inquiry requires identification of assumptions, use of critical and logical thinking and consideration of alternative explanations. Students will engage in selected aspects of inquiry as they learn the scientific way of knowing the natural world, but they also should develop the capacity to conduct complete inquiries.

[01-14-00; 6.64.5.7 NMAC - Rn, 6 NMAC 4.7.1.4.7 & A, 07-31-01]

#### **6.64.5.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in science to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in (PED) rule for that license, which includes, among other requirements, 24-36 semester hours in science and passage of a content area test in science.

B. Teachers seeking to add an endorsement in science to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in science; or

(2) successfully complete an undergraduate academic major 24-36 semester hours, or coursework equivalent to an undergraduate major or a graduate degree in science; or

(3) obtain certification in science for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[01-14-00; 6.64.5.8 NMAC - Rn, 6 NMAC 4.7.1.4.8 & A, 07-31-01; A, 09-30-03; A, 06-30-06; A, 10-31-07]

#### **6.64.5.9 COMPETENCIES FOR ENTRY-LEVEL SCIENCE TEACHERS:**

A. Instruction and assessment: Preparation to teach science shall involve:

(1) Inquiry, including the scientific method

(a) Select and use a variety of instructional strategies and materials for teaching science meeting the needs of all students.

(b) Implement active inquiry based learning activities conducive to the development of scientific processes, critical thinking skills, and problem solving skills.

(c) Implement design technology/scientific method: identify a problem; propose a solution; implement proposed solutions; evaluate product or design; communicate a problem, design, and solution.

(d) Implement technology, including computers, interactive video, telecommunication, scientific instrumentation, and others.

(2) Content integration

(a) Develop student understanding of the interconnectedness of the sciences and relate the major concepts of chemistry, earth and space science, physics, and biology to the teaching of science.

(b) Develop meaningful application of all content areas, including math, technology, language arts, social studies, and arts, in the delivery of science instruction.

(3) Designing and managing learning environment

(a) Fulfill the professional and legal obligations of teaching.

(b) Incorporate the proper use of science tools, materials, media, and technological resources.

(c) Establish and maintain safety in all areas related to science instruction.

(d) Use and care for living organisms in an ethical and appropriate manner.

(4) Effective and ongoing assessment to improve student learning

(a) Use assessment techniques such as performance testing, interviews, portfolios, and observations, for assessing student outcomes which are aligned with instruction and consistent with contemporary assessment.

(b) Use assessment tasks which may be appropriately modified to accommodate the needs of students with physical disabilities, learning disabilities, limited English proficiency, and cultural diversity.

B. History and nature of science: Preparation to teach science shall include:

(1) Diversity and human endeavor

(a) Describe science careers and reasons why people choose science as a career, including the impact of culture, gender, and other, factors.

(b) Describe the science contributions of people from a variety of social and ethnic backgrounds who have diverse interests, talents, qualities, and motivations.

(c) Develop student understanding of the relationships among science, technology, and cultural values.

(d) Recognize and respond to student diversity and encourage all students to participate fully in science learning.

(2) Empirical observation

(a) Explain that science distinguishes itself from other bodies of knowledge through the use of empirical standards, logical argument, and skepticism.

(b) Explain that scientific ideas depend on experimental and observational confirmation.

(3) Historical perspectives

(a) Understand that the body of scientific knowledge is continually being expanded and refined.

(b) Explain how theories and ideas throughout the history of science are refined or discarded as new evidence becomes available.

(c) Explain how western, non-European, and New Mexican cultures have developed scientific ideas and contributed to scientific knowledge.



C. Content categories: The following areas are designed to allow potential science teachers to construct their pre-service education with an emphasis in one content area, while insuring they receive science education in any area which they might be required to teach. Preparation to teach science shall enable the teacher to understand and be able to teach within at least one of these emphases:

(1) Life science emphasis: All science teachers, grades pre K-12 will be able to identify and understand the relationship among major concepts and principles of biology, including anatomy, physiology, ecology, behavior of organisms, evolution, genetics, cell biology, microbiology, classification, and human biology.

(a) Teachers know and understand the characteristics that are the basis for classifying organisms.

(i) Teachers for grades K-4 will demonstrate an awareness of living things including basic cellular functions and processes, structures, the roles of organisms in systems comprised of living and non-living components and describe life cycles of plants and animals.

(ii) Teachers for grades 5-8 will use information about functions and cell structures to explain replication, reproduction, heredity, and disease, and categorize organisms based on methods of reproduction and offspring development.

(iii) Teachers for grades 9-12 will apply information about cell structures and functions to the world in which they live including understanding of DNA, RNA, natural selection processes, and diversity in plants and animals and use biological classifications to understand how organisms are related.

(b) Teachers will know and understand the synergy among organisms and the environments of organisms.

(i) Teachers for grades K-4 will explain how an organism's behavior is related to its physical environment; describe the roles of plants and animals in the flow of energy; describe how environmental pressures may accelerate changes in organisms; describe populations, communities, and systems; describe the impact humans have on the environment; understand natural resources (renewable versus non-renewable) and how each relates to humans' basic needs, and describe elements essential to good health.

(ii) Teachers for grades 5-8 will understand organisms' physical and behavioral adaptations and how changes occur over time; describe how organisms meet their needs, grow, and reproduce while sustaining stable local surroundings within an ever-changing larger environment; predict organisms' behaviors that may result from external stimuli; use information about variation and diversity to explain population changes over time; categorize organisms based on their roles within the ecosystem in which they live; examine the impact humans have on the living and non-living world

including issues related to overpopulation; illustrate the relationships among renewable and non-renewable resources and population, and model responsible health practices including issues relating to nutrition and exercise.

(iii) Teachers for grades 9-12 will explain cellular responses to environmental threats to the organism ranging from the production of antibodies to changes in coloration; understand the pathways of energy within a living organism; predict an organism's behavioral responses to internal and external changes and to external stimuli as a function of inherited and acquired characteristics; create models that mimic a population's response to internal and external environment pressures; predict the impact humans might have on a species or system including resource depletion and over population, and interpret the relationships between personal choices and health.

(2) Physical science emphasis: All science teachers, grades pre K-12, will be able to identify and understand the relationships among chemistry concepts including organic, inorganic, analytical, physical, and biochemical and identify and understand the relationships among physical concepts including mechanics, electricity, magnetism, thermodynamics, waves, optics, atomic, and nuclear physics.

(a) Teachers will be able to know and understand the properties of matter.

(i) Teachers for grades K-4 will describe the observable properties of common items and substances and explain that elements are the basic units of all matter.

(ii) Teachers for grades 5-8 will identify the properties of elements and compounds such as density, boiling point, and solubility and that these characteristics are independent of amount of the sample and articulate that chemical reactions occur in a predictable fashion and that the formation of compounds adheres to imperatives as conservation of matter.

(iii) Teachers for grades 9-12 will compare and contrast elements and compounds based upon the knowledge of the atomic/subatomic structures of matter and predict how atoms interact based upon sharing or transference of outer electrons.

(b) Teachers will know and understand the properties of fields, forces, and motion.

(i) Teachers for grades K-4 will describe how an object may be described with regard to its relative position to other objects; explain that an object's motion may be described by indicating change over time and describe how the earth's gravity pulls objects toward it.

(ii) Teachers for grades 5-8 will illustrate how Newton's Laws describe objects in motion; describe quantitatively how an object's position, speed and motion explain motion and compare and contrast forces affecting the physical world.

(iii) Teachers for grades 9-12 will apply knowledge of the constancy of energy in the universe and the forms that energy take in daily life; predict the motion of an object based on the net applied force applied to the object and explain and graphically describe that a specific mass exerts a force on others masses (velocity and acceleration).

(c) Teachers will know and understand the concepts of energy and energy transformation.

(i) Teachers in grades K-4 will describe the basic characteristics of light, heat, sound, and electromagnetism, and explain that energy exists in many forms and can be transformed and describe the process of chemical reactions and how time is a factor in chemical reactions.

(ii) Teachers in grades 5-8 will apply knowledge of energy and energy transformation to science problems; explain how chemical reactions can take place over periods of time and explain how concentration, pressure, temperature, and catalysts may affect chemical reactions.

(iii) Teachers in grades 9-12 will demonstrate their understanding of energy by identifying examples of transformations within and outside the school environment and devise scientific investigations demonstrating the impact of temperature and other variables on chemical reactions.

(3) Earth and space science emphasis: All science teachers, grades pre K-12, will know and understand properties of earth and space science.

(a) Teachers in grades K-4 will describe the physical and chemical properties of earth's materials and the states of matter; describe the uses of earth's materials as resources and the sun as the major source of energy; describe changes in the earth's surface; describe changes in weather; recognize that fossils provide a record of animals and plants that lived long ago; represent the school and local community using symbols and maps; describe basic components of and movements within the solar system; identify the types of instruments and vehicles used for space exploration and describe human's movement toward space from early observations to recent explorations.

(b) Teachers in grades 5-8 will explain how earth's materials can be transformed from one state to another; experiment with earth's materials using them as resources; model natural resources that shape the earth's surface; observe, measure, and record weather changes; explain how fossils are formed and how fossils provide evidence of complexity and diversity over time; use rectilinear coordinate systems such as latitude and longitude to locate points on the earth's surface; describe the

interactions among the earth's lithosphere, hydrosphere, atmosphere, and biosphere; explain simple data derived from recent remote and direct observations in the solar system and space beyond; model the predictable patterns of the sun and planets in the solar system and cite benefits from continued exploration of space.

(c) Teachers in grades 9-12 will evaluate information about earth's materials, energy, and geochemical cycles; model the interaction between the earth's internal and external energy sources; use tectonic theory to predict changes in the earth's surface; model weather patterns and other natural cycles related to the movement of matter driven by the earth's internal and external sources of energy; use fossil and other evidence to investigate how the earth changes; extend mapping techniques to learning in science and other content areas; explain the evolution of earth in terms of the interactions among the geosphere, hydrosphere, atmosphere, and biosphere; model interactions between components of the earth based on the understanding of the earth as a system containing a fixed amount of each stable chemical or element; trace the development of space exploration and discuss how recent missions impact understanding of the earth; evaluate the hierarchy of structures in the universe from atoms to galaxies and identify the pros and cons of various scientific theories for the origin of the universe based on scientific evidence.

(4) Environmental science emphasis: All science teachers, grades pre K-12, will be able to identify and apply major concepts of environmental science such as ecosystems, energy flow, population ecology, natural resources, meteorology, geology, oceanography, and conservation.

D. Environmental, personal and social implications: Preparation to teach science shall enable teachers to understand and be able to teach:

- (1) personal, community, New Mexico and global environmental issues;
- (2) the approaches to evaluate the ethical implications of new developments in science;
- (3) personal and community health issues;
- (4) decision-making and value-analysis skills for investigating science-related societal problems;
- (5) ethical use and care of living organisms.

E. Professionalism: Teacher education programs shall develop reflective practitioners who:

- (1) foster in their students scientific interest and curiosity;
- (2) participate in professional scientific organizations;

- (3) serve as representatives of the scientific community;
- (4) engage students in coherent, focused, student centered science curriculum, consistent with state and national standards;
- (5) identify and use a variety of community resources including local expertise, industry, local environmental settings, and families;
- (6) take advantage of collaborative planning among colleagues, scientists, and science teacher educators, so that science, science methods, and other program components are mutually reinforcing;
- (7) explore and evaluate the process of curriculum and instructional implementation.

[01-14-00; 6.64.5.9 NMAC - Rn, 6 NMAC 4.7.1.4.9 & A, 07-31-01; A, 06-30-06]

#### **6.64.5.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit, twelve (12) semester hours of which must be upper division credit.

[01-14-00; 6.64.5.10 NMAC - Rn, 6 NMAC 4.7.1.4.10 & A, 07-31-01; A, 06-30-06]

### **PART 6: COMPETENCIES FOR ENTRY-LEVEL HISTORY, GEOGRAPHY, ECONOMICS, CIVICS AND GOVERNMENT TEACHERS**

#### **6.64.6.1 ISSUING AGENCY:**

Public Education Department (PED).

[07-15-99; 6.64.6.1 NMAC - Rn, 6 NMAC 4.7.1.5.1, 10-31-01; A, 02-28-06; A, 10-31-07]

#### **6.64.6.2 SCOPE:**

Chapter 64, Part 6, governs the competencies that will be used by New Mexico institutions of higher education to establish a curriculum for persons seeking an endorsement in history, geography, economics, civics and government to a New Mexico educator license.

[07-15-99; 6.64.6.2 NMAC - Rn, 6 NMAC 4.7.1.5.2, 10-31-01; A, 02-28-06]

#### **6.64.6.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[07-15-99; 6.64.6.3 NMAC - Rn, 6 NMAC 4.7.1.5.3, 10-31-01; A, 09-30-03]

**6.64.6.4 DURATION:**

Permanent

[07-15-99; 6.64.6.4 NMAC - Rn, 6 NMAC 4.7.1.5.4, 10-31-01]

**6.64.6.5 EFFECTIVE DATE:**

July 15, 1999, unless a later date is cited at the end of a section.

[07-15-99; 6.64.6.5 NMAC - Rn, 6 NMAC 4.7.1.5.5, 10-31-01; A, 02-28-06]

**6.64.6.6 OBJECTIVE:**

This rule is adopted by the (hereinafter the PED) for the purpose of establishing entry-level competencies that are based on what beginning history, geography, economics, civics and government teachers must know and be able to do to provide effective history, geography, economics, civics and government programs in New Mexico pre K-12 schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for social studies and with the national standards of the national council for social studies.

[07-15-99; 6.64.6.6 NMAC - Rn, 6 NMAC 4.7.1.5.6, 10-31-01; A, 02-28-06; A, 10-31-07]

**6.64.6.7 DEFINITIONS:**

**[RESERVED]**

**6.64.6.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in history, geography, economics, civics and government to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in PED rule for that license, which includes, among other requirements, 24-36 semester hours from among history, geography, economics, civics and government and other social sciences and passage of a content area test that examines the candidate's knowledge of history, geography, economics, civics and government.

B. Teachers seeking to add an endorsement in history, geography, economics, civics and government to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in history, geography, economics, civics and government; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in history, geography, economics, civics or government; or

(3) obtain certification in social studies which includes content knowledge in history, geography, economics, civics and government for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[07-15-99; 6.64.6.8 NMAC - Rn, 6 NMAC 4.7.1.5.8, 10-31-01; A, 09-30-03; A, 02-28-06; A, 10-31-07]

#### **6.64.6.9 COMPETENCIES FOR ENTRY-LEVEL HISTORY, GEOGRAPHY, ECONOMICS, CIVICS AND GOVERNMENT TEACHERS:**

A. How the world's people cope with ever-changing conditions, examine issues from multiple perspectives, and respond to individual and cultural diversity. Teachers will demonstrate a working knowledge of how:

(1) political, social, economic, historical, and geographic aspects distinguish New Mexico's uniqueness;

(2) the United States developed as a nation including the struggles, accomplishments and roles of individuals and/or groups as the United States emerged to be a leader of nations;

(3) nations share commonalities and differences and that these influences within nations generate their direction and distinction;

(4) critical information, ideas, and concepts are common across societies, social institutions, cultures, and cultural perspectives.

B. The purpose of democratic and civic values which act in accordance with democratic processes and principles to protect individual rights, promote the common good, and become an effective United States citizen. Teachers will demonstrate a working knowledge of how:

(1) to gather, interpret, and report on political processes in New Mexico at the local, state, tribal, and federal levels;

(2) to compare and contrast the emergence of different types of governments in the world;

(3) to analyze factors that continue to support democratic processes and principles exemplified by the United States constitution.

C. The use of language, tools, and skills of social studies. Teachers will demonstrate a working knowledge of how to:

- (1) use social studies vocabulary and concepts;
- (2) analyze the reliability and validity of social studies information sources;
- (3) interpret and report social studies information from diverse sources (e.g., people, media, technology, the internet, and libraries);
- (4) evaluate the roles of citizens and their involvement in civic projects with emphasis on the United States;
- (5) locate, access, organize, analyze, synthesize, evaluate, and apply information about selected public issues - identifying, describing, and evaluating multiple points of view.

D. The ways in which human beings view themselves and others over time. Teachers will demonstrate a working knowledge of:

- (1) varying perspectives in historical writing;
- (2) how to evaluate historical inquiry as influenced by culture and society;
- (3) how to analyze historical periods of change within and across cultures.

E. Understand relationships and patterns in history in order to understand the past and present and to prepare for the future. Teachers will demonstrate a working knowledge of:

- (1) the use of facts and concepts drawn from history along with methods of historical inquiry to make informed decisions and take appropriate action on public issues with emphasis on the United States;
- (2) the historical, political, economic, and social developments of various cultural groups in the world;
- (3) key concepts (e.g. time, causality, conflict, and complexity) to identify, analyze, and explain connections among patterns of historical change and continuity.

F. How personal and group identities are shaped by culture, physical environment, individuals, groups and institutions. Teachers will demonstrate a working knowledge of:



(1) the concepts of role, status, culture, and social class and will use them in describing the connections and interactions of individuals, groups, and institutions in society with emphasis on the United States;

(2) how perceptions, attitudes, values, and beliefs affect the development of personal identity and decision making;

(3) how media and expanding technology (e.g. print, Internet, film, television, and radio) affect the development of personal identity and decision making;

(4) group and institutional influences on people, events, and elements of culture in both historical and contemporary settings.

G. Historical developments of structures of power, authority, governance and the forms and purposes of governments in the world with emphasis on principles, ideals, and forms of governments of the United States. Teachers will demonstrate a working knowledge of:

(1) the organization of governments (local, state, tribal, and national) and the services they provide;

(2) historical development of the different forms of government, with emphasis on the principles and ideals of the United States;

(3) key concepts (e.g. power, role, status, justice, and influence) in order to examine persistent issues and social problems.

H. The responsibilities, rights and privileges of United States citizens. Teachers will demonstrate a working knowledge of:

(1) the rights, responsibilities, and privileges of the individual, in relation to family, social group, career, community, and nation;

(2) the continuing influence of the key ideas of individual human dignity, liberty, justice, equality, and the rule of law;

(3) how to identify, analyze, interpret, and evaluate sources and examples of citizens' rights, responsibilities, and privileges;

(4) connections of social studies content to career readiness.

I. To develop and employ the civic skills necessary for participatory citizenship. Teachers will demonstrate a working knowledge of:

(1) forms of civic discussion and participation consistent with the ideals of United States citizens;

- (2) the influence of various forms of citizen action on public policy;
- (3) influences of public opinion on policy development and decision-making;
- (4) how to evaluate ways in which public policies and citizen behaviors reflect the ideals of a democratic republican form of government.

J. The impact of economic systems and institutions on individuals, families, careers, businesses, communities, and governments. Teachers will demonstrate a working knowledge of:

- (1) the roles and influences of economic institutions on career choice and opportunity;
- (2) roles and relationships of the various economic institutions that comprise economic systems (e.g. households, business firms, banks, government agencies, labor unions, corporations, etc.);
- (3) the impact of economic systems and institutions on individuals, families, businesses, communities and governments including monetary systems, law of supply and demand, and entrepreneurship;
- (4) the domestic and global economic systems and how they interact.

K. The diverse, dynamic, and ever-changing nature of culture. Teachers will demonstrate a working knowledge of:

- (1) how language, literature, the arts, media, architecture, artifacts, traditions, beliefs, values, and behaviors interact and contribute to the development and transmission of culture;
- (2) societal patterns for preserving and transmitting culture, while adapting to environmental or social change;
- (3) the importance of cultural unity and diversity within and across groups;
- (4) ideas, theories, and modes of inquiry drawn from anthropology, psychology and sociology in the examination of how issues of gender and ethnicity affect intercultural understanding.

L. Physical environments and their relationships to ecosystems and human activities. Teachers will demonstrate a working knowledge of:

- (1) the relationships among varying regional and global patterns of geographic phenomena (e.g. landforms, climate, and natural resources) and the interactions of human beings and their physical environment;

(2) how earth's physical features have changed over time and how historical events have influenced and have been influenced by physical and human geographic features;

(3) the interrelationships of physical and cultural patterns that reflect land use, settlement patterns, ecosystem changes and cultural transmission of customs and ideas;

(4) geographic tools and resources to generate and interpret information;

(5) the complexity of social and economic effects of environmental change and crises.

M. The impact of science and technology on societies. Teachers will demonstrate a working knowledge of:

(1) how science and changing technology have transformed the physical world and human society;

(2) how science and technologies influence and are influenced by core values, ethics, beliefs, and attitudes of society, including public policies with emphasis on the United States;

(3) the interdependence of science, technology, and society in a variety of cultural settings.

N. The role of global connections and interdependence between and among individuals, groups, societies, and nations. Teachers will demonstrate a working knowledge of:

(1) how interactions among the arts, language, technology, belief systems, and other cultural elements can impact global understanding;

(2) relationships and tensions between national sovereignty and international interests in such matters as territory, economic development, use of natural resources, nuclear and other weapons, and concerns about human rights.

O. In addition to the general licensure requirements on assessment the secondary teacher of history, geography, economics, civics and government should possess the following capabilities, disposition, and knowledge to assess student learning. Teachers will demonstrate a working knowledge of:

(1) checking for understanding;

(2) describing and demonstrating;

- (3) comparing and contrasting;
- (4) analyzing and evaluating;
- (5) inferring and interpreting;
- (6) thinking chronologically;
- (7) predicting, speculating and extrapolating.

[07-15-99; 6.64.6.9 NMAC - Rn, 6 NMAC 4.7.1.5.9, 10-31-01; A, 02-28-06]

#### **6.64.6.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit.

[07-15-99; 6.64.6.10 NMAC - Rn, 6 NMAC 4.7.1.5.10, 10-31-01; A, 02-28-06]

### **PART 7: COMPETENCIES FOR ENTRY-LEVEL HEALTH EDUCATION TEACHERS**

#### **6.64.7.1 ISSUING AGENCY:**

Public Education Department (PED).

[07-15-99; 6.64.7.1 NMAC - Rn, 6 NMAC 4.7.1.6.1, 10-31-01; A, 06-30-06; A, 10-31-07]

#### **6.64.7.2 SCOPE:**

Chapter 64, Part 7, governs the competencies that will be used by New Mexico institutions of higher education to establish a curriculum for persons seeking an endorsement in health education to a New Mexico educator license.

[07-15-99; 6.64.7.2 NMAC - Rn, 6 NMAC 4.7.1.6.2, 10-31-01]

#### **6.64.7.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[07-15-99; 6.64.7.3 NMAC - Rn, 6 NMAC 4.7.1.6.3, 10-31-01; A, 09-30-03]

#### **6.64.7.4 DURATION:**

Permanent

[07-15-99; 6.64.7.4 NMAC - Rn, 6 NMAC 4.7.1.6.4, 10-31-01]

**6.64.7.5 EFFECTIVE DATE:**

July 15, 1999, unless a later date is cited at the end of a section or paragraph.

[07-15-99; 6.64.7.5 NMAC - Rn, 6 NMAC 4.7.1.6.5, 10-31-01]

**6.64.7.6 OBJECTIVE:**

This rule is adopted by the (PED) for the purpose of establishing entry-level health education competencies that are based on what beginning health education teachers must know and be able to do to provide effective health education programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for health education and with the national standards of the American alliance for health, physical education, recreation and dance.

[07-15-99; 6.64.7.6 NMAC - Rn, 6 NMAC 4.7.1.6.6, 10-31-01; A, 06-30-06; A, 10-31-07]

**6.64.7.7 DEFINITIONS:**

**[RESERVED]**

**6.64.7.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in health education to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in PED rule for that license, which includes, among other requirements, 24-36 semester hours in health or health education.

B. Teachers seeking to add an endorsement in health education to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments if provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state, if available, in health education; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major in health or health education or a graduate degree in health or health education; or

(3) obtain certification in health education for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[07-15-99; 6.64.7.8 NMAC - Rn, 6 NMAC 4.7.1.6.8, 10-31-01; A, 09-30-03; A, 06-30-06; A, 10-31-07]

#### **6.64.7.9 COMPETENCIES FOR ENTRY-LEVEL HEALTH EDUCATION TEACHERS:**

Upon completion of a program in health education, the health education teacher shall be able to:

A. assess individual/school/community needs for health education by:

- (1) determining the cultural environment related to school/community;
- (2) obtaining and utilizing health related data about social and cultural environments, family, growth and development factors, needs and interests;
- (3) understanding the prevention of risky behaviors to include, but not limited to: use of tobacco, alcohol and other drugs; dietary patterns; sedentary lifestyles; behaviors that result in sexually transmitted diseases and unintended pregnancy; behaviors that result in unintentional injuries; and violent and other anti-social behaviors;
- (4) determining appropriate teaching objectives and methods for interactive/skills-based education.

B. plan effective school health education programs and demonstrate knowledge and skills regarding each of the following by:

- (1) ensuring that the delivered health education curriculum aligns with the New Mexico health education standards required of students in pre K-12 health education programs;
- (2) designing educational programs consistent with specified program objectives;
- (3) designing a planned sequential pre K-12 curriculum designed to develop life skills to include, but not limited to: communication; non-violent conflict resolution; decision-making; goal setting; stress management; and resisting negative social pressure;
- (4) assessing factors and situations that influence the development of personality, family relationships, positive self-concept, coping skills, mental health, and emotional maturity;
- (5) incorporating input from community organizations, resource people, and potential participants for support and assistance in program planning.

C. exhibit competence in carrying out planned health education programs by:

- (1) implementing a planned sequential pre K-12 curriculum designed to develop life skills to include, but not limited to: communication; non-violent conflict resolution; decision-making; goal setting; stress management; and resisting negative social pressure;
- (2) imparting information to enable students to analyze the influences of culture, media, technology, and other factors on health;
- (3) demonstrating the ability to write clear objectives and lesson plans;
- (4) identifying and managing the importance of interpersonal relationships in the classroom setting;
- (5) exhibiting knowledge and interactive skill-based teaching methods in the areas of, but not limited to: substance use and abuse prevention; nutrition; personal health; family health; community health; consumer health; environmental health; growth and development/ sexuality; mental and emotional health; injury prevention and safety; and prevention and control of disease;
- (6) involving parents/guardians in the implementation of health-related curriculum.

D. demonstrate competence in teaching health information and services by:

- (1) organizing and conveying beliefs, ideas, and information about health through oral, written, artistic, graphic and technologic mediums;
- (2) demonstrating the ability to foster advocacy for personal, family, and community health;
- (3) fostering communication that creates a climate of understanding and concern for others by listening carefully, responding thoughtfully, and presenting a supportive demeanor which encourages others to express themselves;
- (4) communicating and using appropriate interaction strategies with children, regardless of exceptionalities;
- (5) understanding the dynamics of controversial health issues and the impact of opposing viewpoints;
- (6) mediating differences of opinion on controversial health issues;
- (7) demonstrating proficiency in communicating current health information and health education needs;

- (8) demonstrating the ability to work as a team member.

E. evaluate the health education program and use the findings for future program planning by:

- (1) determining criteria for program effectiveness;
- (2) selecting appropriate methods for evaluating program effectiveness;
- (3) analyzing and interpreting resulting evaluation data;
- (4) recommending strategies for future program improvement.

F. assess student achievement in health education learning objectives by:

(1) using assessment techniques such as performance testing, interviews, portfolios, and observations for assessing student progress and student outcomes that are aligned with instruction and New Mexico health education content standards for students;

(2) using assessment that may be appropriately modified to accommodate the needs of students regardless of exceptionalities;

(3) recognizing and understanding the importance of using meaningful assessment to improve curriculum and instruction.

[07-15-99; 6.64.7.9 NMAC - Rn, 6 NMAC 4.7.1.6.9, 10-31-01; A, 06-30-06]

#### **6.64.7.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit.

[07-15-99; 6.64.7.10 NMAC - Rn, 6 NMAC 4.7.1.6.10, 10-31-01; A, 06-30-06]

## **PART 8: COMPETENCIES FOR ENTRY-LEVEL LIBRARY MEDIA SPECIALISTS**

### **6.64.8.1 ISSUING AGENCY:**

Public Education Department (PED).

[07-15-99; 6.64.8.1 NMAC - Rn, 6 NMAC 4.7.1.7.1, 10-31-01; A, 06-30-06; A, 10-31-07]



#### **6.64.8.2 SCOPE:**

Chapter 64, Part 8, governs the competencies that will be used by New Mexico institutions of higher education to establish a curriculum for persons seeking an endorsement in library media to a New Mexico educator license.

[07-15-99; 6.64.8.2 NMAC - Rn, 6 NMAC 4.7.1.7.2, 10-31-01]

#### **6.64.8.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[07-15-99; 6.64.8.3 NMAC - Rn, 6 NMAC 4.7.1.7.3, 10-31-01; A, 09-30-03]

#### **6.64.8.4 DURATION:**

Permanent

[07-15-99; 6.64.8.4 NMAC - Rn, 6 NMAC 4.7.1.7.4, 10-31-01]

#### **6.64.8.5 EFFECTIVE DATE:**

July 15, 1999, unless a later date is cited at the end of a section or paragraph.

[07-15-99; 6.64.8.5 NMAC - Rn, 6 NMAC 4.7.1.7.5, 10-31-01]

#### **6.64.8.6 OBJECTIVE:**

This rule is adopted by the (PED) for the purpose of establishing entry-level library media competencies that are based on what beginning librarian-teachers must know and be able to do to provide effective library media programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the national standards of the American library association and the American association of school librarians.

[07-15-99; 6.64.8.6 NMAC - Rn, 6 NMAC 4.7.1.7.6, 10-31-01; A, 06-30-06; A, 10-31-07]

#### **6.64.8.7 DEFINITIONS:**

A. Bibliographic records: A collection of data that identifies/describes a particular published item. Examples of collections of bibliographic records are: catalogs, databases, indexes.

B. Information: "All print, oral, visual, electronic systems inclusive of both factual and literary materials." (NM library and information literacy task force, "Library and information literacy: Changing curriculum with an expanding universe of 'literacies,'" January 1996.)

C. Information literacy: "The ability to access, evaluate, and use information from a variety of sources" (California media and library educators association. From library skills to information literacy: A handbook for the 21st century. 1994)

(1) "The ability to use information to acquire both core and advanced knowledge, to become an independent, lifelong learner who contributes responsibly and productively to the learning community." (AASL/AECT national guidelines vision committee. Information literacy standards for student learning, 1997)

(2) "The term being applied to the skills of information problem solving." (AASL position statement "information literacy: a position paper on information problem solving," Emergency librarian, 23:20, Nov.- Dec. 1995).

D. Library/information literacy: "Library/ Information Literacy is the ability to access, analyze, evaluate, use, produce, and appreciate all types of information, utilizing a wide range of media formats. Literacy also implies the ethical and responsible use of information and information technologies." (NM Task Force, Ibid, 1996).

E. Intellectual freedom: "The right of the individual to freely select from many different types of materials expressing many viewpoints, or the right of free access to many different sources." (Davies, Ruth A. the school library media center: A force for educational excellence, 2d ed., 1974.)

(1) "The freedom to view, along with the freedom to speak, to hear, and to read, is protected by the first amendment to the constitution of the United States. In a free society, there is no place for censorship of any medium or expression." (educational film library association, American library association, association of educational communications and technology, "freedom to view," 1979).

(2) "intellectual freedom, the essence of equitable library services, provides for free access to all expressions of ideas through which any and all sides of a question, cause, or movement may be explored." ALA council. "diversity in collection development," July 1982/ January 1990.

F. Library media center (LMC): "A central access point to information resources and to the instruction on their use." (NM Task Force, Ibidem, 1996).

G. Library media programs: "The role of the library media program is to ensure that students and staff are effective users of ideas and information. The library media program supports curricular and recreational needs of students by providing adequate resources, services and training. It facilitates the independent use of information. The library media program that is truly integrated into the school's curriculum is central to helping students master information literacy skills." (Emergency Librarian, Ibidem, p. 21)

H. Library media specialist (LMS): The library media specialist serves as the leader in developing and promoting the information literacy component of the school

curriculum, and serves as the supervisor/ director of the library media program in the school. Minimum requirements include a bachelor's degree and teacher certification with an LMS endorsement. The library media specialist is considered a professional teacher.

I. Library media technician: The library media technician serves as a paraprofessional in one or more areas of focus, such as operations and maintenance of circulation, of collections, of equipment, or provision of production services. Minimum requirements include two years of post-secondary training (college, A. A. degree or other post-secondary training programs), with courses in the above areas. The Library Media Technician is not considered to be part of the professional teaching staff.

J. Library assistant: The library assistant serves as a paraprofessional who is responsible for clerical service(s) in the school library media center, such as checking materials in and out, shelving materials, etc. With only on-the-job training, the library assistant is not considered to be a part of the professional teaching staff.

K. Selection/ deselection:

(1) Selection: Use of both professional knowledge of collection development and knowledge about the needs and interests of the client, the community, and the school's curriculum to choose the most appropriate materials/resources.

(2) Deselection: "Continuous review and evaluation of library materials is necessary as a means of maintaining an active library collection of current interest to users. Evaluation of the usefulness of the current collection and removal of no-longer-relevant materials is called 'weeding', 're-evaluating the collection', or 'deselection.' This does not include removal of materials to avoid controversy." (ALA council. "evaluating library collections," 1981.)

L. Technology: "Educational technology involves the array of modern tools that support learning and teaching. These interactive tools include: computers, calculators, interactive video, telecommunications, satellite conferencing, design technology, instructional television, music synthesis, and other media. These tools must be combined with effective teaching strategies in order to optimize student success in learning." (NM State department of education. Resource notebook for educational technology planning, 1995, p.15) "technology includes...tools used in the educational process that constitute learning resources and may include closed circuit television systems, educational television and radio broadcasting, cable television, satellite, copper and fiber optic transmission, computer, video and audio laser, and CD ROM discs, video and audio tapes, and other technologies; and the training, maintenance, equipment and computer infrastructure, techniques and tools, used to implement technology in classrooms and library media centers." (New Mexico state legislature. Technology for Education Act, 1994)

[07-15-99; 6.64.8.7 NMAC - Rn, 6 NMAC 4.7.1.7.7, 10-31-01]

#### **6.64.8.8 REQUIREMENTS:**

A. Beginning librarian-teachers seeking an endorsement in library/media to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in PED rule for that license, which includes, among other requirements, completing an academic major in library/media.

B. Teachers seeking to add an endorsement in library/media to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments if provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state, if available, in library/media; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major in library media or a graduate degree in library/media; or

(3) obtain certification in library/media for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[07-15-99; 6.64.8.8 NMAC - Rn, 6 NMAC 4.7.1.7.8, 10-31-01; A, 09-30-03; A, 06-30-06; A, 10-31-07]

#### **6.64.8.9 COMPETENCIES FOR ENTRY-LEVEL LIBRARY MEDIA SPECIALISTS:**

A. Professionalism (ethics, professional development, and advocacy):

(1) Understands the ethics and principles of librarianship and leadership in the profession.

(2) Demonstrates a nonjudgmental attitude towards patrons and their requests.

(3) Demonstrates an understanding of and respect for cultural diversity and diverse learning styles.

(4) Preserves confidentiality in interchanges with patrons.

(5) Ensures that patrons have full and equitable access to library materials, resources, and services.

(6) Applies and supports the principles and procedures of intellectual freedom in providing access for students to materials and information, and in providing instruction regarding their use.

(7) Upholds and models appropriate behavior regarding copyright laws in both use of materials and in instruction regarding their use.

(8) Demonstrates knowledge of and practices contemporary self-assessment techniques for personal professional growth.

(9) Practices self-directed learning for professional growth to ensure awareness of current trends and issues.

(10) Demonstrates awareness of professional organizations and interest in professional participation.

(11) Advocates and promotes awareness of, and support for, students' educational and other informational needs to the school and the larger community.

(12) Includes a wide range of input from local and school communities in development and evaluation of library services.

(13) Works collaboratively and cooperatively with other libraries and agencies serving students.

#### B. Communication and collaboration:

(1) Communicates effectively with students, faculty, staff, administrators, parents, other colleagues and the general public.

(2) Maintains an effective teaching and learning climate in the school library media center.

(3) Listens and responds to information requests in a manner that encourages further patron inquiry.

(4) Demonstrates knowledge of curriculum and exhibits communication skills necessary for collaborative planning of curriculum and lessons with teachers.

(5) Develops and implements an effective public relations program that communicates to the local and educational community the vital contribution of the school library media program.

(6) Works effectively with the school library media advisory committee that includes administrators, teachers, students, parents, and other representatives of the community.

C. Collection development and management:

- (1) Applies basic principles of evaluating and selecting resources to develop and maintain collections that support and enhance the school's curriculum.
- (2) Develops, implements, monitors, and revises individual school library selection policies, which reflect the district collection development policy.
- (3) Identifies and applies criteria appropriate for evaluating resources in all formats and for all grade levels.
- (4) Applies appropriate collection development techniques such as needs analysis, evaluating, selecting and de-selecting resources.
- (5) Develops collections to support the personal, developmental, vocational, recreational and cultural needs of patrons to ensure unrestricted access to information and ideas.

D. Shared instructional leadership:

- (1) Serves as a learning facilitator within the school to support the development of effective strategies for teaching and learning.
- (2) Participates as an equal partner with faculty in the curriculum development process at school and district levels.
- (3) Anticipates the need for resources and specific information identified in the curriculum development process.
- (4) Participates as an equal partner with classroom teachers in designing, implementing, evaluating, and modifying learning activities, and in assessing student mastery of these activities.
- (5) Cooperatively plans with faculty and others to ensure that information literacy skills are integrated into the curriculum.
- (6) Promotes appropriate interdisciplinary learning.
- (7) Provides support to staff for teaching and professional growth.
- (8) Motivates and guides students in appreciating literature.
- (9) Plans and implements instruction in the use and evaluation of resources, with particular focus on information literacy.

E. Technology information management:

- (1) Assists patrons in the optimal use of evolving technologies.
- (2) Applies criteria to determine the appropriateness of various applications, materials, services, and formats to support and enhance curricular needs.
- (3) Coordinates the use of technology with administrators, faculty and staff.
- (4) Provides technical support and training on information literacy to administrators, faculty, staff, and students.
- (5) Monitors, assesses, and employs existing and emerging technologies for possible applications to the library/instructional program.

#### F. Organization:

- (1) Develops and implements effective policies and procedures relating to the overall organization and management of the collection(s), to include selection, acquisitions, cataloging, processing, accessing, and maintaining materials and equipment.
- (2) Coordinates all aspects of the selection and acquisition processes for print and non-print media.
- (3) Provides and maintains bibliographic records for all media/materials according to standardized classification systems.
- (4) Selects, manages, and evaluates an integrated, automated library system that maximizes access and facilitates use of the collection.
- (5) Establishes and implements circulation policies and procedures based on users' needs, to promote access and ensure confidentiality.
- (6) Implements policies and procedures for ongoing maintenance of equipment and inventory.
- (7) Promotes and expands information access to collections and databases beyond the school through resource sharing, on-line networks and links, consortia, and cooperative agreements such as interlibrary loan, delivery systems.

#### G. Administration:

- (1) Develops, implements, and evaluates school library media programs which facilitate the achievement of educational goals, including the management of personnel, resources, and facilities.

(2) Collaborates with school personnel and other professionals to develop annual and long-range goals.

(3) Prepares, justifies, and administers the school library media program budget.

(4) Develops and disseminates annual plans and reports to meet program and school goals.

(5) Assigns, instructs, supervises, and evaluates support staff, volunteers, and student assistants.

(6) Participates in planning, arranging, and using school library media facilities to support the instructional program.

(7) Knows and applies appropriate research principles and findings to improve teaching and learning.

[07-15-99; 6.64.8.9 NMAC - Rn, 6 NMAC 4.7.1.7.9, 10-31-01]

#### **6.64.8.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit.

[07-15-99; 6.64.8.10 NMAC - Rn, 6 NMAC 4.7.1.7.10, 10-31-01; A, 06-30-06]

### **PART 9: COMPETENCIES FOR ENTRY-LEVEL INFORMATION TECHNOLOGY COORDINATORS**

#### **6.64.9.1 ISSUING AGENCY:**

Public Education Department.

[09-15-99; 6.64.9.1 NMAC - Rn, 6 NMAC 4.7.1.8.1, 10-31-01; A, 06-30-06]

#### **6.64.9.2 SCOPE:**

Chapter 64, Part 9, governs the competencies that will be used by New Mexico institutions of higher education to establish a curriculum for persons seeking an endorsement in information technology coordinator to a New Mexico educator license.

[09-15-99; 6.64.9.2 NMAC - Rn, 6 NMAC 4.7.1.8.2, 10-31-01]



**6.64.9.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10-3, and 22-10-22, NMSA 1978.

[09-15-99; 6.64.9.3 NMAC - Rn, 6 NMAC 4.7.1.8.3, 10-31-01]

**6.64.9.4 DURATION:**

Permanent

[09-15-99; 6.64.9.4 NMAC - Rn, 6 NMAC 4.7.1.8.4, 10-31-01]

**6.64.9.5 EFFECTIVE DATE:**

September 15, 1999.

[09-15-99; 6.64.9.5 NMAC - Rn, 6 NMAC 4.7.1.8.5, 10-31-01]

**6.64.9.6 OBJECTIVE:**

This rule is adopted by the public education department ("PED") for the purpose of establishing entry-level information technology competencies that are based on what beginning information technology coordinators must know and be able to do to provide effective information technology programs in New Mexico schools. The competencies were developed to ensure alignment with New Mexico's content standards and benchmarks for all content areas and with the national standards of educational technology as prepared by the international society for technology in education.

[09-15-99; 6.64.9.6 NMAC - Rn, 6 NMAC 4.7.1.8.6, 10-31-01; A, 06-30-06]

**6.64.9.7 DEFINITIONS:**

**[RESERVED]**

**6.64.9.8 CORE LICENSURE REQUIREMENTS:**

Persons seeking an endorsement in information technology to a New Mexico educator license must complete the following core requirements.

A. hold a minimum of a baccalaureate degree from a regionally accredited college or university;

B. have completed an approved educator preparation program that includes at least 14 weeks of supervised student teaching; and

C. pass any PED required licensure examination.

[09-15-99; 6.64.9.8 NMAC - Rn, 6 NMAC 4.7.1.8.8, 10-31-01; A, 06-30-06]

### **6.64.9.9 COMPETENCIES FOR ENTRY-LEVEL INFORMATION TECHNOLOGY COORDINATORS:**

#### **A. Foundations**

(1) Basic computer and technology operations and concepts: Candidates will use computer systems to: run software, access, generate, and manipulate data; and publish results. They will also evaluate performance of hardware and software components of computer systems and apply basic troubleshooting strategies as needed. The educator will:

(a) operate a multimedia computer system with related peripheral devices to successfully install and use a variety of software packages;

(b) use terminology related to technology appropriate to the teaching field in written and oral communication;

(c) describe and implement basic troubleshooting techniques for multimedia computer systems with related peripheral devices;

(d) use imaging devices;

(e) demonstrate knowledge of uses of computers and technology in business, industry, and society;

(f) operate a variety of audio-visual devices.

(2) Personal and professional use of technology: Candidates will apply tools for enhancing their own professional growth and productivity. They will use technology in communicating, collaborating, conducting research, and solving problems. In addition, they will plan and participate in activities that encourage lifelong learning and will promote equitable, ethical, and legal use of computer and technology resources. The educator will:

(a) use productivity tools for word processing, database management, and spreadsheet applications;

(b) apply productivity tools for creating a multimedia presentation;

(c) use computer -based technologies including telecommunications to access information and enhance personal and professional productivity;

(d) use computers to support problem solving, data collection, information management, communications, presentations, and decision making;

(e) demonstrate awareness of resources for adaptive assistive devices and software for students with special needs;

(f) demonstrate awareness of resources for culturally and linguistically diverse students;

(g) demonstrate knowledge of equity, ethics, legal, and human issues concerning use of computers and technology;

(h) demonstrate awareness of computer and related technology resources for facilitating lifelong learning and emerging roles of the learner and the educator;

(i) demonstrate awareness of broadcast instruction, audio/video conferencing, and other distant learning applications.

(3) Application of technology to support teaching and learning: Candidates will apply computers and related technologies to support teaching and learning in their grade level and subject areas. They will integrate a variety of software, applications, and learning tools in the teaching and learning process. Lessons developed must reflect effective grouping and assessment strategies for diverse populations. The educator will:

(a) explore, evaluate, and use technology resources including applications, tools, educational software, and assorted documentation;

(b) describe best practice and appropriate assessment as related to the use of technology resources in the curriculum;

(c) design, implement, and assess learning activities that integrate technology for a variety of grouping strategies for diverse populations;

(d) design learning activities that foster equitable, ethical, and legal use of technology by students;

(e) practice responsible, ethical, and legal use of technology, information, and software resources.

B. Research and theories: Candidates will identify and apply educational and technology-related research, the psychology of learning, and instructional design principles in guiding use of computers and technology in education.

(1) Summarize knowledge of best practice and trends related to the use of technology to support teaching and learning.

(2) Apply theories of learning, teaching, and instructional design and their relationship to the use of technology to support teaching and learning.

(3) Identify human and equity issues concerning the use of computers and related technologies in education.

C. Facilities and resource management: Candidates will be able to demonstrate knowledge of issues related to facilities and resources planning and management. Candidates will be able to:

(1) facilitate and use budget planning and management procedures related to educational computing and technology facilities and resources;

(2) plan, develop, implement, and evaluate strategies and procedures for resource acquisition and management of technology-based systems including hardware and software;

(3) identify, describe, and analyze procedures related to basic trouble shooting, preventive maintenance, and procurement of system wide maintenance services;

(4) describe and maintain current information involving facilities planning issues related to computers and related technologies;

(5) demonstrate knowledge of issues related to design and development policies and procedures concerning staffing, scheduling, and security for managing technology in a variety of instructional and administrative settings;

(6) evaluate school and technology plans and recommend improvements of facilities;

(7) collaborate and build alliances and partnerships involving educational technology initiatives;

(8) use evaluation findings to recommend modifications in technology implementations.

D. Operating systems: Candidates will be able to plan, install, customize, and configure the operating systems of computers and computer networks in school settings. Candidates will be able to:

(1) identify and describe operating systems associated with computing platforms;

(2) use and manipulate software to effectively manage communication networks;

(3) evaluate, troubleshoot, and maintain operating systems in a variety of learning environments and administrative offices.

E. Software/hardware design, selection, installation, and maintenance: Candidates will be able to identify and implement software/hardware solutions for a variety of learning environments and administrative environments. Candidates will be able to:

- (1) research and recommend purchasing strategies and procedures for administrative and instructional software and hardware;
- (2) research and recommend technology maintenance agreements;
- (3) provide technical evaluation criteria for software and hardware and identify reliable sources;
- (4) install, maintain, inventory, and manage software;
- (5) research and recommend ethical and legal procedures for maintaining software;
- (6) provide technical evaluation criteria for adaptive assistive hardware and software for special needs population;
- (7) facilitate instructional design principles to develop, implement, and test interactive multimedia instructional products using authoring environments.

F. Information access and delivery: Candidates will be able to implement information access and delivery resources in a variety of learning environments. Candidates will be able to:

- (1) demonstrate knowledge of information access and telecommunications tools to support learning;
- (2) implement distance learning delivery systems;
- (3) assist in professional development;
- (4) install, configure, and maintain devices to store and retrieve information;
- (5) describe issues related to selecting, installing, and maintaining communication networks;
- (6) evaluate school and district technology plans and recommend improvements.

G. Professional development and technology leadership

- (1) Candidates will demonstrate knowledge of issues and models related to staff development.

(a) Plan and design staff development that integrates national, state, and local standards and benchmarks.

(b) Evaluate school and district technology plans and policies and recommend improvements to facilitate staff development.

(c) Describe and identify resources for staff development.

(2) Candidates will be knowledgeable of supervisory concepts and demonstrate skills as they relate to the use of technology-based systems in pre K-12 education.

(a) Demonstrate knowledge of strategies for and issues related to managing the change process in schools using appropriate assessment principles and techniques.

(b) Identify funding sources available at local, state, and/or national level and collaborate on development of grant proposals.

(c) Use knowledge of technology to guide the decision making process that best benefits the constituents.

[09-15-99; 6.64.9.9 NMAC - Rn, 6 NMAC 4.7.1.8.9, 10-31-01; A, 06-30-06]

#### **6.64.9.10 IMPLEMENTATION:**

A. Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit. Or

B. Persons seeking an endorsement in information technology but who have not completed the requirements in Subsection A of 6.64.9.10 NMAC may receive an endorsement by meeting one of the following provisions:

(1) a degree in instructional technologies or a related field; or

(2) satisfactory demonstration of the competencies through an alternative performance assessment process established by the PED.

[09-15-99; 6.64.9.10 NMAC - Rn, 6 NMAC 4.7.1.8.10, 10-31-01; A, 06-30-06]

## **PART 10: COMPETENCIES FOR ENTRY-LEVEL BILINGUAL EDUCATION TEACHERS**

#### **6.64.10.1 ISSUING AGENCY:**

Public Education Department.

[6.64.10.1 NMAC - N, 09-29-00; A, 05-31-06]

**6.64.10.2 SCOPE:**

All persons seeking an endorsement in bilingual education to a New Mexico educator license and persons seeking to qualify for an internship license in bilingual education.

[6.64.10.2 NMAC - N, 09-29-00; A, 05-31-06]

**6.64.10.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10-3, and 22-10-22, NMSA 1978.

[6.64.10.3 NMAC - N, 09-29-00]

**6.64.10.4 DURATION:**

Permanent

[6.64.10.4 NMAC - N, 09-29-00]

**6.64.10.5 EFFECTIVE DATE:**

September 29, 2000, unless a later date is cited in the history note at the end of a section.

[6.64.10.5 NMAC - N, 09-29-00]

**6.64.10.6 OBJECTIVE:**

This public education department (PED) rule establishes entry-level bilingual education competencies that are based on what beginning bilingual education teachers must know and be able to do to provide effective bilingual programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the national standards of the national association for bilingual education and must be used by New Mexico institutions of higher education to establish bilingual education preparatory programs.

[6.64.10.6 NMAC - N, 09-29-00; A, 05-31-06; A, 10-31-06]

**6.64.10.7 DEFINITIONS:**

**[RESERVED]**

[6.64.10.7 NMAC - N, 09-29-00]

#### **6.64.10.8 CORE LICENSURE REQUIREMENTS:**

A. Except as provided in Subsections C or D of 6.64.10.8 NMAC, teachers seeking to add an endorsement in bilingual education to an initial level 1 New Mexico teaching license must meet all of the requirements of the license provided in PED rule for that license, which includes, among other requirements, completing 24-36 semester hours in bilingual education and passage of the bilingual education licensure exam as required in 6.60.5 NMAC.

B. Teachers seeking to add an endorsement in bilingual education to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the bilingual education licensure exam as required in 6.60.5 NMAC or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in bilingual education and complete at least 12 semester hours in the teaching of bilingual education that address the competencies in Subsections C-F in 6.64.10.9 NMAC, or

(2) obtain certification in bilingual education for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons who are "highly qualified" in the core academic subjects that they teach and who are enrolled in a public education (PED) approved bilingual education licensure or endorsement program or similar program in another state, whether as part of a teacher preparation program or in a licensure endorsement program only, may be issued a three-year non-renewable internship license in bilingual education under 6.60.3.9 NMAC if they have passed the required bilingual education licensure examination in 6.60.5 NMAC. Persons who have passed the required bilingual education licensure examination in 6.60.5 NMAC shall be required to complete at least 12 semester hours in the teaching of bilingual education that address the competencies in Subsections C-F in 6.64.10.9 NMAC.

D. Persons who hold a licensure endorsement in teaching English as a second language (TESOL) on an existing New Mexico teaching license may add an endorsement in bilingual education by passing the required bilingual education licensure examination in 6.60.5 NMAC and completing at least 6 semester hours in the teaching of bilingual education that address the competencies in Subsections C-F in 6.64.10.9 NMAC.

[6.64.10.8 NMAC - N, 09-29-00; A, 05-31-06; A, 10-31-06]

#### **6.64.10.9 COMPETENCIES FOR ENTRY-LEVEL BILINGUAL EDUCATION TEACHERS:**

A. Language other than English



(1) The teacher communicates effectively orally and in writing \*(where the written form exists and is allowed) in the language other than English. For Native American languages which have locally developed tribal standards for language proficiency, tribal standards may be used.

(a) The teacher \*demonstrates at least a minimum of an eighth grade level of proficiency in oral and written language (where the written form exists and is allowed), necessary to deliver content pre K-12 in the language other than English.

(b) The teacher demonstrates a high level of accuracy and fluency in spoken language.

(c) The teacher utilizes vocabulary appropriate to a broad range of functions, topics and genres in speech.

(d) The teacher demonstrates competency as a participant in ordinary social situations in which the language other than English is spoken.

(e) The teacher \*responds adequately to written material by exercising the processes of comparing, contrasting, categorizing, summarizing, inferring, analyzing, synthesizing, hypothesizing, and evaluating.

(f) The teacher \*reads with comprehension a broad range of literary forms (folk, technical, classic, etc.) across the content areas.

(g) The teacher \*writes sentences, paragraphs and essays, utilizing formal language models which express original thought; communicates and accomplishes complete and well-organized ideas; and accomplishes a full set of written functions.

(2) The teacher carries out instruction in content areas of the curriculum to attain the standards and benchmarks for the content area in the language other than English.

B. Culture: Bilingual teachers shall increase and diffuse their knowledge of the internal and external forces of change and how they relate to culture.

(1) The teacher understands and accepts the diversity of behavior involved in multicultural settings.

(2) The teacher develops an ability to demonstrate to the learner the value of cultural diversity.

(3) The teacher prepares and assists students to interact successfully in pluralistic cultural settings.

(4) The teacher recognizes and accepts different patterns of child rearing within and between cultures in order to formulate realistic instructional strategies.

(5) The teacher assists students to maintain and extend identification with and pride in one's cultural heritage and awareness of being part of a larger global coalescence.

(6) The teacher demonstrates knowledge of the monumental (art, literature, architecture, history, civilization and literary history) and fundamental (food, folklore, customs, and traditions) elements of traditional and modern cultural influences affecting learners.

(7) The teacher recognizes and respects the similarities and differences among many cultures within a pluralistic society.

(8) The teacher demonstrates knowledge of the effects of cultural and socio-economic variables on the student's learning styles.

(9) The teacher accesses, analyzes, evaluates and applies current research to educate students from linguistically and culturally diverse backgrounds.

(10) The teacher recognizes the culture and history of each student's ancestry.

(11) The teacher recognizes the contributions of the diverse cultural groups to New Mexico and to the United States.

### C. English language development

(1) The teacher recognizes and accepts the standard and dialectal language variety as valid systems of communication, each with its own legitimate functions.

(2) The teacher demonstrates knowledge of the basic nature of language, language acquisition, language acquisition, language variation, language change, and the relations of language to society and culture.

(3) The teacher demonstrates knowledge of the nature of bilingualism and the process of becoming bilingual.

(4) The teacher identifies structural and semantic differences between the student's first and second language, recognizing areas of potential influences of the first language and utilizes this information for instructional purposes.

(5) The teacher uses methods for teaching English as a second language for the English language development of students in all content areas, including the language arts.

#### D. Instructional methodology

(1) The teacher demonstrates knowledge of the philosophical, historical, legal, theoretical, and sociological foundations of bilingual education programs, including a knowledge of national, state and local curriculum requirements and standards.

(2) The teacher demonstrates knowledge of major models and prototype of bilingual and English as a second language programs and components of such programs.

(3) The teacher demonstrate knowledge of theories of first and second language acquisition by utilizing teaching methods appropriate to various language groups, distinct learning styles, different developmental levels.

(4) The teacher demonstrates knowledge of and use theories, approaches, methods, and techniques for teaching listening, speaking, reading and writing in two or more languages in the development of literacy, mathematics, social studies, science, art, music and physical education.

(5) The teacher demonstrates curriculum planning and classroom management skills, including procedures for identifying biases and deficiencies in existing curricula and strategies to modify the curriculum to better address student linguistic, cultural and developmental needs in English and the language other than English.

(6) The teacher applies strategies to develop, acquire, adapt and evaluate materials appropriate to the bilingual/multicultural classroom.

(7) The teacher demonstrates abilities to organize, plan and teach specific lessons in required curriculum areas using the appropriate terminology in English and the language other than English.

(8) The teacher demonstrates the ability to collaborate with other education professionals in promoting the participation of second language learners in all aspects of schooling.

(9) The teacher explores, evaluates and uses technology including applications, tools, educational software, and assorted documentation for culturally and linguistically diverse students.

(10) The teacher knows about exceptionalities in learning, and is able to access resources and facilitate inclusive learning for all students.

#### E. Community/family involvement

(1) The teacher values family and community involvement for the success of learners and bilingual programs.

(2) The teacher demonstrates a concerned and caring attitude by establishing a trusting, mutual sharing relationships with families.

(3) The teacher demonstrates knowledge of the teaching and learning patterns of the student's home environment and incorporates these into the instructional areas of the program.

(4) The teacher demonstrates ability to involve families in teaching, curriculum development, classroom management and materials development.

(5) The teacher knows how to act as a catalyst in enhancing the educational skills of second language speaking family members to better assist their children.

(6) The teacher demonstrates ability to move family members from passive observers to active change agents on behalf of their children's education.

(7) The teacher acquires and uses culturally relevant information and materials from the community for curriculum content and instructional materials.

(8) The teacher understands the importance of encouraging bilingual students as they grow and develop to become proponents and models of bilingualism in the community.

#### F. Assessment

(1) The teacher recognizes potential linguistic and cultural biases of assessment instruments and procedures when prescribing a program for the second language learner.

(2) The teacher assesses oral and written language proficiency in academic areas in both languages utilizing the results for instructional placement, prescription and evaluation.

(3) The teacher evaluates growth of learner's first and second language in the context of the curriculum.

(4) The teacher continuously assesses and adjusts instructional language to maximize student comprehension and verbal participation.

#### G. Professional leadership

(1) The teacher demonstrates knowledge of the legal issues concerning the education of language-minority children in New Mexico and in the United States.

(2) The teacher demonstrates knowledge of the different theories and philosophies related to bilingual education programs.

(3) The teacher demonstrates knowledge of the history of bilingual education programs.

(4) The teacher demonstrates knowledge of the importance of advocating knowledge of bilingual education among peers, family and community.

(5) The teacher demonstrates knowledge of current trends related to the education of culturally and linguistically diverse students.

(6) The teacher demonstrates knowledge of the ability to collaborate with all other education professionals.

[6.64.10.9 NMAC - N, 09-29-00; A, 05-31-06]

#### **6.64.10.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For secondary, middle level and pre K-12 specialty area licensed teachers, a minimum of twelve (12) semester hours must be upper division credit.

[6.64.10.10 NMAC - N, 09-29-00; A, 05-31-06]

### **PART 11: TESOL COMPETENCIES**

#### **6.64.11.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.64.11.1 NMAC - Rp 6.64.11.1 NMAC, 7/1/2022]

#### **6.64.11.2 SCOPE:**

All persons seeking a licensure endorsement in teaching English to speakers of other languages (TESOL).

[6.64.11.2 NMAC - Rp 6.64.11.2 NMAC, 7/1/2022]

#### **6.64.11.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3 NMSA 1978.

[6.64.11.3 NMAC - Rp 6.64.11.3 NMAC, 7/1/2022]

#### **6.64.11.4 DURATION:**

Permanent.

[6.64.11.4 NMAC - Rp 6.64.11.4 NMAC, 7/1/2022]

#### **6.64.11.5 EFFECTIVE DATE:**

July 1, 2022, unless a later date is cited in the history note at the end of a section.

[6.64.11.5 NMAC - Rp 6.64.11.5 NMAC, 7/1/2022]

#### **6.64.11.6 OBJECTIVE:**

To establish the requirements and key competencies for licensure endorsements in TESOL.

[6.64.11.6 NMAC - Rp 6.64.11.6 NMAC, 7/1/2022]

#### **6.64.11.7 DEFINITIONS:**

**A. "Content knowledge assessment"** means the collection of department-adopted assessments taken to demonstrate competency in a particular endorsement area by individuals seeking to add an endorsement to an initial or existing license.

**B. "English language proficiency examination"** means a department-approved assessment for evaluating a teacher's proficiency in English.

**C. "Key competencies"** means the set of knowledge and skills defined in 6.64.11.9 NMAC.

[6.64.11.7 NMAC - Rp 6.64.11.7 NMAC, 7/1/2022]

#### **6.64.11.8 TESTING AND COURSEWORK REQUIREMENTS:**

**A.** Teacher candidates seeking to add a TESOL endorsement to an initial level 1 license shall meet the following requirements:

(1) pass the content knowledge assessment in TESOL or a department-approved licensure test in TESOL from another state; and

(2) complete a minimum of 24 hours in TESOL coursework in alignment with the key competencies defined in 6.64.11.9 NMAC:

(a) Six hours shall be in one language other than English or any combination of coursework in applied linguistics, second language acquisition, or second language teaching methodology.

(b) 12 hours shall be upper division or post-baccalaureate credits in alignment with the key competencies defined in 6.64.11.9 NMAC.

**B.** Teachers seeking to add a TESOL endorsement to an existing license shall meet either the requirements of Paragraph (1) of Subsection B of 6.64.11.8 NMAC or the requirements of Paragraph (2) of Subsection B of 6.64.11.8 NMAC.

(1) The first option shall include the following:

(a) pass the content knowledge assessment in TESOL, a department-approved licensure test in TESOL from another state, or a predecessor New Mexico teacher licensure examination in TESOL; and

(b) earn 12 semester hours of credit in TESOL.

(i) Six hours shall be in one language other than English or any combination of coursework in applied linguistics, second language acquisition, or second/foreign language teaching methodology.

(ii) Six hours shall be upper division or post-baccalaureate credits in alignment with the key competencies defined in 6.64.11.9 NMAC.

(2) The second option shall include the following: earn a minimum of 24 semester hours of credit in TESOL in alignment with the key competencies defined in 6.64.11.9 NMAC.

(a) Six hours shall be in one language other than English or any combination of coursework in applied linguistics, second language acquisition, or second/foreign language teaching methodology.

(b) 12 hours shall be upper division or post-baccalaureate credits in alignment with the key competencies defined in 6.64.11.9 NMAC.

**C.** Licensed teachers with TESOL certification from the national board for professional learning standards shall pass the content knowledge assessment in TESOL or a department-approved licensure test in TESOL from another state.

**D.** Teachers with a reciprocal license from a country outside the United States shall meet the following testing and coursework requirements:

(1) pass the content knowledge assessment in TESOL;

(2) earn a minimum of 24 semester hours of credit in TESOL; and

(3) pass an English language proficiency examination.

**E.** Teacher candidates seeking to waive credit hours in one language other than English shall provide documentation that the candidate:

- (1) has passed the language proficiency examination(s) for bilingual education in Spanish; or
- (2) has passed the language proficiency examination for any language other than English; or
- (3) holds a Native American language and culture certification pursuant to 6.63.14 NMAC; or
- (4) holds a New Mexico diploma of excellence with the state seal of bilingualism-biliteracy in a language other than English or its equivalent from another state; or
- (5) holds either a bachelor of arts or science degree, master of arts or science degree, or doctorate degree in a language other than English from an accredited college or university outside the United States.

[6.64.11.8 NMAC - Rp 6.64.11.8 NMAC, 7/1/2022]

#### **6.64.11.9 COMPETENCIES FOR ENTRY-LEVEL TESOL TEACHERS:**

**A.** New Mexico TESOL teachers shall draw on their knowledge of human development as mediated by language and culture and their relationships with students to understand their students' knowledge, skills, interests, aspirations, and values.

- (1) The teacher shall recognize and accept the student's primary or home language as a valid system of communication.
- (2) The teacher shall know the effects of cultural and social variables on the students' general level of development and socialization.
- (3) The teacher shall understand the cultural, linguistic, and societal factors that contribute to the lifestyles of various peoples which determine both their uniqueness and their interrelationships in a pluralistic society.
- (4) The teacher shall know about differentiation of learning and be able to access resources and facilitate inclusive learning for all students, including English language learners.

**B.** New Mexico TESOL teachers shall draw on their knowledge of language acquisition and language development to understand the process by which students learn both their first and second languages and additional languages.



(1) The teacher shall have knowledge of first and second language acquisition and language development, including:

- (a) developmental stages;
- (b) variability in learners' language;
- (c) the role of input and attitudes;
- (d) learning styles and strategies;
- (e) language transfer; and
- (f) the differences between academic, social, and instructional language.

(2) The teacher shall demonstrate knowledge of receptive and expressive language through the four domains of language: speaking, listening, reading, and writing.

(3) The teacher shall have knowledge of language universals and shall be able to apply knowledge of phonology, morphology, syntax, semantics, and pragmatics.

(4) The teacher shall understand the integrated nature of cognitive and affective language development.

(5) The teacher shall respect vernaculars, including social and regional varieties of English.

(6) The teacher shall respect the students they are serving.

**C.** New Mexico TESOL teachers shall be knowledgeable about and sensitive to the dynamics of culture in general, and to their students' cultures in particular. This shall enable the teacher to structure a successful academic experience for students using culturally and linguistically responsive instruction.

(1) The teacher shall recognize the funds of knowledge students bring to the classroom and regards the linguistic, cultural, experiential, and social-emotional experiences of each student as assets.

(2) The teacher shall recognize and respect the culture, history, and contributions of each student's ancestry.

(3) The teacher shall model the value of cultural diversity and validate the contemporary life styles of diverse cultural groups.

**D.** New Mexico TESOL teachers shall be models of language proficiency and draw on comprehensive command of subject matter, of language(s) of instruction and their relationship to each other to establish goals, design curricula and instruction, and facilitate student learning.

(1) The teacher shall demonstrate proficiency in English literacy at a level commensurate with the teacher's role as a language model.

(2) The teacher shall have knowledge of the nature of the English language and demonstrate knowledge of English phonology, morphology, syntax, semantics, and pragmatics.

(3) The teacher shall have knowledge of the department-approved English language development standards and be able to use them in instruction.

(4) The teacher shall understand and apply second language acquisition theories and methods for teaching speaking, listening, reading and writing.

(5) The teacher shall know how to set expectations for language use based on students' developing English proficiency levels.

(6) The teacher shall use a variety of strategies to help students listen, read, comprehend, and produce oral and written output in English.

(7) The teacher shall demonstrate knowledge of the English language development instructional component of bilingual education.

**E.** New Mexico TESOL teachers shall use a variety of approaches that allow students to confront, explore, and understand important and challenging concepts, topics, and issues in meaningful ways. The teacher shall provide multiple paths to help students develop language proficiency and strengthen understanding of the pertinent disciplines. The teacher shall effectively use the English language to enhance subject-matter learning.

(1) The teacher shall develop a large repertoire of active teaching and learning strategies appropriate to distinct learning styles and developmental levels of students, including English language learners.

(2) The teacher shall develop a knowledge base and teaching strategies related to the basic elements and methodologies appropriate to the development of literacy and content area knowledge.

(3) The teacher shall demonstrate an ability to utilize innovative, communicative-based teaching techniques to enhance the language acquisition process.

(4) The teacher shall select, adapt, create, and use rich and varied age-appropriate instructional resources that meet the development needs of students.

(5) The teacher shall know procedures for identifying biases and deficiencies in existing curriculum and strategies to modify it to address student linguistic, cultural, and developmental needs.

(6) The teacher shall know strategies to develop, acquire, adapt, and evaluate materials appropriate to the English language program.

(7) The teacher shall explore, evaluate, and use technology including applications, tools, educational software, and assorted documentation for culturally and linguistically diverse students.

(8) The teacher shall create a secure learning environment that establishes a caring, inclusive, safe, and linguistically and culturally rich community of learners where students take intellectual risks and work both independently and collaboratively.

(9) The teacher shall demonstrate knowledge of and apply culturally and linguistically responsive management techniques appropriate to classrooms.

(10) The teacher shall create a climate of high expectations for all students, including English language learners.

(11) The teacher shall create a secure learning atmosphere that leads to a low affective filter in order to facilitate a risk-taking environment.

(12) The teacher shall create meaningful curricula with materials and activities that foster critical thinking skills.

**F.** New Mexico TESOL teachers shall employ a variety of assessment methods to obtain useful information about student learning and development to inform instruction and to assist students in reflecting on their own progress.

(1) The teacher shall understand the principles and theories of second language assessment.

(2) The teacher shall be able to administer language assessments, interpret results, and incorporate them into instruction.

(3) The teacher shall recognize potential linguistic and cultural biases in assessment instruments including standardized tests.

(4) The teacher shall utilize alternative assessment measures including portfolio and authentic assessments.

**G.** New Mexico TESOL teachers shall regularly analyze, evaluate, and strengthen the effectiveness and quality of their practice.

(1) The teacher shall develop the ability to self-monitor and self-reflect on teaching strategies, value systems, and beliefs as they relate to students and seeks opportunities to strengthen these skills.

(2) The teacher shall continuously assesses and adjust his or her own language usage in the classroom in order to maximize student comprehension and verbal participation.

**H.** New Mexico TESOL teachers shall create partnerships with families that enhance the educational experience of students.

(1) The teacher shall demonstrate the ability to guide families to be active participants in their child's education.

(2) The teacher shall develop the ability to identify and utilize available community resources.

(3) The teacher shall demonstrate the ability to involve families within the school environment.

**I.** New Mexico TESOL teachers shall contribute to the growth and development of their colleagues, their school, and the advancement of knowledge in their field.

(1) The teacher shall demonstrate awareness of the need to actively seek and participate in professional growth activities for English language learners (e.g. workshops, coursework, and research).

(2) The teacher shall demonstrate knowledge of the legal obligations concerning the education of identified English language learners in New Mexico and in the United States.

(3) The teacher shall demonstrate knowledge of the different theories and philosophies related to English language learner programs.

(4) The teacher shall demonstrate knowledge of the history of English language learner programs in New Mexico and the United States.

(5) The teacher shall demonstrate knowledge of the importance of advocating for English language learner programs with parents, families, community members, teachers, support staff, and administrators.

(6) The teacher shall demonstrate knowledge of current trends related to the education of culturally and linguistically diverse students.

(7) The teacher shall demonstrate knowledge of the ability to collaborate with all other education professionals.

[6.64.11.9 NMAC - Rp 6.64.11.9 NMAC, 7/1/2022]

**6.64.11.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the key competencies in a department-approved endorsement program within a range of 24 to 36 semester hours of credit. For persons with secondary and pre K-12 licenses, a minimum of 12 semester hours must be upper division credit.

[6.64.11.10 NMAC - Rp 6.64.11.10 NMAC, 7/1/2022]

**PART 12: COMPETENCIES FOR ENTRY LEVEL MODERN, CLASSICAL AND NATIVE LANGUAGE TEACHERS**

**6.64.12.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.64.12.1 NMAC - N, 02-14-03; A, 06-30-06; A, 10-31-07]

**6.64.12.2 SCOPE:**

All persons who are seeking an endorsement in modern, classical, and native languages to a New Mexico educator license.

[6.64.12.2 NMAC - N, 02-14-03]

**6.64.12.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[6.64.12.3 NMAC - N, 02-14-03; A, 09-30-03]

**6.64.12.4 DURATION:**

Permanent

[6.64.12.4 NMAC - N, 02-14-03]

**6.64.12.5 EFFECTIVE DATE:**

February 14, 2003, unless a later date is cited in the history note at the end of a section.

[6.64.12.5 NMAC - N, 02-14-03]

#### **6.64.12.6 OBJECTIVE:**

This rule establishes entry-level modern, classical, and native languages competencies that are based on what beginning language teachers must know and be able to do to provide effective language programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the American council of teachers of foreign languages (ACTFL).

[6.64.12.6 NMAC - N, 02-14-03; A, 06-30-06]

#### **6.64.12.7 DEFINITIONS:**

A. "Language competency" is defined as the proficiency level for language communication. Language competency classification for modern, classical and native language teachers is based on the American council of teachers of foreign languages *program standards for foreign language teacher preparation (March, 2002)*.

B. "Heritage language" means that students speak a language other than English as their first or native language, either because they were born in another country, or because their families speak a language other than English at home.

C. "Idiolect" means the speech of an individual, considered as a linguistic pattern unique among speakers of his language or dialect.

D. "Second language" refers to the language of study that is not the native or home language of the student.

E. "Target language" refers to the language that is being taught in the classroom.

[6.64.12.7 NMAC - N, 02-14-03]

#### **6.64.12.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in modern, classical, and native languages to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in (PED) rule for that license, which includes, among other requirements, 24-36 semester hours in a single modern, classical, or native language and passage of a content area test in the same single language if required or provided in Paragraph (3) of Subsection B of 6.60.5.8 NMAC.

B. Teachers seeking to add an endorsement in modern, classical, and native languages to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments, or predecessor New Mexico teacher licensure examination or accepted

comparable licensure test(s) from another state in a single language if required or provided in Paragraph (3) of Subsection B of 6.60.5.8 NMAC; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major in a single modern, classical or native language or a graduate degree in a single modern, classical, or native language; or

(3) obtain certification in modern, classical, and native languages in a single language for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[6.64.12.8 NMAC - N, 02-14-03; A, 09-30-03; A, 06-30-06; A, 10-31-07]

#### **6.64.12.9 COMPETENCIES FOR ENTRY-LEVEL MODERN, CLASSICAL, AND NATIVE LANGUAGES TEACHERS:**

##### **A. Language competency**

(1) Speaking: The modern, classical, and native language teacher is able to converse fluently in the target language in instructional settings. The teacher is able to engage students in a variety of conversations that relate to the acquiring of the target language and to their unique cultural and linguistic contexts as appropriate. The teacher uses clear and precise language and is able to use a variety of effective strategies to help students build their skills in acquiring the spoken target language.

(2) Listening comprehension: The modern, classical, and native language teacher is capable of understanding the spoken target language both formally and informally and can accurately relate meaning. The teacher is able to identify specific strategies and approaches to help students develop listening comprehension skills. The teacher understands main ideas of speech in a standard dialect and most details on a variety of topics. The teacher comprehends description and narration in different time frames and understands interviews, short lectures on familiar topics, news items, and reports dealing with facts. The teacher is aware of culturally implied meaning.

(3) Reading: The modern, classical, and native language teacher is able to read with comprehension expository prose and a variety of literary texts. The teacher can readily follow author intent in materials (e.g., editorials, journal articles, novels, plays, poems). The teacher is able to move beyond literal comprehension to analyze author's perspective and/or cultural perspectives, and offer personal interpretation of text.

(4) Writing: The modern, classical, and native language teacher is able to write correspondence about familiar topics by means of narratives, descriptions, and summaries in major time frames (present, past, and future). Teachers are able to write paragraphs and demonstrate good control of frequently-used syntactic structures.

B. Knowledge of language variation, and the relations of language to culture and community

(1) The modern, classical, and native language teacher understands the connections among the perspectives of a culture and its practices and products. The teacher:

(a) recognizes cultural perspectives and provides support through description and use of practices and products;

(b) demonstrates understanding and sensitivity toward the existence of multiple perspectives within a culture; and

(c) demonstrates an understanding of the role of language as a social instrument (e.g., socio-linguistic variation, styles and registers, dialects and idiolects, the characteristics of a multilingual society).

(2) The modern, classical, and native language teacher recognizes the value and role of literary and cultural texts and artifacts and uses them to interpret and reflect upon the perspectives of the culture over time. The teacher:

(a) understands and uses the intellectual, artistic and literary contributions of the culture; and

(b) uses a variety of works that depict culture and literary value.

(3) The modern, classical, and native language teacher knows similarities and differences between the target language and other languages; identifies key differences in varieties and perspectives of the language. The teacher:

(a) describes the concept of subcultures and provides examples of subcultures; and

(b) understands and explains how social and political conditions influence language variations; and

(c) recognizes that languages change over time.

C. Knowledge of the nature of language and language acquisition

(1) The modern, classical, and native language teacher demonstrates knowledge and understanding of language structure as applied to language instruction. The teacher

(a) demonstrates an understanding of the concepts of native language, heritage language, and second language;



- (b) demonstrates correct pronunciation;
- (c) describes how words are formed and used, how sentences are put together, and how discourse is constructed;
- (d) explains major components of the grammar system of the target language;
- (e) describes syntactic patterns of the target language; and
- (f) models and explains structures of the target language and relevant contrasts and similarities with English and/or the home language.

(2) The modern, classical, and native language teacher demonstrates an understanding of language acquisition theories, to include:

- (a) developmental stages;
- (b) variability in learners' language;
- (c) role of input and attitudes;
- (d) learning styles and strategies;
- (e) language transfer; and
- (f) differences between academic and informal language.

#### D. Knowledge of instructional methodology (pedagogy)

(1) The modern, classical, and native language teacher understands and applies second language theories and methods for teaching: speaking, listening, reading, and writing. The teacher:

- (a) uses the target language to the maximum extent in classes at all levels of instruction;
- (b) encourages student use of the target language to the maximum extent possible in all classes at all levels;
- (c) tailors language use to students' developing proficiency levels;
- (d) uses a variety of strategies to help students understand oral and written input, and produce oral and written output in the target language; and
- (e) uses the target language to design content-based language lessons.

(2) The modern, classical, and native language teacher plans, develops, implements, and assesses a standard-driven curriculum that is aligned with New Mexico content standards and benchmarks for modern, classical and native languages.

(3) The modern, classical, and native language teacher selects and uses appropriate instructional materials and technologies that apply to language acquisition, to include the following criteria:

- (a) age-appropriateness;
- (b) developmental level;
- (c) authenticity/accuracy;
- (d) cultural and linguistic background;
- (e) awareness of bias and/or stereotyping;
- (f) relevance to curriculum; and
- (g) user friendliness.

(4) The modern, classical, and native language teacher selects and uses appropriate technology to access information.

(5) The modern, classical, and native language teacher creates a culturally appropriate, language-rich environment that is conducive to language acquisition.

(6) The modern, classical, and native language teacher uses strategies that support and encourage the learning of languages and cultures in a global society.

(7) The modern, classical, and native language teacher employs techniques of classroom management, lesson planning, and implementation for effective teaching, as well as strategies to engage students (e.g., discussion, cooperative learning, interdisciplinary activities) in the promotion of language acquisition.

(8) The modern, classical, and native language teacher demonstrates an awareness of varied students' needs and knows how to modify and implement instruction for diverse learners.

(9) The modern, classical, and native language teacher understands and uses a variety of assessment modes and instruments (e.g., norm-referenced, criterion-referenced, performance-based, teacher observation, informal) to guide instruction and program development.

(10) The modern, classical, and native languages teacher establishes a classroom environment that supports development of students' taking responsibility for their own learning (e.g., self-evaluation, cooperative learning, role playing.)

(11) The modern, classical, and native language teacher knows and uses strategies for involving and working with parents, community members, support staff, teachers and administrators for effective program implementation. The teacher:

(a) describes ways to relate language knowledge with other subject areas and topics;

(b) coordinates language instruction with the school community and encourages students to explore the resources of languages(s) and culture(s) within and beyond the community;

(c) describes ways to use the target language to participate effectively in social, professional, civic, and avocational (e.g., hobbies, sports) activities in communities beyond the school; and

(d) designs and implements curriculum that incorporates interdisciplinary resources, cultural events and celebrations.

#### E. Professional development

(1) The modern, classical, and native language teacher demonstrates awareness of the need to actively seek and participate in professional growth activities (e.g., professional organizations, conferences, workshops, coursework, research projects, immersion opportunities).

(2) The modern, classical, and native language teacher self-assesses teaching practices and language proficiency, and seeks opportunities to strengthen these skills (e.g., peer coaching, mentoring, academic coursework).

(3) The modern, classical, and native language teacher is able to use a variety of technologies for professional growth.

(4) The modern, classical, and native language teacher advocates for second language learning (e.g., with students, parents, colleagues, community leaders, government representatives).

[6.64.12.9 NMAC - N, 02-14-03]

#### **6.64.12.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36)

semester hours of credit. For persons with secondary and pre K-12 licenses, a minimum of twelve (12) semester hours must be upper division credit.

[6.64.12.10 NMAC - N, 02-14-03; A, 06-30-06]

## **PART 13: COMPETENCIES FOR ENTRY-LEVEL PERFORMING ARTS AND VISUAL ARTS EDUCATION TEACHERS**

### **6.64.13.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.64.13.1 NMAC - N, 07-01-02; A, 06-30-06; A, 10-31-07]

### **6.64.13.2 SCOPE:**

All persons seeking an endorsement in performing or visual arts education to a New Mexico educator license.

[6.64.13.2 NMAC - N, 07-01-02; A, 09-30-03]

### **6.64.13.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[6.64.13.3 NMAC - N, 07-01-02; A, 09-30-03]

### **6.64.13.4 DURATION:**

Permanent

[6.64.13.4 NMAC - N, 07-01-02]

### **6.64.13.5 EFFECTIVE DATE:**

July 1, 2002, unless a later date is cited in the history note at the end of a section.

[6.64.13.5 NMAC - N, 07-01-02]

### **6.64.13.6 OBJECTIVE:**

This rule establishes entry-level competencies that are based on what beginning performing and visual arts education teachers must know and be able to do to provide effective arts programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the national standards for the arts. These standards must be used by New Mexico

institutions of higher education to establish performing and visual arts education preparatory programs.

[6.64.13.6 NMAC - N, 07-01-02; A, 06-30-06]

#### **6.64.13.7 DEFINITIONS:**

**[RESERVED]**

[6.64.13.7 NMAC - N, 07-01-02]

#### **6.64.13.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in performing arts or visual arts to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in (PED) rule for that license, which includes, among other requirements, 24-36 semester hours in performing arts or visual arts and passage of a content area test in performing arts or visual arts as provided in Subsection B of 6.60.5.8 NMAC.

B. Teachers seeking to add an endorsement in performing arts or visual arts to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in performing arts or visual arts as provided in Subsection B of 6.60.5.8 NMAC; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in performing arts or visual arts; or

(3) obtain certification in performing arts or visual arts for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[6.64.13.8 NMAC - N, 07-01-02; A, 09-30-03; A, 06-30-06; A, 10-31-07]

#### **6.64.13.9 CORE COMPETENCIES FOR ALL ENTRY-LEVEL PERFORMING ARTS AND VISUAL ARTS EDUCATION TEACHERS:**

All teachers of the arts shall develop arts education programs that provide all students with a strong background of study in broad knowledge and skill areas. To accomplish this, the teacher of the arts shall demonstrate:

- A. knowledge of content and pedagogy, skills and technical demands specific to their discipline (i.e., dance, music, theatre or visual arts);
- B. an in-depth knowledge of the unique meaning and function of the arts in the creative development of all students;
- C. an integrated knowledge of visual and performing arts and the connections and parallels among arts disciplines as well as other content areas;
- D. an understanding of the purposes and dynamics of the creative process;
- E. abilities to observe, discuss, analyze and make informed critical judgments about artistic works;
- F. knowledge, understanding, and sensitivity of diverse peoples and cultures through visual and performing arts;
- G. competence with the technological tools for art creation and pedagogy appropriate to their discipline;
- H. abilities to interact with and engage communities in the arts;
- I. knowledge and understanding of life-enrichment, career opportunities and economic impact of the arts.

[6.64.13.9 NMAC - N, 07-01-02]

#### **6.64.13.10 COMPETENCIES FOR ENTRY-LEVEL PERFORMING ARTS EDUCATION TEACHERS:**

##### **A. COMPETENCIES FOR ENTRY-LEVEL DANCE TEACHERS:**

- (1) The teacher will demonstrate content knowledge and understanding of dance history, skills and technical demands specific to dance through proficiency in the fundamentals and pedagogy of at least two of the following: ballet, world culture such as flamenco and Native American, folk, jazz, modern, tap, social, musical theatre, interpretative/improvisation, mixability/inclusive for physically or mentally challenged dancers, evolutionary or new forms of dance.
- (2) The teacher will demonstrate in-depth knowledge of the unique meaning and function of dance in the creative development of all students. The teacher will develop learning environments that promote kinesthetic awareness, promote confidence, emotional stability and social development through movement.
- (3) The teacher will design lessons that integrate dance with the humanities and all other art forms.

(4) The teacher will demonstrate an understanding of the purposes and dynamics of the creative process by:

(a) designing lessons that encourage students to express abstract ideas through movement;

(b) creating opportunities for personal expression through improvisational movement;

(c) creating opportunities for all students to learn the basic principles and elements of choreography;

(d) demonstrate abilities to observe, discuss, analyze and make informed critical judgments about artistic works; and

(e) modeling and using dance vocabulary.

(5) The teacher will design lessons that teach the fundamentals of aesthetic inquiry, and create an environment in which students are able to reflect on their own and others' creative dance presentations

(6) The teacher will demonstrate competence with the technological tools for art creation and pedagogy appropriate to their discipline. The teacher will design lessons that incorporate:

(a) video technology;

(b) computer technology;

(c) sound, lighting and other stagecraft; and

(d) wardrobe, costuming and makeup.

(7) The teacher will demonstrate abilities to interact with and engage communities in dance by:

(a) organizing and promoting performances;

(b) considering the legal and logistical aspects of planning educational class trips;

(c) assuming financial responsibilities for activities and performances; and

(d) organizing community support of activities and performances.

## B. COMPETENCIES FOR ENTRY-LEVEL MUSIC TEACHERS:

(1) The teacher implements a balanced curriculum of which the primary goal is to promote the understanding, participation, and applications of music.

(2) The teacher demonstrates content knowledge, skills and:

(a) technical demands specific to music history, theory and aural skills;

(b) technical demands specific to performance including wind, percussion, string instruments, keyboard, and voice; and

(c) technical demands in conducting appropriate assessment methodology and strategies.

(3) The teacher demonstrates an in-depth knowledge of the unique meaning and function of the arts in the creative development of all students. The teacher will:

(a) identify various categories of music;

(b) understand musical form;

(c) critically evaluate compositions and performances; and

(d) exercise aesthetic and pedagogical judgment in selecting music for use in the classroom.

(4) The teacher demonstrates an integrated knowledge of the connections among arts disciplines as well as other content areas.

(5) The teacher demonstrates an understanding of the purposes and dynamics of the creative processes in music: arranging, composing, and improvising.

(6) The teacher demonstrates abilities to observe, discuss, analyze and make informed critical judgments about artistic works in music. He or she will critically evaluate compositions and performances and will create experiences based on aesthetic and experiential philosophies of music education.

(7) The teacher demonstrates knowledge, understanding, and sensitivity of diverse cultures through music.

(8) The teacher demonstrates competence with the technological tools for creation and pedagogy appropriate to music including notation/sequencing software, electronic music hardware, sound reinforcement/recording.

(9) The teacher demonstrates the ability to interact with and engage the community in music by:



- (a) organizing and promotion of concerts;
  - (b) organizing community support (such as community arts and band booster organizations);
  - (c) legal and logistical consideration of educational class trips; and
  - (d) exercising financial responsibility in each of the above activities.
- (10) The teacher demonstrates knowledge and understanding of life-enrichment, career opportunities, and economic impact of the arts.

#### C. COMPETENCIES FOR ENTRY-LEVEL THEATRE TEACHERS:

- (1) The teacher demonstrates content knowledge, skills and technical demands specific to theatre by implementing a curriculum that includes:
- (a) scriptwriting, including collaboration with actors and playwrights in refining scripts to clarify story and meaning to an audience;
  - (b) comparing and demonstrating various classical and contemporary cultural acting techniques and methods;
  - (c) effectively communicating directorial choices to a small ensemble for improvised or scripted scenes; and
  - (d) evaluating the validity and practicality of the information to assist in making artistic choices for informal and formal productions.
- (2) The teacher demonstrates an in-depth knowledge of the unique meaning and function of theatre in the creative development of all students through:
- (a) making connections between dramatic themes and the human experience;
  - (b) analyzing the physical, emotional, and social dimensions of characters found in dramatic texts from various genre and media.
- (3) The teacher demonstrates an integrated knowledge of visual and performing arts and the connections and parallels among art's disciplines as well as other content areas through:
- (a) illustrating the integration of several art's media;
  - (b) describing and comparing the basic nature, materials, elements and means of communication among the arts;

(c) determining how the non-dramatic art forms enhance the expression of ideas; and

(d) developing designs that use visual and aural elements.

(4) The teacher demonstrates an understanding of the purposes and dynamics of the creative process through:

(a) creating and sustaining characters that communicate with audiences in an ensemble;

(b) comparing perceived artistic intent with the final aesthetic achievement.

(5) The teacher demonstrates abilities to observe, discuss, analyze and make informed critical judgments about artistic works through:

(a) analyzing and critiquing the whole and the parts of dramatic performances;

(b) evaluating their own and others collaborative efforts and artistic choices in informal and formal productions.

(6) The teacher demonstrates knowledge, understanding, and sensitivity of diverse peoples and cultures through theater arts by:

(a) identifying and comparing the lives, works and influences of representative theatre artists in various cultures and historical periods;

(b) analyzing a variety of dramatic texts from cultural and historical perspectives to determine production requirements.

(7) The teacher demonstrates competence with technological tools for art creation and pedagogy appropriate to theatre by applying technical knowledge and skills through:

(a) applying computer technology and available software;

(b) accessing technological support; and

(c) utilizing distance learning and electronic communication.

(8) The teacher demonstrates the ability to interact with and engage the community in the arts by effectively developing and communicating criteria for selection of text, interpretation and visual and aural artistic choices.

(9) The teacher demonstrates knowledge and understanding of life-enrichment, career opportunities, and economic impact of the arts.

[6.64.13.10 NMAC - N, 07-01-02]

#### **6.64.13.11 COMPETENCIES FOR ENTRY-LEVEL VISUAL ARTS TEACHERS:**

A. The teacher demonstrates sufficient entry-level knowledge, skills and technical demands specific to the visual arts. The teacher implements a well-rounded curriculum that helps all students to learn about the visual arts and produce art that is relevant in their lives. Competency is demonstrated through application of:

(1) the elements i.e., line, shape, form, color and texture; and principles i.e., movement, balance, repetition, rhythm and contrast of visual arts design;

(2) various art media and related techniques.

B. The teacher demonstrates an in-depth knowledge of the unique meaning and function of the visual arts in the creative development of all students. The teacher develops a repertoire of teaching strategies appropriate to the needs of all students.

C. The teacher demonstrates an integrated knowledge of visual arts and the connections and parallels among art disciplines as well as other content areas. The teacher identifies and shares with colleagues, art resources that can be explored in an interdisciplinary manner, as a central part of the school curriculum.

D. The teacher demonstrates an understanding of the creative processes. The teacher identifies the established stages of individual artistic development in terms of both art-making and responses to art.

E. The teacher demonstrates knowledge of cultural and historical contexts surrounding works of art and abilities to observe, discuss, analyze and make informed critical judgments about artistic works. Competency is demonstrated through the observation and analysis of artwork on the basis of cultural as well as technical criteria.

F. The teacher demonstrates knowledge, understanding, and sensitivity of diverse peoples and cultures through the arts. The teacher will be familiar with the history of art, specific artists and art forms of various cultures. The teacher demonstrates knowledge of differing theoretical and philosophical approaches to art and engages in thoughtful oral and written inquiry into the nature of art. Competency is demonstrated by incorporating the elements of: artists and their works, art of various eras and cultures, and the influence of geographic location.

G. The teacher utilizes technological tools for art creation and pedagogy appropriate to visual arts. He or she incorporates a variety of technologies to support and enhance visual arts education.

H. The teacher demonstrates abilities to interact with and engage the community. He or she provides opportunities for all students to demonstrate their accomplishments in the visual arts to peers and the community using school-based and community resources.

I. The teacher demonstrates knowledge and understanding of life-enrichment, career opportunities and economic impact of visual arts, and communicates these ideas to all students, administrators and colleagues.

[6.64.13.11 NMAC - N, 07-01-02]

## **PART 14: COMPETENCIES FOR ENTRY-LEVEL PHYSICAL EDUCATION TEACHERS**

### **6.64.14.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.64.14.1 NMAC - N, 07-01-02; A, 06-30-06; A, 10-31-07]

### **6.64.14.2 SCOPE:**

All persons seeking an endorsement in physical education to a New Mexico educator license.

[6.64.14.2 NMAC - N, 07-01-02]

### **6.64.14.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[6.64.14.3 NMAC - N, 07-01-02; A, 09-30-03]

### **6.64.14.4 DURATION:**

Permanent

[6.64.14.4 NMAC - N, 07-01-02]

### **6.64.14.5 EFFECTIVE DATE:**

July 1, 2002, unless a later date is cited in the history note at the end of a section.

[6.64.14.5 NMAC - N, 07-01-02]

### **6.64.14.6 OBJECTIVE:**

This rule establishes entry-level competencies that are based on what beginning physical education teachers must know and be able to do to provide effective physical education programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks, the 1999 initial physical education standards of the national council for accreditation of teacher education (NCATE), and the national standards of the American alliance for health, physical education, recreation, and dance and must be used by New Mexico institutions of higher education to establish physical education preparatory programs.

[6.64.14.6 NMAC - N, 07-01-02; A, 06-30-06]

#### **6.64.14.7 DEFINITIONS:**

**[RESERVED]**

[6.64.14.7 NMAC - N, 07-01-02]

#### **6.64.14.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in physical education to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in (PED) rule for that license, which includes, among other requirements, 24-36 semester hours in physical education.

B. Teachers seeking to add an endorsement in physical education to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments if provided in Subsection B of 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in physical education; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in physical education; or

(3) obtain certification in physical education for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[6.64.14.8 NMAC - N, 07-01-02; A, 09-30-03; A, 06-30-06; A, 10-31-07]

#### **6.64.14.9 COMPETENCIES FOR ENTRY-LEVEL PHYSICAL EDUCATION TEACHERS:**

A. Content knowledge: A physical education teacher understands and demonstrates physical education content, disciplinary concepts and tools of inquiry related to

discovery and the development of a physically educated person. The physical education teacher:

- (1) identifies critical elements for basic motor skills and develops appropriate sequences;
- (2) models with competence basic motor skills, rhythms, physical activities (sports, games, outdoor pursuits, aquatics and dance;)
- (3) describes and demonstrates concepts and strategies related to skill movement and physical activity;
- (4) incorporates interdisciplinary learning experiences that allow learners to integrate knowledge and skills from multiple subject areas;
- (5) describes and applies scientific and technological concepts of anatomy, physiology, biomechanics, motor learning, and motor development;
- (6) analyzes current physical activity issues;
- (7) employs concepts, assumptions, and debates central to the process of inquiry in the study of physical activity;
- (8) creates and uses appropriate instructional cues and prompts for basic motor skills, rhythms, and physical activity.

B. Growth and development: A physical education teacher understands how individuals learn and develop and can provide opportunities that support their psychomotor, cognitive, affective, and fitness development. The physical education teacher:

- (1) assesses individual and group performance in order to design safe instruction that meets learner developmental needs in the psychomotor, cognitive, affective and fitness domains;
- (2) identifies, selects, and implements appropriate learning/ practice opportunities based on expected progressions;
- (3) demonstrates and applies knowledge of age and developmentally appropriate psychomotor and cognitive activities;
- (4) stimulates learner reflection in prior knowledge, experiences, and skills and based on this reflection, encourages them to assume responsibility for their own learning.

C. Diverse learners: A physical education teacher plans and implements learning experiences that are sensitive to diverse learners. The physical education teacher:

- (1) identifies, selects, and implements appropriate instruction that is sensitive to the strengths/weaknesses, multiple needs, learning styles, and experiences of learners;
- (2) uses appropriate strategies, services, and resources to meet special and diverse learning needs;
- (3) creates a learning environment which respects and incorporates learner's personal, family, cultural, and community experiences.

D. Management and motivation: A physical education teacher uses a variety of strategies to institute active engagement in learning and behavioral change, manage resources, promote mutual respect and self-responsibility and motivate students in a safe learning environment. The physical education teacher:

- (1) uses a variety of developmentally appropriate practices to motivate learners to participate in physical activity inside and outside of the school setting;
- (2) uses strategies to help learners demonstrate responsible personal and social behaviors that promote positive relationships and a productive environment;
- (3) uses strategies to promote mutual respect, support, safety, and cooperative participation;
- (4) uses managerial and instructional routines which create smoothly functioning learning experiences;
- (5) organizes, allocates, and manages resources (i.e. time, space, equipment, activities, and teacher/student interaction) to provide active and equitable learning experiences;
- (6) uses strategies to help learners become self-motivated in their learning;
- (7) describes strategies to teach learners various behavioral change techniques;
- (8) supports and encourages learner expression through movement.

E. Communication: A physical education teacher demonstrates the use of assorted media and technology for presentation of lessons, demonstrates sensitivity to all learners and models appropriate behavior, and illustrates communication strategies for building a community of learners. The physical education teacher demonstrates effective verbal, nonverbal, and multi-media communication techniques to foster inquiry,

collaboration, and engagement in physical activity settings. The physical education teacher:

- (1) communicates in ways that demonstrate sensitivity to all learners;
- (2) demonstrates the use of assorted instructional information in a variety of ways including the use of bulletin boards, music, task cards, posters, video, and computer technology;
- (3) describes and models various communication strategies for use with learners, the school, colleagues, parents/guardians and the community;
- (4) uses computers and other technologies to communicate, network, and foster inquiry;
- (5) describes and implements strategies for building a community of learners within a physical activity setting.

F. Planning and instruction: A physical education teacher plans and implements a variety of developmentally appropriate instructional strategies to develop physically educated individuals. This standard deals specifically with pedagogical knowledge and application. The core of this standard will be a series of sequential and progressive field experiences that allow physical education teachers to refine, extend, and apply their teaching skills. The physical education teacher:

- (1) identifies, develops, and implements instructional and program goals that align with state content standards with benchmarks;
- (2) selects and implements appropriate instructional strategies based on developmental levels, learning styles, and safety issues for diverse populations;
- (3) applies content and pedagogical knowledge in developing and implementing safe learning environments and experiences;
- (4) selects and implements teaching resources and curriculum materials based on their comprehensiveness, accuracy, utility, and safety;
- (5) uses curricula which encourages learners to observe, question, and interpret physical activity from diverse perspectives;
- (6) designs and implements learning experiences that are safe, appropriate, realistic, and relevant based on principles of effective instruction. Such instruction shall activate learners' prior knowledge, anticipate preconceptions, encourage exploration and problem solving, and build on skills and experiences;



(7) uses demonstrations and explanations to link physical activity concepts to appropriate learning experiences;

(8) selects and utilizes varied roles in the instructional process based on content, purpose of instruction, and the needs of learners;

(9) develops short- and long-term plans that are linked to learner needs and to performance, instructional, and program goals, and adapts them to ensure learner progress, motivation, and safety;

(10) selects and models instructional tasks that facilitate learning in the physical activity setting;

(11) asks questions and poses scenarios to stimulate interactive learning opportunities such as helping learners articulate ideas, promoting risk taking, and developing critical thinking, problem solving, and decision making skills, which aid in becoming physically educated.

G. Learner assessment: A physical education teacher understands and uses formal and informal assessment strategies to foster psychomotor, cognitive, affective, and fitness development of learners in physical activity. The physical education teacher explores the use of various forms of authentic and formal assessment to guide instruction, provide feedback to students, and evaluate teaching. The physical education teacher:

(1) uses a variety of formal and informal assessment techniques to assess learner performance, provide feedback and communicate learner progress;

(2) uses assessment strategies to involve learners in self-assessment;

(3) selects and uses developmentally appropriate assessment strategies and instruments congruent with physical activity learning goals aligned with state content standards with benchmarks;

(4) identifies key components of various types of assessments, describes appropriate and inappropriate use, and addresses issues of validity, reliability, and bias;

(5) uses and interprets performance data to make informed instructional decisions.

H. Reflection and professional development: A reflective physical education teacher continually evaluates the effects of his/her actions on self and others, including learners, parents and guardians, and professionals in the learning community, and seeks opportunities to grow professionally. The physical education teacher:

(1) reflects upon and revises within the learning environment practice based on observation of learners' performance;

(2) reflects on appropriateness of program design on the development of physically educated individuals;

(3) consults professional literature, colleagues, and other resources to develop professionally;

(4) participates in the professional physical education community at the local, state, district, and national levels and within the broader education field;

(5) reflects on appropriateness of program design on the development of physically educated individuals.

I Collaboration: A physical education teacher fosters relationships with colleagues, parents/guardians, and community agencies to support learners' growth and well-being. The physical education teacher:

(1) uses strategies to become an advocate in the school and community for the purpose of promoting a variety of physical activity opportunities;

(2) solicits community resources and agencies to enhance physical activity opportunities;

(3) establishes productive partnerships with parents/ guardians, counselors, and other school health personnel to support learner growth and well-being;

(4) is culturally sensitive and identifies signs of learner distress and seeks help as appropriate;

(5) participates in collegial activities designed to make the school a more productive learning environment;

(6) has knowledge of state and federal laws and non-compliance consequences related to learner rights and teacher responsibilities.

[6.64.14.9 NMAC - N, 07-01-02]

#### **6.64.14.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For secondary and pre K-12 licensed teachers, a minimum of twelve (12) semester hours must be upper division credit.

[6.64.14.10 NMAC - N, 07-01-02; A, 06-30-06]

## **PART 15: COMPETENCIES FOR ENTRY-LEVEL FAMILY AND CONSUMER SCIENCES TEACHERS**

### **6.64.15.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.64.15.1 NMAC - N, 05-28-04; A, 10-31-07]

### **6.64.15.2 SCOPE:**

All institutions of higher education in New Mexico that establish or maintain a curriculum for persons seeking an endorsement in family and consumer sciences to a state educator license.

[6.64.15.2 NMAC - N, 05-28-04]

### **6.64.15.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-7 NMSA 1978.

[6.64.15.3 NMAC - N, 05-28-04]

### **6.64.15.4 DURATION:**

Permanent

[6.64.15.4 NMAC - N, 05-28-04]

### **6.64.15.5 EFFECTIVE DATE:**

May 28, 2004, unless a later date is cited in the history note at the end of a section.

[6.64.15.5 NMAC - N, 05-28-04]

### **6.64.15.6 OBJECTIVE:**

This rule establishes entry-level competencies that are based on what family and consumer sciences teachers must know and be able to do to provide effective family and consumer sciences programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico content standards and benchmarks, the national family and consumer sciences standards, and must be used by New Mexico institutions of higher education to establish family and consumer sciences preparatory programs.

[6.64.15.6 NMAC - N, 05-28-04; A, 10-31-07]

**6.64.15.7 DEFINITIONS:**

**[RESERVED]**

[6.64.15.7 NMAC - N, 05-28-04]

**6.64.15.8 CORE LICENSURE REQUIREMENTS:**

Persons seeking an endorsement in family and consumer sciences to a New Mexico educator license must complete the following core requirements:

A. Beginning teachers seeking an endorsement in family and consumer sciences to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in the PED rule for that license, which includes, among other requirements, 24-36 semester hours in family and consumer sciences.

B. Teachers seeking to add an endorsement in family and consumer sciences to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state, if available, in family and consumer sciences; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in family and consumer sciences; or

(3) obtain certification in family and consumer sciences for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[6.64.15.8 NMAC - N, 05-28-04; A, 10-31-07]

**6.64.15.9 COMPETENCIES FOR ENTRY-LEVEL FAMILY AND CONSUMER SCIENCES TEACHERS:**

The family and consumer sciences teacher has a basic knowledge of the following concepts related to:

A. Foundations of family and consumer sciences: The family and consumer sciences teacher:

- (1) integrates the knowledge and skills of family and consumer sciences to prepare students for personal, family, community, and career roles;
- (2) has basic knowledge of cultural, economic, and gender influences on families, work, and society;
- (3) has basic knowledge of the interrelationships among career decisions and personal/family life, including parenting and care giving;
- (4) has basic knowledge of historical and current events, public policies, and research results and their effect upon the family, community, and work environment;
- (5) planning, implementing and evaluating family and consumer sciences education;
- (6) implementing family, career, and community leaders of America (FCCLA) programs and projects to promote students' growth;
- (7) the management processes, resources, and procedures required for maintaining an effective family and consumer sciences program; and
- (8) job-related competencies and skills needed for employment in family and consumer sciences related industries.

B. Family studies and human services: The family and consumer sciences teacher understands the areas of personal development, relationships, and management of work and family to enhance quality of life across the life span, and understands career opportunities in family studies and human services. Personal and family development concepts include:

- (1) factors contributing to the development of effective relationships within families;
- (2) management tools and strategies for successfully balancing work and family life;
- (3) societal, cultural, demographic, gender, economic, and environmental issues affecting individuals and families across the life span;
- (4) career and entrepreneurial opportunities in family studies and human services; and
- (5) societal attitudes about individual and family roles within a culture.

C. Human development, education, and services: The family and consumer sciences teacher understands:

- (1) human growth and development, parent/foster parent/guardian/educator roles and responsibilities;
- (2) career opportunities in human development, education, and services;
- (3) physical, social, ethical, emotional, and cognitive development of humans from conception through late adulthood;
- (4) parent/foster parent/guardian/educator/community roles and responsibilities related to human growth and development; and
- (5) entrepreneurship and career opportunities in human development, education, and services.

D. Nutrition, wellness, food science, and hospitality: The family and consumer sciences teacher understands:

- (1) the principles of food science, food technology, and nutrition and their relationships to growth, development, health and wellness, and applies this understanding to support informed decision-making that promotes good health;
- (2) career opportunities in nutrition, wellness, food science, and hospitality;
- (3) current nutrition and dietary guidelines for each phase of the life span;
- (4) health and wellness;
- (5) employment and entrepreneurial opportunities in nutrition, wellness, food science and technology, and hospitality;
- (6) food preparation and meal management techniques in family, community, and industry settings;
- (7) factors that affect the production, supply, and distribution of food;
- (8) food product development, processing, packing, and availability;
- (9) cultural influences on food preferences and decisions; and
- (10) principles and procedures of health, safety, sanitation, and environmental protection.

E. Consumer and resource management: The family and consumer sciences teacher understands:

- (1) consumer practices, consumer responsibilities, and resource management processes, and how these affect and are applied to personal, family, and work life;
- (2) career opportunities in consumer and resource management;
- (3) resource management (i.e., money, time, energy);
- (4) the effects of public policy on resource utilization and conservation for consumers, families, and the environment;
- (5) strategies and tools for financial planning;
- (6) techniques for managing the multiple roles of individual, worker, family member, community member, and wage earner throughout the life span;
- (7) issues related to consumer decision making;
- (8) cultural, demographic, and societal factors that influence family decisions;
- (9) employment and entrepreneurial opportunities in consumer and resource management; and
- (10) consumer rights and responsibilities.

F. Textiles and apparel: The family and consumer sciences teacher understands:

- (1) the design, production, marketing, consumption, and maintenance of textile and apparel products;
- (2) the career opportunities in the textiles and apparel industries;
- (3) the psychological/sociological aspects of textile and apparel throughout the life span;
- (4) the employment and entrepreneurial opportunities in textiles and apparel;
- (5) the selection, use, and care of textile and apparel products; and
- (6) aesthetic principles related to the near environment.

G. Environmental design: The family and consumer sciences teacher understands:

- (1) the design and construction of interior and exterior environments;
- (2) career opportunities in the housing, design, furnishings, and equipment management and service industries;

- (3) maintaining a safe environment for families;
- (4) housing choices available to individuals and families throughout the life span;
- (5) home maintenance;
- (6) consumer issues and considerations affecting housing, accessories, furnishings, materials, and equipment decisions;
- (7) employment and entrepreneurial opportunities in housing, design, furnishings, and equipment;
- (8) elements of art and principles of design as related to interior and exterior environments; and
- (9) the influence of cultural, demographic, societal, and environmental factors on housing.

[6.64.15.9 NMAC - N, 05-28-04]

#### **6.64.15.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver these competencies in a department-approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For secondary and pre K-12 licensed teachers, a minimum of twelve (12) semester hours must be upper-division credit.

[6.64.15.10 NMAC - N, 05-28-04; A, 10-31-07]

### **PART 16: COMPETENCIES FOR ENTRY-LEVEL TECHNOLOGY STUDIES/EDUCATION TEACHERS**

#### **6.64.16.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.64.16.1 NMAC - N, 04-29-05; A, 10-31-07]

#### **6.64.16.2 SCOPE:**

All institutions of higher education in New Mexico that establish or maintain a curriculum for persons seeking an endorsement in technology studies/education to a state educator license.

[6.64.16.2 NMAC - N, 04-29-05]



**6.64.16.3 STATUTORY AUTHORITY:**

Sections 22-2-1 and 22-2-2 (J), NMSA 1978.

[6.64.16.3 NMAC - N, 04-29-05]

**6.64.16.4 DURATION:**

Permanent

[6.64.16.4 NMAC - N, 04-29-05]

**6.64.16.5 EFFECTIVE DATE:**

April 29, 2005, unless a later date is cited in the history note at the end of a section.

[6.64.16.5 NMAC - N, 04-29-05]

**6.64.16.6 OBJECTIVE:**

This rule establishes entry-level competencies that are based on what beginning technology studies/education teachers must know and be able to do to provide effective technology education programs in New Mexico schools. These competencies should be incorporated into all college or university curricula for persons seeking a technology studies/education endorsement to their state educator license.

[6.64.16.6 NMAC - N, 04-29-05; A, 10-31-07]

**6.64.16.7 DEFINITIONS:**

A. "Design" means an iterative decision-making process that produces plans by which resources are converted into products or systems that meet human needs or solve problems.

B. "Design process" a systematic problem-solving strategy, with criteria and constraints, used to develop many possible solutions to solve a problem or satisfy human needs and wants or to narrow down the possible solutions.

C. "System" means a group of interacting, interrelated or interdependent elements or parts that function together as a whole to accomplish a goal.

D. "Technology" means:

(1) human innovation in action that involves the generation of knowledge and processes to develop systems that solve problems and extend human capabilities; or

(2) the innovation, change or modification of the natural environment to satisfy perceived human needs and wants.

E. "Technological literacy" means the ability to use, manage, understand and assess technology.

[6.64.16.7 NMAC - N, 04-29-05]

#### **6.64.16.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in technology education to an initial level 1 New Mexico teaching license must satisfy all of the requirements of the license as provided in the (PED) rule for that license, which include, among other requirements, 24-36 semester hours in technology education.

B. Teachers seeking to add an endorsement in technology education to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments, the predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state, if available, in technology education; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), coursework equivalent to an undergraduate major or a graduate degree in technology education; or

(3) obtain certification in technology education for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[6.64.16.8 NMAC - N, 04-29-05; A, 10-31-07]

#### **6.64.16.9 COMPETENCIES FOR ENTRY-LEVEL TECHNOLOGY STUDIES/EDUCATION TEACHERS:**

A. The domain of technology include the preparation to teach technology studies/education which will result in individuals who can teach others the competencies in basic technology, the relationship between technology and society, technological design and the skills necessary for a technological world the teacher must:

(1) understand the nature of technology, including the characteristics and scope of technology, the core concepts of technology, the relationships among technologies and the connections between technology and other fields;

(2) recognize the relationship between technology and society, including the cultural, social, economic and political effects of technology, the effects of technology on

the environment, the role of society in the development and use of technology and the influence of technology on history;

(3) develop an understanding of design, including the attributes of design, the processes of engineering design, the role of troubleshooting, research and development, invention and innovation and experimentation in problem solving;

(4) develop abilities for a technological world, including application of the design process, use and maintenance of technological products and systems and assessment of the impact of products and systems; and

(5) develop a working knowledge of the designed world, including medical technologies agricultural and related biotechnologies, energy and power technologies, information and communication technologies transportation technologies, manufacturing technologies and construction technologies.

B. Career cluster competencies involves preparation to teach technology studies/education which will result in individuals who can teach others the competencies in technology careers. Teachers must;

(1) achieve specific academic knowledge and skills required to pursue the full range of careers and post-secondary education opportunities within technology studies/education;

(2) use oral and written communication skills in creating, expressing and interpreting information and ideas including technical terminology and information within technology studies/education;

(3) employ technical communications effectively to maintain good records and reporting procedures;

(4) solve problems using critical thinking skills (e.g., analyze, synthesize and evaluate) independently and in teams;

(5) use information technology tools to access, manage, integrate and create information;

(6) identify health goals and safety procedures for technology studies/education occupations;

(7) use leadership skills in collaborating with others to accomplish organizational goals and objectives;

(8) know and understand the importance of professional ethics and legal responsibilities;

(9) know and understand the importance of employability skills; and

(10) use the technical knowledge and skills required to pursue the full range of careers in technology studies/education.

C. Local program success competencies

(1) Instruction for preparation to teach technology studies/education which will result in individuals who can fulfill the instructional role in the technology education program to:

(a) demonstrate teacher behaviors documented by research to be related to student achievement including clarity, variability, enthusiasm, task-oriented/business like behavior and student opportunity to learn criterion material;

(b) demonstrate master teacher competencies including with-it-ness, student centeredness and an in-charge image;

(c) conduct and use research on how students learn technology, addressing both commonality and diversity of students;

(d) design and evaluate curricula and programs that enable all students to attain technological literacy; and

(e) demonstrate proficiency in the development and implementation of contextual-based, laboratory intensive technology studies/education programs.

(2) Career readiness involves preparation to teach technology studies/education which will result in individuals who can fulfill a school-to-career role in the technology education program. Teachers must:

(a) demonstrate knowledge of school-to-work programs;

(b) plan, implement and supervise appropriate school-to-work programs; and

(c) demonstrate sound judgment when supervising school-to-work programs.

(3) Technology studies advisory (TSA) preparation to teach technology studies/education which will result in individuals who can fulfill the TSA advisory role in the technology education program. Teachers must:

(a) plan, implement and supervise the activities of an active TSA chapter;

(b) undertake advisory responsibilities necessary for operating an active TSA chapter; and

(c) demonstrate sound judgment in the role of a TSA advisor.

(4) Partnerships involve preparation to teach technology studies/education which will result in individuals who can fulfill a partnership-building role in the technology education program. Teachers must:

(a) utilize stakeholder groups within and outside the school and community to improve the program (e.g., students, administrators, parents/guardians, colleagues, community members, advisory committee members, state technology education leaders and others);

(b) utilize resources from within and outside of the school and community to improve the program; and

(c) recognize stakeholders for their contributions and support.

(5) Program marketing involves preparation to teach technology studies/education which will result in individuals who can fulfill a marketing role in the technology education program. Teachers must:

(a) demonstrate an ability to market their program to the school and community and build support for the program; and

(b) demonstrate an understanding of how to recruit potential students into the program.

(6) Professional growth involves preparation to teach technology studies/education which will result in individuals who can fulfill a professional role in the technology education program. Teachers must:

(a) join and participate in appropriate state and national technology education, as well as career and technical education, professional organizations;

(b) incorporate new ideas and technologies learned through in-service into their teaching and programs; and

(c) model systems implementation and analysis, design and communication in such a manner as to demonstrate the interwoven fiber of technology in all aspects of education and daily life.

(7) Program planning involves preparation to teach technology studies/education which will result in individuals who can fulfill a program-planning role in the technology education program. Teachers must:

(a) utilize stakeholder groups like an advisory committee in program planning; and

(b) inform school administrators about stakeholder group recommendations.

D. Program management competencies involves preparation to teach technology studies/education which will result in individuals who can manage the technology education program. Teachers must:

- (1) maintain facilities, equipment and materials;
- (2) demonstrate knowledge of departmental budgeting;
- (3) complete required program records and reports; and
- (4) balance all aspects of a strong program.

[6.64.16.9 NMAC - N, 04-29-05]

#### **6.64.16.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For secondary and pre K-12 licensed teachers, a minimum of twelve (12) semester hours must be upper division credit.

[6.64.16.10 NMAC - N, 04-29-05; A, 10-31-07]

### **PART 17: COMPETENCIES FOR ENTRY-LEVEL AGRICULTURAL EDUCATION TEACHERS**

#### **6.64.17.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.64.17.1 NMAC - N, 04-29-05; A, 10-31-07]

#### **6.64.17.2 SCOPE:**

All institutions of higher education in New Mexico that establish or maintain a curriculum for persons seeking an endorsement in agricultural education to a state educator license.

[6.64.17.2 NMAC - N, 04-29-05]

#### **6.64.17.3 STATUTORY AUTHORITY:**

Sections 22-2-1 and 22-2-2 (J), NMSA 1978.

[6.64.17.3 NMAC - N, 04-29-05]

**6.64.17.4 DURATION:**

Permanent

[6.64.17.4 NMAC - N, 04-29-05]

**6.64.17.5 EFFECTIVE DATE:**

April 29, 2005, unless a later date is cited in the history note at the end of a section.

[6.64.17.5 NMAC - N, 04-29-05]

**6.64.17.6 OBJECTIVE:**

This rule establishes entry-level competencies that are based on what beginning agricultural education teachers must know and be able to do to provide effective agricultural education programs in New Mexico schools. These competencies were developed to ensure alignment with the New Mexico academic standards and benchmarks and the national career cluster knowledge and skills for agricultural, food and natural resources. These competencies should be incorporated into all college or university curricula for persons seeking an agricultural education endorsement to their state educator license.

[6.64.17.6 NMAC - N, 04-29-05; A, 10-31-07]

**6.64.17.7 DEFINITIONS:**

[RESERVED]

**6.64.17.8 REQUIREMENTS:**

A. Beginning teachers seeking an endorsement in agricultural education to an initial level 1 New Mexico teaching license must satisfy all of the requirements of the license as provided in (PED) rule for that license, which include, among other requirements, 24-36 semester hours in agricultural education.

B. Teachers seeking to add an endorsement in agricultural education to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state, if available, in agricultural education, or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in agricultural education; or

(3) obtain certification in agricultural education for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

[6.64.17.8 NMAC - N, 04-29-05; A, 10-31-07]

#### **6.64.17.9 COMPETENCIES FOR ENTRY-LEVEL AGRICULTURAL EDUCATION TEACHERS:**

A. Agriculture, food and natural resources ("AFNR") career cluster competencies: Preparation to teach agricultural education will result in individuals who can teach others competencies in agricultural, food, and natural resource careers:

(1) achieve specific academic knowledge and skills required to pursue the full range of careers and post-secondary education opportunities within AFNR;

(2) use oral and written communication skills in creating, expressing and interpreting information and ideas including technical terminology and information within AFNR;

(3) employ technical communications effectively to maintain good records and reporting procedures;

(4) solve problems using critical thinking skills (e.g., analyze, synthesize, and evaluate) independently and in teams;

(5) access suitable resources to identify public policies, issues, and rules impacting AFNR management;

(6) use information technology tools specific to AFNR to access, manage, integrate, and create information;

(7) understand roles within teams, work units, departments, organizations, inter-organizational systems, and the larger environment;

(8) identify how key organizational systems affect organizational performance and the quality of products and services;

(9) understand the importance of health, safety, and environmental management systems in organizations and their importance to organizational performance and regulatory compliance;

(10) identify health goals and safety procedures for AFNR occupations;



(11) use leadership skills in collaborating with others to accomplish organizational goals and objectives;

(12) know and understand the importance of professional ethics and legal responsibilities;

(13) know and understand the importance of employability skills;

(14) use the technical knowledge and skills required to pursue the full range of careers for all AFNR career pathways.

B. Local program success competencies:

(1) Instruction: Preparation to teach agricultural education will result in individuals who can fulfill the instructional role in the agricultural education program:

(a) develop an appropriate and accountable curriculum pattern and courses for the program resulting in industry certifications upon completion where appropriate;

(b) demonstrate teacher behaviors documented by research to be related to student achievement including: clarity, variability, enthusiasm, task-oriented/business like behavior, and student opportunity to learn criterion material;

(c) demonstrate master teacher competencies including with-it-ness, student centeredness, and an in-charge image.

(2) Supervised agricultural experience program ("SAE"): Preparation to teach agricultural education will result in individuals who can fulfill the SAE supervisory role in the agricultural education program:

(a) demonstrate knowledge of SAEs;

(b) can plan, implement, and supervise appropriate SAEs;

(c) demonstrate sound judgment when supervising SAEs.

(3) Future farmers of America (FFA): Preparation to teach agricultural education will result in individuals who can fulfill the FFA advisory role in the agricultural education program:

(a) can plan, implement, and supervise the activities of an active FFA chapter;

(b) undertake advisory responsibilities necessary for operating an active FFA chapter;

(c) demonstrate sound judgment in the role of a FFA advisor;

(d) link FFA leadership activities, award programs, and competitive events to high quality agricultural education curriculum.

(4) Partnerships: Preparation to teach agricultural education will result in individuals who can fulfill a partnership-building role in the agricultural education program:

(a) identify potential partners;

(b) utilize stakeholder groups within and outside of the school and community to improve the program (e.g., students, administrators, parents/guardians, colleagues, community members, advisory committee members, FFA alumni members, state agricultural education leaders, and others);

(c) utilize resources from within and outside of the school and community to improve the program;

(d) recognize stakeholders for their contributions and support.

(5) Program marketing: Preparation to teach agricultural education will result in individuals who can fulfill a marketing role in the agricultural education program:

(a) demonstrate an ability to market their program to the school and community;

(b) demonstrate an understanding of how to recruit potential students into the program;

(c) identify and meet business and industry needs.

(6) Professional growth: Preparation to teach agricultural education will result in individuals who can fulfill a professional role in the agricultural education program:

(a) join and participate in appropriate state and national agricultural education and career and technical education professional organizations;

(b) incorporate new ideas and technologies learned through in-service into their teaching and program;

(c) develop a personal professional growth plan.

(7) Program planning: Preparation to teach agricultural education will result in individuals who can fulfill a program-planning role in the agricultural education program:

(a) utilize stakeholder groups like an advisory committee in program planning;

(b) inform school administrators about stakeholder group recommendations;

(c) inform stakeholders of federal, state, and local laws and/or rules relating to the agricultural education program;

(d) understand and integrate New Mexico core academic content standards and benchmarks into the AFNR curricula where appropriate.

C. Program management competencies: Preparation to teach agricultural education will result in individuals who can manage the agricultural education program:

(1) maintain facilities, equipment, and materials;

(2) demonstrate knowledge of departmental budgeting;

(3) can complete required program records and reports;

(4) can balance all aspects of a strong program.

D. AFNR career pathway competencies: The following areas are designed to allow potential agricultural education teachers to construct their pre-service education with an emphasis in two or more content domain pathways, while insuring they receive agricultural education in any area which they might be required to teach.

(1) The domain of food products and processing systems: Preparation to teach agricultural education will result in individuals who can teach others competencies in food products and processing systems:

(a) apply principles of food processing to the food industry;

(b) apply principles of food science to the food industry;

(c) plan, implement, manage, and/or provide services for the preservation and packaging of food and food products;

(d) identify processing, handling, and storage factors to show how they impact product quality and safety.

(2) The domain of plant systems: Preparation to teach agricultural education will result in individuals who can teach others competencies in plant systems:

(a) apply principles of anatomy and physiology to produce and manage plants in both a domesticated and natural environment;

(b) address taxonomic or other classifications to explain basic plant anatomy and physiology;

(c) apply fundamentals of production and harvesting to produce plants;

(d) exercise elements of design to enhance an environment (e.g., floral, forest, landscape, farm).

(3) The domain of animal systems: Preparation to teach agricultural education will result in individuals who can teach others competencies in animal systems:

(a) apply knowledge of anatomy and physiology to produce and/or manage animals in a domesticated or natural environment;

(b) recognize animal behaviors to facilitate working with animals safely;

(c) provide proper nutrition to maintain animal performance;

(d) know the factors that influence an animal's reproductive cycle to explain species response;

(e) identify environmental factors that affect an animal's performance.

(4) The domain of power, structural, and technical systems: Preparation to teach agricultural education will result in individuals who can teach others competencies in power, structural, and technical systems:

(a) apply physical science principles to engineering applications with mechanical equipment, structures, biological systems, land treatment, power utilization, and technology;

(b) apply principles of safe operation and maintenance to mechanical equipment, structures, biological systems, land treatment, power utilization, and technology;

(c) apply principles of safe service and repair to mechanical equipment, structures, biological systems, land treatment, power utilization, and technology;

(d) exercise basic skills in blueprint and design development to create sketches, drawings and plans;

(e) read and relate structural plans to specifications and building codes;

(f) examine structural requirements to estimate project costs;

(g) develop skills required to safely use construction/fabrication equipment and tools;

(h) plan, implement, manage, and/or provide support services to facility design and construction; equipment design, manufacture, repair, and service; and agricultural technology;

(i) use the variety of tools available in computer systems to accomplish fast, accurate production in the workplace;

(j) safely use available power sources to plan and apply control systems;

(k) explain geospatial technology to demonstrate its applications.

(5) The domain of natural resources and environmental service systems: Preparation to teach agricultural education will result in individuals who can teach others competencies in natural resources and environmental service systems:

(a) recognize importance of resource and human interrelations to conduct management activities in natural habitats;

(b) use effective venues to communicate natural phenomena to the public;

(c) apply scientific principles to natural resource management activities;

(d) employ knowledge of natural resource industries to describe production practices and processing procedures;

(e) practice responsible conduct to protect natural resources;

(f) identify public policies and rules impacting environmental services to determine their effect on facility operation;

(g) apply scientific principles to environmental services;

(h) understand environmental service systems.

(6) The domain of agribusiness systems: Preparation to teach agricultural education will result in individuals who can teach others competencies in agribusiness systems:

(a) employ leadership skills to accomplish goals and objectives in an AFNR business environment;

(b) practice good record keeping to accomplish AFNR business objectives;

(c) apply generally accepted accounting principles and skills to manage budget, credit, and optimal application of AFNR business assets;

- (d) employ AFNR industry concepts and practices to manage inventory;
- (e) utilize technology to accomplish AFNR business objectives;
- (f) use sales and marketing principles to accomplish AFNR business objectives.

[6.64.17.9 NMAC - N, 04-29-05; A, 10-31-07]

**6.64.17.10 IMPLEMENTATION:**

Institutions of higher education that prepare teachers shall deliver the competencies in a PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For secondary and pre K-12 licensed teachers, a minimum of twelve (12) semester hours must be upper division credit.

[6.64.17.10 NMAC - N, 04-29-05; A, 10-31-07]

**PART 18: COMPETENCIES FOR TEACHING GIFTED STUDENTS**

**6.64.18.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.64.18.1 NMAC - N, 01-29-10]

**6.64.18.2 SCOPE:**

All persons who are seeking an endorsement in teaching gifted students to a New Mexico educator license.

[6.64.18.2 NMAC - N, 01-29-10]

**6.64.18.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-3, NMSA 1978.

[6.64.18.3 NMAC - N, 01-29-10]

**6.64.18.4 DURATION:**

Permanent

[6.64.18.4 NMAC - N, 01-29-10]

**6.64.18.5 EFFECTIVE DATE:**

01-29-2010, unless a later date is cited in the history note at the end of a section.

[6.64.18.5 NMAC - N, 01-29-10]

#### **6.64.18.6 OBJECTIVE:**

This rule establishes entry-level competencies that are based on what beginning teachers of gifted students must know and be able to do to provide effective gifted education programs in New Mexico schools. The competencies must be used by New Mexico institutions of higher education to establish preparatory programs for teachers of gifted children.

[6.64.18.6 NMAC - N, 01-29-10]

#### **6.64.18.7 DEFINITIONS: [RESERVED]**

#### **6.64.18.8 REQUIREMENTS:**

A. After June 30, 2012, beginning teachers seeking an endorsement in teaching gifted students to an initial level 1 New Mexico teaching license must satisfy all of the requirements of the license as provided in PED rule for that license, which includes 24 semester hours in the pedagogy and methodology of teaching gifted students from a regionally accredited college or university.

B. After June 30, 2012, teachers seeking to add an endorsement in teaching gifted students to an existing New Mexico teaching license of any level shall meet the requirements of Paragraphs (1) - (2) of Subsection B of 6.64.18.8 NMAC:

(1) pass a PED approved teacher licensure test or an accepted comparable licensure test(s) from another state in teaching gifted students; and

(2) successfully complete at least twelve (12) credit hours, the pedagogy and methodology of teaching gifted students at a regionally accredited college or university.

[6.64.18.8 NMAC - N, 01-29-10]

#### **6.64.18.9 IMPLEMENTATION:**

A. Any current licensed teacher who applies for an endorsement in teaching gifted students prior to July 1, 2012 may be granted the endorsement by providing verification of five (5) years of experience in teaching gifted students.

B. Any current licensed teacher who applies for an endorsement in teaching gifted students prior to July 1, 2012 may be granted the endorsement by providing evidence of having passed a state-approved licensure test in the teaching of gifted students authorized by PED or any other state education agency.

C. Any current licensed teacher who applies for an endorsement in teaching gifted students prior to July 1, 2012 may be granted the endorsement by providing evidence of having successfully completed twelve (12) credit hours in the pedagogy and methodology of teaching gifted students at a regionally accredited college or university in New Mexico.

[6.64.18.9 NMAC - N, 01-29-10]

**6.64.18.10 COMPETENCIES FOR ENTRY-LEVEL TEACHERS OF GIFTED STUDENTS:**

A. Professional knowledge for serving students who are gifted.

(1) Foundations - the teacher:

(a) explains and discusses models, theories, philosophies, and history that provide the basis for gifted services;

(b) explains and discusses current and historical state and national rules and regulations relating to gifted process;

(c) explains and discusses the procedural safeguards relating to gifted educational services;

(d) explains and discusses state mandates for students who are gifted;

(e) recognizes and discusses societal, cultural, and economic factors including anti-intellectualism and equity vs. excellence that enhance or inhibit the development of giftedness;

(f) participates in the activities of professional organizations related to giftedness;

(g) reflects on personal practice to improve teaching and guide professional growth in gifted education;

(h) utilizes personal and cultural frames of reference that affect one's teaching of gifted learners, including biases about learners from diverse backgrounds;

(i) belongs to organizations and reads publications relevant to the field of gifted education;

(j) assesses own skills and limitations in teaching students who are gifted;

(k) maintains confidential communication about students who are gifted;



(l) encourages and models respect for the full range of diversity among students who are gifted;

(m) complies with laws, ethics, and professional and program standards when conducting activities in gifted education; and

(n) improves own practice through continuous research-supported professional development in gifted education and related fields.

(2) Parent/professional communications skills - the teacher:

(a) provides information about community and state resources regarding gifted education available to parents and staff;

(b) demonstrates the ability to work with parents of students who are gifted on issues and problems;

(c) understands and uses various models of gifted service delivery at all service levels (minimal, moderate, extensive, and maximum);

(d) demonstrates knowledge of and sensitivity to cultural, social, environmental, and ethnic dynamics in interpersonal and group interactions with students, parents, paraprofessionals, and professionals; and

(e) provides information about the roles of families and communities in supporting the development of students who are gifted, including those from diverse backgrounds.

(3) Planning and implementing effective programs for gifted students - the teacher:

(a) defines giftedness;

(b) identifies the cognitive, linguistic, physical, cultural, social, emotional, and sensory characteristics and needs of students who are gifted;

(c) discusses general characteristics, etiologies, and learning styles of students who are gifted;

(d) the teacher describes current theories and research for education of students who are gifted, and

(e) the teacher demonstrates skills needed for effective advocacy on behalf of students who are gifted and their parents.

(4) Least restrictive environment - the teacher:

(a) describes rationale necessary to determine the least restrictive environment for students who are gifted based on individual goals;

(b) demonstrates knowledge of common gifted service delivery options related to least restrictive environment;

(c) demonstrates knowledge in facilitating least restrictive environment for students who are gifted; and

(d) considers the pros and cons of various inclusive models for students who are gifted.

(5) Individualized education program team - the teacher:

(a) describes the role and responsibilities of the team;

(b) describes the composition of the team; and

(c) demonstrates and participates in developing individual educational plans, transitions, and post-secondary planning.

(6) Individualized education program implementation - the teacher:

(a) identifies the procedural steps for the development and implementation of the individualized educational plan;

(b) describes the procedures and strategies necessary for participation in the general education curriculum and the state-wide general assessment system;

(c) collaborates with general educators, administrators, related services, personnel, and parents in the development and implementation of the individualized educational plan;

(d) develops appropriate annual goals; and

(e) develops the timelines and procedures for implementation of the individualized educational plan.

B. Assessment/evaluation of students who are gifted. Screening, referral, evaluation, eligibility, and re-evaluation procedures - the teacher:

(1) understands processes and procedures for the identification of gifted learners including screening, referral, evaluation, and eligibility procedures;

(2) interprets and uses educational diagnostic evaluations, observations, vocational assessments, assessments from related services, and information from necessary parties to develop the individualized education programs (IEP);

(3) uses, understands limitations, and interprets multiple assessments in different domains for identifying gifted learners, including those from diverse backgrounds;

(4) uses and understands limitations of assessments documenting academic growth of students who are gifted;

(5) uses non-biased and equitable approaches for identifying students who are gifted, including those from diverse backgrounds;

(6) uses technically adequate qualitative and quantitative assessments for identifying and placing students who are gifted;

(7) develops differentiated curriculum-based assessment for use in instructional planning and delivery for students who are gifted; and

(8) uses alternative assessments and technologies to evaluate learning of students who are gifted.

#### C. Curriculum.

(1) Curriculum development and implementation - the teacher:

(a) develops and implements individualized appropriate differentiated instruction;

(b) applies alternate curricula for students who are gifted when the general education curriculum is not appropriate;

(c) develops curriculum for students who are gifted with an emphasis on cognitive, affective, aesthetic, and social domains;

(d) develops individualized scope and sequence plans appropriate for students who are gifted; and

(e) selects and adapts curricula that incorporate advanced, conceptually challenging, and complex content for students who are gifted.

(2) Instructional strategies for students who are gifted - the teacher:

(a) demonstrates knowledge of data-based approaches to individualized instruction for students who are gifted, including assessment, assistive technology, direct instruction, monitoring, and evaluation;

(b) describes and demonstrates various methods for individualizing instruction for students who are gifted to ensure access to appropriate curriculum;

(c) designs and implements appropriate lesson planning and methods for managing individuals, small groups, large groups, inclusive groups, and individual instruction for students who are gifted;

(d) collects and analyzes instructional data for effectiveness of programs for students who are gifted;

(e) uses data to adapt and revise programs as necessary for students who are gifted;

(f) collaborates with regular education teachers and related services personnel for support of students who are gifted in inclusive environments;

(g) teaches students who are gifted in the use of self-advocacy skills;

(h) integrates academic and career guidance experiences for students who are gifted to explore, develop, or research their areas of interest or talent;

(i) paces the delivery of the curriculum and instruction with the intellectual demands of students who are gifted;

(j) utilizes computers, related technologies, and assistive technology to support teaching and learning;

(k) delivers content area instruction to students who are gifted from a position of expertise;

(l) applies pedagogy appropriate to the content area when instructing students who are gifted; and

(m) applies higher-level thinking and meta-cognitive models to content areas to meet the needs of students who are gifted.

(3) Materials for students who are gifted - the teacher:

(a) selects and matches instructional materials to the individual learning needs and styles of students who are gifted;

(b) evaluates and adapts commercial materials and technological products commonly used with students who are gifted;

(c) selects appropriate materials for targeted instruction for students who are gifted;

(d) constructs instructional materials and technological products to meet individual goals of students who are gifted; and

(e) selects materials that respond to cultural, linguistic, and intellectual differences among students who are gifted.

(4) Transition for students who are gifted - the teacher:

(a) describes models and develops options with students who are gifted to make successful transitions as appropriate from school to school and to post-secondary options; and

(b) discusses and implements follow-up evaluation and collaboration for students who are gifted.

(5) Diversity - the teacher:

(a) understands how students who are gifted differ in their approaches to learning, academic and affective characteristics, and creates instructional opportunities that are adapted to diverse learners;

(b) organizes and manages varied learning groups as appropriate in each of the disciplines and as appropriate to the needs or interests of students who are gifted and the goals of the lesson;

(c) is aware of and can apply current research findings regarding individual differences of students who are gifted such as linguistic backgrounds, developmental levels, affective needs, exceptionalities, and gender;

(d) identifies stereotypes in curriculum materials and adapts instruction appropriately for students who are gifted;

(e) helps students who are gifted develop social interactions, coping skills, and critical perspectives on biased materials to address personal and social issues;

(f) identifies and develops appropriate responses to differences among language learners who are gifted;

(g) demonstrates sensitivity to New Mexico's unique linguistic and cultural diversity for students who are gifted;

(h) integrates perspectives of diverse groups into planning instruction for students who are gifted and on all forms of communication;

(i) understands the implications of one's own and others' cultures, behaviors, and use of language on the development of students who are gifted;

(j) accesses resources that enhance communication skills for students who are gifted including those with exceptional communication or English learning needs; and

(k) promotes multilingualism among students who are gifted.

(6) Classroom environment - the teacher:

(a) implements disciplinary procedures consistent with state and federal rules and regulations and conducts functional behavior assessments and implements behavior intervention plans as appropriate; and

(b) provides an intellectually, emotionally, and physically safe environment for students who are gifted.

[6.64.18.10 NMAC - N, 01-29-10]

## **PART 19: COMPETENCIES FOR ELEMENTARY MATHEMATICS SPECIALISTS**

### **6.64.19.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.64.19.1 NMAC – N, 9/15/2020]

### **6.64.19.2 SCOPE:**

This rule applies to all institutions of higher education in New Mexico that establish or maintain a curriculum for persons seeking an endorsement as an elementary mathematics specialist to a state educator license.

[6.64.19.2 NMAC – N, 9/15/2020]

### **6.64.19.3 STATUTORY AUTHORITY:**

This rule is promulgated pursuant to Sections 22-2-1, 22-2-2, and 22-10A-3 NMSA 1978.

[6.64.19.3 NMAC – N, 9/15/2020]

**6.64.19.4 DURATION:**

Permanent.

[6.64.19.4 NMAC – N, 9/15/2020]

**6.64.19.5 EFFECTIVE DATE:**

September 15, 2020, unless a later date is cited at the end of a section.

[6.64.19.5 NMAC – N, 9/15/2020]

**6.64.19.6 OBJECTIVE:**

The objective of this rule is to establish elementary mathematics specialists competencies that are based on what elementary mathematics teachers are required to know and be able to support effective elementary mathematics programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico content standards and benchmarks for mathematics and with the national standards of the association of mathematics teacher educators.

[6.64.19.6 NMAC – N, 9/15/2020]

**6.64.19.7 DEFINITIONS:**

**A. "Cultural and linguistic responsiveness"** means learning environments, instructional materials, curriculum, support services, activities, and professional development that inform culturally and linguistically responsive pedagogy; reflect the cultures, languages, and lived experiences of a multicultural society; address multiple ethnic descriptions, interpretations, or perspectives of events and experiences; and encourage critical pedagogy.

**B. "Professional learning experience"** means the demonstration of leading professional learning or working with professional learning providers to support mathematics understanding and implementing content and pedagogy.

**C. "Work experience"** means the demonstration of knowledge and skills related to teaching mathematics.

[6.64.19.7 NMAC – N, 9/15/2020]

**6.64.19.8 REQUIREMENTS:**

**A.** Teachers seeking to add an endorsement as an elementary mathematics specialist to an existing New Mexico level two or level three-A teaching license shall meet the following requirements:

(1) hold a level two or three-A teaching license for a minimum of three years;  
and

(2) hold a teaching license in elementary education, as provided in 6.64.4 NMAC and 6.61.2 NMAC.

**B.** Teachers seeking to add an endorsement as an elementary mathematics specialist shall do so through one of the following pathways:

(1) Provide evidence of five years of relevant work and professional learning experience in K-8 mathematics that is approved by the department. Candidates are required to provide demonstration of experience by submitting a resume and at least three verification letters stating the candidate has at least five years of relevant work and professional learning experience in the area of mathematics, mentoring educators in K-8, and participates in ongoing learning, which can be submitted from the following individuals:

(a) a school district superintendent, director of a charter school, or curriculum and instruction director;

(b) a school site administrators; or

(c) professional learning provider director or team leader.

(2) Complete 18 semester hours of mathematics education coursework, of which nine semester hours are required to be upper division credit, based on the competencies detailed in 6.64.19.9 NMAC in a department-approved program.

[6.64.19.8 NMAC – N, 9/15/2020]

#### **6.64.19.9 COMPETENCIES FOR ELEMENTARY MATHEMATICS SPECIALISTS:**

Leadership knowledge and skills:

**A.** The elementary mathematics specialist takes an active role in their professional growth by participating in professional development opportunities that directly relate to the learning and teaching of mathematics and to their development as a mathematics instructional leader, which may include professional networks, journals, and discussion groups, among other opportunities. The opportunities shall also include occasion to stay informed of:

(1) critical issues in elementary mathematics;

(2) national, state, and school district or charter school policy initiatives;



(3) research - and evidence-based best practices for elementary math instruction;

(4) characteristics of high-quality curriculum;

(5) features of high-quality instructional materials; and

(6) qualities of superior professional learning and best practices for designing adult learning environments.

**B.** The elementary mathematics specialist shall engage in and facilitate continuous and collaborative learning, drawing upon research in mathematics education to:

(1) inform practice and enhance learning opportunities for all students' and teachers' mathematical knowledge development;

(2) design and implement collaborative structures to build teacher capacity; and

(3) advance their own development and the development of others as reflective practitioners in utilizing group processes to collaboratively solve problems, make important decisions, manage conflict, and promote meaningful change.

**C.** The elementary mathematics specialist shall act and communicate professionally with school and school district or charter school teams to assure high-quality mathematics instruction, including:

(1) evaluate alignment of instructional materials to state standards and required assessments and make recommendations for addressing learning and achievement gaps;

(2) engage in discussions and decision-making to establish appropriate benchmarks for student learning goals from K-6;

(3) review curriculum and instructional materials for cultural and linguistic responsiveness and make recommendations to enhance culturally and linguistically diverse students' access to high-quality mathematics materials;

(4) determine the suitability of mathematics curricula and teaching materials (e.g., textbooks, technology, manipulatives) for particular learning goals;

(5) provision appropriate tools and resources targeted to specific individual student needs;

(6) collaborate with school-based professionals to develop evidence-based interventions for high- and low-achieving students; and

(7) collaborate with teachers and school administrators to secure additional resources as needed to maintain high expectations in mathematics classes for all students.

**D.** The elementary mathematics specialist shall plan, develop, implement, and evaluate professional development programs that assist teachers in using resources from professional mathematics organizations and support teachers in systematically reflecting and learning from practice.

**E.** The elementary mathematics specialist shall establish and maintain learning communities, such as professional learning communities.

**F.** The elementary mathematics specialist shall mentor new and experienced teachers to better serve students in terms of mathematics instruction and classroom support.

**G.** The elementary mathematics specialist shall nurture a culture of productive professionalism by:

(1) modeling a growth mindset and productive disposition toward mathematics teaching and learning for all staff and students;

(2) supporting a culture of reflection, refinement, and action focused on continuous improvement in classroom best practices;

(3) fostering a culture of collective responsibility and a school climate that treats students as holistic beings;

(4) promoting the use of data analysis to drive decisions around mathematics instruction; and

(5) communicating and working with school staff, administrators, families, and various stakeholders to create mutually beneficial partnerships and a shared vision of mathematics teaching and learning.

[6.64.19.9 NMAC – N, 9/15/2020]

#### **6.64.19.10 PEDAGOGICAL KNOWLEDGE FOR TEACHING MATHEMATICS:**

**A.** To promote and advocate for equitable, high-quality mathematics instruction for all students, the elementary mathematics specialist shall collaborate with teachers and administrators in supporting the diversities of the classroom and school, including cultural, disability, linguistic, gender, socioeconomic, and developmental, to:

(1) address issues of access and advancement at the individual student, classroom, school, school district, and charter school levels;

**(2)** establish clear goals within individual student learning progressions that utilize and build upon learners' existing knowledge, skills, understandings, conceptions, and misconceptions to advance learning and use the goals to guide instructional decisions;

**(3)** purposefully construct guidelines and support for promoting a mathematics learning culture within the classroom environment, including specific routines and instructional strategies that help cultivate positive mathematics identities for all students;

**(4)** design student learning opportunities that:

**(a)** promote engagement in productive struggle and collaborative problem solving and extend the meaning and usefulness of mathematics in students' daily lives;

**(b)** intentionally reward effort in mathematical learning;

**(c)** allow space for all students' mathematical sense-making and include multiple entry points into problem solving;

**(d)** engage all students in making connection among mathematical representations to deepen understanding of mathematical concepts and procedures as tools for problem solving;

**(e)** provide ample opportunity for all students to engage in academic discourse around mathematical problem solving as well as for individual expression in problem solving, such as through oral or written explanation or sharing of mathematical thinking;

**(f)** utilize purposeful questions to assess and advance all students' reasoning and sense-making about important mathematical ideas and relationships;

**(g)** diagnose and leverage mathematical misconceptions and errors to design appropriate learning opportunities that support all students' mathematical conceptual development, understandings, and identities;

**(h)** integrate the use of appropriate mathematical tools and technology as essential resources to support students in making sense of mathematical ideas and communicating their mathematical thinking;

**(i)** encourage mathematical explorations among peers to extend learning opportunities; and

**(j)** assess all student abilities, through formative and summative assessments, and develop actionable strategies to help all students fill in learning gaps; and

**(5)** Reflect and take action to adjust instructional approaches characterized by:

**(a)** the use of evidence to adjust instruction continually in ways that support and extend learning for all students, including differentiation and enrichment;

**(b)** the use of strategies deliberately designed to support specific groups of student learners; and

**(c)** organized support of delivery of developmentally appropriate instruction that is responsive to individual learners.

**B.** To promote pedagogical shifts and professional growth for self and teachers, the elementary mathematics specialist shall:

**(1)** model effective problem solving and the mathematical practices, including questioning, representing, communicating, conjecturing, making connections, reasoning and providing, and self-monitoring, and cultivate the development of such practices in all learners;

**(2)** model and support teachers and students in the use of technical language associated with mathematics, attending to both mathematical integrity and usability by learners;

**(3)** support the use of various instructional applications of technology that are evidence-based and are developmentally-, mathematically-, and pedagogically-grounded;

**(4)** research and share evidence-based instructional formats that support all students in accessing mathematical problems, including whole group, small group, partner, and individual, and that support success in achieving specific student learning goals;

**(5)** support teachers in their analysis and evaluation of student ideas and work, and design appropriate responses to support and further student mathematical learning, aligned to individual goals;

**(6)** apply learning trajectories related to mathematical topics and collaborate with teachers to sequence activities and design instructional tasks and assessments;

**(7)** support teachers in the use of the formative assessment cycle, which includes administering a formative assessment task, analyzing student responses to the task, and designing and re-teaching lessons based on this analysis; and be able to find or create appropriate resources for this purpose;

(8) support teachers in the use of multiple assessment strategies, including, but not limited to listening to and observing students making sense of mathematics, and in analyzing, choosing, designing, and adapting assessment tasks for monitoring student learning and to assess students' mathematical knowledge, based on students' individual learning goals and expressions and demonstrations of understanding; and

(9) support teachers in the analysis of formative and summative assessment results and communication of results to students with actionable feedback and to appropriate and varied audiences for further support in making instructional decisions.

[6.64.19.10 NMAC – N, 9/15/2020]

## **PART 20 COMPETENCIES FOR SECONDARY COMPUTER SCIENCE TEACHERS**

### **6.64.20.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.64.20.1 NMAC – N, 12/28/2021]

### **6.64.20.2 SCOPE:**

This rule applies to all institutions of higher education in New Mexico that establish or maintain a curriculum for persons seeking a secondary computer science endorsement to a state educator license.

[6.64.20.2 NMAC – N, 12/28/2021]

### **6.64.20.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-6 NMSA 1978.

[6.64.20.3 NMAC – N, 12/28/2021]

### **6.64.20.4 DURATION:**

Permanent.

[6.64.20.4 NMAC – N, 12/28/2021]

### **6.64.20.5 EFFECTIVE DATE:**

December 28, 2021, unless a later date is cited at the end of a section.

[6.64.20.5 NMAC – N, 12/28/2021]

#### **6.64.20.6 OBJECTIVE:**

This rule establishes pathways and competencies for secondary teachers to earn an endorsement in computer science, supporting effective computer science instruction in seventh through 12th grade. The competencies align with the New Mexico content standards and benchmarks for computer science and the national standards of the computer science teachers' association

[6.64.20.6 NMAC – N, 12/28/2021]

#### **6.64.20.7 DEFINITIONS:**

**A. "Professional development"** means training held by the department or another instructional support provider designed to improve participants' understanding of computer science content and pedagogy.

**B. "Culturally and linguistically responsive learning experiences"** means learning environments, instructional materials, curriculum, support services, activities, and professional development that inform culturally and linguistically responsive pedagogy; reflect the cultures, languages, and lived experiences of a multicultural society; address multiple ethnic descriptions, interpretations, or perspectives of events and experiences; and encourage critical pedagogy.

[6.64.20.7 NMAC – N, 12/28/2021]

#### **6.64.20.8 PATHWAYS FOR ENDORSEMENT:**

Teachers seeking a secondary computer science endorsement shall:

**A.** Hold a teaching license in secondary education as provided by 6.61.4 NMAC; and

**B.** Complete one of the following pathways:

**(1)** earn 15 postsecondary course credit hours in computer science coursework;

**(2)** pass the department-approved teacher licensure exam for computer science or an approved comparable licensure test from another state;

**(3)** possess a minimum of two years of work experience in an industry related to computer science, which the applicant must validate using a verifiable list of references;

(4) possess an industry certification in a field related to computer science, which the applicant must validate using official documentation of the industry certification;

(5) prior to January 1, 2025, have completed 60 hours of professional development within the three years immediately prior to applying for a computer science endorsement, which the applicant must validate using documentation from the organization that provided the professional development, including the number of hours of each training; or

(6) prior to January 1, 2025, possess three or more years of computer science teaching experience including computer coding program structure in one or more languages, debugging computer programs, computer modeling and skills relevant to applications such as data management, graphics and text processing, which the applicant must validate with a letter signed by a school district administrator, charter school administrator, or secondary school principal.

[6.64.20.8 NMAC – N, 12/28/2021]

#### **6.64.20.9 COMPETENCIES FOR COMPUTER SCIENCE TEACHERS:**

Secondary computer science teachers shall demonstrate mastery of:

##### **A. Computer science knowledge and skills.**

(1) Computer science teachers apply computer science and computational thinking in appropriate and flexible ways, which includes demonstrating and continuously developing a knowledge of core concepts and practices in computer science, including the following:

(a) designing, implementing, debugging, and reviewing programs in an iterative process using appropriate computer science tools and technologies;

(b) interpreting algorithms and explaining tradeoffs associated with different algorithms; and

(c) fostering a computing culture of inclusivity;

(d) collaborating around computing;

(e) modeling how computing devices connect through networks and the internet to facilitate communication;

(f) collecting, storing, and analyzing data;

(g) creating, combining, and modifying artifact-based products.

**(2)** Computer science teachers apply knowledge of how hardware and software function within computing systems, including:

- (a)** hardware components;
- (b)** operating systems and programs;
- (c)** computer networks; and
- (d)** mobile computing devices.

**(3)** Computer science teachers model how computing devices connect via networks and the internet to facilitate communication and explain tradeoffs between usability and security.

**(4)** Computer science teachers demonstrate learning and modeling the collection, storage, transformation, and analysis of digital data to better understand the world and make more accurate predictions to advance solutions.

**(5)** Computer science teachers design, implement, debug, and review programs in an iterative process using appropriate computer science tools and technologies.

**(6)** Computer science teachers interpret algorithms and explain tradeoffs associated with different algorithms.

**(7)** Computer science teachers analyze how people influence computing through their behaviors, cultural norms, and social interactions, and how computing impacts society in positive and negative ways.

**B.** Equitable and inclusive learning environment. Computer science teachers proactively advocate for equity and inclusion in the computer science classroom, making an intentional commitment to improve access, engagement, and achievement for all students by:

**(1)** examining equity issues, including the contributions of systemic barriers, social factors, and psychological factors to inequitable access, engagement, and achievement in computer science among marginalized groups;

**(2)** reflecting on how equity issues manifest in the teachers' own context;

**(3)** developing purposeful, proactive strategies that minimize threats to inclusion and challenge stereotypes and unconscious bias;

**(4)** representing and incorporating diverse perspectives and experiences of individuals from underrepresented groups in instructional materials and instruction;



(5) using tools to evaluate accessible instructional materials and leverage those resources to improve accessibility for all students; and

(6) creating and implementing a plan that uses classroom data to make informed instructional decisions.

**C. Personal growth and identity.** Computer science teachers take an active role in their personal growth and understanding of computer science content and pedagogy and commit to continuously improving their computer science skills, including:

(1) pursuing targeted professional development to continuously deepen pedagogical knowledge, content knowledge, and skills;

(2) modeling continuous improvement by demonstrating perseverance as it pertains to the problem-solving process;

(3) leveraging professional and community resources to support student learning in computer science, such as mentors, colleagues, and local industry professionals; and

(4) collaborating through professional learning communities.

**D. Designing learning experiences.** Computer science teachers model evidence-based pedagogy to facilitate equitable and meaningful learning experiences for students, including:

(1) analyzing whether computer science curriculum enables effective pedagogy for student learning, with a focus on the following characteristics: inquiry-based learning, alignment to standards, problem-solving opportunities, and application of computational and critical thinking skills;

(2) designing inclusive culturally and linguistically relevant learning experiences that support student engagement; and

(3) building connections between computer science, other disciplines, and the real-world contexts in which students will engage.

[6.64.20.9 NMAC – N, 12/28/2021]

## **CHAPTER 65: SCHOOL PERSONNEL - EDUCATOR PREPARATION**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: PROFESSIONAL DEVELOPMENT FRAMEWORK**

**6.65.2.1 ISSUING AGENCY:**

Public Education Department.

[6.65.2.1 NMAC - N, 06-30-06]

**6.65.2.2 SCOPE:**

The New Mexico professional development framework establishes statewide standards for all professional development that impacts licensed staff in New Mexico public schools.

[6.65.2.2 NMAC - N, 06-30-06]

**6.65.2.3 STATUTORY AUTHORITY:**

Section 22-2-2 NMSA 1978, 22-2-2-8 NMSA 1978, 22-10A-19 NMSA 1978, and 22-10A-19.1 NMSA 1978.

[6.65.2.3 NMAC - N, 06-30-06]

**6.65.2.4 DURATION:**

Permanent

[6.65.2.4 NMAC - N, 06-30-06]

**6.65.2.5 EFFECTIVE DATE:**

June 30, 2006, unless a later date is cited at the end of a section.

[6.65.2.5 NMAC - N, 06-30-06]

**6.65.2.6 OBJECTIVE:**

The rule establishes criteria for all professional development programs delivered by the public education department, statewide professional development providers, charter schools, public school districts, and for all professional development providers that apply for professional development funds, or who are awarded funding by the public education department ("PED") or by the legislature. The criteria in this rule also establishes standards for an evaluation component that will be used by the PED in accessing charter school, and school district professional development plans. The rule creates standards for developing professional development activities for schools that improve teachers' knowledge of the subjects they teach and the ability to teach those subjects to all of their students; are an integral part of the public school and school district plans for improving student achievement; provide teachers, school administrators and instructional support providers with the strategies, support,

knowledge and skills to help all students meet the New Mexico academic content standards; are high quality, sustained, intensive and focused on the classroom; are developed and evaluated regularly with extensive participation of school employees and parents.

[6.65.2.6 NMAC - N, 06-30-06]

#### **6.65.2.7 DEFINITIONS:**

A. "Alignment" means the degree to which program components match purposes and evaluation criteria.

B. "Collaboration" means the act of working positively and productively with others to meet a common goal or purpose.

C. "Data" means information from a variety of sources gathered for a purpose. For example, data related to student learning might include student work examples, scripted or video taped observations, student achievement scores, and/or teacher-generated assessments. Data related to teacher performance might include observations; instructional artifacts; and /or student, peer or parent evaluations. The terms data and evidence are often used interchangeably.

D. "Developmental levels" means descriptors of development for students and teachers.

(1) Developmental levels for students are descriptors of how they develop (cognitively, socially and in other ways) during their formative years in pre k-12 education.

(2) Developmental levels for teachers are descriptors of how they develop across the continuum of their careers. In New Mexico, the career continuum for teachers include three levels of development: the level 1 "provisional teacher" (the initial five years of a teaching career where the teacher demonstrates initial mastery of effective teaching); the level 2 "professional teacher" (at least three years of classroom teaching experience during which a teacher demonstrates expert practice); and the level 3 "master teacher" (at least six years of experience where the teacher demonstrates exemplary practice).

E. "Differentiated" means the intentional application of multiple modes of instruction or assessment in order to meet the needs of all members of a group. The New Mexico teacher competencies are differentiated across levels of years of experience and teacher development: level 1 (provisional teacher); level 2 (professional teacher); and level 3 (master teacher).

F. "Diversity" means variety among individuals. Diversity includes, for example, variations in socio-economic status, race, developmental level, ethnicity, gender, language, learning styles, culture, abilities, age, interests, and/or personality.

G. "Job-embedded" means activities that are included as part of the responsibilities of the teacher's work day.

H. "Leadership" means the work of members of all levels of educational systems who engage in, collaborate in, and/or guide continuous instructional improvement for the benefit of the entire system.

I. "Professional development" means a systemic process by which educators increase knowledge, skills, and abilities to meet professional and organizational goals that build capacity within the individual, organization, and education system for the purpose of ensuring success for all students.

J. "Professional development plan" means a plan specifically designed to identify goals, activities and measurable objectives that will support continuous learning related to professional knowledge, skills and abilities.

(1) The district professional development plan is a component of the comprehensive educational plan for student success that supports academic learning for all students.

(2) The individual teacher's professional development plan (PDP) is part of the performance evaluation system requirements. The teacher's PDP is a collaborative enterprise involving the teacher and principal in establishing a yearly plan for professional learning goals, activities, and measurable objectives based on the nine New Mexico teacher competencies.

K. "Professional development program" means an organized set of professional development experiences for an education system that will support instructional learning in an identified area of improvement.

L. "Research based" means results from proven, rigorous educational research methodologies.

M. "Staff development" means organized professional learning activities. The terms "professional development and staff development" are used interchangeably by the national staff development council as well as in this rule.

N. "Student success" means attainment of knowledge, skills and attributes that will prepare and nurture individuals to become productive, engaged citizens in a democratic society.

O. "Sustained" means an effort or activity maintained in a coherent, planned manner over time.

P. "Systematic" means something that is characterized by order and planning.

Q. "Systemic" means related to an entire system: in this case, an educational organization that is made up of individual but interdependent components united by a common purpose, action plan, and accountability.

R. "Training" means a subset of professional development. Training includes specialized, often prescribed instruction and practice that help an individual become proficient in a skill or set of skills.

S. "Standards for staff development" means criteria and expectations that provide direction for designing a professional development experience that ensures educators acquire the necessary knowledge and skills.

T. "Framework for professional development" means a document that establishes the context, processes and content relative to professional development by way of a statewide definition and belief statements of professional development, guidelines for the effective designing, implementation, and evaluating of professional development initiatives at the district and school building-level, establishing the criteria for school districts to apply for professional development funds, and to provide information regarding professional development providers and other resources.

[6.65.2.7 NMAC - N, 06-30-06]

#### **6.65.2.8 REQUIREMENTS FOR PROGRAM DESIGN AND IMPLEMENTATION:**

School district and charter school professional development programs shall meet the highest standards for professional development. New Mexico has adopted the national staff development council standards for staff development as requirements for designing, implementing, and evaluating professional development programs. All statewide, PED, charter school and public school district professional development programs and activities shall address and align with the following standards and shall articulate:

A. context standards which:

(1) improve the learning of all students by organizing adults into learning communities whose goals are aligned with those of the school district;

(2) require skillful school and district leaders who guide continuous instructional improvement;

(3) require resources to support adult learning and collaboration;

B. process standards which:

- (1) improve the learning of all students by using disaggregated student data to determine adult learning priorities, monitor progress, and help sustain continuous improvement;
- (2) use multiple sources of information to guide improvement and demonstrate its impact;
- (3) prepare educators to apply research to decision making;
- (4) use learning strategies appropriate to the intended goal;
- (5) apply knowledge about human learning and change;
- (6) provide educators with the knowledge and skills to collaborate;

C. content standards which:

- (1) improve the learning of all students by preparing educators to understand and appreciate all students;
- (2) create safe orderly and supportive environments, and hold high expectations for their academic achievement;
- (3) deepen educators' content knowledge;
- (4) provide them with research-based instructional strategies to assist students in meeting, rigorous academic standards and prepare them to use various types of classroom assessments appropriately;
- (5) provide educators with knowledge and skills to involve families and other stakeholders appropriately.

[6.65.2.8 NMAC - N, 06-30-06]

**6.65.2.9 REQUIREMENTS FOR PROGRAM EVALUATION:**

A. All statewide, PED, charter school and public school district professional development programs shall be evaluated at least every three years to determine the effectiveness of the program based on evidence of improved educator practice and student learning.

B. Levels of program evaluation shall include evidence of:

- (1) participant response;

- (2) participant learning;
- (3) organizational change and support;
- (4) participant use of knowledge and skills; and
- (5) student learning.

[6.65.2.9 NMAC - N, 06-30-06]

#### **6.65.2.10 REQUIREMENTS FOR PROFESSIONAL DEVELOPMENT FUNDING:**

Schools, school districts or independent programs or agencies that apply for or are awarded state or federal funding to support professional development programs or activities must demonstrate alignment between the proposed programs and the New Mexico professional development framework. Funding proposals shall explicitly address all of the following questions:

##### **A. context:**

- (1) how are the resources (time, leadership, personnel, and budget considerations) structured to support the plan?
- (2) how are roles of leaders and participants defined and goals determined?
- (3) how are data related to student learning to be used to determine goals and assess outcomes?
- (4) how is collaboration among administrators and teachers embedded in the professional development process?

##### **B. content:**

- (1) what should participants know and be able to do?
- (2) is the content clearly connected to workplace requirements and clearly articulated goals?
- (3) are appropriate adult learning strategies used that will support program effectiveness?
- (4) is there a range of learning opportunities that address areas of need, diversity, skill development and refinement?
- (5) how are data related to student learning to be used to determine goals and assessment outcomes?

(6) how is collaboration among administrators and teachers embedded in the professional development process?

[6.65.2.10 NMAC - N, 06-30-06]

### **PART 3: EDUCATOR PREPARATION PROGRAM ACCOUNTABILITY**

#### **6.65.3.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.65.3.1 NMAC - Rp, 6.65.3.1 NMAC, 10/29/2019]

#### **6.65.3.2 SCOPE:**

Educator preparation programs approved by the department and seeking approval of the department, serving candidates in New Mexico.

[6.65.3.2 NMAC - Rp, 6.65.3.2 NMAC, 10/29/2019, A, 6/8/2021]

#### **6.65.3.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-10A-19.2 NMSA 1978.

[6.65.3.3 NMAC - Rp, 6.65.3.3 NMAC, 10/29/2019; A, 6/8/2021]

#### **6.65.3.4 DURATION:**

Permanent.

[6.65.3.4 NMAC - Rp, 6.65.3.4 NMAC, 10/29/2019]

#### **6.65.3.5 EFFECTIVE DATE:**

October 29, 2019, unless a later date is cited at the end of a section.

[6.65.3.5 NMAC - Rp, 6.65.3.5 NMAC, 10/29/2019]

#### **6.65.3.6 OBJECTIVE:**

To improve the preparation of day-one ready educators through streamlined evaluation, review, and approval of educator preparation programs in the state.

[6.65.3.6 NMAC - Rp, 6.65.3.6 NMAC, 10/29/2019]

#### **6.65.3.7 DEFINITIONS:**



**A. "Candidate"** means an individual enrolled in an EPP for licensure offered through a department-approved EPP provider.

**B. "Certified review team"** means the team trained by the department to conduct comprehensive state EPP approvals. Members of the certified review team may serve in multiple roles. The following shall be represented:

(1) a representative of the department with expertise in culturally and linguistically responsive instruction;

(2) a dean or director from a department-approved EPP, other than the one being reviewed;

(3) a faculty member from a department-approved EPP, other than the one being reviewed;

(4) a member of a LEA administrative team; and

(5) a principal or eligible cooperating teacher from a local public school.

**C. "Clinical experience"** means the guided, hands-on application of knowledge and theory to actual practice through collaborative and facilitated learning activities taking place in field-based assignments.

**D. "Completer"** means a candidate who earns a certificate or diploma from a department-approved EPP.

**E. "Comprehensive state approval"** means the process conducted by the certified review team to evaluate and approve EPPs.

**F. "Comprehensive state approval site visit"** means the visit conducted by a certified review team to evaluate EPP performance for certification.

**G. "Cooperating teacher"** means an educator who meets the following qualifications:

(1) is employed by a LEA;

(2) is mutually selected by the LEA and the EPP;

(3) has at least three years of experience under the appropriate license;

(4) is the primary evaluator of the candidate during their clinical experience;

(5) has completed an introductory mentorship course provided by the department; and

(6) either meets the necessary performance level as defined by the department on their educator effectiveness report or, for an educator who recently relocated to New Mexico and does not yet have an educator effectiveness report, to have met one of the following requirements:

(a) the teacher is a level three-A teacher with a minimum of six years teaching experience; or

(b) the teacher is a nationally board certified teacher.

**H. "Day-one ready educator"** means a teacher who positively impacts measurable student success from the first day the educator begins teaching by having a deep understanding of the diverse cultural and linguistic needs of all students, demonstrating deep content knowledge, and having the ability to support all students' social and emotional needs, motivate and actively engage all students, and personalize learning based on students' needs, including the needs of indigenous students, students with disabilities, bilingual students, and English language learners, and a willingness to engage in continuous efforts to improve teaching abilities.

**I. "Disposition"** means the professionalism demonstrated by a candidate indicating capacity to be a day-one ready educator.

**J. "EAR"** means educator accountability report required annually and designed to create a uniform statewide educator accountability reporting system to measure and track teacher and administrator education candidates from pre-entry to post-graduation in order to benchmark the productivity and accountability of New Mexico's educator workforce.

**K. "EPP"** means an educational preparation program offered by an educational preparation provider intended to lead to teacher licensure upon candidates' successful completion of the program.

**L. "EPP advisory board"** means the group of individuals appointed by the EPP who have unique knowledge regarding the educational needs of the local culturally and linguistically diverse community, including knowledge of the needs of indigenous students, students with disabilities, bilingual students, and English language learners.

**M. "EPP application"** means a written request, on a department-approved form, to the PPSC to be a department-approved EPP.

**N. "EPP provider"** means any individual, private or public education association, corporation, or institution of higher education offering an EPP.

**O. "EES"** means the department-approved educator evaluation system.

**P. "Initial approval"** means the first time an EPP provider sought and was granted approval from the PPSC to create a new EPP in the state of New Mexico.

**Q. "LEA"** means a local educational agency. A LEA may be a public school district, a state-chartered charter school, or a state-educational agency.

**R. "New Mexico teacher assessments"** means the tests required for individuals seeking initial New Mexico licensure.

**S. "PPSC"** means the professional practices and standards council, which approves EPPs as defined in 6.2.8 NMAC.

**T. "Program revision"** means the addition of new licensure programming or modifications made to an existing department-approved EPP, including changes to standards.

**U. "Quality review rubric"** means the department-approved tool used by the certified review team during a comprehensive state approval site visit.

**V. "Revocation"** means a department decision to no longer recognize an EPP as approved by the department nor to license candidates completing coursework at the revoked EPP provider within three semesters of revocation.

[6.65.3.7 NMAC - Rp, 6.65.3.7 NMAC, 10/29/2019; A, 6/8/2021]

#### **6.65.3.8 APPLICATION PROCESS FOR APPROVAL:**

**A.** EPP providers seeking a program revision for an existing department-approved EPP and EPP providers seeking initial approval of an EPP shall submit an EPP application to the department.

**B.** Applications shall provide the information outlined in the PPSC manual and meet the general requirements of 6.65.3.9 NMAC.

[6.65.3.8 NMAC - Rp, 6.65.3.8 NMAC, 10/29/2019]

#### **6.65.3.9 EDUCATOR PREPARATION PROGRAM GENERAL REQUIREMENTS:**

EPPs shall meet requirements in statute, regulation, and this section.

**A.** EPPs shall establish rigorous entry requirements, including a successful completion of the department's required background check and approval process.

**B.** EPPs shall ensure opportunities for clinical experiences, including culturally and linguistically responsive experiences, are provided continuously throughout candidates' enrollment. Clinical experiences shall:

(1) begin upon the candidate's entrance into an EPP;

(2) align with the area, subject, or category of certification or license being sought by the candidate, except that at least one of the clinical experiences may be in a diverse setting where indigenous students, students with disabilities, bilingual students, and English language learners attend school; and

(3) include at least one clinical experience where the candidate shall serve as a teacher in a school under the supervision of a cooperating teacher and plan and deliver independent instruction to students on a regularly scheduled basis.

**C.** EPPs shall ensure candidates embrace and execute their responsibility as educators to develop the skills and capacities to implement meaningful culturally and linguistically relevant practices for parent and family engagement, keeping families fully informed of their child's progress toward college-and-career readiness, on a regular basis, using objective measures in all subject areas, to include families where a language other than English is spoken.

**D.** EPPs shall establish partnerships with stakeholder groups to fulfill requirements related to clinical experiences and meet the needs of LEAs. At a minimum, partnerships shall include:

(1) classroom teachers;

(2) principals;

(3) superintendents;

(4) human resource directors;

(5) curriculum directors; and

(6) the EPP advisory board.

**E.** Programs for all teachers shall include instruction in pedagogy aligned with department standards pursuant to 6.61.2 NMAC through 6.61.12 NMAC, including culturally and linguistically relevant pedagogy that serves indigenous students, students with disabilities, bilingual students, and English language learners.

**F.** EPPs shall conduct a minimum of three formally documented observations that include verbal and written feedback on the candidate's practice.

(1) Observations and evaluations of candidates shall be aligned with the following four domains of EES to serve all New Mexico students, including indigenous students, students with disabilities, bilingual students, and English language learners:

- (a) planning and preparation;
- (b) creating an environment for learning;
- (c) teaching for learning; and
- (d) professionalism.

(2) Results of evaluations and observations shall inform program interaction with the candidate including feedback, placement, remediation, and support.

(3) Documentation of observations shall be stored by the EPP for a minimum of five years after candidate completion and shall be available to the completer and the department upon request.

**G.** EPP providers shall establish rigorous exit requirements in alignment with those required to seek licensure from the department. Exit requirements shall include, at a minimum, the following:

(1) successful demonstration of competency in all relevant areas, subjects, or categories of the New Mexico teacher assessments; and

(2) a written recommendation from the EPP that the candidate demonstrates the dispositions necessary for success in the classroom and other learning environments, including an understanding of culturally and linguistically relevant pedagogy.

**H.** EPP providers shall detail in the EPP application how the EPP provider plans to provide support to the candidates' completion of all teaching licensure requirements and department processes, including passage of all required assessments.

**I.** In a form approved by the department and no later than September 1, all EPPs shall annually submit candidate-level data required by the EAR. Failure to comply with data reporting and collection requests may result in revocation of the EPP's approval.

**J.** EPPs shall fully comply, in a timely manner, with all requirements that allow the department to generate the EAR and the comprehensive state approval.

[6.65.3.9 NMAC - Rp, 6.65.3.9 NMAC, 10/29/2019; A, 6/8/2021]

#### **6.65.3.10 EDUCATOR ACCOUNTABILITY REPORT:**

**A.** Each EPP's annual EAR shall include the following information on teacher and administrator education candidates and indicators of program success:

- (1) the standards for entering and exiting the program;

(2) the number of hours required for clinical experience, including student teaching and administrator internship;

(3) the schools and school districts in which candidates completed their clinical experience;

(4) the number and percentage of candidates needing developmental course work upon entering the program;

(5) the number and percentage of completers for each program;

(6) the number and types of degrees received by completers;

(7) the number and percentage of completers who pass the New Mexico teacher or administrator assessments for initial licensure on the first attempt;

(8) a description of each program's placement practices;

(9) the number and percentage of completers hired by New Mexico school districts; and

(10) the demographics of an EPP's candidates and completers.

**B.** The EAR shall include an evaluation plan that includes high performance objectives. The plan shall include objectives and measures for increasing the following:

(1) student achievement for all students, including indigenous students, students with disabilities, bilingual students, and English language learners;

(2) teacher and administrator retention, particularly in the first three years of a teacher's or administrator's career;

(3) the percentage of candidates who pass the New Mexico teacher assessments for initial licensure on the first attempt;

(4) the percentage of secondary school classes taught in core academic subject areas by teachers who demonstrate by means of rigorous content area assessments a high level of subject area mastery and a thorough knowledge of the state's academic content and performance standards;

(5) the percentage of elementary school classes taught by teachers who demonstrate by means of a high level of performance in core academic subject areas their mastery of the state academic content and performance standards, including those that address cultural and linguistic awareness;

(6) the number of teachers trained in math, science, and technology;

- (7) the number of teachers trained in special education;
- (8) the number of teachers teaching in low socioeconomic schools; and
- (9) the number of teachers retained in teaching in New Mexico;
- (10) the number of teachers in bilingual and English as a second language.

**C.** EPPs shall administer a completer survey within six months of completion that measures the completer's perception of their own readiness and individual effectiveness in the classroom.

**D.** EPPs shall initiate all necessary data requests to fill EAR requirements and shall be responsible for collecting, analyzing, and reporting data.

[6.65.3.10 NMAC - Rp, 6.65.3.10 NMAC, 10/29/2019; A, 6/8/2021]

#### **6.65.3.11 COMPREHENSIVE STATE APPROVAL SITE VISITS:**

EPPs shall fully cooperate with the comprehensive state approval process. The department shall develop and publish on the department website an EPP manual outlining the comprehensive site visit process that shall include all documents necessary for the state approval. Site visits shall occur every three years on a calendar determined by the department unless the status of a program, as outlined in 6.65.3.12 NMAC, changes in a way that merits more frequent visits.

**A.** The comprehensive state approval process shall assess the performance of the EPP on the four components of the quality review rubric:

- (1) curriculum design and delivery;
- (2) clinical experience;
- (3) candidate quality; and
- (4) continuous improvement.

**B.** The comprehensive state approval site visit shall include the following three elements:

(1) Self-evaluation. EPPs shall complete the self-evaluation documents in the EPP manual prior to the site visit. Documents shall be submitted to the department at least four weeks prior to the site visit. Documents shall include the following:

- (a) quality review rubric;

(b) quality review worksheets for each of the four key components on the quality review rubric; and

(c) data and other documentation listed as supplemental evidence in the EPP manual accompanied by any releases for such information, if necessary.

(2) Comprehensive state approval site visit. The certified review team shall conduct the site visit and review the EPP using the quality review rubric.

(3) Summative conference. The certified review team shall debrief the site visit with the EPP and present their initial findings.

C. At the end of the comprehensive state approval site visit, the EPP shall be assessed on its overall performance and shall be rated with one of the following site visit classifications defined in the EPP manual:

- (1) exemplary;
- (2) well-developed;
- (3) proficient;
- (4) developing; or
- (5) underdeveloped.

D. The certified review team shall release a final written report to the EPP containing the EPP's scores on each component of the quality review rubric and their overall performance no later than 90 calendar days after the comprehensive state approval site visit.

E. EPPs shall have 30 calendar days after receiving the report to submit a response, in writing, to the department to indicate any alleged factual errors and to provide any documentation deemed necessary to support the allegations. If, after review of the EPP's response, the department determines the error to be valid, the report shall be amended within 20 calendar days.

[6.65.3.11 NMAC - Rp, 6.65.3.11 NMAC, 10/29/2019; A, 6/8/2021]

#### **6.65.3.12 COMPREHENSIVE STATE APPROVAL PROCESS:**

The comprehensive state approval process shall determine whether an EPP earns approval for continued operation, is placed on probation, or has its approval revoked. The EPP status shall determine the frequency of comprehensive state approval site visits and the scope of EPP responsibilities. EPPs shall be notified of their status by the department no later than November 30 annually.



**A. Level one probation.** EPPs shall be placed on level one probation if the EPP fails to demonstrate progress toward meeting objectives included in its EAR or if the certified review team identifies an issue during the comprehensive state approval site visit resulting in an underdeveloped classification outlined in Subsection C of 6.65.3.11 NMAC. The secretary shall notify the EPP of level one probation status in writing no later than 30 calendar days after the EPP is placed on level one probation. Responsibilities of EPPs on level one probation shall include the following:

- (1)** participation in professional development and technical assistance prescribed by the department;
- (2)** development of an improvement plan that addresses program deficiencies that shall be submitted to the certified review team for approval within 90 calendar days of notification of level one probation status; and
- (3)** participation in department monitoring to ensure implementation and progress as outlined in the approved improvement plan.
- (4)** An EPP may exit level one probation after one academic year and upon fulfillment of its probationary responsibilities and demonstration of progress toward EAR objectives.
- (5)** Within two academic years, an EPP shall fulfill its level one probationary responsibilities and demonstration of progress toward EAR objectives. An EPP shall not be allowed to remain on level one probation for more than two academic years after initial level one probation status placement.

**B. Level two probation.** EPPs shall be placed on level two probation if the EPP fails to demonstrate substantial progress outlined in the improvement plan. The secretary shall notify the EPP of level two probation status in writing no later than 30 calendar days after the EPP is placed on level two probation. Responsibilities of EPPs on level two probation shall include the following:

- (1)** participation in professional development and technical assistance prescribed by the department;
- (2)** development or amendment of an improvement plan that addresses program deficiencies that shall be submitted to the certified review team for approval within 90 calendar days of notification of level two probation status;
- (3)** participation in department monitoring to ensure implementation and progress as outlined in the approved improvement plan; and
- (4)** participation in an annual state approval site visit until the EPP exits level two probation.

**(5)** An EPP may exit level two probation to level one probation after one academic year and upon fulfillment of its probationary responsibilities and demonstration of progress toward EAR objectives.

**(6)** Within two academic years, an EPP shall fulfill its level two probationary responsibilities and demonstration of progress toward EAR objectives. An EPP shall not be allowed to remain on level two probation for more than two academic years after initial level two probation status placement.

**C. Revocation.**

**(1)** The department may revoke an EPP's approval for any of the following reasons:

**(a)** not exiting level one or level two probation status within two academic years; or

**(b)** failing to meet reporting or compliance requirements as set forth by statute, department regulation, or guidance provided in department manuals.

**(2)** The department shall notify EPP providers of revocation in writing no later than 30 calendar days after the EPP's approval is revoked. Immediately upon receipt of a notice of revocation, the EPP provider shall do the following:

**(a)** cease recruitment and acceptance of new candidates;

**(b)** allow candidates enrolled in the EPP to complete the licensure program, provided they complete the program within three semesters of the notice of revocation; and

**(c)** work with candidates unable to complete the licensure program within three semesters by providing options for transfer to another EPP.

**(3)** An EPP provider that has received a notice of revocation may file a request for reconsideration by the department no later than 30 calendar days after the notice of revocation has been received.

**(a)** The department shall review the materials submitted by the EPP provider for reconsideration including written statements of position, documents, and comments supporting the claim.

**(b)** The department, after considering the request, shall make a decision and inform the EPP provider in writing of its decision within 60 calendar days of receipt of the request for reconsideration.

**(c)** The decision of the department shall be final.

(4) An EPP with revoked approval shall wait two years following the date of revocation before reapplying via the application process defined in 6.65.3.8 NMAC.

[6.65.3.12 NMAC - Rp, 6.65.3.12 NMAC, 10/29/2019; A, 6/8/2021]

## **PART 4: TEACHER LEADER DEVELOPMENT FRAMEWORK [REPEALED]**

[This part was repealed on September 24, 2024.]

# **CHAPTER 66: SCHOOL PERSONNEL - CONTRACTS**

## **PART 1: GENERAL PROVISIONS [RESERVED]**

## **PART 2: LICENSED SCHOOL INSTRUCTOR CONTRACT**

### **6.66.2.1 ISSUING AGENCY:**

Public Education Department.

[09-30-97, 07-30-99; 6.66.2.1 NMAC - Rn, 6 NMAC 4.3.1.1, 12-29-00; A, 10-31-06]

### **6.66.2.2 SCOPE:**

This rule applies to local school boards, charter schools, governing authorities of state agencies and licensed school instructors.

[09-30-97; 6.66.2.2 NMAC - Rn, 6 NMAC 4.3.1.2, 12-29-00; A, 10-31-06]

### **6.66.2.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 and 22-10A-21, NMSA 1978.

[09-30-97; 6.66.2.3 NMAC - Rn, 6 NMAC 4.3.1.3, 12-29-00; A, 10-31-06]

### **6.66.2.4 DURATION:**

Permanent

[09-30-97; 6.66.2.4 NMAC - Rn, 6 NMAC 4.3.1.4, 12-29-00]

### **6.66.2.5 EFFECTIVE DATE:**

May 30, 1998, unless a different date is cited at the end of a section.

[09-30-97, 05-30-98; 6.66.2.5 NMAC - Rn, 6 NMAC 4.3.1.5, 12-29-00]

**6.66.2.6 OBJECTIVE:**

To provide local school boards, charter schools, and governing authorities of state agencies with a form employment contract approved by the department for licensed school instructors in accordance with the requirements of Section 22-10A-21, supra.

[09-30-97; 6.66.2.6 NMAC - Rn, 6 NMAC 4.3.1.6, 12-29-00; A, 10-31-06]

**6.66.2.7 DEFINITIONS:**

A. "Department" means the public education department (PED).

B. "Local school board" or "board" means the governing body of a school district or charter school.

C. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.

[09-30-97; 6.66.2.7 NMAC - Rn, 6 NMAC 4.3.1.7, 12-29-00; A, 10-31-06]

**6.66.2.8 REQUIREMENTS:**

The board of education of \_\_\_\_\_, New Mexico, herein called board, and \_\_\_\_\_ herein called instructor, agree:

A. The board employs the instructor for the school years(s) \_\_\_\_ - \_\_\_\_ beginning \_\_\_\_\_, \_\_\_\_\_, and ending on the date specified by the board in its calendar for the \_\_\_\_ - \_\_\_\_ school year, subject to adjustment for required makeup days.

B. The instructor shall present himself or herself for duty at such times and places as designated by the superintendent or his (her) authorized personnel.

C. In accordance with the board's approved salary schedule, for use during the school year \_\_\_\_ - \_\_\_\_\_, the instructor's salary based upon the following factors: \_\_\_\_\_ degree, \_\_\_\_\_ additional approved semester hours, and \_\_\_\_\_ years of allowable experience is \$ \_\_\_\_\_, plus special increment(s) of \$ \_\_\_\_\_, less required or authorized deductions. All of the above are subject to verification and, in the event of any error or incorrect computation, appropriate adjustment of this contract will be made after consultation with the instructor. The contract salary for the school year \_\_\_\_ - \_\_\_\_\_, shall be paid the instructor in \_\_\_\_\_ installments. The first installment shall be due and payable on \_\_\_\_\_, \_\_\_\_\_. The contract salary for the school year

\_\_\_\_\_ - \_\_\_\_\_ is based upon a school year of: \_\_\_\_\_ teaching days plus \_\_\_\_\_ non-teaching days for a total of \_\_\_\_\_ working days and subject to the approved budget. For each day's absence from duty not included in sick leave or otherwise compensated for, deductions shall be made in accordance with the rules and regulations of the board. In the event that the instructor is employed on a two (2) or three (3) year contract, Subsection C. of Section 6.66.2.8 NMAC herein may be amended in the second and/or third year(s) to reflect any appropriate district salary adjustment factors. The board may, but shall not be required to, increase prospectively, but not retroactively, the salary for any school year governed by the terms of this contract if revenues are available to the school district for that school year. Any increase is subject to budgetary approval by the department. Notwithstanding the above, the board shall further have the authority, for any school year governed by the terms of this contract and for which a salary increase is mandated if the school district meets conditions as specified by the legislature of New Mexico, to implement salary adjustments during the school year in accordance with a salary schedule adopted by the board in accordance with the legislative guidelines for that year. Any adjustment is subject to budgetary approval by the department.

D. This contract and the parties hereto are and shall continue to be subject to applicable laws of the state of New Mexico and the rules and regulations of the department and local board of education as they may exist. This contract may be cancelled by the board for cause, including unsatisfactory work performance, incompetence, insubordination, physical or mental inability to perform the required duties or for any other good and just cause, provided, that any such cancellation may be effected only in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education.

E. This contract may also be cancelled by the board for cause not personal to the instructor when a reduction in personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or insufficient legislative appropriation or authorization being made by the state and/or federal government for the performance of this contract, in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education, provided there is no other position for which the instructor is qualified, consistent with the academic necessities of the district.

F. The instructor shall give the board thirty (30) calendar days written notice of intention to resign. Failure to give such thirty (30) calendar day notice shall entitle the board, in its discretion, to file a written complaint with the secretary requesting suspension or revocation of the instructor's license.

G. The instructor shall furnish the board the following: (a) a valid license for the position to be held; (b) an official transcript showing the education record and training of the instructor, (c) suitable evidence of date of birth; (d) such health certificates as may be required by law; and (e) any other documents as may be required by law. Failure to furnish any of the foregoing items at the required time may result in cancellation of this

contract in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education.

H. The instructor shall accept or reject the contract of offer of employment within fifteen (15) calendar days from receipt of such offer of employment.

I. BOARD OF EDUCATION OF \_\_\_\_\_ New Mexico

By: President \_\_\_\_\_ Secretary \_\_\_\_\_ Date  
of Execution \_\_\_\_\_ Instructor \_\_\_\_\_ Date of  
Execution \_\_\_\_\_.

[09-30-97, 05-30-98; 6.66.2.8 NMAC - Rn, 6 NMAC 4.3.1.8, 12-29-00; A, 10-31-06]

### **PART 3: LICENSED SCHOOL ADMINISTRATOR CONTRACT**

#### **6.66.3.1 ISSUING AGENCY:**

Public Education Department.

[09-30-97, 07-30-99; 6.66.3.1 NMAC - Rn, 6 NMAC 4.3.2.1, 12-29-00; A, 10-31-06]

#### **6.66.3.2 SCOPE:**

This rule applies to local school boards, charter schools, and licensed school administrators.

[09-30-97; 6.66.3.2 NMAC - Rn, 6 NMAC 4.3.2.2, 12-29-00; A, 10-31-06]

#### **6.66.3.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1, and 22-10A-21 NMSA 1978.

[09-30-97; 6.66.3.3 NMAC - Rn, 6 NMAC 4.3.2.3, 12-29-00; A, 10-31-06]

#### **6.66.3.4 DURATION:**

Permanent

[09-30-97; 6.66.3.4 NMAC - Rn, 6 NMAC 4.3.2.4, 12-29-00]

#### **6.66.3.5 EFFECTIVE DATE:**

May 30, 1998, unless a different date is cited at the end of a section.

[09-30-97, 05-30-98; 6.66.3.5 NMAC - Rn, 6 NMAC 4.3.2.5, 12-29-00]

**6.66.3.6 OBJECTIVE:**

To provide local school boards and charter schools with a form employment contract approved by the public education department for licensed school administrators in accordance with the requirements of Section 22-10A-21, supra.

[09-30-97; 6.66.3.6 NMAC - Rn, 6 NMAC 4.3.2.6, 12-29-00; A, 10-31-06]

**6.66.3.7 DEFINITIONS:**

A. "Department" means the public education department (PED).

B. "Local school board" or "board" means the governing body of a school district or charter school.

C. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.

[09-30-97; 6.66.3.7 NMAC - Rn, 6 NMAC 4.3.2.7, 12-29-00; A, 10-31-06]

**6.66.3.8 REQUIREMENTS:**

A. All administrator contracts shall be uniform and shall substantially conform to the model set forth below, with proper names being inserted where generic description are currently found. As used herein, "substantially conform" means that all administrative contracts shall at a minimum contain the following caption, terms, and signatories, and be subject to appropriate editing and word insertion in place of the blanks:

(1) (caption) The board of education of \_\_\_\_\_, New Mexico, herein called board, and \_\_\_\_\_, herein called administrator, agree:

(2) (term) The administrator shall be employed by the board for a period beginning \_\_\_\_\_, \_\_\_\_\_, and ending \_\_\_\_\_, \_\_\_\_\_, as \_\_\_\_\_ of the school district, county of \_\_\_\_\_, New Mexico.

(3) (term) The administrator shall during the term of his (her) employment faithfully perform the duties pertaining to his (her) position, administer the duties assigned by the superintendent of the school district, and abide by the rules and regulations of the department and local board of education.

(4) (term) This contract and the parties hereto are and shall continue to be subject to applicable laws of the state of New Mexico and the rules and regulations of the department and local board of education as they may exist. This contract may be canceled by the board for cause, including unsatisfactory work performance, incompetence, insubordination, physical or mental inability to perform the required duties or for any other good and just cause, provided, that any such cancellation may be effected only in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education.

(5) (term) This contract may also be canceled by the board for cause not personal to the administrator when a reduction in personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or insufficient legislative appropriation or authorization being made by the state and/or federal government for the performance of this contract, in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education, provided there is no other position for which the administrator is qualified, consistent with the academic necessities of the district.

(6) (term) The administrator shall give the board thirty (30) calendar days written notice of intention to resign. Failure to give such thirty (30) calendar day notice shall entitle the board, in its discretion, to file a written complaint with the secretary requesting suspension or revocation of the administrator's license.

(7) (term) The administrator shall furnish the board the following: (a) a valid license for the position to be held; (b) an official transcript showing the education record and training of the administrator, (c) suitable evidence of date of birth; (d) such health certificates as may be required by law; and (e) any other documents as may be required by law. Failure to furnish any of the foregoing items at the required time may result in cancellation of this contract in accordance with the New Mexico statutes and any applicable rules and regulations of the department and local board of education.

(8) (term) The administrator shall be entitled to \_\_\_\_\_ working days per year as annual leave with pay. Unused annual leave may be accumulated to a total of not more than \_\_\_\_\_ working days, but upon cancellation of this contract, no payment shall be made for more than \_\_\_\_\_ days of unused annual leave. The administrator shall be entitled to sick leave with pay for a total of not more than \_\_\_\_\_ working days per year. Unused sick leave may be accumulated to a total of not more than \_\_\_\_\_ working days.

(9) (term) Subject to the provisions of the applicable approved budget, the administrator shall, during the term hereof, receive a salary of \$ \_\_\_\_\_ per year, payable in \_\_\_\_\_ installments, less required or authorized deductions. The first installment shall be due and payable on \_\_\_\_\_, \_\_\_\_\_.

(10) (term) In the event that the administrator is employed on a two (2) year contract, Paragraph 9 of Subsection A of Section 6.66.3.8 NMAC herein may be



amended in the second year to reflect any appropriate district salary adjustment factors. The board may, but shall not be required to, increase prospectively, but not retroactively, the salary for any school year governed by the terms of this contract if revenues are available to the school district for that school year. Any increase is subject to budgetary approval by the department. Notwithstanding the above, the board shall further have the authority, for any school year governed by the terms of this contract and for which a salary increase is mandated if the school district meets conditions as specified by the legislature of New Mexico, to implement salary adjustments during the school year in accordance with a salary schedule adopted by the board in accordance with the legislative guidelines for that year. Any adjustment is subject to budgetary approval by the department. Additionally, the board shall have authority to implement any salary increases or other adjustments to benefits and compensation provided by the legislature of New Mexico.

(11) (signatories) BOARD OF EDUCATION OF  
\_\_\_\_\_ New Mexico BY: \_\_\_\_\_ President  
\_\_\_\_\_ Date of Execution \_\_\_\_\_  
\_\_\_\_\_ Secretary  
\_\_\_\_\_ Date of Execution \_\_\_\_\_ Administrator  
\_\_\_\_\_ Date of Execution \_\_\_\_\_.

B. No administrator contract, including any amendment or addendum, shall be signed, entered into, or executed that permits the payment of monies, dividends, differentials, bonuses, incentives, salary, wages, or renewal inducements where the payment is neither tied nor traceable to services actually rendered.

C. No administrator contract, including any amendment or addendum, shall be signed, entered into, or executed that has not first been properly noticed and voted on openly at a public meeting held pursuant to the Open Meetings Act (10-15-1 to 10-15-4, NMSA 1978).

D. Compliance with this section shall be subject to periodic review by the department.

E. The department may take such action it deems necessary depending on the degree of noncompliance with this rule, including but not limited to, notifying the state auditor or other appropriate authorities, directing the district to cease and desist, directing the district to collect any improperly spent public funds, or imposing a budgetary codicil.

[09-30-97, 05-30-98; 6.66.3.8 NMAC - Rn, 6 NMAC 4.3.2.8, 12-29-00; A, 08-15-03; A, 10-31-06]

#### **PART 4: REQUIREMENTS FOR SABBATICAL LEAVE AND SABBATICAL LEAVE CONTRACTS**

**6.66.4.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98; 07-30-99; 6.66.4.1 NMAC - Rn, 6 NMAC 4.3.3.1, 12-29-00; A, 10-31-06]

**6.66.4.2 SCOPE:**

This rule applies to local school boards, governing authorities of charter schools and state agencies, and licensed school employees.

[12-31-98; 6.66.4.2 NMAC - Rn, 6 NMAC 4.3.3.2, 12-29-00; A, 10-31-06]

**6.66.4.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1, 22-10A-21, 21-10A-35, 22-10A-36, and 22-10A-37, NMSA 1978.

[12-31-98; 6.66.4.3 NMAC - Rn, 6 NMAC 4.3.3.3, 12-29-00; A, 10-31-06]

**6.66.4.4 DURATION:**

Permanent

[12-31-98; 6.66.4.4 NMAC - Rn, 6 NMAC 4.3.3.4, 12-29-00]

**6.66.4.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.66.4.5 NMAC - Rn, 6 NMAC 4.3.3.5, 12-29-00]

**6.66.4.6 OBJECTIVE:**

To provide local school boards and governing authorities of state agencies with requirements for sabbatical leave and form sabbatical leave contracts in accordance with the requirements of Sections 22-10A-21, 21-10A-35, 22-10A-36, and 22-10A-37, NMSA 1978.

[12-31-98; 6.66.4.6 NMAC - Rn, 6 NMAC 4.3.3.6, 12-29-00; A, 10-31-06]

**6.66.4.7 DEFINITIONS:**

**[RESERVED]**

[12-31-98; 6.66.4.7 NMAC - Rn, 6 NMAC 4.3.3.7, 12-29-00]

#### **6.66.4.8 REQUIREMENTS:**

Boards of education contemplating granting sabbatical leave to teachers shall submit the following information to the PED:

- A. Degree plan of employee or travel itinerary plus a narrative statement by the local superintendent explaining how this experience will benefit the school district and how it is related to the applicant's position with the school district.
- B. Salary of employee on sabbatical leave.
- C. Name and salary of replacement for teacher on sabbatical leave.
- D. Verification of employee having completed at least six years of continuous service in a certified capacity with the school district.
- E. A copy of the contractual agreement between the school district and the employee guaranteeing all requirements of Sections 22-10A-21, 21-10A-35, 22-10A-36, and 22-10A-37, NMSA 1978, shall be met.
- F. No leave may be approved by a school district until approval of the proposal has been granted by the secretary of education.

[12-31-98; 6.66.4.8 NMAC - Rn, 6 NMAC 4.3.3.8, 12-29-00; A, 10-31-06]

#### **6.66.4.9 SABBATICAL LEAVE CONTRACT:**

A. The board of education of \_\_\_\_\_, New Mexico, hereinafter referred to as board, and \_\_\_\_\_, certified (licensed) employee, herein referred to as employee, agree:

(1) Employee desires to take a sabbatical leave for the purposes of study or travel related to employee's duties. The program of study or travel proposed by employee, a copy of which is attached as exhibit I, has been reviewed and approved by the board.

(2) The board desires that employee be granted the sabbatical leave because the employee's sabbatical leave program has been shown to be related to the employee's duties and to be of direct benefit to the school district. A copy of the statement of the superintendent of the \_\_\_\_\_ school district explaining how the employee's program is related to employee's duties and how it will directly benefit the school district is attached as exhibit II.

(3) The term of this contract shall be from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_.

(4) The parties certify that the employee has completed \_\_\_\_ years of continuous service in a certified capacity as an employee of the \_\_\_\_\_ school district.

(5) Employee agrees that upon completion of the sabbatical leave period herein provided, employee will return to (his) (her) duties with the \_\_\_\_\_ school district for two (2) years following the leave. If employee fails to fulfill this requirement, employee agrees to repay in full to the school district the salary received during the period of leave, such repayment being liquidated damages for breach of the contract.

(6) Upon return to the school system on completion of the sabbatical leave period, employee will be placed in an equivalent or better position by the board.

(7) The board will treat the sabbatical leave period as part of the employee's length of service in the computation of future length of service increments, if the board provides for such increments in its salary schedule.

(8) During the period of leave the employee may continue participation in the education retirement plan by making appropriate contributions as agreed by the board and the educational retirement board.

(9) The board agrees to pay the employee an amount equal to \_\_\_\_ per cent of employee's regular salary, said payment to be made in the following manner: [Use one of the following:]

(a) one-half (1/2) to be paid at the end of the first year after return and one-half (1/2) at the end of the second year after return; OR

(b) during the term of the leave upon the furnishing of security satisfactory to the board assuring the employee's remaining in the system for two (2) years after the leave or repayment to the school district of the salary received during the period of leave.

B. This contract must be approved by the secretary of education or (his) (her) designee before it becomes binding on either of the parties. BOARD OF EDUCATION

OF \_\_\_\_\_ BY: \_\_\_\_\_ President  
\_\_\_\_\_ Date of Execution \_\_\_\_\_ Secretary  
\_\_\_\_\_ Date of Execution \_\_\_\_\_ Employee  
\_\_\_\_\_

Date of Execution \_\_\_\_\_.

APPROVED BY: SECRETARY OF EDUCATION

\_\_\_\_\_ Date \_\_\_\_\_

[12-31-98; 6.66.4.9 NMAC - Rn, 6 NMAC 4.3.3.9, 12-29-00; A, 10-31-06]

## **CHAPTER 67: SCHOOL PERSONNEL - HIRING AND TERMINATION**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: GOVERNING NOTICE OF REEMPLOYMENT OR TERMINATION OF LICENSED SCHOOL INSTRUCTORS**

#### **6.67.2.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.67.2.1 NMAC - Rn, 6 NMAC 4.4.1.1, 12-29-00; A, 10-31-06]

#### **6.67.2.2 SCOPE:**

This rule applies to local school boards, governing bodies of charter schools, and governing authorities of state agencies and licensed school instructors.

[12-31-98; 6.67.2.2 NMAC - Rn, 6 NMAC 4.4.1.2, 12-29-00; A, 10-31-06]

#### **6.67.2.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 22-2-2, 22-5-14, 22-10A-22, and 22-10A-23 NMSA 1978.

[12-31-98; 6.67.2.3 NMAC - Rn, 6 NMAC 4.4.1.3, 12-29-00; A, 10-31-06]

#### **6.67.2.4 DURATION:**

Permanent

[12-31-98; 6.67.2.4 NMAC - Rn, 6 NMAC 4.4.1.4, 12-29-00]

#### **6.67.2.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.67.2.5 NMAC - Rn, 6 NMAC 4.4.1.5, 12-29-00]

#### **6.67.2.6 OBJECTIVE:**

This rule establishes requirements for providing written notice of reemployment or termination to licensed school instructors employed by local school districts or state agencies.

[12-31-98; 6.67.2.6 NMAC - Rn, 6 NMAC 4.4.1.6, 12-29-00; A 10-31-06]

#### **6.67.2.7 DEFINITIONS:**

- A. "Department" means the public education department (PED).
- B. "Local school board" or "board" means the governing body of a school district or charter school.
- C. "'Local superintendent" means the chief executive office of a school district or charter school.
- D. "Notice of reemployment" means a written offer of employment for the ensuing school year.
- E. "Notice of termination" means written notice that a licensed school employee will not be reemployed for the ensuing school year.
- F. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.
- G. "Tenured" means a licensed school instructor, who has been employed by the same employer for three consecutive years or more.

[12-31-98; 6.67.2.7 NMAC - Rn, 6 NMAC 4.4.1.7, 12-29-00; A, 10-31-06]

#### **6.67.2.8 REQUIREMENTS:**

A. Prior to the end of each school year, the local school board, local superintendent, or the governing authority of the state agency shall serve written notice of reemployment or termination on each licensed school instructor employed by the school district or state agency.

(1) A notice or reemployment shall be served on or before the last day of the school year.

(2) A notice of termination shall be served on or before the fourteenth calendar day prior to the last day of the school year.

B. Each licensed school instructor shall deliver to the local school board, local superintendent or to the governing authority of the state agency in which the person is

employed a written acceptance or rejection of reemployment for the ensuing school year within fifteen days from either:

(1) the date written notice of reemployment has been served upon the individual; or

(2) the last day of the school year when no written notice of reemployment or termination has been served upon the individual on or before the last day of the school year.

C. Delivery of the written acceptance of reemployment by a licensed school instructor creates a binding employment contract between the licensed school instructor and the local school board or the governing authority of the state agency until the parties enter into a formal written employment contract. Written employment contract between local school boards or governing authorities of state agencies and certified school instructors shall be executed by the parties not later than ten days before the first day of a school year.

[12-31-98; 6.67.2.8 NMAC - Rn, 6 NMAC 4.4.1.8, 12-29-00; A, 10-31-06]

#### **6.67.2.9 FAILURE TO PROVIDE NOTICE TO TENURED LICENSED EMPLOYEES:**

Failure to provide written notice of termination to tenured licensed staff fourteen days on or before the last day of the school year shall be deemed prejudicial, unless good cause for the failure is shown by the employer, and may be sufficient cause for reversal at any termination hearing or review before an independent arbitrator.

[6.67.2.9 NMAC -N , 10-31-06]

### **PART 3: TERMINATION OR DISCHARGE OF LICENSED SCHOOL PERSONNEL WHEN REDUCTION IN PERSONNEL IS REQUIRED**

#### **6.67.3.1 ISSUING AGENCY:**

Public Education Department.

[12-31-98, 07-30-99; 6.67.3.1 NMAC - Rn, 6 NMAC 4.4.2.1, 12-29-00; A, 10-31-06]

#### **6.67.3.2 SCOPE:**

This rule applies to local school boards, governing bodies of charter schools, and licensed school personnel.

[12-31-98; 6.67.3.2 NMAC - Rn, 6 NMAC 4.4.2.2, 12-29-00; A, 10-31-06]

### **6.67.3.3 STATUTORY AUTHORITY:**

This rule is adopted pursuant to Sections 22-2-1 22-2-2, and 22-10A-21, NMSA 1978.

[12-31-98; 6.67.3.3 NMAC - Rn, 6 NMAC 4.4.2.3, 12-29-00; A, 10-31-06]

### **6.67.3.4 DURATION:**

Permanent

[12-31-98; 6.67.3.4 NMAC - Rn, 6 NMAC 4.4.2.4, 12-29-00]

### **6.67.3.5 EFFECTIVE DATE:**

December 31, 1998, unless a later date is cited at the end of a section.

[12-31-98; 6.67.3.5 NMAC - Rn, 6 NMAC 4.4.2.5, 12-29-00]

### **6.67.3.6 OBJECTIVE:**

This rule establishes requirements for the termination or discharge of licensed school personnel when a reduction in personnel is required.

[12-31-98; 6.67.3.6 NMAC - Rn, 6 NMAC 4.4.2.6, 12-29-00; A, 10-31-06]

### **6.67.3.7 DEFINITIONS:**

A. "Department" means the public education department (PED).

B. "Discharge" means the act of severing the employment relationship prior to the expiration of the current employment contract.

C. "Local school board" or "board" means the governing body of a school district or charter school.

D. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.

E. "Terminate" means, in the case of a licensed school employee, the act of reemploying an employee for the ensuing school year.

[12-31-98; 6.67.3.7 NMAC - Rn, 6 NMAC 4.4.2.7, 12-29-00; A, 10-31-06]

### **6.67.3.8 REQUIREMENTS:**



Local school boards shall have the right to discharge or terminate licensed school personnel when a reduction in school personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or insufficient legislative appropriation or authorization being made by the state and/or federal government, provided that:

A. local school boards have a reduction in personnel policy in place and comply with those procedures;

B. the discharge or termination is made in accordance with the School Personnel Act (Chapter 22, Article 10A NMSA 1978), any applicable rules and regulations of the department and local board of education, and any applicable collective bargaining agreements; and

C. a local school board has considered placement of the licensed school employee in another position, and there is no other position for which that individual is qualified, consistent with the academic necessities of the district.

[12-31-98; 6.67.3.8 NMAC - Rn, 6 NMAC 4.4.2.8, 12-29-00; A, 10-31-06]

## **CHAPTER 68: SCHOOL PERSONNEL - DENIAL, SUSPENSION, AND REVOCATION OF LICENSE**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: DENIAL OF APPLICATIONS FOR LICENSES FOR SCHOOL PERSONNEL**

#### **6.68.2.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.68.2.1 NMAC - Rp. 6 NMAC 4.2.4.4.1, 11-30-05; A, 01-29-10]

#### **6.68.2.2 SCOPE:**

This rule governs the denial of applications for licenses and certificates for school personnel enumerated in Section 22-10A-3A NMSA 1978.

[6.68.2.2 NMAC - Rp, 6 NMAC 4.2.4.4.2, 11-30-05]

#### **6.68.2.3 STATUTORY AUTHORITY:**

Sections 22-2-1B, NMSA 1978; 22-2-2J, K, NMSA 1978; 22-10A-31, NMSA 1978; and 61-1-1 et seq., NMSA 1978.

[6.68.2.3 NMAC - Rp, 6 NMAC 4.2.4.4.3, 11-30-05]

**6.68.2.4 DURATION:**

Permanent

[6.68.2.4 NMAC - Rp, 6 NMAC 4.2.4.4.4, 11-30-05]

**6.68.2.5 EFFECTIVE DATE:**

November 30, 2005, unless a later date is cited at the end of a section.

[6.68.2.5 NMAC - Rp, 6 NMAC 4.2.4.4.5, 11-30-05]

**6.68.2.6 OBJECTIVE:**

This rule, adopted by the PED, governs the application process for initial issuance or continuing licensure of all types of licenses and certificates issued by the PED, as well as the denial of such applications. Applicants must also meet all requirements prescribed in PED rules governing each type and level of license or certificate sought.

[6.68.2.6 NMAC - Rp, 6 NMAC 4.2.4.4.6, 11-30-05; A, 01-29-10]

**6.68.2.7 DEFINITIONS:**

A. "Continuing education requirements" when used in regards to teachers means meeting the high objective uniform statewide standard of evaluation for the type and level of licensure for which an applicant has applied as set forth in 6.69.4.11 NMAC and required under Subsection B of 22-10A-10 NMSA or Subsection B of 22-10A-11.3 NMSA 1978, depending upon the license held. When used in regard to school administrators, the term means meeting the high objective uniform statewide standard of evaluation under Subsection E of 22-10A-11 NMSA 1978, or all of the requirements for provisional licensure for school principals in 22-10A-11.3 NMSA 1978, depending upon the license held.

B. "Criminal history" means convictions of any felonies or misdemeanors of moral turpitude, or other information concerning a person's arrests, indictments, other formal criminal charges and any dispositions arising therefrom, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the FBI, the national law enforcement telecommunications system, the New Mexico department of public safety (NMDPS), or the repositories of criminal history information of other states.

C. "Denial of application" means the PED's rejection of an individual's properly made application for initial or continuing licensure due to incompetency, immorality, failure to satisfy the PED's licensure requirements, failure to demonstrate the

competencies required for the level of licensure sought, or for any other good and just cause including, but not limited to, any of the grounds set forth in this rule.

D. "Ex parte communications" means any oral, written or electronic communications between one party (or their attorney) and the hearing officer, or as between one party (or their attorney) and the secretary of the PED, (secretary), that occur out of the presence or without the consent of the opposing party (or their attorney). Communications included in this definition, in addition to direct communications, include indirect communications as where a party requests or suggests to a non-party to contact the hearing officer or the secretary on any matter and for any reason related to a pending licensure case where a notice of contemplated action has been served on an applicant for licensure pursuant to this rule. Ex parte communications also occur when individuals sympathetic to one party make oral, written or electronic communications to the hearing officer or the secretary that occur out of the presence or without the consent of the opposing party (or their attorney) in any matter and for any reason related to a pending licensure case where a notice has been served on an applicant for licensure pursuant to this rule.

E. "Licensure" means a license issued by the PED authorizing a person to teach, supervise an instructional program, counsel, provide special instructional services, coach, provide health care, administer medication, perform medical procedures, or administer in the public schools of the state. A certificate and license issued by the PED are one and the same.

F. "Properly made application" means an application for initial licensure or continuing licensure that has been filled out in full and for which all the required fees and documentation, including but not limited to background information and official transcripts, have been submitted. In addition, a properly made application means the applicant must have fulfilled all academic requirements for the type and level of licensure sought.

G. "Superintendent" means the chief licensed administrator of a public school district and in the case of a state agency or private school, the governing authority of that agency or private school.

H. "Transcript of the hearing" means a verbatim copy of the statements made by anyone during hearings held under 6.68.2.15 NMAC of this rule and the Uniform Licensing Act, NMSA 1978, 6-1-1et seq. (hereinafter, "ULA"). A transcript may be either stenographically recorded or tape recorded.

[6.68.2.7 NMAC - Rp, 6 NMAC 4.2.4.4.7, 11-30-05; A, 01-29-10]

#### **6.68.2.8 APPLICATIONS FOR LICENSURE-COMPLETION OF FILE AND REAPPLICATION:**

A. The professional licensure bureau, PLB of the PED shall prescribe the form(s) for applications for initial and continuing licensure of school personnel in New Mexico.

B. All applicants for initial or continuing licensure shall meet the requirements of PED rules governing the type(s) and level(s) of license(s) sought that are in effect on the date an application on the prescribed form is received by the PLB regardless of the expiration date on any existing license they may hold.

C. Individuals requesting continuing licensure must submit a request in writing on the current form prescribed by the PLB by the June 30 expiration date of such license(s). However, a licensed individual shall have a one-year grace period from the date of expiration to apply for continuing licensure. Notwithstanding the foregoing, an individual whose license has expired on June 30 and is employed for the coming school year must have submitted a properly made application within 90 days of commencing their school employment duties for that year in accordance with Subsection C of Section 22-10A-3 NMSA 1978. Moreover, in no event shall the application for continuing licensure be submitted sooner than January 1 of the expiration year.

D. An application for initial or continuing licensure shall be valid for one year from receipt, during which time the applicant must ensure that the PLB has a properly made application with all the information necessary to determine their qualifications for the license(s) and level(s) sought therein. When the PLB reviews an application and determines that it is improperly made, it shall notify the applicant regarding what is required for the application to be properly made. If an application remains improperly made for one year from the date of receipt, the application shall expire without any further action required by the PED.

E. Once an application for initial or continuing licensure expires, the applicant seeking licensure shall be required to file a new application for licensure for the license(s) and level(s) sought and to pay the initial application fee. Such individual must qualify under existing PED rules as of the date of the new application. However, this subsection does not affect individuals filing for continuing licensure during the one-year grace period granted in Subsection C of 6.68.2.8 NMAC.

[6.68.2.8 NMAC - Rp, 6 NMAC 4.2.4.4.8, 11-30-05; A, 01-29-10]

#### **6.68.2.9 FAILURE TO SATISFY LICENSURE REQUIREMENTS:**

A. The PLB shall deny any properly made application for initial or continuing licensure as defined in Subsection F of 6.68.2.7, where an applicant has failed to satisfy all testing or competency requirements specified in PED rules governing the type(s) and level(s) of licensure sought.

B. An aggrieved applicant may request that the secretary review the denial of a license or continuing licensure for failure to satisfy prescribed continuing education or academic requirements. The secretary shall have sixty (60) days from the date of the

request to review the denial and render a decision. The secretary's decision on review shall be final.

C. An applicant for initial or continuing licensure who has taken all required examinations and whose properly made application has been denied shall be afforded all the procedural and substantive due process rights contained in this rule, 6.68.2 NMAC and the ULA, Section 61-1-1 NMSA 1978, except applications denied for the following reasons:

- (1) failure to pass a required examination;
- (2) failure to pay the required application fee;
- (3) failure to meet continuing education requirements as defined in Subsection B of 6.68.2.7 NMAC; or
- (4) issuance of a temporary license extension if authorized by the School Personnel Act, Section 22-10A-1, NMSA 1978.

[6.68.2.9 NMAC - Rp, 6 NMAC 4.2.4.4.9, 11-30-05; A, 01-29-10]

#### **6.68.2.10 DENIAL OF APPLICATIONS:**

A. Other grounds for denial of applications: Subject to the procedures set forth below, the educator ethics bureau (EEB), or the PLB may deny an application for initial or continuing licensure for incompetency, immorality or for any other good and just cause. "Other good and just cause" may include but shall not be limited to any of the following:

- (1) a material misstatement of fact by an applicant in connection with the initial licensure application process or the continuing licensure application process; or
- (2) the denial of an application for licensure or the suspension or revocation of an applicant's educational or other relevant professional certificate(s) or license(s) by the certification or licensing authorities of this or any other state or by a national licensing board or bureau; or
- (3) material noncompliance with any provision(s) of PED rules prescribing the terms and conditions of employment contracts for licensed school personnel in New Mexico at a time when the person charged was subject to those rules; or
- (4) a willful violation of any PED rule prescribing standards of conduct for licensed school personnel at a time when the person charged was subject to such requirement; or

(5) a conviction of any felony or a misdemeanor involving moral turpitude, subject to the provisions of the Criminal Offender Employment Act, Section 28-2-1, et seq., NMSA 1978; or

(6) a failure to comply with a judgment and order for support pursuant to the Parental Responsibility Act, Section 40-5A-1, NMSA 1978; or

(7) the intentional alteration of any college transcripts or any license issued by the PED in connection with any private or public employment or in any dealings with the PED; or

(8) the failure or refusal by an applicant for licensure with a criminal history to timely provide documents requested by the PED evidencing applicant's rehabilitation, satisfaction of court orders or successful termination of probation; or

(9) failing to meet the continuing education requirements for level 2 competencies where a local superintendent recommends to the secretary that the teacher's level 2 license be suspended in accordance with 6.69.4 NMAC.

B. Reporting requirements: Every school superintendent or the person designated by the governing authorities of state agencies, private schools or charter schools shall provide written notification to the director of EEB or PLB (director) of purported facts reasonably believed by a superintendent to constitute grounds under this rule for denial of an educator license or continuing licensure. At a minimum, the written notification shall include the name and address of the individual, the personnel action taken by the school district, if any, and a statement of reasons for the action. The following are not justifications for failing to report this information to the director: whether or not the personnel action is final; whether or not the personnel action was taken by a different school district; whether or not the licensed person resigned from a different school district pending investigation for misconduct; whether or not a person has been licensed for three (3) or more years; whether or not any adverse personnel action is/was reversed. Written notification shall be made to the director within 30 calendar days of the sooner of any adverse personnel action or discovering purported facts reasonably believed to constitute grounds for licensure denial. Failure of a superintendent to provide such written notification to assist the PED's licensure process shall not bar the PED from denying an application or serving notice on an applicant.

C. Recommendation for denial of application.

(1) If the director of the EEB or PLB concludes that sufficient grounds exist under Subsection A of 6.68.2.10 NMAC to serve a notice on the applicant, the procedures set forth in 6.68.2.12 NMAC shall be initiated subject to the approval of the assistant secretary for educator quality. In all other cases, the license(s) applied for shall be issued unless the applicant fails to qualify as provided in 6.68.2.9 NMAC or in Paragraph (2) of Subsection C below.

(2) If a statement from a local superintendent that an applicant has failed to satisfactorily demonstrate the competencies required by the PED for the level of license sought or held is received by the director of the PLB pursuant to Subsection A of 6.68.2.11 NMAC, the following procedures shall be followed unless the applicant otherwise fails to qualify pursuant to 6.68.2.9 or Subsection A of 6.68.2.10 NMAC:

(a) the director shall review the local superintendent's finding that the applicant has not satisfactorily demonstrated the required competencies for the level of license sought or held; and

(b) if the director finds substantial evidence that the superintendent or governing authority failed to comply with 6.68.2.11 NMAC, the director shall issue the license; or

(c) if the director finds that the local superintendent has complied with 6.68.2.11 NMAC and the applicant is either a level 1 licensee who is completing the fifth (5th) and final year of level 1 or a level 2 or 3 licensee who is subject to losing their level 2 or 3 licensure, then the director shall cause the notice, pre-hearing, hearing and secretary review procedures set forth in 6.68.2.12 NMAC and the ULA to be initiated. In all other cases where the director finds that the local superintendent has complied with 6.68.2.11 NMAC, the director shall notify the applicant of that finding within 14 days and the applicant shall then have 30 days to request that the secretary review the director's finding. In such case, the secretary shall have 30 days to review the director's finding and the secretary's decision shall be final.

[6.68.2.10 NMAC - Rp, 6 NMAC 4.2.4.4.10, 11-30-05; A, 01-29-10]

**6.68.2.11 PROCEDURES REQUIRED OF A LOCAL SCHOOL BOARD OR GOVERNING AUTHORITY BEFORE GIVING NOTICE TO THE DIRECTOR OF THE PROFESSIONAL LICENSURE BUREAU THAT AN APPLICANT HAS NOT SATISFACTORILY DEMONSTRATED THE COMPETENCIES REQUIRED FOR THE LEVEL OF LICENSURE SOUGHT:**

A. Before notice is given to the director of the PLB that an applicant has not satisfactorily demonstrated the competencies required for the level of licensure sought, the following procedures must be followed:

(1) two (2) or more conferences shall have been held with the licensed school person prior to the serving of such notice, and

(2) at least one (1) conference shall be held with the individual's most recent performance evaluator, or immediate supervisor if the most recent performance evaluator is unavailable to confer with the individual, and another conference shall be held with the superintendent of the local school district or with the superintendent's designee who shall be someone other than the first person with whom the licensed individual has conferred, and

(3) at least ninety (90) school days shall have elapsed between the conferences to allow the individual sufficient time to satisfactorily demonstrate the required competencies.

B. A written record of all conferences shall be made, specifying the competency or those competencies that have not been satisfactorily demonstrated, the action suggested by the school or agency or private school administration, which might lead to satisfactory demonstration of such competency or competencies, and the results attained. Each written record shall be signed by all parties to the conference. In the event of refusal to sign, a notation shall be made of the refusal. A copy of each record shall be given to the individual.

C. The superintendent or the person designated by the governing authority of a state agency or private school shall, in the event of notifying the educator of their failure to satisfactorily demonstrate the required competencies, supplement such notice with copies of the records required pursuant to Subsection B of 6.68.2.11 NMAC together with any policies described in Subsection D of 6.68.2.11 NMAC.

D. Local school boards or the governing authorities of state agencies or private schools may develop policies concerning procedures required before giving notice to the director of the PLB that an applicant has not satisfactorily demonstrated the competencies required for the level of licensure sought; provided, however, that such procedures must include at a minimum those requirements set forth in Subsections A through C of 6.68.2.11 NMAC.

[6.68.2.11 NMAC - Rp, 6 NMAC 4.2.4.4.11, 11-30-05; A, 01-29-10]

#### **6.68.2.12 PROCEDURES FOR DENYING APPLICATIONS:**

The following procedures shall govern the denial of properly made applications for initial or continuing licensure on any ground specified in Subsection A of 6.68.2.10 NMAC except for those applications noted in Subsection B of 6.68.2.9 NMAC and Paragraphs (1) through (4) of Subsection C of 6.68.2.9 NMAC.

A. Notice: The director of the EEB, or the director of the PLB, on behalf of the PED shall prepare and serve upon the applicant a written notice of contemplated action.

B. Service of notices: Any notice required to be served by this rule, including notice of final decision, may be served either personally or by certified mail, return-receipt-requested, directed to the applicant at their last known address as shown by the records of the licensure bureau or to the applicant's attorney of record. Service must be no later than two (2) years after the discovery of the conduct that would be the basis of the contemplated action, except that the time limitation shall be tolled by any civil or criminal litigation in which the applicant is a party arising from substantially the same facts, conduct or transaction that would be the basis for the PED's action. If the notice or decision is served personally, service shall be made in the same manner as is provided



for service by the rules of civil procedure for the district courts. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the notice or decision to the addressee or refusal of the addressee to accept delivery.

C. Contents: The notice shall contain:

(1) the grounds, including in what respects the applicant has failed to satisfy the PED, believed to be sufficient for denying the application;

(2) instructions for requesting a hearing before the PED in accordance with Subsection A of 6.68.2.13 below;

(3) a statement that the PED's contemplated action will be taken and shall become final unless the charged individual requests a hearing according to the procedure and within the time specified, and that such action would not be subject to judicial review; and

(4) a statement calling the applicant's attention to their rights under this rule and the ULA, Section 61-1-8, NMSA 1978 copies of which shall be provided with the written notice.

D. Copies of notice: If the applicant is employed by a local school district in New Mexico, a copy of the notice shall be sent by the PED, to the local school superintendent of the district employing or seeking to employ the applicant if known, unless the applicant is the said superintendent, in which case the president of the local school board shall be sent a copy of the notice.

[6.68.2.12 NMAC - Rp, 6 NMAC 4.2.4.4.12, 11-30-05; A, 01-29-10]

### **6.68.2.13 PRE-HEARING PROCEDURES:**

A. Filing of request for hearing: An applicant shall initiate a request for hearing by filing a timely, written request for hearing with the PED, by delivery of such request to the PED's office of the secretary in Santa Fe, New Mexico. Such request must be sent by certified mail, return-receipt-requested within twenty (20) days after service of the notice on the applicant.

B. If a hearing is requested, the PED, within twenty (20) days of receipt of the request, shall notify the applicant of the time and place of the hearing, the name, address and telephone number of the person who shall conduct the hearing for the PED and the statutes and rules authorizing the PED to take the contemplated action, which hearing shall be held not more than sixty (60) nor less than fifteen (15) days from the date of service of said notice.

C. Failure to request a hearing: If the applicant does not make a timely written request for a hearing, the PED may take the action contemplated in the notice and such action shall be final.

D. Appointment of a hearing officer

(1) All hearings may be conducted by a hearing officer who shall be a duly licensed New Mexico attorney, but who shall not be any attorney then employed by the office of general counsel of the PED. Upon receipt of the request for a hearing, the director of the EEB or the PLB shall appoint the hearing officer. Any hearing officer appointed to serve on a case shall at all times be held to the same ethical standards of impartiality that are set forth in Subsection B of Section 21-300 of the New Mexico code of judicial conduct. The hearing officer may issue a pre-hearing order limited to: setting deadlines for the exchange of documents intended to be introduced; setting deadlines for the exchange of a list of the name, address and telephone number of each witness a party intends to call during the hearing; ordering the applicant to have their attorney, if any, file within thirty (30) days a written notice of appearance with the hearing officer with a copy to opposing party; and cautioning the parties of their need to comply with Subsection G of 6.68.2.13 NMAC below. If either party requests a pre-hearing conference with the hearing officer, such conference shall be scheduled by the hearing officer and be held telephonically unless both parties agree to meet in person.

(2) The hearing officer shall have the power:

(a) to have counsel to develop the case; to administer oaths or affirmations to witnesses called to testify; to take testimony; to examine witnesses; and to direct a continuance of any case; hearing officers may also hold conferences before or during the hearing for the settlement or simplification of the issues but such settlement or simplification shall only be with the consent of the applicant;

(b) to hear pre-hearing motions; the hearing officer shall issue a written order with a copy to both parties on any pre-hearing motion filed by a party;

(c) to subpoena, for purposes of discovery and of the hearing, witnesses and relevant books, papers, documents and other evidence in compliance with Rule 1-045A to D of the rules of civil procedure and New Mexico civil form 4-505; a party may also issue such subpoenas with the approval of the hearing officer;

(d) to impose any appropriate evidentiary sanction against a party who fails to provide discovery or to comply with a subpoena; such sanctions could include the striking of a witness or the striking of documentary evidence;

(e) to take notice of judicially cognizable facts as well as of general, technical or scientific facts within their specialized knowledge so long as the applicant is notified either before or during the hearing of the fact so noticed and its source, and is afforded an opportunity to contest said fact; and

(f) to impose costs on the applicant upon motion of the PED.

E. Discovery:

(1) Rules of discovery provided in Rules 26 through 37 (26-37) of the New Mexico rules of civil procedures shall apply, except that all deadlines for responding to requests for admissions, interrogatories, and requests for production of documents shall be within ten (10) days of the delivery of the request. No such request shall be made less than fifteen (15) days before the hearing.

(2) Upon written request to another party, any party is entitled to:

(a) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(b) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

(3) Any opposition to any pre-hearing motion filed by a party shall be filed within ten (10) days of the service of that motion on the other party.

(4) This rule does not authorize either party to seek discovery sanctions or relief from a district court.

(5) Any party may take depositions after service of notice in accordance with the rules of civil procedure for the district courts. Depositions may be used as in proceedings governed by those rules.

F. Pleadings: Parties shall serve copies of all pleadings on each other and the hearing officer shall sign and date each pleading and shall include a signed and dated certificate of service with their pleadings.

G. Ex parte communications: Neither party nor their attorney shall engage in ex parte communications with any hearing officer appointed to hear a case or with the secretary on any matter regarding a pending case. Likewise, a hearing officer shall not engage in ex parte communications with either party or their attorney on any case to which that hearing officer has been appointed. However, there may be occasions when brief ex parte communications are warranted, for example, for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits. A summary of what was communicated shall be promptly disclosed to the individual who did not participate in the ex parte communication. The secretary shall not engage in any ex parte communication with any party, attorney or interested person on any matter or for any reason related to a pending licensure denial or other disciplinary action case where a notice of contemplated action has been served on an licensee pursuant to this rule.

[6.68.2.13 NMAC - Rp, 6 NMAC 4.2.4.4.13, 11-30-05; A, 01-29-10]

**6.68.2.14 RIGHTS OF AN APPLICANT:**

A. An applicant shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both at no expense to the PED; to present all relevant evidence by means of witnesses and books papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefore to the hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the hearing officer.

B. An applicant shall have the right to excuse the hearing officer in accordance with ULA Section 61-1-7, NMSA 1978.

[6.68.2.14 NMAC - N, 11-30-05; A, 01-29-10]

**6.68.2.15 HEARING:**

A. Purpose: The purpose of the hearing shall be to determine whether sufficient grounds exist for the denial of an initial license application or continuing licensure application by the PED. The burden of proof shall be upon the PED to establish by a preponderance of the evidence that sufficient grounds exist.

B. Venue of hearing: The hearing shall be conducted in the county where the PED maintains its office. In any case, however, the applicant and the PED may agree that the hearing is to be held in some other county.

**C. Conduct of hearings**

(1) The order of presentation of evidence shall be as follows: The PED shall present evidence in an attempt to establish that sufficient grounds exist for the denial of the applicant's initial or continuing licensure. Thereafter, the applicant may present evidence in defense. The hearing officer may allow rebuttal evidence and closing arguments.

(2) The rules of civil procedure and the rules of evidence shall not apply to the hearing, except as specifically provided in this rule, but it shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the hearing officer shall permit each party to call and examine witnesses, cross-examine witnesses and introduce exhibits. Documentary evidence may be received in the form of copies or excerpts. Evidence will be admitted without regard to technical rules of evidence, but the hearing officer may exclude any evidence, which is not relevant to the issues and

may require reasonable substantiation of statements or records where accuracy or truth is in reasonable doubt. Any evidence may be admitted that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may in their discretion exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence. Rules of privilege shall be applicable to the same extent as in proceedings before the courts of this state. Parties or their attorneys may make timely objections to the introduction of any evidence they view as inadmissible under this paragraph.

(3) A complete record shall be made of all evidence received during the course of the hearing. The record shall be preserved by any stenographic method in use in the district courts of this state, or in the discretion of the PED, by tape recording. The PED shall observe any standards pertaining to tape recordings established for the district courts. In any event, the PED shall have one (1) copy of the transcript or tape recording of the hearing for the secretary's review in rendering a final decision. Where judicial review is sought, the costs of required transcripts or tape recordings shall be paid by the party seeking review.

(4) All witnesses shall swear or affirm that their testimony will be truthful. A person authorized to administer oaths shall swear each witness. The hearing officer may determine the capacity of a witness to testify and may consider capacity in determining the weight of the evidence. The hearing officer may refuse to admit testimony from a proposed witness who is found lacking capacity.

(5) The hearing officer may require post-hearing briefs to be submitted by the parties. Such briefs shall not exceed 20 pages in length, double-spaced, exclusive of attachments, and shall be on paper eight and one-half by eleven inches in length.

D. If an applicant fails to appear at a hearing and no continuance has been granted, the hearing officer may hear the evidence of such witnesses as may have appeared and proceed to consider and dispose of the case on the basis of the evidence before the hearing officer in the manner required under this rule. Where an applicant fails to appear for a hearing or fails to request a hearing due to sickness, accident or other good cause, such licensee may apply to the hearing officer where he failed to appear, or to the PED where he failed to request a hearing, to reopen the proceeding, and upon finding such cause sufficient, the hearing officer or the PED, as the case may be, shall schedule a hearing and give the applicant notice of such as required by this rule. The hearing officer may require evidence to prove licensee's good cause in such cases.

#### E. Continuing jurisdiction

(1) Despite the expiration of an applicant's licensure, the PED shall continue to have jurisdiction to hear a case under this rule where the individual whose licensure expired was served a notice of contemplated action prior to the expiration of the licensure.

(2) The service of such notice upon an applicant shall act to stay the expiration of licensure where that individual's licensure was scheduled to expire and would expire during a proceeding to deny continuing licensure under this rule but for the stay of the expiration.

(3) Where the secretary issues a final order in which the applicant's licensure is not outright denied, then the individual shall be permitted to renew their licensure as though it expired on the original expiration date as long as the applicant satisfies all other licensure requirements for the level and type of license sought.

[6.68.2.15 NMAC - Rp, 6 NMAC 4.2.4.4.14, 11-30-05; A, 01-29-10]

#### **6.68.2.16 THE HEARING OFFICER'S REPORT TO THE SECRETARY:**

A. The parties' proposals: The hearing officer shall afford the applicant and the PED an opportunity to file proposed findings of fact and conclusions of law by a deadline specified by the hearing officer not to exceed thirty (30) days from the closing of the hearing. The hearing officer may include in or exclude from their report to the secretary any portions of the parties' proposed findings, conclusions or order as the hearing officer deems are supported or not supported by the evidence presented at the hearing. Moreover, the hearing officer may revise the submitted proposed findings and conclusions and make other findings and conclusions as the hearing officer deems are supported by the evidence at the hearing. No party shall submit post-hearing briefs or proposed findings of fact and conclusions of law after the deadline imposed unless leave to file late is granted by the hearing officer for good cause shown.

B. Contents: After the hearing officer's deadline has elapsed, the hearing officer shall submit a formal written report to the secretary consisting of the following labeled paragraphs: statement of the case, legal issues, proposed findings of fact, proposed conclusions of law, and order proposed by the hearing officer. The hearing officer shall limit their proposed order to: denial of the application, acceptance of the application with a condition other than the payment of money, or acceptance of the application.

C. In any denial action of an individual's application for licensure brought under authority of the Parental Responsibility Act where the hearing officer recommends a denial of that individual's license, the hearing officer shall limit their proposed findings, conclusions or order to the issues of whether a certified list of obligors from the human services department (HSD) has been submitted indicating that individual as being in non-compliance of a district court child support order, and whether the HSD has provided to the PED a certified statement that the charged individual is presently in compliance with that order. The hearing officer and the secretary shall defer to any district court child support order directed to the PED relative to an applicant's educator license(s).

D. Time limits: The hearing officer's report along with the parties' briefs and proposed findings of fact and conclusions of law and order, if any, shall be received by

the secretary through the office of general counsel, within thirty (30) days after the deadline specified by the hearing officer for the parties' submission of proposed findings of fact and conclusions of law. The secretary may extend this time upon request of the hearing officer through the office of general counsel so long as the decision of the secretary is rendered and signed within ninety (90) days after the conclusion of the hearing. The hearing officer shall serve a copy of the report directly on the parties to the hearing, or upon their attorneys, if any, on the same day the hearing officer serves the secretary.

E. The hearing officer's report shall be considered a privileged communication between the PED's hearing officer and the secretary not subject to public inspection until the secretary has reviewed the report and rendered a final decision.

[6.68.2.16 NMAC - N, 11-30-05; A, 01-29-10]

#### **6.68.2.17 DECISION OF THE SECRETARY:**

A. The secretary shall review the report of the hearing officer together with any briefs or proposed findings/conclusions/orders timely submitted by the parties. The secretary shall render a final decision and order based on a preponderance of the evidence. The secretary's decision must include a statement informing the applicant of their right to judicial review and the time within which such review must be sought. The secretary shall either:

(1) adopt the hearing officer's proposed findings of fact, conclusions of law and order;

(2) modify said findings of fact and conclusions of law and order and render a decision;

(3) reopen the case to receive additional evidence or for other cause on request from the applicant or on the secretary's own motion; and where a request to reopen the case comes from the applicant, the secretary shall serve upon the applicant within fifteen (15) days after receipt of said request, a decision to grant or refuse said request; and where the case is reopened, notice of the hearing shall be served on the applicant within fifteen (15) days after service of the decision to reopen with the hearing being held within forty-five (45) days after the service of said notice and the decision from the hearing being served on the applicant within thirty (30) days after the hearing; or

(4) reject any action against the applicant's licensure application on the grounds alleged and order the individual's application review to go forward to determine if the applicant is otherwise qualified for licensure or continuing licensure; if the secretary decides to hear additional evidence, a transcript of the proceedings shall be made by a qualified court reporter or a tape recording.

B. The secretary is not an appellate reviewer of the hearing officer's proposed findings/conclusions/order. Rather, the secretary is ultimately responsible for issuing a final decision and order relative to possible disciplinary action against an applicant's educator licensure. If the hearing officer recommends denial of an individual's license(s), the secretary is at liberty to order any action provided in Subsection A of 6.68.2.17 NMAC above, provided that any deviation from the hearing officer's proposed findings/conclusions is supported by a preponderance of the evidence after conducting an independent review of the transcript of the hearing. The same transcript review process would apply to any other proposed findings/conclusions of the hearing officer from which the secretary seeks to deviate.

C. At the request of the parties, the secretary may adopt and incorporate into the decision and order all or any part of a written settlement proposed by the parties, whether or not a case has gone to a hearing. Any such settlement proposal shall be duly signed and notarized and contain the detailed agreements of the respective parties. Upon adoption and incorporation by the secretary of all or any part of a written settlement, that settlement or the incorporated portions shall become merged into the secretary's decision and order as a final agency decision.

D. Time: The written decision of the secretary must be rendered and signed within sixty (60) days after the completion of the preparation of the record or submission of the hearing officer's report, whichever is later. In any case, the decision must be rendered and signed within ninety (90) days after the hearing.

E. Service: A written copy of the decision of the secretary shall be served on the applicant personally in accordance with the rules of civil procedure for the district courts or by certified mail, return-receipt-requested, directed to the applicant at their last known address, or to their attorney, as shown by the records of the PED, within fifteen (15) days after the decision is rendered and signed.

F. The decision of the secretary is a public record and may be reported to the national association of state directors of teacher education and certification's clearinghouse and other organizations that request it.

[6.68.2.17 NMAC - Rp, 6 NMAC 4.2.4.4.15, 11-30-05; A, 01-29-10]

#### **6.68.2.18 WAIVER:**

A. Time limits: The time limits specified in this rule may be waived by the applicant if done in writing.

B. Hearing: No hearing need be held by the PED if the applicant waives in writing their right to the hearing.

C. Voluntary denial: Prior to service of notice on an individual applying for initial or continuing licensure, that individual may voluntarily agree to a denial of their application,



provided that any such voluntary denial is accomplished by writing where the individual has an opportunity to consult with and retain an attorney. A voluntary denial is not a voluntary withdrawal of an application but is an actual denial of a licensure application. A voluntary denial may be achieved only with the approval of the secretary, so long as the individual knowingly submits to the jurisdiction of the PED and waives in writing their right to a hearing and the other procedures set forth in this rule. A voluntary denial is not subject to judicial review and its effect is binding on the parties to the agreement accomplishing the denial.

[6.68.2.18 NMAC - Rp, 6 NMAC 4.2.4.4.16, 11-30-05; A, 01-29-10]

#### **6.68.2.19 APPEAL:**

A. A final decision by the secretary after the hearing officer has made the required recommendations may be appealed to the district court by an applicant within thirty (30) days of the date of filing of the decision in accordance with Section 39-3-1.1, NMSA 1978. ("Appeal of final decisions by agencies to district court--application--scope of review--review of district court decisions")

B. The applicant may apply to the secretary for a stay of the decision pending the outcome of the review of the decision in district court.

[6.68.2.19 NMAC - Rp, 6 NMAC 4.2.4.4.18, 11-30-05; A, 01-29-10]

#### **6.68.2.20 SEVERABILITY:**

Any part of this rule found by adjudication before a competent tribunal to be contrary to law shall be stricken without effect to the remainder.

[6.68.2.20 NMAC - Rp, 6 NMAC 4.2.4.4.17, 11-30-05]

### **PART 3: SUSPENSION, REVOCATION OR OTHER DISCIPLINARY ACTION REGARDING A LICENSE HELD BY A LICENSED SCHOOL INDIVIDUAL**

#### **6.68.3.1 ISSUING AGENCY:**

Public Education Department.

[6.68.3.1 NMAC - Rp, 6 NMAC 4.2.4.5.1, 11-30-05]

#### **6.68.3.2 SCOPE:**

This rule governs suspension, revocation or other disciplinary action regarding a license held by a licensed school instructor, administrator or any other of the individuals enumerated in Section 22-10A-3A NMSA 1978.

[6.68.3.2 NMAC - Rp, 6 NMAC 4.2.4.5.2, 11-30-05]

**6.68.3.3 STATUTORY AUTHORITY:**

Sections 22-2-1; 22-2-2; 22-10A-5, 31; and 61-1-1 et seq. NMSA 1978.

[6.68.3.3 NMAC - Rp, 6 NMAC 4.2.4.5.3, 11-30-05]

**6.68.3.4 DURATION:**

Permanent

[6.68.3.4 NMAC - Rp, 6 NMAC 4.2.4.5.4, 11-30-05]

**6.68.3.5 EFFECTIVE DATE:**

November 30, 2005, unless a later date is specified at the end of a section.

[6.68.3.5 NMAC - Rp, 6 NMAC 4.2.4.5.5, 11-30-05]

**6.68.3.6 OBJECTIVE:**

This regulation is adopted by the public education department (hereinafter the "department") for the purpose of establishing hearing procedures for suspension, revocation or other disciplinary actions regarding a license or certificate issued by the department to a school instructor, administrator or any other of the individuals enumerated in Section 22-10A-3A, NMSA 1978.

[6.68.3.6 NMAC - Rp, 6 NMAC 4.2.4.5.6, 11-30-05]

**6.68.3.7 DEFINITIONS:**

A. "Continuing education requirements" When used in regards to teachers means meeting the high objective uniform statewide standard of evaluation for the type and level of licensure for which an applicant has applied as set forth in 6.69.4.11 NMAC and required under Subsection B of Section 22-10A-10 and Section 22-10A-11 NMSA 1978.

B. "Ex parte communications" means any oral, written or electronic communications between one party (or his/her attorney) and the hearing officer, or as between one party (or his/her attorney) and the secretary of education (hereinafter, the "secretary") that occur out of the presence and/or without the consent of the opposing party (or his/her attorney). Communications included in this definition, in addition to direct communications, include indirect communications as where a party requests or suggests to a non-party to contact the hearing officer or secretary on any matter and for any reason related to a pending licensure case where charges have been served on a licensed individual pursuant to this regulation. Ex parte communications also occur

when individuals sympathetic to one party make oral, written or electronic communications to the hearing officer or the secretary that occur out of the presence and/or without the consent of the opposing party (or his/her attorney) on any matter and for any reason related to a pending licensure case where charges have been served on a licensed individual pursuant to this rule.

C. "Licensee" means any of the individuals enumerated in Section 22-10A-3A, NMSA 1978, who are required to hold a valid license or certificate issued by the department in order to carry out their duties in a public school in New Mexico, and to whom the department did issue a certificate. A certificate and license issued by the department are one and the same.

D. "Other disciplinary action" means any action other than a suspension or revocation that the department may take against a licensee's license to practice the conduct authorized by that license as enumerated in Subsections G through N of Section 61-1-3, NMSA 1978.

E. "Revocation of a license" means the indefinite prohibition of the conduct authorized by the license.

F. "Suspension of a license" means the prohibition, for a stated period of time, of the conduct authorized by the license, which may or may not be subject to conditions that are reasonably related to the grounds for suspension. Suspension also means the allowance, for a stated period of time, of the conduct authorized by the license subject to conditions that are reasonably related to the grounds for suspension.

G. "Transcript of the hearing" means a verbatim copy of the statements made by anyone during a hearing held under 6.68.3.11 NMAC and the Uniform Licensing Act, Section 61-1-1 et seq. NMSA 1978. A transcript may be either stenographically recorded or tape recorded.

[6.68.3.7 NMAC - Rp, 6 NMAC 4.2.4.5.7, 11-30-05]

#### **6.68.3.8 COMMENCEMENT OF PROCEEDINGS:**

A. Director's inquiry: The director of the educator ethics bureau or the director of the professional licensure bureau (hereinafter the "ethics bureau" or the "licensure bureau") shall initiate appropriate inquiries whenever it appears that ground(s) may exist as specified in Subsection B of 6.68.3.8 NMAC for suspension, revocation or other disciplinary action against a license or certificate held by a licensed school instructor, administrator or any other of the individuals enumerated in Section 22-10A-3A, NMSA 1978. If an inquiry leads either director to conclude that such ground(s) exist(s), said director shall recommend to the assistant secretary for educator quality that grounds exist for disciplinary action and that a notice should be served on the licensee in accordance with Subsection D of 6.68.3.8 NMAC.

B. Grounds for suspension, revocation or other disciplinary action against a license: subject to the procedures set forth below, the department may suspend, revoke or take other disciplinary action against a license or certificate held by a licensed school instructor, administrator or any other of the individuals enumerated in Section 22-10A-3A, NMSA 1978, for incompetency, immorality or any other good and just cause. "Other good and just cause" may include, but shall not be limited to, any of the following:

(1) a material misstatement of fact by an applicant for licensure in connection with the initial licensure application process or the continuing licensure application process; or

(2) the denial of an application for licensure or the suspension or revocation of an applicant's educational or other relevant professional certificate(s) or license(s) by the certification or licensing authorities of this or any other state or by a national licensing board or bureau; or

(3) material noncompliance with any provision(s) of department regulations prescribing the terms and conditions of employment contracts for licensed school personnel in New Mexico at a time when the licensee was subject to those regulations; or

(4) a willful violation of any department regulation prescribing standards of conduct for licensed school personnel at a time when the licensee was subject to such requirement; or

(5) a conviction of any felony or a misdemeanor involving moral turpitude, subject to the further provisions of the Criminal Offender Employment Act, Section 28-2-1, et seq., NMSA 1978; or

(6) a failure to comply with a judgment and order for support pursuant to the Parental Responsibility Act, Section 40-5A-1, et seq., NMSA 1978; or

(7) the intentional alteration of any college transcripts or any license issued by the department in connection with any private or public employment or in any dealings with the department;

(8) knowingly permitting the continued employment of an individual without a valid license or waiver from the department for a public school position requiring a license by the School Personnel Act, Section 22-10A-3, NMSA 1978; or

(9) failing to meet level III-A competencies where a local superintendent recommends to the secretary that the teacher's level III-A license be suspended in accordance with 6.69.4 NMAC.

### C. Reporting requirements

(1) Every local school superintendent or the person designated by the governing authorities of state agencies, private schools or charter schools shall provide written notification to the director of the ethics bureau upon acquiring knowledge of purported facts reasonably believed by such notifying person to constitute grounds for suspension, revocation or other disciplinary action against an educator or administrator license. At a minimum, the written notification shall include the name and address of the licensed individual, the personnel action taken by a school district, if any, and a statement of reason for the action. The following are not justifications for failing to report this information to the director: whether or not the personnel action is final; whether or not the personnel action was taken by a different school district; whether or not the licensed person resigned from a different school district pending investigation for misconduct; whether or not a person has been licensed for three or more years; whether or not any adverse personnel action is/was reversed. Written notification shall be made to the director within 30 calendar days of the sooner of any adverse personnel action or discovering purported facts reasonably believed to constitute grounds for licensure revocation, suspension or other disciplinary action. Failure of a superintendent to provide such written notification under this subsection or Paragraph (2) of Subsection C of 6.68.3.8 NMAC below shall not bar the department from serving notice on a licensee, or revoking, suspending or taking other disciplinary action against his or her license.

(2) A school district superintendent or the person designated by the governing authorities of state agencies, private schools or charter schools shall report to the department any conviction of any felony or a misdemeanor involving moral turpitude of a licensed school employee that results in any type of action against the school employee in accordance with Section 22-10A-5D, NMSA 1978.

#### D. Notice of contemplated action

(1) Service of notice: Upon approval by the assistant secretary for educator quality the director of the ethics bureau or the licensure bureau shall prepare and serve a written notice of contemplated action on the licensed school instructor, administrator or any other of the individuals enumerated in Section 22-10A-3A, NMSA 1978, no later than two years after the discovery of the conduct that would be the basis of the contemplated action, except that the time limitation shall be tolled by any civil or criminal litigation in which the licensee is a party arising from substantially the same facts, conduct or transaction that would be the basis for the department's action. All notices or decisions required by this rule may be served either personally or by certified mail, return receipt requested, directed to the licensee at his/her last known address as shown by the department's records. If the notice or decision is served personally, service shall be made in the same manner as is provided for service by the rules of civil procedure for the district courts. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the notice or decision to the addressee or refusal of the addressee to accept delivery.

(2) Contents: The notice shall contain:

(a) the grounds believed to be sufficient for the suspension, revocation or other disciplinary action against the licensee's license;

(b) instructions for requesting a hearing before the department in accordance with 6.68.3.9 NMAC below.

(c) a statement that the department's contemplated action will be taken and shall become final unless the licensee requests a hearing according to the procedure and within the time specified, and that such action is not subject to judicial review;

(d) a statement calling the licensee's attention to his or her rights under this rule and the ULA, Section 61-1-8, NMSA 1978, copies of which shall be provided with the written notice.

(3) Copies of notice: A copy of the notice shall be sent by the department to the local superintendent of the district employing or seeking to employ the licensee, if known, unless the licensee is the said superintendent, in which case the president of the local school board shall be sent a copy of the notice

[6.68.3.8 NMAC - Rp, 6 NMAC 4.2.4.5.8, 11-30-05]

### **6.68.3.9 PREHEARING PROCEDURES:**

A. Filing of request for hearing: A licensee shall initiate a request for hearing by filing a timely, written request for hearing with the department, by delivery of such request to the office of the secretary of the department in Santa Fe, New Mexico. Such request must be sent by certified mail, return-receipt-requested within twenty (20) days after service of the notice on the licensee.

B. If a hearing is requested, the department, within twenty (20) days of receipt of the request, shall notify the licensee of the time and place of the hearing, the name, address and telephone number of the person who shall conduct the hearing for the department and the statutes and regulations authorizing the department to take the contemplated action, which hearing shall be held not more than sixty (60) nor less than fifteen (15) days from the date of service of said notice.

C. Failure to request a hearing: If the licensee does not make a timely written request for a hearing, the department may take the action contemplated in the notice and such action shall be final.

D. Appointment of a hearing officer

(1) All hearings may be conducted by a hearing officer who shall be a duly licensed New Mexico attorney, excluding any attorney then employed by the office of

general counsel of the department. Upon receipt of the request for a hearing, the director of the ethics bureau or the licensure bureau shall appoint the hearing officer. Any hearing officer appointed to serve on a case shall at all times be held to the same ethical standards of impartiality that are set forth in Section 21-300(B) of the New Mexico code of judicial conduct. The hearing officer may issue a pre-hearing order limited to: setting deadlines for the exchange of documents intended to be introduced; setting deadlines for the exchange of a list of the name, address and telephone number of each witness a party intends to call during the hearing; ordering the licensee to have his/her attorney, if any, file within thirty (30) days a written notice of appearance with the hearing officer with a copy to opposing party; and cautioning the parties of their need to comply with Subsection G of 6.68.3.9 NMAC below. If either party requests a pre-hearing conference with the hearing officer, such conference shall be scheduled by the hearing officer and be held telephonically unless both parties agree to meet in person.

(2) The hearing officer shall have the power:

(a) to have counsel to develop the case; to administer oaths or affirmations to witnesses called to testify; to take testimony; to examine witnesses; and to direct a continuance of any case; hearing officers may also hold conferences before or during the hearing for the settlement or simplification of the issues but such settlement or simplification shall only be with the consent of the licensee;

(b) to hear pre-hearing motions: the hearing officer shall issue a written order with a copy to both parties on any pre-hearing motion filed by a party;

(c) to subpoena, for purposes of discovery and of the hearing, witnesses and relevant books, papers, documents and other evidence in compliance with Rule 1-045A to D of the rules of civil procedure and New Mexico civil form 4-505; a party may also issue such subpoenas with the approval of the hearing officer;

(d) to impose any appropriate evidentiary sanction against a party who fails to provide discovery or to comply with a subpoena; such sanctions could include the striking of a witness or the striking of documentary evidence;

(e) to take notice of judicially cognizable facts as well as of general, technical or scientific facts within his/her specialized knowledge so long as the licensee is notified either before or during the hearing of the fact so noticed and its source, and is afforded an opportunity to contest said fact; and

(f) to impose costs on the licensee upon motion of the department.

#### E. Discovery:

(1) Rules of discovery provided in Rules 26 through 37 of the New Mexico rules of civil procedures shall apply, except that all deadlines for responding to requests for admissions, interrogatories, and requests for production of documents shall be within

ten (10) days of the delivery of the request. No such request shall be made less than fifteen days before the hearing.

(2) Upon written request to another party, any party is entitled to:

(a) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(b) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

(3) Any opposition to any pre-hearing motion filed by a party shall be filed within ten (10) days of the service of that motion on the other party.

(4) This rule does not authorize either party to seek discovery sanctions or relief from a district court.

(5) Any party may take depositions after service of notice in accordance with the rules of civil procedure for the district courts. Depositions may be used as in proceedings governed by those rules.

F. Pleadings: Parties shall serve copies of all pleadings on each other and the hearing officer, shall sign and date each pleading and shall include a signed and dated certificate of service with their pleadings.

G. Ex parte communications: Neither party nor his/her attorney shall engage in ex parte communications with any hearing officer appointed to hear a case or with the secretary on any matter regarding a pending case. Likewise, a hearing officer shall not engage in ex parte communications with either party or his/her attorney on any case to which that hearing officer has been appointed. However, there may be occasions when brief ex parte communications are warranted, for example, for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits. A summary of what was communicated shall be promptly disclosed to the individual who did not participate in the ex parte communication. The secretary shall not engage in any ex parte communication with any party, attorney or interested person on any matter or for any reason related to a pending licensure suspension, revocation or other disciplinary action case where a notice of contemplated action has been served on an licensee pursuant to this regulation.

[6.68.3.9 NMAC - Rp, 6 NMAC 4.2.4.5.9, 11-30-05]

#### **6.68.3.10 RIGHTS OF A LICENSEE:**

A. A licensee shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both at no expense to the department; to present all relevant evidence by means of witnesses and books papers, documents



and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefore to the hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the hearing officer.

B. A licensee shall have the right to excuse the hearing officer in accordance with ULA Section 61-1-7, NMSA 1978.

[6.68.3.10 NMAC - N, 11-30-05]

#### **6.68.3.11 HEARING:**

A. Purpose: The purpose of the hearing shall be to determine whether sufficient grounds exist for the suspension, revocation or other disciplinary action against the license or certificate held by a licensed school instructor, administrator or any other of the individuals enumerated in Section 22-10A-3A, NMSA 1978. The burden of proof shall be upon the department to establish by a preponderance of the evidence that sufficient grounds exist.

B. Venue of hearing: The hearing shall be conducted in the county in which the licensee resides, or at the election of the department, in any county in which the act or acts complained of occurred. In any case, however, the licensee and the department may agree that the hearing is to be held in some other county.

#### **C. Conduct of hearings**

(1) The order of presentation of evidence shall be as follows: The department shall present evidence in an attempt to establish that sufficient grounds exist for the suspension, revocation or other disciplinary action against the licensee's license. Thereafter, the licensee may present evidence in defense. The hearing officer may allow rebuttal evidence and/or closing arguments.

(2) The rules of civil procedure and the rules of evidence shall not apply to the hearing, except as specifically provided in this regulation, but it shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the hearing officer shall permit each party to call and examine witnesses, cross-examine witnesses and introduce exhibits. Documentary evidence may be received in the form of copies or excerpts. Evidence will be admitted without regard to technical rules of evidence, but the hearing officer may exclude any evidence, which is not relevant to the issues and may require reasonable substantiation of statements or records where accuracy or truth is in reasonable doubt. Any evidence may be admitted that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may in his or her discretion exclude incompetent, irrelevant, immaterial

or unduly repetitious evidence. Rules of privilege shall be applicable to the same extent as in proceedings before the courts of this state. Parties or their attorneys may make timely objections to the introduction of any evidence they view as inadmissible under this paragraph.

(3) A complete record shall be made of all evidence received during the course of the hearing. The record shall be preserved by any stenographic method in use in the district courts of this state, or in the discretion of the department, by tape recording. The department shall observe any standards pertaining to tape recordings established for the district courts. In any event, the department shall have one copy of the transcript or tape recording of the hearing for the secretary's review in rendering a final decision. Where judicial review is sought, the costs of required transcripts or tape recordings shall be paid by the party seeking review.

(4) All witnesses shall swear or affirm that their testimony will be truthful. A person authorized to administer oaths shall swear each witness. The hearing officer may determine the capacity of a witness to testify and may consider capacity in determining the weight of the evidence. The hearing officer may refuse to admit testimony from a proposed witness who is found lacking capacity.

(5) The hearing officer may require post-hearing briefs to be submitted by the parties. Such briefs shall not exceed twenty (20) pages in length, double-spaced, exclusive of attachments, and shall be on paper eight and one-half by eleven inches in length.

D. If a licensee fails to appear at a hearing and no continuance has been granted, the hearing officer may hear the evidence of such witnesses as may have appeared and proceed to consider and dispose of the case on the basis of the evidence before him/her in the manner required under this regulation. Where a licensee fails to appear for a hearing or fails to request a hearing due to sickness, accident or other good cause, such licensee may apply to the hearing officer where he failed to appear, or to the department where he failed to request a hearing, to reopen the proceeding, and upon finding such cause sufficient, the hearing officer or the department, as the case may be, shall schedule a hearing and give the licensee notice of such as required by this regulation. The hearing officer may require evidence to prove licensee's good cause in such cases.

#### E. Continuing jurisdiction

(1) Despite the expiration of a licensee's licensure, the department shall continue to have jurisdiction to hear a case under this regulation where the individual whose licensure expired was served a notice of contemplated action prior to the expiration of the licensure.

(2) The service of such notice upon a licensee shall act to stay the expiration of licensure where that individual's licensure was scheduled to expire and would expire during a proceeding under this regulation but for the stay of the expiration.

(3) Where the secretary issues a final order in which the licensee's licensure is neither revoked nor outright suspended, then the individual shall be permitted to renew his/her licensure as though it expired on the original expiration date as long as he/she satisfies all other licensure requirements for the level and type of license sought. The licensure bureau shall allow the individual 60 days from the secretary's final decision to file a renewal application.

[6.68.3.11 NMAC - Rp, 6 NMAC 4.2.4.5.10, 11-30-05]

#### **6.68.3.12 THE HEARING OFFICER'S REPORT TO THE SECRETARY:**

A. The parties' proposals: The hearing officer shall afford the licensee and the department an opportunity to file proposed findings of fact and conclusions of law by a deadline specified by the hearing officer not to exceed thirty days from the closing of the hearing. The hearing officer may include in or exclude from his or her report to the secretary any portions of the parties' proposed findings, conclusions or order as the hearing officer deems are supported or not supported by the evidence presented at the hearing. Moreover, the hearing officer may revise the submitted proposed findings and conclusions and/or make other findings and conclusions as he or she deems are supported by the evidence at the hearing. No party shall submit post-hearing briefs or proposed findings of fact and conclusions of law after the deadline imposed unless leave to file late is granted by the hearing officer for good cause shown.

B. Contents: After the hearing officer's deadline has elapsed, the hearing officer shall submit a formal written report to the secretary consisting of the following labeled paragraphs: statement of the case, legal issues, proposed findings of fact, proposed conclusions of law, and order proposed by the hearing officer. The hearing officer shall limit his/her proposed order to: denial of the application, acceptance of the application with a condition other than the payment of money, or acceptance of the application.

C. In any disciplinary action of an individual's license(s) brought under authority of the Parental Responsibility Act where the hearing officer recommends disciplinary action against the licensee's license, the hearing officer shall limit his or her proposed findings, conclusions or order to the issues of whether a certified list of obligors from the human services department has been submitted indicating that individual as being in non-compliance of a district court child support order, and whether the human services department has provided to the department a certified statement that the licensee is presently in compliance with that order. The hearing officer and the secretary shall defer to any district court child support order directed to the department relative to a licensee's educator license(s).

D. Time limits: The hearing officer's report along with the parties' briefs and proposed findings of fact and conclusions of law and order, if any, shall be received by the secretary through the office of general counsel, within thirty (30) days after the deadline specified by the hearing officer for the parties' submission of proposed findings of fact and conclusions of law. The secretary may extend this time upon request of the hearing officer through the office of general counsel so long as the decision of the secretary is rendered and signed within ninety (90) days after the conclusion of the hearing. The hearing officer shall serve a copy of the report directly on the parties to the hearing, or upon their attorneys, if any, on the same day the hearing officer serves the secretary.

E. The hearing officer's report shall be considered a privileged communication between the department's hearing officer and the secretary not subject to public inspection until the secretary has reviewed the report and rendered a final decision.

[6.68.3.12 NMAC - N, 11-30-05]

### **6.68.3.13 DECISION OF THE SECRETARY:**

A. The secretary shall review the report of the hearing officer together with any briefs or proposed findings/conclusions/orders timely submitted by the parties. The secretary shall render a final decision and order based on a preponderance of the evidence. The secretary's decision must include a statement informing the licensee of his/her right to judicial review and the time within which such review must be sought. The secretary shall either:

(1) adopt the hearing officer's proposed findings of fact, conclusions of law and order; or

(2) modify said findings of fact and conclusions of law and order and render a decision; or

(3) reopen the case to receive additional evidence or for other cause on request from the licensee or on the secretary's own motion; and where a request to reopen the case comes from the licensee, the secretary shall serve upon the licensee within fifteen days after receipt of said request, a decision to grant or refuse said request; and where the case is reopened, notice of the hearing shall be served on the licensee within fifteen days after service of the decision to reopen with the hearing being held within forty-five days after the service of said notice and the decision from the hearing being served on the licensee within thirty days after the hearing; or

(4) reject any action against the licensee's licensure on the grounds alleged and order the said license(s) to remain in full force and effect. If the secretary decides to hear additional evidence a transcript of the proceedings shall be made by a qualified court reporter or a tape recording.

B. The secretary is not an appellate reviewer of the hearing officer's proposed findings/conclusions/order. Rather, the secretary is ultimately responsible for issuing a final decision and order relative to possible disciplinary action against a licensee's educator licensure. If the hearing officer recommends suspension of an individual's license(s), the secretary is at liberty to order any action provided in Section 6.68.3.13A above, provided that any deviation from the hearing officer's proposed findings/conclusions is supported by a preponderance of the evidence after conducting an independent review of the transcript of the hearing. The same transcript review process would apply to any other proposed findings/conclusions of the hearing officer from which the secretary seeks to deviate.

C. At the request of the parties, the secretary may adopt and incorporate into his or her decision and order all or any part of a written settlement proposed by the parties, whether or not a case has gone to a hearing. Any such settlement proposal shall be duly signed and notarized and contain the detailed agreements of the respective parties. Upon adoption and incorporation by the secretary of all or any part of a written settlement, that settlement or the incorporated portions shall become merged into the secretary's decision and order as a final agency decision.

D. Time: The written decision of the secretary must be rendered and signed within sixty (60) days after the completion of the preparation of the record or submission of the hearing officer's report, whichever is later. In any case, the decision must be rendered and signed within ninety (90) days after the hearing.

E. Service: A written copy of the decision of the secretary shall be served on the licensee personally in accordance with the rules of civil procedure for the district courts or by certified mail, return-receipt-requested, directed to the licensee at his or her last known address, or to his or her attorney, as shown by the records of the department, within fifteen (15) days after the decision is rendered and signed.

F. The decision of the secretary is a public record and may be reported to the national association of state directors of teacher education and certification's clearinghouse and other organizations that request it.

[6.68.3.13 NMAC - Rp, 6 NMAC 4.2.4.5.11, 11-30-05]

#### **6.68.3.14 WAIVER:**

A. Time limits: The time limits specified in this rule may be waived by the licensee if done in writing.

B. Hearing: No hearing need be held by the department if the licensee waives in writing his or her right to the hearing.

C. Voluntary surrender: Prior to service of notice on a licensed individual, that individual may voluntarily surrender his/her license(s) in a manner tantamount to

revocation or suspension of his/her license, provided that any such voluntary surrender is accomplished by a writing where the individual has an opportunity to consult with and retain an attorney. A voluntary surrender may be achieved only with the approval of the secretary, so long as the licensed individual knowingly submits to the jurisdiction of the department and waives in writing his or her right to a hearing and the other procedures set forth in this rule. A voluntary surrender is not subject to judicial review and its effect is binding on the parties to the agreement accomplishing the surrender.

[6.68.3.14 NMAC - Rp, 6 NMAC 4.2.4.5.12, 11-30-05]

#### **6.68.3.15 APPEAL:**

A. A final decision by the secretary after the hearing officer has made his or her recommendations may be appealed to the district court by an applicant within thirty days of the date of filing of the decision in accordance with Section 39-3-1.1, NMSA 1978. ("Appeal of final decisions by agencies to district court--application--scope of review--review of district court decisions")

B. The applicant may apply to the secretary for a stay of his or her decision pending the outcome of the review of the decision in district court.

[6.68.3.15 NMAC - Rp, 6 NMAC 4.2.4.5.13, 11-30-05]

#### **6.68.3.16 SEVERABILITY:**

Any part of this rule found by adjudication before a competent tribunal to be contrary to law shall be stricken without effect to the remainder.

[6.68.3.16 NMAC - Rp, 6 NMAC 4.2.4.5.14, 11-30-05]

## **CHAPTER 69: SCHOOL PERSONNEL - PERFORMANCE**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: UNSATISFACTORY WORK PERFORMANCE OF CERTIFIED (LICENSED) SCHOOL PERSONNEL**

#### **6.69.2.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.69.2.1 NMAC - Rp, 6.69.2.1 NMAC, 08/15/2017]

#### **6.69.2.2 SCOPE:**

This regulation applies to local school boards, governing authorities of state agencies and certified (licensed) school personnel.

[6.69.2.2 NMAC - Rp, 6.69.2.2 NMAC, 08/15/2017]

**6.69.2.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to Section 22-10A-19, 22-10A-27 NMSA 1978.

[6.69.2.3 NMAC - Rp, 6.69.2.3 NMAC, 08/15/2017]

**6.69.2.4 DURATION:**

Permanent

[6.69.2.4 NMAC - Rp, 6.69.2.4 NMAC, 08/15/2017]

**6.69.2.5 EFFECTIVE DATE:**

August 15, 2017 unless a later date is cited at the end of a section.

[6.69.2.5 NMAC - Rp, 6.69.2.5 NMAC, 08/15/2017]

**6.69.2.6 OBJECTIVE:**

This regulation establishes procedures for supervising and correcting "unsatisfactory work performance" of licensed school personnel before notice of intent to discharge or notice of termination is served upon them or before requesting the secretary to suspend a level three teaching license for unsatisfactory work performance at level three licensure, and further to distinguish between the terms "unsatisfactory work performance" and "insubordination".

[6.69.2.6 NMAC - Rp, 6.69.2.6 NMAC, 08/15/2017]

**6.69.2.7 DEFINITIONS:**

**A. "Administrative authority"** means the superintendent, principal or a person acting under the authority of such superintendent or principal.

**B. "Insubordination"** means actual or implied willful refusal to follow written policies, regulations, rules, or procedures established by the department, the local school board, or administrative authorities; or the lawful written or oral orders, requests, or instructions of administrative authorities.

**C. "Secretary"** means the secretary of education department.

**D. "Uncorrected unsatisfactory work performance"** means unsatisfactory work performance which the licensed school personnel has failed to correct pursuant to the provisions in this regulation; provided, however, that if unsatisfactory work performance is uncorrectable through the evaluation and supervision process, as determined by the local school board policy, the provisions in this regulation shall not apply.

**E. "Unsatisfactory work performance"** means the failure by licensed school personnel to satisfactorily perform those tasks which are evaluated by the employee's supervisors, pursuant to the school district's approved plans for evaluation and supervision of its licensed employees. For the purpose of this regulation unsatisfactory work performance does not include insubordination or conduct deemed to be outside the normal scope of duties of licensed school personnel.

[6.69.2.7 NMAC - Rp, 6.69.2.7 NMAC, 08/15/2017]

#### **6.69.2.8      UNCORRECTED UNSATISFACTORY WORK PERFORMANCE:**

**A.** Uncorrected unsatisfactory work performance is good cause for discharging or termination of licensed school personnel or for requesting the secretary to suspend a level three teaching license as provided in Subsection F of 6.69.4.10 NMAC so long as procedures established in Subsection B of Section 6.69.2.8 NMAC herein are followed.

**B.** The following procedures shall be followed by local school boards or governing authorities of state agencies in supervising and correcting unsatisfactory work performance of licensed school personnel before serving them with notice of intent to discharge pursuant to Section 22-10A-27 NMSA 1978 or before requesting the secretary to suspend a level three teaching license under Subsection F of 6.69.4.10 NMAC.

**C.** Every person who evaluates a licensed school employee under this rule shall submit an original written report to the school district superintendent, and an exact copy to the licensed school employee being evaluated. The effectiveness evaluation shall not be changed once each component is completed and delivered to either the school district superintendent or the licensed school employee being evaluated. In addition to the requirements in Subsection B of 6.69.2.8 NMAC, before requesting the secretary to suspend a level three teaching license as provided in Subsection F of 6.69.4.10 NMAC a local school district or governing authority of state agencies shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary.

**D.** A licensed school employee rated minimally effective or ineffective may provide a written statement in response to their effectiveness evaluation, and that statement shall become a permanent attachment to that employee's evaluation file.



**E.** Every person who rates a licensed school employee minimally effective or ineffective shall describe in detail the minimally effective or ineffective performance and, in writing, inform the licensee of the following:

**(1)** the right to a post-evaluation conference which the evaluator must convene and which shall occur no later than ten days after the evaluation is completed unless the employee agrees to an extension;

**(2)** that during the conference the evaluator will make recommendations to the employee with respect to specific areas of unsatisfactory performance and provide feedback that establishes the initial framework for an individual professional growth plan;

**(3)** that the evaluator will provide assistance in helping the employee correct unsatisfactory performance and the district will extend strategic support aligned to best practices identified by the department to assist the employee in correction of the unsatisfactory performance;

**(4)** that if the employee has an employment contract, the employee may be placed on a performance growth plan at the discretion of the evaluator for 90 school days from receipt of the notice of unsatisfactory work performance, provided that:

**(a)** the 90 days shall not include weekends, school holidays or school vacation periods, declared snow days, and approved employee leave days;

**(b)** during the 90 days the licensed school employee shall be observed and evaluated more than four times in writing and shall be informed of the results of those observations; and

**(c)** the evaluator shall maintain documentation of having provided assistance and notification of in-service training opportunities to help correct the performance deficiencies noted of the licensed school employee; and

**(5)** that receipt of the notice may constitute notice of uncorrected unsatisfactory work performance pursuant to Section 22-10A-3 NMSA 1978 and 6.69.2 NMAC.

**F.** Within five school days after the expiration of the 90-day performance growth plan, the evaluator shall determine whether the performance deficiencies have been corrected and forward a written recommendation to the school district superintendent.

**G.** Within 10 school days after receipt of that written recommendation, the school district superintendent or charter school head administrator shall provide the licensed school employee who has an employment contract with the school district written notification expressing whether the performance deficiencies have been satisfactorily corrected. A copy of the evaluator's recommendation shall accompany that notice.

**H.** If satisfactory progress has not been made, the local superintendent or charter school head administrator shall determine whether to discharge or terminate the employee pursuant to Sections 22-10A-27 or 22-10A-24, NMSA 1978.

**I.** An employee who has been placed on a 90-day performance growth plan because of unsatisfactory work performance, and who has not been employed by a school district for three consecutive years shall have no reasonable expectation of continued employment beyond the end of the contract year by reason of being on a performance growth plan.

[6.69.2.8 NMAC - Rp, 6.69.2.8 NMAC, 08/15/2017]

### **PART 3: PERFORMANCE EVALUATION REQUIREMENTS FOR ADMINISTRATORS**

#### **6.69.3.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.69.3.1 NMAC - Rp, 6.69.3.1 NMAC, 07-01-08]

#### **6.69.3.2 SCOPE:**

Chapter 69, Part 3, governs performance evaluation requirements for administrators other than principals or assistant principals in a public school district or charter school.

[6.69.3.2 NMAC - Rp, 6.69.3.2 NMAC, 07-01-08]

#### **6.69.3.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-19, NMSA 1978.

[6.69.3.3 NMAC - Rp, 6.69.3.3 NMAC, 07-01-08]

#### **6.69.3.4 DURATION:**

Permanent.

[6.69.3.4 NMAC - Rp, 6.69.3.4 NMAC, 07-01-08]

#### **6.69.3.5 EFFECTIVE DATE:**

July 1, 2008, unless a later date is cited at the end of a section.

[6.69.3.5 NMAC - Rp, 6.69.3.5 NMAC, 07-01-08]

#### **6.69.3.6 OBJECTIVE:**

This rule governs the requirements for the performance evaluation system for administrators other than principals, grades Pre K-12. This rule identifies the specific evaluation/supervision competencies and indicators for administrators other than principals.

[6.69.3.6 NMAC - Rp, 6.69.3.6 NMAC, 07-01-08]

#### **6.69.3.7 DEFINITIONS:**

**[RESERVED]**

#### **6.69.3.8 EVALUATIONS OF ADMINISTRATOR PERFORMANCE:**

A. Beginning July 1, 2008 each school district shall implement a system of administrator performance evaluation which meets the requirements of this rule.

B. Prior to implementing the system of administrator performance evaluation, each school district shall involve all administrators in the development of evaluation criteria and data collection procedures.

C. Each school district shall include the following competencies and indicators as part of the evaluation criteria.

(1) The administrator demonstrates foresight, examines issues, and takes initiatives to improve the quality of education in the community:

(a) enables staff, students, parents, and community to build a common vision;

(b) articulates a vision and is able to make that vision concrete to others;

(c) provides a learning environment and climate where creativity, risk taking, and experimentation are shared by all stakeholders;

(d) understands, facilitates, and manages change in self, others, and the organization.

(2) The administrator embraces and encourages the acceptance of diversity:

(a) models respect, understanding, and appreciation for all people;

(b) addresses the special needs of groups and individuals;

(c) addresses the needs of multicultural, multilingual, multiracial, and economically diverse populations;

(d) promotes and supports recruitment and assignment of diverse staff;

(e) demonstrates sensitivity to alternative educational philosophies and methodologies.

(3) The administrator uses effective people skills to communicate:

(a) addresses the needs of staff, students, parents, and community;

(b) facilitates communication and the use of problem solving processes to promote teamwork, consensus, and inquiry;

(c) assists with the resolution of conflicts and stress;

(d) implements the staff evaluation process effectively;

(e) writes and speaks appropriately;

(f) keeps staff and community informed of pertinent information in a timely manner;

(g) utilizes appropriate listening skills.

(4) The administrator provides and maintains an environment where optimal student growth can take place:

(a) understands and supports the goals and purposes of the organization;

(b) promotes learning as the primary purpose of the organization;

(c) collaborates and networks with community service agencies, other educational organizations and businesses, as appropriate;

(d) provides and maintains a safe and healthy environment that promotes positive student behavior;

(e) understands and encourages the application of human growth and development principles;

(f) assesses and evaluates program and staff effectively.

(5) The administrator demonstrates instructional leadership:

(a) seeks out and provides staff with information on methodology, research, and current educational trends;

- (b) identifies, accesses, and uses appropriate resources;
- (c) makes reasonable decisions and accepts responsibility for those decisions;
- (d) promotes collaboration and mutual sharing among teachers and staff;
- (e) encourages and allows others to lead as appropriate;
- (f) comprehends effective learning and teaching processes.

(6) The administrator demonstrates an understanding of the dynamics of the educational organization:

- (a) develops positive school/community relations;
- (b) demonstrates an understanding of the politics of school governance and operations;
- (c) informs staff, parents, and community of relevant facts to aid in reaching informed decisions;
- (d) exhibits skills in comprehending, interpreting, and supporting positions of the organization;
- (e) exhibits skills in lobbying, negotiating, collective bargaining, policy development, and policy maintenance;

(7) The administrator effectively manages the resources for which the position is responsible including personnel, finances, facilities, programs, and time:

- (a) implements district policies, state standards, and federal regulations and laws;
- (b) organizes, coordinates, and supervises staff assignments and needs;
- (c) carries out appropriate fiscal procedures;
- (d) utilizes and maintains facilities;
- (e) demonstrates efficient time management by establishing schedules and reasonable timelines for completing tasks;
- (f) utilizes available technology to meet administrative objectives;
- (g) utilizes participatory management techniques.

(8) The administrator uses supervision, staff development, and performance evaluation to improve the educational program:

- (a) implements a collaborative process in staff development;
- (b) identifies and acknowledges effective performance in objective terms;
- (c) assists individual professional development planning;
- (d) develops, implements and evaluates the staff development program, collaboratively utilizing a variety of resources;
- (e) follows procedures and participates in training consistent with the state and local teacher performance evaluation plan;
- (f) provides regular feedback on performance.

(9) The administrator maintains a familiarity with current educational issues through a process of ongoing personal development:

- (a) meets statutory requirements;
- (b) participates in local, state and other training opportunities;
- (c) reviews current professional literature;
- (d) continues to expand knowledge and awareness of programs within the school district.

D. Each school district shall select or develop additional competencies and indicators determined appropriate by the school district to complete the total system of administrator evaluation.

E. Each school district shall provide training in conference skills and growth planning to all administrators and supervisors of administrators.

F. The administrator performance evaluation system shall include at least the following components:

- (1) collect data on the administrator's performance to determine the presence and extent of competencies demonstrated;
- (2) confer with the administrator prior to each observation and as soon as possible after each data collection instance to ensure the adequacy, accuracy, and completeness of the information obtained;

(3) identify strengths and areas of the administrator's performance where growth can occur;

(4) collaborate with the administrator on the development of a written plan for improvement or growth; the plan should include follow-up data collection and conferences with the administrator to determine progress toward completion of the plan;

(5) provide assistance to the administrator through individual guidance, workshops, classes, or other such means for completing the growth plan.

[6.69.3.8 NMAC - Rp, 6.69.3.8 NMAC, 07-01-08]

## **PART 4: PERFORMANCE EVALUATION SYSTEM REQUIREMENTS FOR TEACHERS**

### **6.69.4.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.69.4.1 NMAC - Rp, 6.69.4.1 NMAC, 1/18/2023]

### **6.69.4.2 SCOPE:**

Performance evaluation system requirements for teachers.

[6.69.4.2 NMAC - Rp, 6.69.4.2 NMAC, 1/18/2023]

### **6.69.4.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, 22-2-8.1, and 22-10A-3 NMSA 1978.

[6.69.4.3 NMAC - Rp, 6.69.4.3 NMAC, 1/18/2023]

### **6.69.4.4 DURATION:**

Permanent.

[6.69.4.4 NMAC - Rp, 6.69.4.4 NMAC, 1/18/2023]

### **6.69.4.5 EFFECTIVE DATE:**

January 18, 2023, unless a later date is cited at the end of a section.

[6.69.4.5 NMAC - Rp, 6.69.4.5 NMAC, 1/18/2023]

### **6.69.4.6 OBJECTIVE:**

This rule establishes the requirements for a department-approved educator evaluation system for teachers. This rule identifies the specific evaluation and supervision standards and indicators and requirements for a competency-based evaluation system for teachers.

[6.69.4.6 NMAC - Rp, 6.69.4.6 NMAC, 1/18/2023]

#### **6.69.4.7 DEFINITIONS:**

**A. "Advancement program level I – level II" or "APLI-II"** means a series of five microcredentials, aligned with the department-approved educator evaluation system, that a teacher with a level 1 license shall successfully complete and demonstrate mastery in before progressing to a level 2 license.

**B. "Advancement program level II – level III" or "APLII-III"** means a series of five microcredentials, aligned with the department-approved educator evaluation system, that a teacher with a level 2 teaching license shall successfully complete and demonstrate mastery in before progressing to a level 3-A teaching license.

**C. "Core academic subjects"** means English, language arts, reading, mathematics, science, the arts - including music and visual arts - and social studies - including civics, government, economics, history, and geography - and modern and classical languages, Native American languages, and cultures of New Mexico tribes and pueblos.

**D. "Full school year"** means a minimum of 1080 instructional hours in a school year for teachers of students in seventh through 12th grades, 990 hours for teachers of students in full-day kindergarten through fifth grade, or 450 hours for teachers of students in half-day kindergarten, during which the teacher is the teacher of record or serves as an instructional coach or resource teacher in at least one class each school year while holding a standard teaching license. An equivalent number of instructional hours may be accepted for those teachers who do not teach every day. Instructional hours may include teaching in summer school, extended learning time programs, or similar educational settings.

**E. "Micro-credential"** means a competency-based process made up of several courses, each focused on a discrete skill or area aligned with the educator evaluation system.

[6.69.4.7 NMAC - Rp, 6.69.4.7 NMAC, 1/18/2023]

#### **6.69.4.8 REQUIREMENTS:**

**A.** The school district shall ensure, through proper annual teaching assignment and professional development plans and evaluations, that all teachers are certified and endorsed to teach core academic subjects.



**B.** Every public school teacher shall have an annual performance evaluation based on a professional development plan that meets the requirements of the department-approved evaluation system.

[6.69.4.8 NMAC - Rp, 6.69.4.8 NMAC, 1/18/2023]

**6.69.4.9 IMPLEMENTATION OF THE EDUCATOR EVALUATION SYSTEM-FOR DEMONSTRATING COMPETENCE IN THE CORE ACADEMIC SUBJECTS:**

A teacher of the core academic subjects employed as a general education teacher in a school district that qualifies as a rural school district under the current authorization of the Elementary and Secondary Education Act of 1965 (20) U.S.C. 6301, may fulfill the requirements in Subsections A and B of 6.69.4.9 NMAC and either the requirement of Paragraphs (2)-(3) of Subsection C or Paragraphs (2)-(3) of Subsection D of 6.69.4.9 NMAC within three full school years of the date of hire as long as the teacher is certified and endorsed in at least one core academic subject when hired in a qualifying rural school district. A new to the profession special education teacher employed in any school district may fulfill the requirements in Paragraphs (2)-(3) of Subsection C or Paragraphs (2)-(3) of Subsection D of 6.69.4.9 NMAC within two full school years of initial employment in any school district if the teacher is certified and endorsed in either language arts, mathematics, or science when hired. The candidate shall:

**A.** have successful annual evaluations for two full school years prior to the evaluation; and

**B.** have two complete school years of successful teaching and either;

**C.** complete credit hours at a regionally accredited college or university in the core academic subject in which the candidate is seeking to demonstrate competence, as follows:

(1) for K-8 elementary licensed teachers or pre K-12 special education licensed teachers teaching in a self-contained elementary classroom, 24 lower or upper division credit hours across the elementary education core academic subjects of language arts, social studies, mathematics, and science, with at least six credit hours in each core area;

(2) for K-8 elementary licensed teachers teaching in a middle school, and pre K-12 special education licensed teachers teaching in a middle or high school, 18 lower or upper division credit hours in each core academic subject the teacher teaches;

(3) for 7-12 secondary, 5-9 middle level, and pre K-12 specialty area licensed teachers teaching in a middle school, junior high school, or high school, 18 credit hours, 12 of which must be upper division in each core academic subject the teacher teaches; or

**D.** complete the following combination of coursework through a regionally accredited college or university and by portfolio:

(1) for K-8 licensed elementary teachers teaching in a self-contained elementary classroom, and for a pre K-12 special education licensed teachers teaching special education students at any grade level who are assessed against alternative achievement standards, 12 lower or upper division credit hours across the elementary education curriculum areas;

(2) for K-8 licensed elementary teachers teaching in a middle school, and for a pre K-12 special education licensed teachers teaching special education students in a middle school or high school, upper or lower division credit hours as follows:

(a) 12 semester hours in a single core subject area; or

(b) 15 semester hours in two core subject areas, with at least six hours in each one; or

(c) 18 semester hours in three core subject areas, with at least six hours in each one; or

(d) 24 semester hours in four core subject areas, with at least six hours in each one;

(3) for 7-12 secondary, 5-9 middle level, and pre K-12 specialty area licensed teachers, the credit hours, specified in Paragraph (2) of Subsection D of 6.69.4.9 NMAC all at the upper division level;

(4) demonstrate to a local panel of teachers the requirements of Subparagraphs (a) or (b) below:

(a) mastery of the competence in the instructional strand of the PED's teacher competencies and indicators for the level of licensure the candidate holds in each core academic subject in which the teacher seeks to demonstrate that the teacher is qualified by submitting evidence from (i), (ii) and (iii) as follows:

(i) documentation from Paragraph (1) of Subsection E of 6.69.4.11 NMAC; and

(ii) observation summaries, by each panel member, of the candidate teaching in the area for which the teacher is applying; observations by the panel may be done in person or by video; and

(iii) at least two observation summaries, completed by the candidate, of a teacher(s) teaching in the subject area for which the candidate is seeking to be certified and endorsed;

(b) provide an analysis of student achievement in each core academic subject in which the teacher seeks to demonstrate that the teacher is qualified by submitting evidence as follows:

(i) explain (350 word maximum) the way(s) in which a class of students demonstrated their achievement (e.g., test, work sample, performance) related to a segment of instruction; include examples of different materials used and student work;

(ii) provide the criteria (350 word maximum) for determining different levels of achievement and how this was communicated to the students; the criteria may be in a handout or other means of communication to students;

(iii) to illustrate relative levels of achievement in the class, provide examples of the work of three unidentified students who represent "high, "mid range," and "low" levels of achievement; these examples may include unidentified student written or drawn work, photographs, audio recordings (five minute maximum), or video recordings (five minute maximum and written parental consent to video child);

(iv) explain (350 word maximum) how the three unidentified students differed in their achievement levels and how this achievement relates to the state's standards and benchmarks;

(v) explain (350 word maximum) how this data could be taken into account in a subsequent instructional segment for the class;

(c) the local panel of teachers shall consist of two teachers:

(i) one teacher will be appointed by the principal in the school where the teacher seeking to be certified and endorsed is teaching; the second teacher will be appointed by the candidate;

(ii) panelists must be certified and endorsed, as defined in Subsection B, C or D of 6.69.4.7 NMAC, hold a current level 2 or 3-A license, and have an endorsement or license in the subject area or areas to be evaluated;

(iii) panelists may be from the candidate's same school, or same district, or from another school or district in New Mexico;

(5) both teachers on the panel must agree that the candidate has met, or exceeds, the competencies and indicators for the level of licensure the teacher being evaluated holds or that the students of the teacher being evaluated have demonstrated growth and progress in each core academic subject the teacher teaches;

(6) the panel shall submit their recommendation to the local superintendent and records of the panel's findings shall be kept on file locally and available to the public upon request.

[6.69.4.9 NMAC - Rp, 6.69.4.9 NMAC, 1/18/2023]

#### **6.69.4.10 IMPLEMENTATION OF THE ANNUAL EDUCATOR EVALUATION SYSTEM:**

**A.** Each school district shall adopt policies, guidelines, and procedures for annual teacher performance evaluation. The annual evaluation plan will be combined with the evaluation plan for licensure advancement provided in Subsection A of 6.69.4.11 NMAC to form an overall system for teacher evaluation and support.

**B.** No later than 40 school days after the first day of school of each school year, each teacher and their school principal shall establish a professional development plan for the teacher, with measurable objectives, for the coming year based on, among other things:

- (1) the department's teaching competencies and indicators for teachers; and
- (2) the previous year's annual evaluation, if applicable; and
- (3) assurance that the teacher is certified and endorsed in the core academic subject(s) the teacher teaches and that the school district has appropriately assigned the teacher to teach in the subject(s) in which the teacher is certified and endorsed.

**C.** Annual performance evaluations shall include how well the professional development plan was carried out and the measurable objectives were achieved.

**D.** The school principal shall observe each teacher's classroom or program practice at least once annually to determine the teacher's ability to demonstrate state adopted competencies and indicators for each teacher's licensure level.

**E.** If a level 2 or level 3-A teacher does not demonstrate essential competencies for a given school year, the school district shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of that school year the teacher still fails to demonstrate essential competencies, a governing authority may choose not to contract with that teacher.

**F.** If a level 3-A teacher does not demonstrate essential competencies at level 3-A for a given school year, the school district shall provide the teacher with professional development and peer intervention, including 6.69.4 NMAC 4 mentoring, for a period the school principal deems necessary. If by the end of the following school year the teacher still fails to demonstrate essential level 3-A competencies, the superintendent

may recommend to the department that the teacher's level 3-A license be suspended until such time as the teacher demonstrates the essential competencies at level 3-A. Depending on the outcome of any due process proceeding under the Uniform Licensing Act and if the superintendent verifies that the teacher meets the standards for a level 2 license, the teacher may be issued a level 2 license during the period of level 3-A licensure suspension. A suspended level 3-A license may be reinstated by the secretary of education upon verification by a local superintendent that the teacher now demonstrates the essential competencies at level 3-A or through the process described in 6.69.4.11 NMAC.

**G.** At least every two years, school principals shall attend a training program approved by the department to improve their teacher evaluation skills.

[6.69.4.10 NMAC – Rp, 6.69.4.10 NMAC, 1/18/2023]

#### **6.69.4.11 LICENSURE ADVANCEMENT:**

**A.** To advance from level 1 licensure to level 2 licensure, a teacher who:

(1) is in their first or second year of teaching during the 2022-2023 school year is eligible to participate in APLI-II;

(2) is in their third year of teaching during the 2022-2023 school year is eligible to participate in APLI-II or submit a professional development dossier (PDD) during the 2022-2023 or the 2023-2024 school year;

(3) is in their fourth year of teaching during the 2022-2023 school year:

(a) may participate in APLI-II, but shall be continuously enrolled in the required micro-credentials to complete APLI-II by the end of their fifth year of teaching;

(b) may submit a PDD during 2022-2023 school year or the 2023-2024 school year; or

(c) shall submit a PDD during the 2023-2024 if they fail to complete two or more micro-credentials by June 2023;

(4) is in their fifth year of teaching during the 2022-2023 school year shall submit a PDD.

(5) is in their first year of teaching during the 2023-2024 school year or thereafter shall participate in APLI-II.

**B.** To advance from level 2 licensure to level 3 licensure, during the:

(1) 2023-2024 school year, a teacher may participate in APLII-III or submit the PDD;

(2) 2024-2025 school year or thereafter, a teacher shall participate in APLII-III.

**C.** The PDD shall include:

(1) evidence of competence that may be collected over multiple school years, including the year the PDD is being developed;

(2) evidence in the following format that demonstrates how the teacher meets the department's nine teacher competencies and indicators for the level of licensure to which the teacher is advancing; evidence that demonstrates how the teacher meets competencies related to an:

(a) instruction strand (competencies 1, 2, 5); and

(b) student learning strand (competencies 3, 4, 6, and 7); and

(c) professional learning strand (competencies 8 and 9);

(3) evidence from an evaluation strand that includes the teacher's annual evaluations from at least the two years prior to the application for advancement and the superintendent's recommendation for advancement to the next licensure level;

(4) a verification strand that includes:

(a) for a level 1 teacher advancing to level 2:

(i) verification of participation in a school district's formal mentorship program;

(ii) verification of three years of successful teaching experience at level 1;

(iii) verification by the superintendent that the work product in the PDD is that of the teacher and that the data submitted is accurate;

(b) for a level 2 teacher advancing to level 3-A:

(i) verification of a post baccalaureate degree or national board professional teaching certification;

(ii) verification of a minimum three years of successful teaching experience at level 2;

(iii) verification by the superintendent that the work product in the PDD is that of the teacher and that the data submitted is accurate.

**D. Evidence in the PDD competency strands:**

(1) The instruction strand shall include evidence of:

- (a) student achievement data;
- (b) assessment techniques and procedures;
- (c) instructional plans and materials;
- (d) examples of student work and performance; and
- (e) evidence of implementation of state curriculum standards.

(2) The student learning strand shall include mandatory evidence and may include evidence as follows:

(a) the student learning strand shall include evidence of:

- (i) adaptations or modification for diverse learners;
- (ii) evidence of effective classroom management strategies and procedures;
- (iii) classroom observation reports; and
- (iv) evidence of communication with students and parents.

(b) the student learning strand may include evidence in the form of student surveys or video tapes with reflections or analysis.

(3) The professional learning strand shall include evidence of at least one of the following:

- (a) professional development activities associated with the teachers annual professional development plan (PDP);
- (b) evidence of collaborating with professional community;
- (c) parent surveys;
- (d) research publications; or

(e) professional presentations.

(4) Evidence comparable and equivalent to Paragraphs (1), (2) and (3) of Subsection E of this section may be developed through certification by the national board of professional teaching standards.

**E.** Unless special accommodations are requested in writing to the department 30 days in advance of a submission, the PDD and associated fees in Subsection C of 6.60.7.8 NMAC shall be submitted electronically following procedures established by the department.

**F.** The PDD shall be evaluated by the superintendent of the teacher's school district and by two external reviewers, one of whom shall hold the same grade level licensure and subject area endorsement as the candidate, as follows:

(1) The superintendent will complete the verification and evaluation strands to make a recommendation for licensure advancement and the two external reviewers will rate the three competency strands as "exceeds standards," "meets standards" or "does not meet standards" in order to make their recommendations for licensure advancement."

(2) Each one of the three competency strands of a teacher's PDD reviewed by the independent reviewers must be rated as either "exceeds standards" or "meets standards" and each one of the strands completed by the superintendent must be verified and have a positive recommendation for the teacher to advance to the next higher level of licensure.

(3) The superintendent and the reviewers will submit the PDD to the department or its contractor with their ratings.

(4) The department will evaluate the ratings of the superintendent and the external reviewers and approve or deny the teacher's application for licensure advancement:

(a) If one of the external reviewers rates one of the competency strands of the PDD as "exceeds standards" and the other external reviewer rates the same strand as "meets standards," the strand will be deemed passed.

(b) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "exceeds standards," the finding will be that the candidate "meets standards" and the strand will be deemed passed.

(c) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "meets



standards," a third reviewer will resolve the discrepancy in order to determine if the strand will be passed.

(d) If both of the external reviewers rate the competency strand(s) of PDD the same, that rating will be their finding. If, however, both of the external reviewers rate the competency strand(s) of the 6.69.4 NMAC 6 PDD as "does not meet standards," a third trainer or reviewer may review the strand(s) to confirm or reject their ratings.

**G.** A candidate for licensure advancement who is not successful in the PDD may continue to submit a new PDD.

**H.** If a candidate for licensure advancement meets or exceeds standards in one or some of the strands, but not in all of them, the teacher's score(s) of "meets standards" or "exceeds standards" may be retained for a period of two calendar years. Any resubmission of a PDD during that two-year period need only address those strands rated "does not meet standards" to determine a final passing score for all strands for licensure advancement.

[6.69.4.11 NMAC – Rp, 6.69.4.11 NMAC, 1/18/2023]

#### **6.69.4.12 TEACHER COMPETENCIES AND INDICATORS FOR LICENSURE LEVELS 1, 2, AND 3-A:**

A. New Mexico is one of the most diverse states in the nation, and this diversity is reflected in the strengths and needs of New Mexico's students. The ability of a highly qualified teacher to address the learning needs of all of New Mexico's students, including those who learn differently as a result of disability, culture, language, or socioeconomic status, forms the framework for the New Mexico teacher competencies for licensure levels 1, 2, and 3-A assessment criteria indicators.

B. Beginning July 1, 2004, the high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level 1 teachers.

(1) The teacher accurately demonstrates knowledge of the content area and approved curriculum:

- (a) utilizes and enhances approved curriculum;
- (b) gives clear explanations relating to lesson content and procedure;
- (c) communicates accurately in the content area;
- (d) shows interrelatedness of one content area to another.

(2) The teacher appropriately utilizes a variety of teaching methods and resources for each area taught:

(a) provides opportunities for students to work independently, in small groups, and in large groups, as appropriate;

(b) uses a variety of methods such as demonstrations, lecture, student-initiated work, group work, questioning, independent practice, etc., as appropriate;

(c) uses a variety of resources such as field trips, supplemental printed materials, manipulatives, etc., as appropriate;

(d) provides opportunities for students to apply, practice, and demonstrate knowledge and skills learned through various modalities;

(e) implements necessary modifications and adaptations in instruction and curriculum so that students with disabilities have access to the general education curriculum in the least restrictive environment.

(3) The teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

(a) explains and/or demonstrates the relevance of topics and activities;

(b) communicates to students the instructional intent, directions or plan at the appropriate time;

(c) establishes and states expectations for student performance;

(d) clarifies actions, directions, and explanations when students do not understand;

(e) actively solicits communication from students about their learning;

(f) communicates regularly with students about their progress.

(4) The teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) uses and instructs students in the use of cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, decision-making, etc;

(b) uses teaching techniques which address student learning levels, rates, and styles;

(c) uses materials and media which address student learning levels, rates and styles;

(d) uses resources such as community service agencies, school personnel, parents, etc., to meet students' learning levels, rates, and styles.

(5) The teacher effectively utilizes student assessment techniques and procedures:

(a) uses a variety of assessment tools and strategies, as appropriate;

(b) uses information gained from ongoing assessment for remediation and instructional planning;

(c) maintains documentation of student progress;

(d) communicates student progress with students and families in a timely manner.

(6) The teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:

(a) serves as a model for constructive behavior patterns;

(b) executes routine tasks effectively and efficiently;

(c) establishes and states expectations for student behavior;

(d) handles transitions effectively;

(e) has materials and media ready for student use;

(f) minimizes distractions and interruptions;

(g) manages student behavior effectively and appropriately;

(h) identifies hazards, assesses risks, and takes appropriate action.

(7) The teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) demonstrates sensitivity and responsiveness to the personal ideas, learning needs, interests, and feelings of students with disabilities, and/or from culturally and linguistically diverse backgrounds (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well as other recent immigrant groups.);

- (b) acknowledges student performance and achievement;
  - (c) acknowledges that every student can learn;
  - (d) provides opportunities for each student to succeed;
  - (e) provides students with opportunities for active involvement and creativity;
  - (f) provides opportunities for students to be responsible for their own behavior and learning;
  - (g) promotes positive student/teacher relationships;
  - (h) encourages high student expectations;
  - (i) demonstrates an awareness and respect for each student's background, experience, learning ability, language and culture.
- (8) The teacher demonstrates a willingness to examine and implement change, as appropriate:
- (a) seeks out information on methodology, research, and current trends in education to enhance and improve the quality of learning;
  - (b) implements a variety of strategies to enhance learning;
  - (c) recognizes that change entails risk and that modifications may be needed.
- (9) The teacher works productively with colleagues, parents, and community members:
- (a) collaborates with colleagues;
  - (b) communicates with parents on a regular basis;
  - (c) uses conflict resolving strategies when necessary;
  - (d) involves parents and community in their learning environment;
  - (e) communicates in a professional manner with colleagues, parents, and community members regarding educational matters.

**C.** Beginning July 1, 2004, the high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level 2 teachers.

(1) The teacher accurately demonstrates knowledge of the content area and approved curriculum:

- (a) enhances and extends approved curriculum;
- (b) gives clear explanations relating to lesson content and procedures;
- (c) communicates accurately in the content area;
- (d) integrates other subjects into the content curriculum.

(2) The teacher appropriately utilizes a variety of teaching methods and resources for each area taught:

- (a) designs appropriate opportunities for large group, small group, and independent student learning experiences;
- (b) selects from a variety of teaching methods (demonstrations, lectures, student projects, group work, independent practice) for specific instructional goals and purposes;
- (c) integrates a variety of resources into instruction, including field trips, supplemental printed materials, manipulatives, and technology;
- (d) demonstrates understanding and appropriate application of learning styles, modalities, and intelligences theories;
- (e) designs and implements necessary modifications and adaptations in instruction and curriculum so that students with disabilities have access to the general education curriculum in the least restrictive environment.

(3) The teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

- (a) effectively explains, demonstrates or communicates the relevance of topics and activities;
- (b) consistently communicates to students the instructional intent, directions, and plans;
- (c) establishes and states expectations for student performance;
- (d) presents directions and explanations in a variety of ways to insure student understanding;

(e) solicits communication from students about their learning for the purposes of ongoing instructional planning;

(f) communicates regularly with students about their progress.

(4) The teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) consistently integrates the use of cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making into instruction;

(b) adapts teaching techniques to accommodate a range of student learning levels, rates, styles and special needs;

(c) adapts materials and media to address a range of student learning levels, rates, styles and special needs;

(d) selects from a variety of community service agencies, specialized school personnel, and parents to address different learning levels, rates, styles, and needs.

(5) The teacher effectively utilizes student assessment techniques and procedures:

(a) selects appropriate assessment tools and strategies for specific learning outcomes;

(b) uses formative and summative assessment for remediation and instructional planning;

(c) maintains documentation of student progress;

(d) consistently maintains communication with students and families about student progress.

(6) The teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:

(a) identifies, explains, and models constructive behavior patterns;

(b) establishes and teaches effective and efficient routines;

(c) establishes and reinforces expectations for student behaviors that promote citizenship in a classroom community;

(d) maintains smoothness and momentum during classroom transitions;

- (e) prepares and arranges material in advance for easy student accessibility;
- (f) minimizes distractions and interruptions;
- (g) monitors and directs student behavior effectively and appropriately;
- (h) identifies hazards, assesses risks, and takes appropriate action.

(7) The teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) acknowledges and validates the ideas, learning needs, interests, and feelings of students with disabilities and/or from culturally and linguistically diverse backgrounds (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well as other recent immigrant groups;

(b) consistently recognizes student performance and achievements;

(c) understands how students differ in their approaches to learning and adjusts instruction to meet diverse needs;

(d) designs opportunities for each student to succeed, based on individual learning needs;

(e) designs specific activities that require active involvement and creativity;

(f) designs opportunities that require and reinforce student responsibility for learning;

(g) develops students' self-esteem, motivation, character, and sense of civic responsibility;

(h) establishes and communicates high expectations for all students;

(i) demonstrates knowledge of different student backgrounds, experiences, learning abilities, languages and cultures and incorporates this knowledge into curricular decisions and instructional methodology.

(8) The teacher demonstrates a willingness to examine and implement change, as appropriate:

(a) seeks out information on methodology, research and current trends in education to enhance and improve the quality of learning;

(b) demonstrates knowledge of best practices that enhance learning;

(c) participates in instructional improvement and school reform initiatives;

(9) The teacher works productively with colleagues, parents, and community members:

(a) actively promotes collegial relations with other school personnel;

(b) provides a system for interactive communication between teacher and parents;

(c) uses conflict resolution strategies as appropriate;

(d) promotes active roles for parents and community members in student learning;

(e) communicates in a professional manner with colleagues, parents, and community members regarding educational matters.

**D.** Beginning July 1, 2004, the high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level 3-A teachers:

(1) The teacher accurately demonstrates knowledge of the content area and approved curriculum:

(a) contributes to the refinement and development of the approved curriculum;

(b) provides clear explanations relating to lesson content and procedures in multiple ways and is aware of knowledge and preconceptions that students can bring to the subject;

(c) communicates accurately in the content area and can create multiple paths to the subject matter;

(d) can articulate to students the interrelatedness of the disciplines.

(2) The teacher appropriately utilizes a variety of teaching methods and resources for each area taught:

(a) designs and engages students in large group, small group, and independent work activities;

(b) demonstrates effective selection and use of a variety of methods to make knowledge accessible to all students;



(c) demonstrates effective integration of a variety of resources and learning experiences into the curriculum;

(d) designs opportunities for students to apply, practice, and demonstrate knowledge and skills based on knowledge of learning modalities, style preferences, and intelligences;

(e) engages with colleagues and parents to collaboratively design and implement necessary modifications and adaptations in instruction and curriculum so that students with disabilities have access to the general education curriculum in the least restrictive environment.

(3) The teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

(a) engages students in explaining and/or demonstrating the relevance of topics and activities;

(b) involves students in establishing instructional direction and plans;

(c) establishes and states expectations for student performance;

(d) presents directions and explanations in a variety of ways to insure student understanding;

(e) engages students in the analysis and evaluation of their learning and adjusts instruction based on student feedback;

(f) communicates regularly with students about their progress.

(4) The teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) consistently integrates the use of cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making into instruction;

(b) selects the most effective teaching techniques to address a variety of student learning levels, rates, styles and needs as well as diverse interests and backgrounds;

(c) selects the most effective materials and media to address a variety of student learning levels, rates, styles and needs;

(d) integrates community resources, service agencies, other school personnel, parents, and community members into the curriculum.

(5) The teacher effectively utilizes student assessment techniques and procedures:

(a) designs and uses multiple methods of measuring student understanding and growth;

(b) integrates assessment data from multiple sources into instructional planning and improvement;

(c) maintains documentation of student progress;

(d) develops a two-way system of communicating with students and families about student progress.

(6) The teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:

(a) integrates the teaching of constructive, pro-social behaviors into regular instruction;

(b) establishes and teaches effective and efficient routines;

(c) engages students in establishing expectations for building a learning community in the classroom;

(d) maintains smoothness and momentum during instructional transitions;

(e) establishes an environment where materials and media are available and ready for student use;

(f) minimizes distractions and interruptions;

(g) develops a classroom management system that promotes acceptable and appropriate student behavior;

(h) identifies hazards, assesses risks and takes appropriate action.

(7) The teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) adjusts practice based on observation and knowledge of students with disabilities and/or from culturally and linguistically diverse groups (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well other recent immigrant groups);

(b) creates curriculum designs that include student performance and acknowledgment of achievement;

(c) demonstrates an awareness of the influences of context disability, language, and culture on student learning;

(d) provides accommodations and interventions that allow each student to succeed based on individual learning needs;

(e) engages students in learning experiences that promote creativity, critical and divergent thinking;

(f) designs opportunities that require and reinforce student responsibility for learning;

(g) fosters the development of respect for individual, cultural, linguistic, disability, and religious differences;

(h) engages students in setting high standards for performance;

(i) treats all students equitably, recognizing and planning for individual differences in cultures, languages, learning abilities, backgrounds, and experiences.

(8) The teacher demonstrates a willingness to examine and implement change, as appropriate:

(a) demonstrates the ability to reason, take multiple perspectives, be creative, and take reasoned risks to improve teaching;

(b) collaborates with colleagues in the research and design of improved instructional strategies;

(c) assumes a leadership role in the study and implementation of instructional improvement and school reform initiatives.

(9) The teacher works productively with colleagues, parents, and community members:

(a) serves as a role model for collaborative working relations across the profession;

(b) demonstrates knowledge of specific school, family, and community resources that can support student learning;

(c) assists colleagues in the use of conflict resolution strategies;

(d) engages parents and community members productively in the work of the school;

(e) works collaboratively and creatively with colleagues, parents, and community members regarding educational matters.

**E.** A school district may select and/or develop additional standards and indicators determined appropriate by the local school district to complete the local teacher performance evaluation system.

**F.** Each school district shall provide training in evaluation of performance, classroom observation techniques, conference skills, and growth planning to all teachers and personnel assigned performance evaluation duties.

**G.** Teachers whose leadership roles are primarily outside of the classroom will be evaluated on their ability to lead other teachers in meeting the competencies and indicators in their level of licensure.

[6.69.4.12 NMAC - N, 09-30-03; A, 10-14-04; A, 10-31-06; A, 10-31-07]

## **PART 5: PERFORMANCE EVALUATION SYSTEM REQUIREMENTS FOR LIBRARIAN-TEACHERS**

### **6.69.5.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.69.5.1 NMAC – Rp, 6.69.5.1 NMAC, 1/18/2023]

### **6.69.5.2 SCOPE:**

Performance evaluation system requirements for librarian-teachers.

[6.69.5.2 NMAC - Rp, 6.69.5.2 NMAC, 1/18/2023]

### **6.69.5.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, and 22-10A-3 NMSA 1978.

[6.69.5.3 NMAC- Rp, 6.69.5.3 NMAC, 1/18/2023]

### **6.69.5.4 DURATION:**

Permanent.

[6.69.5.4 NMAC - Rp, 6.69.5.4 NMAC, 1/18/2023]

#### **6.69.5.5 EFFECTIVE DATE:**

January 18, 2023, unless a later date is specified at the end of a section.

[6.69.5.5 NMAC - Rp, 6.69.5.5 NMAC, 1/18/2023]

#### **6.69.5.6 OBJECTIVE:**

This rule establishes the requirements for a department-approved evaluation system for librarian-teachers from kindergarten through grade 12. This rule identifies the specific evaluation standards, indicators, and requirements for a competency-based evaluation system for librarian-teachers.

[6.69.5.6 NMAC - Rp, 6.69.5.6 NMAC, 1/18/2023]

#### **6.69.5.7 DEFINITIONS:**

**A. "Advancement program level I – level II" or "APLI-II"** means a series of five microcredentials, aligned with the department-approved educator evaluation system, that a teacher with a level 1 license shall successfully complete and demonstrate mastery in before progressing to a level 2 license.

**B. "Advancement program level II – level III" or "APLII-III"** means a series of five microcredentials, aligned with the department-approved educator evaluation system, that a teacher with a level 2 teaching license shall successfully complete and demonstrate mastery in before progressing to a level 3-A teaching license.

**C. "Governing authority"** means the policy-setting body of a school district, charter school, constitutional special school, regional education cooperative, or final decisionmaker of another state agency.

**D. "Librarian-teacher"** means a licensed teacher with a library media endorsement performing work in a public school that requires that endorsement.

**E. "Micro-credential"** means a competency-based process made up of several courses, each focused on a discrete skill or area aligned with the educator evaluation system.

[6.69.5.7 NMAC - Rp, 6.69.5.7 NMAC, 1/18/2023]

#### **6.69.5.8 REQUIREMENTS:**

**A.** Every public school librarian-teacher shall have an annual performance evaluation based on an professional development plan that meets the requirements of the department-approved evaluation system.

**B.** To advance from licensure level 1 to level 2 and from licensure level 2 to level 3-A, a librarian teacher who applies for licensure shall meet the requirements of the department-approved evaluation system.

[6.69.5.8 NMAC - Rp, 6.69.5.8 NMAC, 1/18/2023]

#### **6.69.5.9 IMPLEMENTATION OF ANNUAL EDUCATOR EVALUATION SYSTEM:**

**A.** Each governing authority that employs librarian-teachers shall adopt policies, guidelines, and procedures for annual librarian-teacher performance evaluation that meet the requirements of this rule. The annual evaluation plan will be combined with the evaluation plan for licensure advancement provided in Subsection A of 6.69.5.10 NMAC to form an overall system for librarian-teacher evaluation and support.

**B.** No later than 40 school days after the first of school of each school year, each librarian-teacher and their school principal shall establish a professional development plan for the librarian-teacher, with measurable objectives, for the coming year based on, among other things:

(1) the department's 11 librarian-teacher competencies and indicators for the librarianteacher's licensure level; and

(2) the previous year's annual evaluation, if applicable.

**C.** Annual performance evaluations shall be based on, among other things, how well the professional development plan was carried out and the measurable objectives were achieved.

**D.** The school principal shall observe each librarian-teacher's program practice at least once annually to determine the librarian-teacher's ability to demonstrate state adopted competencies and indicators for each librarian-teacher's licensure level.

**E.** If a level 2 or level 3-A librarian-teacher does not demonstrate essential competencies for a given school year, the school district shall provide the librarian-teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of that school year the librarian-teacher still fails to demonstrate essential competencies, a district may choose not to contract with that librarian-teacher.

**F.** If a level 3-A librarian-teacher does not demonstrate essential competencies at level 3-A for a given school year, the school district shall provide the librarian-teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of the following school year the librarian-teacher still fails to demonstrate essential level 3-A competencies, the superintendent may recommend to the secretary of education that the librarian-teacher's level 3-A license be suspended until such time as the librarian-teacher

demonstrates the essential competencies at level 3-A. Depending on the outcome of any due process proceeding under the Uniform Licensing Act and if the superintendent verifies that the librarian-teacher meets the standards for a level 2 license, the librarian-teacher may be issued a level 2 license during the period of level 3-A licensure suspension. A suspended level 3-A license may be reinstated by the department upon verification by a local superintendent that the librarian-teacher now demonstrates the essential competencies at level 3-A or through the process described in 6.69.5.10 NMAC.

[6.69.5.9 NMAC - Rp, 6.69.5.9 NMAC, 1/18/2023]

#### **6.69.5.10 LICENSURE ADVANCEMENT:**

**A.** To advance from level 1 licensure to level 2 licensure, a librarian-teacher who:

(1) is in their first or second year of teaching during the 2022-2023 school year is eligible to participate in APLI-II;

(2) is in their third year of teaching during the 2022-2023 school year is eligible to

participate in APLI-II or submit a professional development dossier (PDD) during the 2022-2023 or the 2023-2024 school year;

(3) is in their fourth year of teaching during the 2022-2023 school year:

(a) may participate in APLI-II, but shall be continuously enrolled in the required micro-credentials to complete APLI-II by the end of their fifth year of teaching;

(b) may submit a PDD during 2022-2023 school year or the 2023-2024 school year; or

(c) shall submit a PDD during the 2023-2024 if they fail to complete two or more micro-credentials by June 2023;

(4) is in their fifth year of teaching during the 2022-2023 school year shall submit a PDD.

(5) is in their first year of teaching during the 2023-2024 school year or thereafter shall participate in APLI-II.

**B.** To advance from level 2 licensure to level 3 licensure, a teacher who:

(1) is in their first or second year of teaching during the 2022-2023 school year is eligible to participate in APLI-II;

(2) is in their third year of teaching during the 2022-2023 school year is eligible to participate in APLI-II or submit a professional development dossier (PDD) during the 2022-2023 or the 2023-2024 school year;

(3) is in their fourth year of teaching during the 2022-2023 school year:

(a) may participate in APLI-II, but shall be continuously enrolled in the required micro-credentials to complete APLI-II by the end of their fifth year of teaching;

(b) may submit a PDD during 2022-2023 school year or the 2023-2024 school year; or

(c) shall submit a PDD during the 2023-2024 if they fail to complete two or more micro-credentials by June 2023;

(4) is in their fifth year of teaching during the 2022-2023 school year shall submit a PDD.

(5) is in their first year of teaching during the 2023-2024 school year or thereafter shall participate in APLI-II.

**C. The PDD shall include:**

(1) evidence of competence that may be collected over multiple school years, including the year the PDD is being developed;

(2) evidence in the following format that demonstrates how the librarian-teacher meets the department's eleven librarian-teacher competencies and indicators for the level of licensure to which the librarianteacher is advancing; evidence that demonstrates how the librarian-teacher meets competencies related to a:

(a) teaching and learning strand (competencies 1-6); and

(b) program development and management/information access and delivery strand (competencies 7-9); and

(c) professional learning strand (competencies 10 and 11).

(3) evidence from an evaluation strand that includes the librarian-teacher's annual evaluations from at least the two years prior to the application for advancement and the superintendent's recommendation for advancement to the next licensure level;

(4) a verification strand that includes:

(a) for a level 1 librarian-teacher advancing to level 2:



(i) verification of participation in a school district's formal mentorship program;

(ii) verification of three years of successful librarian-teaching experience at level I;

(iii) verification by the superintendent that the work product in the PDD is that of the librarian-teacher and that the data submitted is accurate.

(b) for a level 2 teacher advancing to level 3-A:

(i) verification of a post baccalaureate degree or national board professional teaching certification;

(ii) verification of a minimum three years of successful librarian-teaching experience at level 2;

(iii) verification by the superintendent that the work product in the PDD is that of the librarian-teacher and that the data submitted is accurate;

**D. Evidence in the PDD competency strands:**

(1) The teaching and learning strand shall include evidence of:

(a) student achievement data;

(b) assessment techniques and procedures;

(c) instructional plans and materials;

(d) examples of student work and performance; and

(e) evidence of implementation of state curriculum standards;

(2) The program development and management or information access and delivery strand shall include mandatory evidence and may include evidence as follows:

(a) the student learning strand shall include evidence of:

(i) adaptations or modification for diverse learners;

(ii) evidence of effective classroom management strategies and procedures;

(iii) classroom observation reports; and

(iv) evidence of communication with students and parents.

(b) the student learning strand may include evidence in the form of student surveys or video tapes with reflections or analysis.

(3) The professional learning strand shall include evidence of at least one of the following:

(a) professional development activities associated with the teachers annual professional development plan (PDP);

(b) evidence of collaborating with professional community;

(c) parent surveys;

(d) research publications; or

(e) professional presentations.

(4) Evidence comparable and equivalent to Paragraphs (1), (2) and (3) of Subsection E of this section may be developed through certification by the national board of professional teaching standards.

**E.** Unless special accommodations are requested in writing to the department 30 days in advance of a submission, the PDD and associated fees in Subsection C of 6.60.7.8 NMAC shall be submitted electronically following procedures established by the department.

**F.** The PDD shall be evaluated by the superintendent of the teacher's school district and by two external reviewers, one of whom shall hold a library/media endorsement, as follows:

(1) The superintendent will complete the verification and evaluation strands in order to make his recommendation for licensure advancement and the two external reviewers will rate the three competency strands as "exceeds standards," "meets standards" or "does not meet standards to make their recommendations for licensure advancement."

(2) Each one of the three competency strands of a librarian-teacher's PDD reviewed by the independent reviewers must be rated as either "exceeds standards" or "meets standards" and each one of the strands completed by the superintendent must be verified and have a positive recommendation for the librarian-teacher to advance to the next higher level of licensure.

(3) The superintendent and the reviewers will submit the PDD to the department or its contractor with their ratings.

(4) The department will evaluate the ratings of the superintendent and the external reviewers and approve or deny the teacher's application for licensure advancement.

(a) If one of the external reviewers rates one of the competency strands of the PDD as "exceeds standards" and the other external reviewer rates the same strand as "meets standards", the strand will be deemed passed.

(b) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "exceeds standards", the finding will be that the candidate "meets standards" and the strand will be deemed passed.

(c) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "meets standards," a third reviewer will resolve the discrepancy in order to determine if the strand will be passed.

(d) If both of the external reviewers rate the competency strand(s) of PDD the same, that rating will be their finding. If, however, both of the external reviewers rate the competency strand(s) of the PDD as "does not meet standards," a third trainer or reviewer may review the strand(s) to confirm or reject their ratings.

**G.** A candidate for licensure advancement who is not successful in the PDD may continue to submit a new PDD.

**H.** If a candidate for licensure advancement meets or exceeds standards in one or some of the strands, but not in all of them, the librarian-teacher's score(s) of "meets standards" or "exceeds standards" may be retained for a period of two calendar years. Any resubmission of a PDD during that two-year period need only address those strands rated "does not meet standards" to determine a final passing score for all strands for licensure advancement.

[6.69.5.10 NMAC - Rp, 6.69.5.10 NMAC, 1/18/2023]

#### **6.69.5.11 NEW MEXICO LIBRARIAN-TEACHER COMPETENCIES AND INDICATORS FOR LICENSURE LEVELS 1, 2, 3:**

**A.** New Mexico is one of the most diverse states in the nation, and this diversity is reflected in the strengths and needs of New Mexico's students. The ability of a highly qualified librarian-teacher to address the learning needs of all of New Mexico's students, including those who learn differently because of disability, culture, language, or socioeconomic status, forms the framework for the New Mexico librarian-teacher competencies for licensure levels I, II, and III assessment criteria indicators.

**B.** The high objective statewide standard of evaluation for librarian-teachers shall include the following standards and indicators as part of the evaluation criteria for level I librarian-teachers.

(1) The librarian-teacher demonstrates knowledge of the library content area and established curriculum by:

- (a) utilizing and enhancing established library curriculum;
- (b) giving clear explanations relating to lesson content and procedure;
- (c) communicating accurately in the library content area; and
- (d) articulating to students the interrelatedness of content areas.

(2) The librarian-teacher appropriately utilizes a variety of teaching methods by:

(a) providing opportunities for students to work independently, in small groups and in large groups;

(b) using a variety of teaching methods, such as demonstrations, lecture, student-initiated work, group work, questioning, and independent practice;

(c) using a variety of resources, such as print and non-print materials, manipulatives, on-line resources, and technology;

(d) providing opportunities for students to apply, practice, and demonstrate knowledge and skills; and

(e) implementing necessary modifications and adaptations in instruction and library curriculum so that students with disabilities have access in the least restrictive environment.

(3) The librarian-teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding by:

- (a) explaining or demonstrating the relevance of topics and activities;
- (b) communicating to students the instructional intent, directions or plan;
- (c) establishing and stating expectations for student performance; and
- (d) clarifying actions, directions, and explanations when students do not understand.

(4) The librarian-teacher effectively utilizes student assessment techniques and procedures by:

- (a) soliciting communication from students about their learning;
- (b) using a variety of strategies in instructional planning using ongoing assessment; and
- (c) documenting observations of student learning using tools, such as anecdotal records, consultations with teachers or logs.

(5) The librarian-teacher comprehends the principles of student growth, development and learning, and applies them appropriately by:

- (a) instructing students in the use of cognitive thinking skills, such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making;
- (b) using teaching techniques that address student learning levels, rates, styles, and special needs, as well as diverse interests and backgrounds; and
- (c) using materials and media that address student learning levels, rates, styles, and special needs, as well as diverse interests and backgrounds.

(6) The librarian-teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept by:

- (a) demonstrating sensitivity and responsiveness to the personal ideas, learning needs, interests, and feelings of students with disabilities, and from culturally and linguistically diverse backgrounds, including Native Americans, Hispanic Americans, African Americans, Asian Americans, and other recent immigrant groups;
- (b) understanding how students differ in their approaches to learning and adjusts instruction to meet diverse needs;
- (c) providing opportunities for each student to succeed;
- (d) providing students with opportunities that promote creativity as well as critical and divergent thinking;
- (e) providing opportunities for students to be responsible for their own behavior and learning;
- (f) promoting positive student/teacher relationships; and (g) encouraging high expectations for all students.

- (7) The librarian-teacher models and promotes collaborative planning by:
- (a) participating in informal collaborative curriculum planning with the teaching staff;
  - (b) collaborating with teaching staff to identify student information needs; and
  - (c) identifying potential areas of collaborative opportunities to design authentic learning tasks and informal assessments.
- (8) The librarian-teacher organizes and manages the library in accordance with established written policies and procedures by:
- (a) organizing the library to meet patron needs;
  - (b) selecting resources that support instructional priorities as well as recreational and informational needs of the patrons;
  - (c) applying collection development techniques including needs analysis, evaluation, selection, and deselection of resources.
  - (d) assessing collection annually based on currency, size, and balance;
  - (e) maintaining inventory of library resources;
  - (f) evaluating and adjusting library program and services;
  - (g) promoting effective use of the library and its services.
- (9) The librarian-teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:
- (a) serving as a model for constructive behavior patterns;
  - (b) establishing and stating expectations for student behavior in the library;
  - (c) making transitions in instruction effectively;
  - (d) preparing and arranging instructional material in advance for easy student accessibility;
  - (e) implementing a classroom management system that promotes acceptable and appropriate student behavior; and
  - (f) identifying hazards, assessing risks, and taking appropriate action.

(10) The librarian-teacher demonstrates a willingness to examine and implement change, as appropriate, by:

- (a) seeking professional development opportunities to identify relevant strategies in education and librarianship to improve the quality of learning; and
- (b) participating in instructional improvement and school reform initiatives.

(11) The librarian-teacher works productively with colleagues, parents, and community members by:

- (a) actively promoting collegial relations with other school personnel;
- (b) inviting parents and community to the library;
- (c) communicating in a professional manner with colleagues, parents, and community members.

**C.** The high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level II librarian-teachers.

(1) The librarian-teacher demonstrates knowledge of the library content area and established curriculum.

- (a) enhancing and extending established library curriculum;
- (b) giving clear explanations relating to lesson content and procedure;
- (c) communicating accurately in the library content area; and
- (d) demonstrating the interrelatedness of content areas.

(2) The librarian-teacher appropriately utilizes a variety of teaching methods by:

- (a) designing appropriate opportunities for students to work independently, in small groups and in large groups;
- (b) selecting from a variety of teaching methods such as demonstrations, lecture, student-initiated work, group work, questioning, and independent practice for specific instructional goals and purposes;
- (c) integrating into instruction a variety of resources such as print and non-print materials, manipulatives, on-line resources, and technology;

(d) demonstrating understanding and appropriate application of learning styles, modalities, and intelligence theories; and

(e) designing and implementing necessary modifications and adaptations in instruction and library curriculum so that students with disabilities have access in the least restrictive environment.

(3) The librarian-teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding by:

(a) explaining, demonstrating, or communicating the relevance of topics and activities;

(b) consistently communicating to students the instructional intent, directions, or plan;

(c) establishing and stating expectations for student performance;

(d) presenting directions and explanations in a variety of ways to ensure student understanding.

(4) The librarian-teacher effectively utilizes student assessment techniques and procedures by:

(a) communicating with students about their learning;

(b) selecting appropriate strategies for specific learning outcomes and adjusts instruction using ongoing assessment; and

(c) documenting observations of student learning using tools, such as anecdotal records, consultations with teachers or logs.

(5) The librarian-teacher comprehends the principles of student growth, development, and learning, and applies them appropriately by:

(a) integrating into instruction cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making;

(b) adapting teaching techniques that address student learning levels, rates, styles and special needs, as well as diverse interests and backgrounds;

(c) adapting materials and media that address student learning levels, rates, styles and special needs, as well as diverse interests and backgrounds.



(6) The librarian-teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept by:

(a) acknowledging and validating the ideas, learning needs, interests, and feelings of students with disabilities, and from culturally and linguistically diverse backgrounds, including Native Americans, Hispanic Americans, African Americans, Asian Americans, and other recent immigrant groups;

(b) demonstrating an awareness of the influences of context, disability, language and culture on students learning;

(c) designing opportunities for each student to succeed based on individual learning needs;

(d) designing learning experiences that promote creativity as well as critical and divergent thinking;

(e) designing opportunities that require and reinforce student responsibility for their own behavior and learning;

(f) developing students' self-esteem, motivation, character, and sense of civic responsibility; and

(g) establishing and communicating high expectations for all students.

(7) The librarian-teacher models and promotes collaborative planning:

(a) participating in informal or formal collaborative curriculum planning with teaching staff;

(b) collaborating with teaching staff to identify student information needs; and

(c) promoting collaborative opportunities to design authentic learning tasks and informal assessments.

(8) The librarian-teacher organizes and manages the library in accordance with established written policies and procedures by:

(a) adjusting the organization of the library according to observation of patron needs;

(b) soliciting patron input to select resources that support instructional priorities as well as recreational and informational needs of patrons;

(c) applying collection development techniques including needs analysis, evaluation, selection, and deselection of resources;

(d) assessing the collection annually based on currency, size, and balance and develops a collection development plan;

(e) conducting regular periodic inventories and analyzing inventory reports;

(f) seeking input from learning community on perceived needs for library improvement and adjusts library program and services accordingly; and

(g) developing library awareness through promotional materials.

(9) The librarian-teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment by:

(a) identifying, explaining, and modeling constructive behavior patterns;

(b) establishing and reinforcing expectations for student behavior in the library;

(c) making transitions in instruction effectively;

(d) preparing and arranging instructional material in advance for easy student accessibility;

(e) implementing a classroom management system that promotes acceptable and appropriate student behavior; and

(f) identifying hazards, assessing risks, and taking appropriate action.

(10) The librarian-teacher demonstrates a willingness to examine and implement change, as appropriate by:

(a) using professional development opportunities to identify relevant strategies in education and librarianship to improve the quality of learning; and

(b) contributing to instructional improvement and school reform initiatives.

(11) The librarian-teacher works productively with colleagues, parents, and community members by:

(a) collaborating with colleagues;

(b) promoting active roles for parents and community members in the library;

(c) providing a system for interactive communication in a professional manner with colleagues, parents, and community members.

**D.** The department-approved educator evaluation system shall include the following standards and indicators as part of the evaluation criteria for level 3 librarian-teachers.

(1) The librarian-teacher demonstrates knowledge of the library content area and established curriculum by:

(a) contributing to the refinement and development of the library curriculum;

(b) providing clear explanations relating to lesson content and procedures in multiple ways and is aware of knowledge and preconceptions that students can bring to the subject;

(c) communicating accurately in the library content area and creating multiple paths to the subject matter; and

(d) integrating other content areas and the library curriculum.

(2) The librarian-teacher appropriately utilizes a variety of teaching methods by:

(a) engaging students in activities designed for small groups, large groups, and independent work;

(b) demonstrating effective selection and using of a variety of teaching methods to make information accessible to all students;

(c) demonstrating effective integration of a variety of resources into instruction, such as print and non-print materials, manipulatives, on-line resources, and technology;

(d) designing opportunities for students to apply, practice, and demonstrate knowledge and skills based on learning modalities, style preferences, and intelligences; and

(e) engaging with colleagues to implement necessary modifications and adaptations in instruction and library curriculum so that students with disabilities have access in the least restrictive environment.

(3) The librarian-teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding by:

(a) engaging students in explaining or demonstrating the relevance of topics and activities;

(b) engaging students in instructional directions and plans using techniques such as query, survey, or instructional choice;

(c) establishing and stating expectations for student performance; and

(d) presenting directions and explanations in a variety of ways to ensure student understanding.

(4) The librarian-teacher effectively utilizes student assessment techniques and procedures by:

(a) involving students in the analysis and evaluation of their learning;

(b) designing appropriate strategies for specific learning outcomes and adjusts instruction using ongoing assessment;

(c) documenting observations of student learning using tools, such as anecdotal records, consultations with teachers and logs.

(5) The librarian-teacher comprehends the principles of student growth, development, and learning, and applies them appropriately by:

(a) consistently integrating into instruction cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making;

(b) integrating into instruction the most effective techniques that address student learning levels, rates, styles and special needs, as well as diverse interests and backgrounds;

(c) integrating into instruction materials and media that address student learning levels, rates, styles and special needs, as well as diverse interests and backgrounds.

(6) The librarian-teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept by:

(a) acknowledging and integrating the ideas, learning needs, interests, and feelings of students with disabilities, and from culturally and linguistically diverse backgrounds, including Native Americans, Hispanic Americans, African Americans, Asian Americans, and other recent immigrant groups;

(b) creating an environment that encourages the awareness of the influences of context, disability, language, and culture on student learning;

(c) providing accommodations and interventions that allow each student to succeed based on individual learning needs;

(d) engaging students in learning experiences that promote creativity as well as critical and divergent thinking;

(e) designing opportunities that require and reinforce student responsibility for their behavior and learning;

(f) fostering the development of respect for individual, cultural, linguistic, ability, and religious differences; and

(g) assisting students in setting high standards for their performance.

(7) The librarian-teacher models and promotes collaborative planning by:

(a) participating in formal collaborative curriculum planning with the teaching staff;

(b) collaborating with the teaching staff to identify student information needs; and

(c) collaborating in designing authentic learning tasks and informal assessments.

(8) The librarian-teacher organizes and manages the library in accordance with established written policies and procedures by:

(a) planning for long-range improvements of library organization based on evaluation of patron needs, using indicators such as usage patterns, traffic flow and circulation;

(b) forming and leading library advisory committee to assist in the selection of resources that support instructional priorities as well as recreational and informational needs of patrons;

(c) applying collection development techniques, including needs analysis, evaluation, selection and deselection of resources;

(d) assessing the collection annually based on currency, size, and balance and develops a long-range collection development plan;

(e) using analysis of inventory reports as a component of collection development;

(f) responding effectively to learning community needs for library program and services; and

(g) analyzing and revising promotional materials for effectiveness and currency.

(9) The librarian-teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment by:

(a) integrating the teaching of constructive, pro-social behaviors into regular instruction;

(b) engaging students in establishing expectations for building a learning community in the library;

(c) making transitions in instruction effectively;

(d) preparing and arranging instructional material in advance for easy student accessibility;

(e) implementing a classroom management system that promotes acceptable and appropriate student behavior; and

(f) identifying hazards, assessing risks, and taking appropriate action.

(10) The librarian-teacher demonstrates a willingness to examine and implement change, as appropriate, by:

(a) contributing to the professional community by sharing relevant strategies in education and librarianship; and

(b) assuming a leadership role in the study and implementation of instructional improvement and school reform initiatives.

(11) The librarian-teacher works productively with colleagues, parents, and community members by:

(a) serving as a role model for collaborative working relations across the profession;

(b) promoting active roles for parents and community members in the library; and

(c) providing a system for interactive communication in a professional manner with colleagues, parents, and community members.

**E.** A school district may select or develop additional standards and indicators determined appropriate by the local school district to complete the local librarian-teacher performance evaluation system.

**F.** Each school district shall provide training in evaluation of performance, program observation techniques, conference skills, and growth planning to all librarian-teacher and personnel assigned performance evaluation duties.

**G.** A librarian-teacher whose leadership roles are primarily outside of the library will be evaluated on their ability to lead other librarian-teachers in meeting the competencies and indicators in their level of licensure.

[6.69.5.11 NMAC - Rp, 6.69.5.11 NMAC, 1/18/2023]

## **PART 6: PERFORMANCE EVALUATION REQUIREMENTS FOR SCHOOL COUNSELORS**

### **6.69.6.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.69.6.1 NMAC - N, 07-01-08]

### **6.69.6.2 SCOPE:**

Chapter 69, Part 3, governs performance evaluation requirements for school counselors.

[6.69.6.2 NMAC - N, 07-01-08]

### **6.69.6.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, and 22-10A-19, NMSA 1978.

[6.69.6.3 NMAC - N, 07-01-08]

### **6.69.6.4 DURATION:**

Permanent.

[6.69.6.4 NMAC - N, 07-01-08]

### **6.69.6.5 EFFECTIVE DATE:**

July 1, 2008, unless a later date is cited at the end of a section.

[6.69.6.5 NMAC - N, 07-01-08]

**6.69.6.6 OBJECTIVE:**

This rule governs the requirements for the performance evaluation system for school counselors, grades pre K-12. This rule identifies the specific evaluation/supervision competencies and indicators for counselors.

[6.69.6.6 NMAC - N, 07-01-08]

**6.69.6.7 DEFINITIONS:**

**[RESERVED]**

**6.69.6.8 EVALUATION OF SCHOOL COUNSELOR PERFORMANCE:**

A. Beginning July 1, 2008, each school district shall implement a system of counselor performance evaluation which meets the requirements of this rule.

B. Each evaluation/supervision system shall include the following competencies as part of the evaluation criteria.

(1) The counselor will develop and implement a school level guidance program focused on the physical, social, intellectual, emotional, and vocational growth of each student by:

- (a) determining guidance priorities based on local assessed needs;
- (b) formulating measurable objectives from identified needs and priorities;
- (c) formulating specific tasks relating to achieving the objectives;
- (d) coordinating a continuing evaluation of the program;

(e) coordinating with the appropriate administration to achieve subparagraphs a-d of this paragraph.

(2) The counselor will coordinate activities in the guidance and counseling program by:

(a) working with other staff members to encourage the inclusion of a student-oriented philosophy in all school activities;

(b) helping to integrate the guidance and counseling program within the total school program;



(c) communicating with parents and community about services available within the guidance and counseling program;

(d) learning about available school and community resources;

(e) establishing and maintaining contact with school and community resources;

(f) working with the administration to utilize community resources related to the guidance program.

(3) The counselor will provide information and facilitate guidance activities for students, staff and parents by:

(a) assisting others in their understanding of personal and social development;

(b) serving as a resource to facilitate groups and presentations on pertinent issues;

(c) providing prevention strategies which address current issues such as chemical dependency, teenage pregnancy, suicide, dropping out, and various forms of abuse;

(d) conducting activities on educational career themes;

(e) conducting orientation/training programs for students, parents, and staff;

(f) interpreting test results to students, parents, and staff.

(4) The counselor will serve as a consultant to the school and community by:

(a) providing mediation for change in behavior and conflict resolution;

(b) serving as a liaison for issues pertinent to the learning environment of the school;

(c) supporting the staff with assistance in developing positive rapport with students to maximize learning potential;

(d) assisting teachers in identifying students who would benefit from counseling and providing feedback on referred students as appropriate;

(e) providing information to parents and students to aid in their understanding of educational goals;

(f) providing resource materials and expertise dealing with issues affecting students, staff, and family;

(g) providing information about appropriate community resources or organizations which provide services to students and their families.

(5) The counselor will provide individual and group counseling by:

(a) providing crisis intervention;

(b) using appropriate interventions in situations detrimental to the physical, mental, educational, and emotional well-being of the individual;

(c) providing support to individuals by addressing topics such as interpersonal relations, communication, decision-making, problem solving skills, academic programs, and career and life planning;

(d) making referrals to school and community resources when necessary.

(6) The counselor will uphold the standards of the counseling profession by:

(a) meeting the state competency standard and the requirements for preparation;

(b) participating in the development of policies concerning guidance and counseling;

(c) keeping informed about developments and innovations within the profession at the local, state, and national levels;

(d) following the legal and ethical standards of the counseling profession;

(e) realizing personal and professional limitations.

C. The counselor performance evaluation plan will include the five activities described in Subsection F of 6.69.3.8 NMAC, with appropriate adjustments.

[6.69.6.8 NMAC -Rp. 6.69.3.11 NMAC, 07-01-08]

## **PART 7: PERFORMANCE EVALUATION REQUIREMENTS FOR PRINCIPALS AND ASSISTANT PRINCIPALS**

### **6.69.7.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.69.7.1 NMAC - N, 07-01-08]

**6.69.7.2 SCOPE:**

Chapter 69, Part 7 governs performance evaluation system requirements for principals and assistant principals.

[6.69.7.2 NMAC - N, 07-01-08]

**6.69.7.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-1-11(E) and 22-10A-19(A), et seq., NMSA 1978.

[6.69.7.3 NMAC - N, 07-01-08]

**6.69.7.4 DURATION:**

Permanent.

[6.69.7.4 NMAC - N, 07-01-08]

**6.69.7.5 EFFECTIVE DATE:**

July 1, 2008, unless a later date is cited at the end of a section.

[6.69.7.5 NMAC - N, 07-01-08]

**6.69.7.6 OBJECTIVE:**

This rule governs the requirements for a high objective statewide standard of evaluation for principals and assistant principals in five leadership domains: instructional leadership, communication, professional development, operations management, and scope of responsibility in secondary schools. This rule identifies the specific evaluation competencies standards with indicators and procedural requirements for a competency-based evaluation system for principals and assistant principals.

[6.69.7.6 NMAC - N, 07-01-08]

**6.69.7.7 DEFINITIONS:**

A. "Accountability literacy" means the ability to interpret and use data and to negotiate support for education in political, professional, and community settings.

B. "Assistant principal" means an associate to the chief instructional leader and administrative head of a public or charter school.

C. "Competency" means the job-related performance expectations of a principal or assistant principal.

D. "Indicator" means a specific behavior associated with a competency that exemplifies an acceptable standard of performance.

E. "Leadership domain" means a major area of responsibility of a principal or assistant principal.

F. "Principal" means the chief instructional leader and administrative head of a public or charter school.

G. "Professional development plan" means a collaborative enterprise involving the principal and supervisor in establishing a yearly plan for professional learning goals, activities, and measurable objectives based on the principal competencies and the goals of the district and school educational plan for student success.

[6.69.7.7 NMAC - N, 07-01-08]

#### **6.69.7.8 REQUIREMENTS:**

A. Every public and charter school principal and assistant principal must have an annual performance evaluation based on an annual professional development plan that meets the requirements of the state's high objective uniform statewide standard of evaluation. The format for this evaluation shall be established by the PED and shall be uniform throughout the state in all public school districts and charter schools.

B. No later than October 15, 2008, each public school district and charter school shall adopt policies, guidelines, and procedures for annual principal and assistant principal performance evaluation that meets the requirements of this rule.

C. No later than forty school days after the principal or assistant principal commences his or her duties each school year, each principal and assistant principal and his or her supervisor shall establish a professional development plan for the principal or assistant principal, with measurable objectives, for the coming year based on, among other things:

(1) the PED's principal competencies and indicators in 6.69.7.9 NMAC, which pertain to the duties of the principal or assistant principal;

(2) the goals of the district/school educational plan for student success;

(3) the previous year's annual evaluation, if applicable; and

(4) assurance that the principal or assistant principal is appropriately licensed by the PED for his or her assignment.

D. The supervisor shall formally observe each principal or assistant principal's professional practice at least twice annually to determine the principal or assistant principal's ability to demonstrate state adopted competencies and indicators.

E. The supervisor and the principal or assistant principal shall hold a mid-year conference annually to assess progress toward meeting the objectives of the professional development plan.

F. Principals and assistant principals shall reflect on their professional practice and ability to demonstrate the principal and assistant principal competencies by providing their supervisor with a written reflection document at least once annually.

G. Annual performance evaluations shall be based on, among other things, how well the professional development plan was carried out and the extent to which progress was made toward achieving the measurable objectives.

[6.69.7.8 NMAC - N, 07-01-08]

#### **6.69.7.9      COMPETENCIES AND INDICATORS:**

A. The principal/assistant principal promotes the success of all students by maintaining a culture that supports student achievement, high quality instruction, and professional development to meet the diverse learning needs of the school community:

- (1) works with all members of the school community to make quality instruction a prime focus;
- (2) uses accountability literacy in making decisions about student success and achievement;
- (3) evaluates teachers using the three-tiered licensure performance evaluation system to promote high quality teaching and professional learning; and
- (4) incorporates the diversity of the student population and history of the school community in making curricular and school policy decisions.

B. The principal/assistant principal uses communication and relationship-building skills to engage the larger community in the knowledge of, and advocacy for, equity in meeting the diverse needs of the school community:

- (1) engages in honest and respectful interactions with all stake holders to make thoughtful and objective decisions that demonstrate sensitivity and integrity;
- (2) builds and sustains relationships through team development and mediation skills to promote a climate of cooperation and student success;

- (3) supports an environment of inclusion and respect;
- (4) communicates with others objectively, sensitively, fairly and ethically;
- (5) supports relationships that promote teaching and learning in the school community through communication skills such as speaking, writing, and active listening;
- (6) communicates with all school and community stakeholders concerning current school issues and student achievement; and
- (7) maintains a continuous dialogue with decision makers who affect the school community.

C. The principal/assistant principal organizes and coordinates ongoing professional learning opportunities that are aligned with the New Mexico professional development framework in 6.65.2 NMAC, and supports the diverse learning needs of the school community:

- (1) identifies and assesses student and staff performance to inform professional development needs;
- (2) uses relevant professional literature and knowledge, collaborates with key partners, and uses technology to create professional development programs;
- (3) implements comprehensive, integrated and systematic ongoing professional development opportunities for faculty and community; and
- (4) supports reflection, sustained mentoring, and coaching as critical processes for professional growth.

D. The principal/assistant principal manages the school campus, budget, and daily operations to equitably meet the diverse learning needs of the school community:

- (1) manages the school campus to ensure that the environment is safe and clean for students and staff;
- (2) manages the school budget to ensure that resources are maximized for student success;
- (3) manages the day to day operations to maximize the efficiency of the school; and
- (4) complies with federal and state initiatives to maximize use of services and programs for which students are eligible.

E. The middle school and high school principal/assistant principal develops, supports, encourages, and supervises programs that lead to increased student retention and achievement resulting in college readiness and work skills:

- (1) supervises co-curricular and extracurricular activities to engage all students;
- (2) develops 21st century skills through out the curriculum; and
- (3) creates a student centered school environment and strengthens relationships among all stakeholders to improve student performance.

[6.69.7.9 NMAC - N, 07-01-08]

## **PART 8: TEACHER AND SCHOOL LEADER EFFECTIVENESS**

### **6.69.8.1 ISSUING AGENCY:**

Public Education Department (PED).

[6.69.8.1 NMAC - Rp, 6.69.8.1 NMAC, 08/15/2017]

### **6.69.8.2 SCOPE:**

This rule governs standards for determining and measuring teacher and school leader effectiveness.

[6.69.8.2 NMAC - Rp, 6.69.8.2 NMAC, 08/15/2017]

### **6.69.8.3 STATUTORY AUTHORITY:**

Sections 22-2-1, 22-2-2, 22-10A-18, 22-10A-19 and 22-10A-19.2, NMSA 1978.

[6.69.8.3 NMAC - Rp, 6.69.8.3 NMAC, 08/15/2017]

### **6.69.8.4 DURATION:**

Permanent.

[6.69.8.4 NMAC - Rp, 6.69.8.4 NMAC, 08/15/2017]

### **6.69.8.5 EFFECTIVE DATE:**

August 15, 2017 unless a later date is cited at the end of a section.

[6.69.8.5 NMAC - Rp, 6.69.8.5 NMAC, 08/15/2017]

#### **6.69.8.6 OBJECTIVE:**

This rule establishes uniform procedures for conducting annual evaluations of licensed school employees, for setting the standards for each effectiveness level, for measuring and implementing student achievement growth, and for monitoring each school district's implementation of its teacher and school leader effectiveness evaluation system. This rule also seeks to change the dynamic of placing emphasis on teacher effectiveness and provide the opportunity to acknowledge excellence. Continuing advancement and licensure determinations will be guided pursuant to 6.60.6.9 NMAC.

[6.69.8.6 NMAC - Rp, 6.69.8.6 NMAC, 08/15/2017]

#### **6.69.8.7 DEFINITIONS:**

**A. "Assistant principal"** means a properly licensed instructional leader who assists a principal in a public school.

**B. "BIE school"** means a bureau of Indian education school that is governmentally owned and controlled, located in New Mexico, provides instruction for first through twelfth grades and is not sectarian or denominational.

**C. "Certified observer"** means an individual who:

- (1)** holds an active level 3-B license or an active teaching license;
- (2)** is employed by a school district or charter school as an administrator or a teacher as defined by this rule;
- (3)** completes the PED's teacher observation training and who passes the PED's assessment of the adopted observation protocol;
- (4)** receives a highly effective or exemplary rating during the previous school year; and
- (5)** completes follow-up training and who passes the PED's assessment of the adopted observation protocol on an annual basis; for purposes of this subsection, annual basis means the earlier of August 1 of a given school year or 90 days after hire; provided, however, that the annual training and certification is transferable within the state.

**D. "Department"** means the New Mexico public education department or PED.

**E. "EES"** means effectiveness evaluation systems developed by the department.



**F. "Fidelity observations"** means the requirement of school leaders to periodically observe and evaluate assigned teachers in the classroom with observations that have been documented and are verifiable.

**G. "Licensed school employee"** means teachers and school leaders employed in a public school.

**H. "Novice Teacher"** means a person who holds a level one or a level one alternative license and is in their first year three years of teaching.

**I. "Principal"** means the chief instructional leader and administrative head of a public school.

**J. "School district"** means one of the 89 political subdivisions of the state created for the administration of public schools and includes those state-authorized charter schools that have not requested waiver of evaluation standards for school personnel. District-authorized charter schools are excluded from being considered a school district for purposes of this rule.

**K. "School district superintendent"** means the chief executive officer of a school district and the head administrator of a charter school.

**L. "School leader"** means a principal or assistant principal employed in a public school.

**M. "State agency"** means the New Mexico military institute, the New Mexico school for the blind and visually impaired, the New Mexico school for the deaf, any juvenile detention center or facility served by the juvenile justice service of the children youth and families department, the New Mexico youth diagnostic and development center, the Sequoyah adolescent treatment center of the department of health, Carrie Tingley crippled children's hospital, the New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children.

**N. "Teacher"** means a person who holds a level 1, 2, or 3-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers. "Teacher" shall not include any person issued a Native American language and culture certificate pursuant to the School Personnel Act [Sections 22-10A-1 to 22-10A-39 NMSA 1978].

[6.69.8.7 NMAC - Rp, 6.69.8.7 NMAC, 08/15/2017]

## **6.69.8.8 EFFECTIVENESS EVALUATION SYSTEMS:**

**A.** Nothing in this rule shall be construed to infringe upon the local superintendent's discretion to make decisions about discharge and termination or to make recommendations about licensure advancement or renewal.

**B.** Each school district shall report annually to the department the results of its effectiveness evaluations of its licensed school employees and the alignment of its effectiveness evaluation system with the three-tiered licensure system.

**C.** A teacher and school leader EES shall:

**(1)** be designed to support effective instruction and student achievement, with the results used to inform school district and school level improvement plans;

**(2)** provide appropriate instruments, procedures and criteria and continuous quality improvement of professional skills, with results used to support the professional development of licensed school employees;

**(3)** include a mechanism to examine effectiveness data from multiple sources, which may include giving parents and students opportunities to provide input into effectiveness evaluations when appropriate;

**(4)** identify those teaching fields for which special evaluation procedures and criteria may be developed in a manner that is consistent and reliable;

**(5)** include measures of student achievement growth worth thirty-five percent, observations worth forty percent, and other multiple measures worth twenty-five percent, unless otherwise provided for;

**(6)** differentiate among at least five levels of performance, which include the following:

**(a)** exemplary, meets competency;

**(b)** highly effective, meets competency;

**(c)** effective, meets competency;

**(d)** minimally effective, does not meet competency; and

**(e)** ineffective, does not meet competency.

**D.** Teacher and school leader effectiveness evaluation procedures for licensed school employees shall be based on the performance of students assigned to their classrooms or public schools.

**E.** Every public school classroom teacher who teaches in a grade or subject that has a standards-based assessment that would permit the calculation of student achievement growth, must have an annual effectiveness evaluation, provided that:

**(1)** each evaluation shall be based on sound educational principles and contemporary research in effective educational practices; and

**(2)** the student achievement growth component of a teacher's effectiveness evaluation shall be based on:

**(a)** valid and reliable data and indicators of teacher impact on student achievement growth assessed annually and based upon department-approved assessments, provided that this calculation shall not be based on a single test score;

**(b)** thirty-five percent of a teacher's evaluation will be comprised of this calculation.

**F.** Every public school classroom teacher who teaches in a grade or subject that does not have a standards-based assessment, also must have an annual effectiveness evaluation, provided that:

**(1)** each evaluation shall be based on sound educational principles and contemporary research in effective educational practices; and

**(2)** the student achievement growth component of a teacher's effectiveness evaluation shall be based on valid and reliable data and indicators of teacher impact on student achievement growth assessed annually.

**G.** An EES shall base at least forty percent of the results on data and indicators of instructional practice for teachers. School leaders shall observe instructional practice of teachers using common research-based observational protocol approved by the department that correlates observations to improved student achievement.

**H.** An EES shall base at least twenty-five percent of the results on other measures of teacher effectiveness, of which fifteen percent are planning, preparation and professionalism, five percent are associated with a teacher's attendance, provided that a teacher may use up to six days of leave before it is calculated into the summative report, and five percent with student and parent perception surveys.

**I.** Effectiveness evaluation criteria for evaluating classroom teachers shall include indicators based on research-based instructional practices as determined by the department.

**J.** School districts that receive funding under the Bilingual Multicultural Education Act [Sections 22-23-1 to 22-23-6 NMSA 1978] or with students possessing limited

English proficiency should ensure that they are doing all they can to carry out all state and federal activities and programs to assist those student populations.

**K.** Individual teacher evaluations and effectiveness ratings (including components of the evaluation such as observations, student achievement growth data, and any other measures of effectiveness) that are collected or maintained by the PED or any local board of education or governing authority shall not constitute public records and shall not be subject to disclosure pursuant to 14-2-1 NMSA 1978.

**L.** The department maintains a list of approved assessment options and effectiveness evaluation measures and criteria for evaluating classroom teachers on its website, which can be accessed at <http://ped.state.nm.us/> and used by school districts for determining the student achievement growth component and evaluation criteria in a teacher's effectiveness evaluation.

[6.69.8.8 NMAC - Rp, 6.69.8.8 NMAC, 08/15/2017]

#### **6.69.8.9 STUDENT ACHIEVEMENT GROWTH AND STUDENT ASSESSMENT PROGRAMS:**

**A.** School districts shall use the department-adopted student achievement growth measure to measure the growth in achievement of each student as applied to the teacher's effectiveness rating.

**B.** Whenever possible, an EES rating the performance of a classroom teacher shall include three years of student achievement growth data.

**C.** Beginning with the 2016-2017 school year, each school district shall administer a student assessment for each course they offer that measures mastery of the content as described in the state-adopted course description at the necessary level of rigor for the course. The student assessments may include:

**(1)** statewide assessments currently administered in mathematics, reading, science and early literacy; and

**(2)** department-approved end-of-course assessments.

[6.69.8.9 NMAC - Rp, 6.69.8.9 NMAC, 08/15/2017]

#### **6.69.8.10 EFFECTIVENESS EVALUATIONS OF SCHOOL LEADERS:**

**A.** Every school leader must have an annual effectiveness evaluation, which shall be conducted by a qualified person and approved by PED.

**B.** All EES ratings for the performance of a school leader shall be based thirty-five percent on the growth measures in a school's A through F letter grade that has been

assigned pursuant to 6.19.8 NMAC, twenty-five percent based on the school's multiple measures and forty percent based upon quality criteria of school leaders classroom observations of teachers as determined by the department.

**C.** The effectiveness evaluation of school leaders shall, whenever possible, include growth based on three years of data for students assigned to the public school, provided that, the student achievement growth component of the effectiveness evaluation shall be based on the growth measures in the school's A through F letter grade pursuant to 6.19.8 NMAC.

**D.** The department maintains a list of leadership standards on its website, which can be accessed at <http://ped.state.nm.us/> and used by school districts in establishing indicators for conducting effectiveness evaluation of school leaders.

[6.69.8.10 NMAC - Rp, 6.69.8.10 NMAC, 08/15/2017]

#### **6.69.8.11 EVALUATIONS, OBSERVATIONS, REPORTS AND POST-EVALUATION CONFERENCES:**

**A.** Beginning with 2017-2018 school year and during each succeeding school year, every classroom teacher must be formally observed using one of the following options, with at least one of the required observations conducted by the school principal or assistant principal:

- (1)** three observations conducted by the same certified observer; or
- (2)** two observations, consisting of one observation by each of two different certified observers.
- (3)** one observation by a certified observer for teachers that have received a highly effective or exemplary rating on their most recent NMTEACH summative report, inclusive of fifty percent of the possible student achievement points.

**B.** In addition to formal observations, an informal walkthrough observation shall be conducted aligned to district priorities, with feedback provided, for each teacher within the first 45 days of the teacher's first day of instruction.

**C.** An approved or certified observer must use a PED-developed protocol and form that contains at a minimum the observer's name, the classroom teacher's name, the date, the start and stop time of the observation, the number of students present, space for subjective and objective observation, and a total point score for that teacher. An external observer must further:

- (1)** complete the written observation of a classroom teacher before leaving the school on the day of the observation;

(2) agree to maintain confidentiality of the observation and agree not to discuss the observations with anyone except the principal; and

(3) verify that the observer has not retained or removed a copy of the observation or field notes from school premises.

D. Written feedback from a school leader and an approved or certified observer shall be provided to an observed classroom teacher within ten calendar days after observation is completed, which observation can occur over more than one day, provided that a school district's EES permits this.

E. The school leader responsible for supervising a licensed school employee shall be the one who evaluates that employee's performance. The school district's EES:

(1) may provide for the supervisor to consider input from other trained evaluators and observers provided that they are not also supervised by the supervisor nor are related by blood or marriage to the supervisor; and

(2) shall provide for contingencies if a supervisor leaves a school district for any reason prior to completing the required effectiveness evaluations of all teachers within that supervisor's responsibilities.

[6.69.8.11 NMAC - Rp, 6.69.8.11 NMAC, 08/15/2017]

#### **6.69.8.12 APPEAL OF EFFECTIVENESS EVALUATIONS:**

A. A school district shall adopt procedures for permitting expedited review for the purpose of a licensed school employee requesting an exemption from being rated during a given school year under the school district's EES based only upon extraordinary circumstances.

B. The procedures shall require a written appeal to be submitted to the appellate reviewer within no more than 15 calendar days of receipt of a written notice that the licensed employee's performances deficiencies have not been satisfactorily corrected.

C. Appeals shall be received in a manner that permits verification of the date of receipt.

D. The person who evaluated the licensed school employee shall not be same person who receives and determines the appeal.

E. An exemption from the provisions of this rule can only be granted for one school year based upon extraordinary circumstances, which shall consist of:

(1) a licensed school employee's not having performed services during an entire school year, excluding days out for approved leave and school holidays or closure days, for reasons beyond the employee's control;

(2) a licensed school employee's not being able to perform services for extended periods during a school year due to documented medical reasons of the employee or of the employee's spouse, live-in partner or a child;

(3) a licensed school employee's not being able to perform services for extended periods during a school year due to the death of the employee's spouse, live-in partner or a child; or

(4) a licensed school employee's not having been afforded a full 90 days to demonstrate growth in performance for any reason including the employee's own illness, provided that it shall be the employee's burden to provide verification of not being afforded the full 90 days.

F. All decisions on appeals rendered under this section shall be final and not further reviewable by anyone else at the school district or by the PED.

[6.69.8.12 NMAC - Rp, 6.69.8.12 NMAC, 08/15/2017]

#### **6.69.8.13 TEACHERS AND ADMINISTRATORS IN NON-PUBLIC SCHOOLS:**

A. Only licensed teachers and school leaders employed in schools subject to the A-B-C-D-F Schools Rating Act [Sections 22-2E-1 to 22-2E-4 NMSA 1978] shall be governed by any requirement or provision of this rule.

B. Specifically, neither licensed teachers nor administrators employed in private schools, BIE schools or state agencies shall be governed by any requirement or provision of this rule.

[6.69.8.13 NMAC - Rp, 6.69.8.13 NMAC, 08/15/2017]

## **CHAPTER 70-74: [RESERVED]**

## **CHAPTER 75: INSTRUCTIONAL MATERIALS AND TECHNOLOGY**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: RELATING TO THE PUBLIC EDUCATION DEPARTMENT INSTRUCTIONAL MATERIAL BUREAU**

**6.75.2.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.75.2.1 NMAC - Rp, 6.75.2.1 NMAC, 12/11/2018]

**6.75.2.2 SCOPE:**

This rule governs all public schools and eligible state education institutions pursuant to Section 22-15-7 NMSA 1978. If any part of application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.

[6.75.2.2 NMAC - Rp, 6.75.2.2 NMAC, 12/11/2018]

**6.75.2.3 STATUTORY AUTHORITY:**

This rule is promulgated pursuant to Sections 9-24-8, 22-2-1, 22-15-4, and 22-15-8 NMSA 1978.

[6.75.2.3 NMAC - Rp, 6.75.2.3 NMAC, 12/11/2018]

**6.75.2.4 DURATION:**

Permanent.

[6.75.2.4 NMAC - Rp, 6.75.2.4 NMAC, 12/11/2018]

**6.75.2.5 EFFECTIVE DATE:**

December 11, 2018, unless a later date is cited at the end of a section.

[6.75.2.5 NMAC - Rp, 6.75.2.5 NMAC, 12/11/2018]

**6.75.2.6 OBJECTIVE:**

This rule governs the procedures for the adoption, purchase, and delivery of instructional material.

[6.75.2.6 NMAC - Rp, 6.75.2.6 NMAC, 12/11/2018]

**6.75.2.7 DEFINITIONS:**

**A. "Adoption"** means authorization by the department of core and supplementary instructional material for use in public school districts, charter schools, and state educational institutions.



**B. "Adoption cycle"** means the period during which instructional material adopted by the department shall be considered current.

**C. "Core instructional material"** means the comprehensive print or digital educational material, including basal material, which constitutes the necessary instructional components of a full academic course of study in those subjects for which the department has adopted content standards and benchmarks.

**D. "Core subject areas"** means those subject areas for which the department has adopted content standards and benchmarks.

**E. "Depository"** means an entity approved by the department that represents providers for the purpose of managing district or school instructional material orders. Responsibilities of the depository include:

- (1) accounting;
- (2) acquisition;
- (3) storage;
- (4) distribution; and
- (5) disposition of adopted instructional material.

**F. "In-adoption"** means currently adopted instructional material that is approved by the department, and included on the multiple list.

**G. "Instructional material"** means school textbooks and other educational media that are used as the basis for instruction, including combinations of textbooks, learning kits, supplementary material and electronic media.

**H. "Instructional material manual"** means written guidance issued and updated by the department that outlines detailed requirements and procedures related to instructional material.

**I. "Interoperability standards"** means the current industry standards that measure the seamless sharing of data, content, and services among systems and applications.

**J. "Local education agency" or "LEA"** means a local school district, charter school, or state educational institution.

**K. "Multiple list"** means a written list of those instructional materials approved by the department.

**L. "Open educational resources" or "OER"** means teaching, learning, and research material that is freely available for use, adaptation, and sharing.

**M. "Open source curriculum" or "OSC"** means a planned sequence of instructional and educational material that covers a full academic course of study, and that may be freely accessed, distributed, and modified.

**N. "Other adoptions"** means an adoption of new material that is not conducted during the summer review institute.

**O. "Other classroom material"** means materials other than textbooks that are used to support direct instruction to students.

**P. "Out-of-adoption"** means previously adopted instructional material that is no longer considered current by the department and that is not included on the multiple list.

**Q. "Processing fee"** means the bid fees charged to vendors for each item of instructional material submitted for adoption, not to exceed the retail price.

**R. "Provider"** means an organization or individual, including publishers, who develops and submits instructional material.

**S. "Request for applications" or "RfA"** means the written notice issued by the department soliciting the submission of new instructional material in specified subject areas, and outlining the terms and conditions of the department's review and adoption process.

**T. "Research-based effectiveness"** means the demonstrated effectiveness of instructional material in supporting students to meet or exceed grade-level goals according to New Mexico content standards, and as demonstrated by the best available evidence for curricula in the relevant grade and subject. For core instructional material, evidence shall include an independently conducted experimental or quasi-experimental research study or review by nationally-recognized, independent experts in curricula review. LEA-created core instructional materials may also demonstrate effectiveness using correlational evidence that students using the core instructional material meet or exceed grade-level proficiency as measured by the state assessment.

**U. "Reviewer of record"** means a reviewer who is a qualified teacher with a level 2 or 3-A license with experience in the content area being reviewed.

**V. "Substitution"** means the replacement of an adopted item under the provider's agreement with a revised edition of the item.

**W. "Supplementary instructional material"** means supporting instructional material used to reinforce, enrich, or enhance instruction driven by core instructional

material. Pursuant to Section 22-15-8 NMSA 1978, the department may choose not to review supplementary materials.

[6.75.2.7 NMAC - Rp, 6.75.2.7 NMAC, 12/11/2018]

#### **6.75.2.8 INSTRUCTIONAL MATERIAL ELIGIBLE FOR ADOPTION:**

**A.** The department shall review and adopt instructional material in core subject areas for use in public school districts, charter schools, and eligible state educational institutions. Providers that meet the criteria set forth in Subsection B of 6.75.2.9 NMAC may submit instructional material to the department for consideration through the process outlined in 6.75.2.9 NMAC. Providers may submit print format, digital format, or both of instructional material for consideration and shall certify whether their instructional materials are one of the following:

- (1) core instructional material; or
- (2) supplementary instructional material.

**B.** OER and OSC instructional material may be considered for adoption by the department as either core or supplementary instructional material.

**C.** OER and OSC instructional material may be:

- (1) submitted by the department for adoption consideration;
- (2) submitted by schools, districts, or providers for adoption consideration; or
- (3) exempt from the processing fee associated with adoption.

**D.** LEAs may submit instructional material to the department for adoption consideration.

**E.** Pursuant to Section 22-23B NMSA 1978 and 22-23A NMSA 1978, the *Hispanic Education Advisory Council* and the *Indian Education Advisory Council* may submit instructional material to the department for adoption consideration.

(1) If the *Hispanic Education Advisory Council* or the *Indian Education Advisory Council* submits instructional material as a provider, there shall not be a fee associated with the adoption.

(2) If the *Hispanic Education Advisory Council* or the *Indian Education Advisory Council* submits instructional material created by a separate provider with the consent of the provider, there shall be a fee associated with the adoption as determined by the department.

**F.** Digital instructional material submitted for consideration shall comply with current interoperability standards, along with any other specifications deemed necessary by the department.

**G.** Providers shall incur any costs associated with the provision of hardware, software, or special equipment necessary for the review of instructional material.

**H.** The department shall not consider instructional material that requires proprietary equipment provided by or through the provider to view.

[6.75.2.8 NMAC - Rp, 6.75.2.8 NMAC, 12/11/2018]

#### **6.75.2.9 INSTRUCTIONAL MATERIAL ADOPTION PROCESS:**

**A.** Adoption cycle. The department shall conduct an annual summer review institute during which reviewers of record shall review instructional material for alignment with state content standards and benchmarks and other criteria deemed relevant by the department. The department's annual summer review institute shall serve as the primary opportunity for new instructional material to be reviewed and considered for adoption.

**(1)** Annual review and adoption of new instructional material shall cover those core subject areas with adoption periods expiring at the end of the year in which the review is being conducted.

**(2)** Instructional material shall be adopted by the department for a period of six years, unless the department determines a need to alter the adoption cycle.

**(3)** Off-cycle reviews and adoptions of new instructional material may occur at any time the department deems necessary, based on educational need.

**(4)** Providers submitting core instructional material for off-cycle review shall incur the costs associated with review, as determined by the department.

**(5)** The department shall notify LEAs of any cycle alterations no later than December 31 of the year prior to the summer review institute.

#### **B.** Request for applications.

**(1)** The department shall issue an RfA annually to solicit submissions of proposed new instructional material. The RfA shall include:

**(a)** the core subject area(s) for which new instructional material is being considered;

(b) timelines for adoption, requisition, and distribution of adopted instructional material;

(c) length of contracts between the department and approved providers;

(d) criteria for demonstrating research-based effectiveness of instructional material;

(e) instructional material review criteria which shall include but is not limited to the following:

(i) alignment with state standards;

(ii) grade level appropriateness;

(iii) cultural and linguistic relevance; and

(iv) full academic course of study;

(f) processing fee guidelines; and

(g) other terms, conditions, and forms deemed necessary by the department.

(2) Providers shall certify whether each submission is core or supplementary instructional material. The department shall determine whether or not the provider has appropriately categorized each submission and may reclassify material if necessary.

(3) Providers shall submit instructional material for consideration in the format and by the dates set forth by the department.

(4) The department may accept any applications that:

(a) satisfy all criteria outlined in the RfA;

(b) are determined to be advantageous to the state, considering the educational value of the instructional material submitted, cost to the state, and reliability of the provider; and

(c) meet all other factors deemed relevant by the department.

(5) The department may reject any applications that fail to satisfy criteria outlined in the RfA.

### **C. Review teams.**

**(1)** Each review team shall be composed of reviewers of record and facilitated by department-selected facilitators.

**(2)** The department shall ensure that reviewers of record are compensated in accordance with Sections 22-15-8 NMSA 1978.

**(3)** The department shall ensure that reviewers of record receive adequate training and utilize the review forms developed by the department.

**D.** Review forms. The review forms utilized by reviewers of record shall include the scoring rubric which shall consist of a minimum of two sections.

**(1)** Section one shall focus on whether or not proposed instructional material aligns with department adopted content standards and shall include scorable performance indicators.

**(2)** Section two shall focus on the extent to which the proposed instructional material under review:

**(a)** is culturally relevant, as outlined by the following:

**(i)** informs culturally and linguistically responsive pedagogy;

**(ii)** reflects the cultural diversity represented within the community, state, and nation;

**(iii)** reflects the cultures, languages, and lived experiences of a multicultural society;

**(iv)** addresses multiple ethnic descriptions, interpretations, or perspectives of events and experiences; and

**(v)** encourages critical pedagogy.

**(b)** provides opportunities for both formative and summative assessment;

**(c)** integrates opportunities for digital learning into the text; and

**(d)** meets any other criteria deemed relevant by the department.

**E.** The department may send instructional material through a secondary review process, at its discretion, to ensure scores are valid.

**F.** The department shall ensure that collaboration occurs with New Mexico pueblos, tribes and designated tribal organizations, pursuant to Section 11-18-3 NMSA 1978 and

shall ensure instructional materials for American Indian students enrolled in public schools are culturally relevant pursuant to Section 22-23A-2 NMSA 1978.

**G.** The department shall appoint community members, parents, level one teachers, and students preparing for careers as teachers to observe the reviewers of record during the review.

**H.** At the time of review, providers shall provide the department with any hardware, software, or special equipment necessary to review instructional material submitted.

**I.** Other adoptions.

**(1)** Other adoptions may be processed at the request of a provider with the approval of the instructional material bureau chief or for other reasons as determined by the instructional material bureau chief.

**(2)** Other adoptions may be for core instructional material which is reviewed or for supplementary material which may not be reviewed.

**(3)** Other adoptions shall require a processing fee to vendors of instructional materials not to exceed the retail value of the instructional material submitted for adoption.

**J.** Substitution.

**(1)** Providers may submit formal substitution requests to the department for in-adoption instructional material.

**(2)** Providers wishing to request substitutions shall submit to the department a written request along with justification for the proposed substitution. The department shall allow substitutions of instructional material when it determines:

**(a)** the proposed substitution is in the best interest of students;

**(b)** all terms and conditions of the original contract with the provider are still being met; and

**(c)** the proposed substitution is limited to minor revisions and contains substantially the same material as the previous edition.

**K.** Pursuant to Sections 22-15-4 NMSA 1978 and 22-15-8 NMSA 1978 the department shall enforce rules that require local school boards to implement a process that ensures parental and community member involvement within the instructional material review process. A local school board shall give written and public notice to families and community members to extend an invitation for participation in the adoption process at the district level.

[6.75.2.9 NMAC - Rp, 6.75.2.9 NMAC, 12/11/2018]

**6.75.2.10 CLASSIFICATION AND ADOPTION OF INSTRUCTIONAL MATERIAL:**

**A.** The department shall make adoption recommendations to the secretary using the following guidelines. Ranges of scores may vary and shall be determined and communicated by the department.

**(1)** Core instructional material:

**(a)** that meets or exceeds expectations on all identified criteria, including research-based effectiveness, may be designated as recommended and may also receive recognition for special features identified by the department;

**(b)** that approaches expectations on identified criteria, including research-based effectiveness, may be designated as recommended with reservations; or

**(c)** that is reviewed but does not meet the criteria shall not be recommended for adoption.

**(2)** Supplementary instructional material certified by providers and accepted by the department as such may not be reviewed.

**B.** The secretary shall consider recommendations from the reviewers of record and shall make final decisions regarding the adoption of core and supplementary instructional material.

**(1)** Instructional material selected for adoption shall:

**(a)** meet all requirements outlined in the RfA; and

**(b)** meet all requirements outlined in Subsection B of

6.75.2.9 NMAC.

**(2)** The secretary shall authorize adoption of instructional material no later than 90 calendar days after the conclusion of the instructional material review.

[6.75.2.10 NMAC - Rp, 6.75.2.10 NMAC, 12/11/2018]

**6.75.2.11 CONTRACTS WITH PROVIDERS:**

**A.** In accordance with law, the department may enter into contracts with providers that will provide for the purchase of adopted instructional material by LEAs.



**B.** Contracts with providers may last for a period of six years, unless the department determines that an amended contract is necessary.

**C.** The department shall only enter into a contract when the provider agrees to:

- (1) facilitate the distribution of adopted instructional material to LEAs;
- (2) keep sufficient stock of adopted instructional material at the designated depository;
- (3) ensure timely delivery of instructional material according to the schedule determined by the department;
- (4) pay late fees for any delays in delivery according to a schedule determined by the department;
- (5) bill the appropriate LEA for instructional material ordered;
- (6) ensure that all instructional material adopted and sold under the contract conforms to the requirements of the Federal Consumer Product Safety Improvement Act;
- (7) submit adopted instructional material to the national instructional material accessibility center repository at the American printing house for the blind at no additional cost and in accordance with applicable law; and
- (8) maintain copies of all billings generated under the contract for three years after the termination or expiration of the contract or after any court proceedings involving the contract.

**D.** The department may grant exemption from the contracting process or may approve an alternative contract for:

- (1) OER, OSC, or any instructional material for which there is not a provider, vendor, or agent to fulfill the requirements outlined in the RfA; or
- (2) instructional material developed by a school or LEA.

[6.75.2.11 NMAC - Rp, 6.75.2.10 NMAC, 12/11/2018]

#### **6.75.2.12 DISTRIBUTION OF FUNDS:**

**A.** The department shall oversee the administration of the instructional material law pursuant to Section 22-15-1 NMSA 1978 and shall issue guidance through the instructional material manual posted on the department's website to outline effective,

efficient, and equitable processes related to the free use of instructional material for all entities subject to 6.75.2 NMAC.

**B.** The department may conduct periodic audits of instructional material accounts and textbook inventories of any entities receiving instructional material funds.

[6.75.2.12 NMAC - Rp, 6.75.2.11 NMAC, 12/11/2018]

#### **6.75.2.13 SELECTION AND PURCHASE OF INSTRUCTIONAL MATERIAL:**

**A.** Each local school board or governing body shall develop and implement a process for the review and adoption of instructional material which shall include:

(1) family and community member involvement in the instructional material review and adoption process;

(2) written notification to families and community members regarding the instructional material selection process;

(3) public notification, which may include publication in a newspaper of general circulation in the school district; and

(4) a review of material for cultural and linguistic relevance.

**B.** Each LEA purchasing instructional material through an authorized depository shall follow the timelines and requirements outlined in the instructional material manual.

**C.** Each public school district and eligible state educational institution:

(1) may spend up to one hundred percent of its total instructional material allocations

to purchase department-adopted instructional material posted on the department's website;

(2) shall not spend more than fifty percent of its total instructional material allocations to purchase instructional material not adopted by the department; and

(3) may spend up to twenty-five percent of the funds referenced in Paragraph (2) of Subsection C of 6.75.2.13 NMAC on other classroom materials.

**D.** Charter schools may spend up to one hundred percent of their total instructional material allocations to purchase adopted or non-adopted instructional material, and up to twenty-five percent of this amount may be spent on other classroom materials.

**E.** The department may consider waiver requests from school districts and state-supported schools to use instructional material funds for purchases that fall outside the spending limits enumerated in Paragraph (2) of Subsection C of 6.75.2.13 NMAC. Waiver requests shall be submitted on forms provided by the department.

**F.** Instructional material funds allocated to an LEA during any fiscal year that are not obligated or expended prior to the close of that fiscal year shall be available to that public school district, charter school, or state-supported school for expenditure in subsequent fiscal years, consistent with the requirements of Subsections C and F of Section 22-15-9 NMSA 1978.

**G.** Annually, at a time and in a format specified by the department, each LEA receiving instructional material allocations shall file a report with the department. The report shall include:

- (1) the total instructional material allocation received;
- (2) the average cost per pupil based on the instructional material allocation;
- (3) year-end cash balances of the instructional material fund;
- (4) documentation of effective professional learning aligned to purchased core instructional material;
- (5) documentation of parental and community involvement in the instructional material review process and parental involvement in the adoption process; and
- (6) other documentation specified by the department.

**H.** Each local school board or governing body shall keep an itemized list of instructional material purchased in a format prescribed by the department.

**I.** Guidance pertaining to obtaining funds, ordering instructional materials, receiving funds, returning funds for sold or lost materials, and completing the annual report shall be included in the instructional material manual.

[6.75.2.13 NMAC - Rp, 6.75.2.13 NMAC, 12/11/2018]

#### **6.75.2.14 DISTRIBUTION OF INSTRUCTIONAL MATERIALS BY DEPOSITORIES:**

Depositories shall distribute instructional material to LEAs according to a schedule outlined by the department in the instructional material manual.

**A.** Depositories shall:

(1) demonstrate that the financial viability is adequate to ensure performance of all obligations outlined in a contract between the provider and the depository for the purpose of distributing instructional material to LEAs;

(2) maintain warehouse facilities, with location(s), equipment, and staffing adequate to ensure performance of all obligations under the contract between the provider and the depository for the purpose of distributing instructional material to LEAs;

(3) demonstrate capacity to generate and electronically submit reports to the department;

(4) provide training to all LEAs on the process for ordering instructional materials;

(5) implement procedures and systems with the capacity to run department-approved online ordering systems, and inventory and reporting systems to receive and process instructional material orders; and

(6) maintain sufficient inventory of instructional material to fill requisitions in accordance with the timelines set forth by the department.

**B.** The department may disapprove depositories that fail to meet requirements necessary for the successful and timely distribution of instructional material.

[6.75.2.14 NMAC - N, 12/11/2018]

#### **6.75.2.15 DISPOSAL OF INSTRUCTIONAL MATERIAL:**

**A.** Out-of-adoption instructional material deemed unusable or obsolete by LEAs may be disposed of at the LEA's discretion and shall not require department approval.

**B.** An LEA wishing to discard in-adoption instructional material listed on the current multiple list shall obtain prior department approval. Request for approval shall:

(1) be in writing;

(2) include justification for the request; and

(3) include a list of the materials to which the request pertains.

**C.** An LEA wishing to sell in-adoption instructional material listed on the current multiple list shall obtain prior approval to do so from the department. The selling price may be determined by the LEA; however, it shall not exceed the original cost of the instructional material. All funds received from the sale of such instructional material shall be remitted to the department for redeposit into the LEA's instructional material account.

[6.75.2.14 NMAC - N, 12/11/2018]

**PART 3: RELATING TO THE PUBLIC EDUCATION DEPARTMENT  
INSTRUCTIONAL MATERIAL BUREAU TEXTBOOK ADOPTIONS  
[EXPIRED]**

[This part expired 6-27-2005]

**PART 4: RELATING TO THE IMPLEMENTATION OF THE BRAILLE  
ACCESS ACT**

**6.75.4.1 ISSUING AGENCY:**

Public Education Department.

[6.75.4.1 NMAC - N, 12-14-06]

**6.75.4.2 SCOPE:**

All educational institutions providing services at the elementary and secondary level.

[6.75.4.2 NMAC - N, 12-14-06]

**6.75.4.3 STATUTORY AUTHORITY:**

This regulation is promulgated pursuant to Sections 9-24-8, 22-2-1 and 22-15-30 NMSA 1978 which directs the department to adopt guidelines consistent with the Braille Access Act for the implementation and administration of that act.

[6.75.4.3 NMAC - N, 12-14-06]

**6.75.4.4 DURATION:**

Permanent.

[6.75.4.4 NMAC - N, 12-14-06]

**6.75.4.5 EFFECTIVE DATE:**

December 14, 2006, unless a later effective date is cited at the end of a section.

[6.75.4.5 NMAC - N, 12-14-06]

**6.75.4.6 OBJECTIVE:**

This regulation governs the procedures for the adoption, purchase, and delivery of instructional material in compliance with the Braille Access Act, Sections 22-15-26 to 22-15-31 NMSA 1978, through provision of alternate accessible format materials and incorporates the federal standards of the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. Section 1400 et seq. (IDEA).

[6.75.4.6 NMAC - N, 12-14-06]

#### **6.75.4.7 DEFINITIONS:**

**A. "Alternate accessible format"** as used in the Braille Access Act has the same meaning as "specialized formats" as used in the IDEA and both terms mean one of several alternatives to traditional printed instructional materials, including but not limited to Braille, audio or digital text or large print formats which are exclusively for students as defined in this rule.

**B. "Department"** means the public education department.

**C. "Educational institution"** means "**public school**", including charter schools, or "**state agency**" or "**state institution**" as defined in Section 22-1-2 NMSA 1978.

**D. "Educational purposes"** means materials that are necessary for instruction of a student.

**E. "Instructional materials"** means textbooks, workbooks, teacher manuals or editions, blackline masters, transparencies, test packets, software, CD-ROMs, videotapes and audio materials.

**F. "National instructional materials access center"** or NIMAC means the center established pursuant to 20 U.S.C. 1474(e) of the IDEA.

**G. "National instructional materials accessibility standard"** or NIMAS means the standard established by the secretary of the United States department of education to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

**H. "Nontextual mathematics or science instruction materials"** means mathematical or scientific pictures, illustrations, graphs, charts, symbols and notations.

**I. "Structural integrity"** means all of the printed instructional materials, including the text of the material, sidebars, table of contents, chapter headings and subheadings, footnotes, indexes, glossaries and bibliographies. Structural integrity need not include nontextual elements such as pictures, illustrations, graphs or charts. The publisher should include a brief textual description of any such nontextual element when it is practical to do so and mention of the nontextual element when a description is not practical.

**J. "Student"** means a blind or other person with print disabilities accepted, enrolled in or attending an educational institution who has been determined by the educational institution to need instructional materials in an alternate accessible format and shall include:

(1) blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter if visual field subtends an angular distance no greater than 20 degrees;

(2) persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as limiting the reading of standard printed material;

(3) persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations;

(4) persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.

**K. "Competent authority"** as used in this subsection is defined as follows:

(1) In cases of blindness, visual disability, or physical limitations "competent authority" is defined to include doctors of medicine, doctors of osteopathy, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e.g., social workers, case workers, counselors, vocational rehabilitation counselors, teachers of students with blindness/visual impairment B-12 and superintendents).

(2) In the case of a reading disability from organic dysfunction, competent authority is defined as doctors of medicine who may consult with colleagues in associated disciplines.

**L. "Timely manner"** means ten business days from the receipt by the authorized user of the NIMAS conformant file from NIMAC or in the case of an educational institution that chooses not to coordinate with the NIMAC, ten business days from the identification by the educational institution that the student needs printed instructional materials in an alternate accessible or specialized format. Partial receipt of instructional materials in alternate accessible or specialized formats shall be considered receipt in a timely manner if the material received covers both the chapters in the instructional materials that have been covered and the chapters that are currently being covered by the student's class.

[6.75.4.7 NMAC - N, 12-14-06]

#### **6.75.4.8 GENERAL REQUIREMENTS:**

**A.** The department adopts the NIMAS for the purpose of providing print instructional materials in alternate accessible or specialized formats to blind persons or other persons with print disabilities in a timely manner.

**B.** In consultation with representatives from educational institutions and publishers, the department shall ensure to the qualified student the provision of instructional materials that:

- (1)** are deemed essential or required for student success;
- (2)** meet requirements for nontextual mathematics or science instructional materials that use mathematical or scientific pictures, illustrations, graphs, charts, symbols or notations;
- (3)** maintain structural integrity and meet requirements for textual descriptions of pictures, illustrations, graphs and charts; and
- (4)** are available in an alternate accessible or specialized format.

**C.** The department, through its instructional materials adoption process, shall require publishers to prepare and, on or before delivery of the printed instructional materials, provide to the NIMAC electronic files containing the content of the printed instructional materials using the NIMAS for all instructional material adopted by the department after July 19, 2006.

[6.75.4.8 NMAC - N, 12-14-06]

#### **6.75.4.9 REQUIREMENTS: RESPONSIBILITIES OF EDUCATIONAL INSTITUTIONS:**

**A.** An educational institution is not required to coordinate with the NIMAC. If the educational institution chooses to coordinate with the NIMAC, the educational institution shall acquire instructional materials in the same manner and subject to the same conditions as provided in 6.75.4.8 NMAC.

**B.** If an educational institution becomes a coordinating agency with NIMAC, it shall place its orders for instruction materials in alternate accessible or specialized formats through the persons responsible for coordinating services to students with disabilities with the central repository authorized by the department. The central repository shall serve as the authorized user and agent of the educational institution with NIMAC and it will have access to the NIMAC database and it may download NIMAS files in accordance with established agreements so that printed instructional materials can be efficiently converted to alternate accessible or specialized formats. The central repository will perform the conversion of the NIMAS files into the alternate accessible or specialized format and deliver it in a timely manner to the educational institution that ordered it.



**C.** If the educational institution chooses not to coordinate with the NIMAC, the educational institution shall provide a written assurance to the department in its annual local IDEA application that the educational institution shall provide instructional materials in an alternate accessible or specialized format to blind students or other students with print disabilities in a timely manner.

**D.** Educational institutions, through the persons responsible for coordinating services to students with disabilities, must certify in writing to the central repository authorized by the department that:

- (1)** the materials are deemed essential or required for student success;
- (2)** an electronic copy of the materials will be used solely for the student's educational purposes.

**E.** No educational institution, its employees or its students shall authorize any use of instructional materials that would be inconsistent with the provisions of 17 U.S.C. Section 121 as amended by Title III, Section 306 of the IDEA.

[6.75.4.9 NMAC - N, 12-14-06]

#### **6.75.4.10 REQUIREMENTS: RESPONSIBILITIES OF PUBLISHERS:**

**A.** All publishers submitting instructional materials for adoption on the department's multiple list must agree through a signed contract with the department to provide, at no additional cost, NIMAS-conformant files of any printed instructional materials, on or before delivery of the printed instructional materials to the publisher's New Mexico distribution point, to the NIMAC at the American printing house for the blind. The publisher must also agree that the NIMAS-conformant files provided to NIMAC include the latest corrections and revisions of the printed instructional materials.

**B.** Publishers may require written assurance from the educational institution that:

- (1)** the alternate accessible or specialized formats of the printed instructional materials will be used solely for the student's educational purposes; and
- (2)** the student or educational institution will not copy, publish or in any other way distribute the alternate accessible or specialized formats of printed instructional materials for use by anyone other than the original student, except that the educational institution may provide the instructional materials to another qualifying student who has signed a statement or, if a minor, whose parent on behalf of the student has signed a statement agreeing to the terms contained in this subsection and unless it is otherwise permitted by federal law.

[6.75.4.10 NMAC - N, 12-14-06]

#### **6.75.4.11 COMPLAINTS AGAINST A PUBLISHER:**

**A.** A student, parent, educational institution or organization on behalf of a student with a complaint against a publisher must submit the complaint in writing to the chief of the instructional materials bureau of the department if they believe that a publisher has failed to comply with a request under this rule.

**B.** The bureau chief shall investigate and provide the complainants and the publisher with notice of required compliance if warranted.

**C.** The publisher must respond in writing to the notice within ten (10) business days.

**D.** The department may terminate the contract of a publisher for failure to comply with its responsibilities under this rule as provided in the involuntary termination provisions of its instructional materials contract.

[6.75.4.11 NMAC - N, 12-14-06]

### **PART 5: RELATING TO THE IMPLEMENTATION OF THE SCHOOL LIBRARY MATERIAL ACT**

#### **6.75.5.1 ISSUING AGENCY:**

Public Education Department.

[6.75.5.1 NMAC - N, 05-15-06]

#### **6.75.5.2 SCOPE:**

This rule governs the procedures for the allocation, distribution and use of funds to purchase materials for school libraries.

[6.75.5.2 NMAC - N, 05-15-06]

#### **6.75.5.3 STATUTORY AUTHORITY:**

This rule is promulgated pursuant to Sections 9-24-8 and 22-15C-1 et seq. NMSA 1978.

[6.75.5.3 NMAC - N, 05-15-06]

#### **6.75.5.4 DURATION:**

Permanent.

[6.75.5.4 NMAC - N, 05-15-06]

#### **6.75.5.5 EFFECTIVE DATE:**

May 15, 2006, unless a later effective date is cited at the end of a section.

[6.75.5.5 NMAC - N, 05-15-06]

#### **6.75.5.6 OBJECTIVE:**

This rule is designed to facilitate the allocation, distribution and use of funds to purchase materials for school libraries.

[6.75.5.6 NMAC - N, 05-15-06]

#### **6.75.5.7 DEFINITIONS:**

**A. "Additional student"** means a student in the certified forty-day membership of the current year for a school district, charter school or state institution above the number certified in the forty-day membership of the prior year for the school district, charter school or state institution.

**B. "Bureau"** means the instructional material bureau of the department of education.

**C. "Chief"** means the chief of the state instructional material bureau.

**D. "Department"** means the public education department.

**E. "Fund"** means the school library material fund.

**F. "Library material processing"** means cataloging of school library material, including in electronic format, according to nationally accepted standards, and the application of bar code labels and call-number classifications labels to the material.

**G. "Membership"** means the total enrollment of qualified students on the fortieth day of the school year entitled to the free use of school library material pursuant to the School Library Material Act.

**H. "School library material"** means books and other educational media, including online reference and periodical databases, that are made available in a school library to students for circulation and use in the library.

[6.75.5.7 NMAC - N, 05-15-06]

#### **6.75.5.8 REQUIREMENTS: RESPONSIBILITIES OF THE DEPARTMENT:**

**A.** The department will administer the provision of the School Library Material Act [22-15C-1 to 22-15C-10 NMSA 1978] as follows:

**(1)** allocate and distribute money to school districts, charter schools and state institutions from the fund to pay for the cost of purchasing school library material; the cost of purchasing school library materials may include shipping and handling charges for the delivery of school library material;

**(2)** enforce rules for the handling, safekeeping and distribution of school library material and money from the fund; and

**(3)** withdraw or withhold the privilege of participating in the free use of school library material in case of noncompliance with the provisions of the School Library Material Act or this rule.

**B.** On or before July 1 of each year, the department shall distribute from the fund at least ninety percent of the estimated entitlement for each school district, charter school or state institution as determined from the forty-day membership of the previous school year. Additional students shall be counted as six students for the purpose of the allocation.

**C.** On or before January 15 of each year, the department shall recompute each entitlement using the forty-day membership for that year and shall allocate the balance of the annual appropriation adjusting for and over-or under-estimation made in the first allocation.

**D.** Annually, the department will submit a budget for the next fiscal year to the department of finance and administration showing expenditures for school library material to be paid from the fund, including reasonable shipping and handling charges and library material processing expenses.

[6.75.5.8 NMAC - N, 05-15-06]

#### **6.75.5.9 REQUIREMENTS: RESPONSIBILITIES OF LOCAL SCHOOL BOARDS OR GOVERNING AUTHORITIES:**

**A.** A school district, charter school or state institution shall purchase school library material as an agent for the benefit of students entitled to the free use of school library material.

**B.** A school district, charter school or state institution is responsible for circulation of the school library material for use by eligible students and for the safekeeping of the school library material.

**C.** With the approval of the bureau, school library material may be sold at a price determined by officials of the school district, charter school or state institution. The selling price may not exceed the cost of the material.

**D.** A school district, charter school or state institution may hold a parent, guardian or student responsible for loss, damage or destruction of school library material while it is in the possession of a student. A school district or charter school may withhold the grades, diploma and transcripts of a student responsible for damage or loss of school library material until the parent, guardian or student has paid for the damage or loss. When a parent, guardian or student is unable to pay for the damage or loss, the school district or charter school shall work with the parent, guardian or student to develop and alternative program in lieu of payment. Where a parent or guardian is determined to be indigent according to guidelines established by the department, the school district shall bear the cost.

**E.** A school district, charter school or state institution shall keep an accurate record of school library material that includes a cost record. A school district or state institution shall comply with record-keeping procedures prescribed by the bureau.

**F.** Annually, at a time specified by the department, each local school district and state institution acquiring school library material shall file a report with the department.

[6.75.5.9 NMAC - N, 05-15-06]

## **CHAPTER 76-79: [RESERVED]**

## **CHAPTER 80: ALTERNATIVE EDUCATION - CHARTER SCHOOLS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: [RESERVED]**

### **PART 3: CHARTER SCHOOL DISTRICTS [EXPIRED]**

[This part expired June 30, 2005]

### **PART 4: CHARTER SCHOOL APPLICATION AND APPEAL REQUIREMENTS**

#### **6.80.4.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.80.4.1 NMAC - Rp, 6.80.4.1 NMAC, 6/29/2007; A, 9/29/2020]

**6.80.4.2 SCOPE:**

This rule shall apply to applicants and operators of start-up charter schools and previously authorized conversion schools.

[6.80.4.2 NMAC - Rp, 6.80.4.2 NMAC, 6/29/2007]

**6.80.4.3 STATUTORY AUTHORITY:**

Sections 9-24-8, 22-2-1, 22-2-2, 22-8-1 et seq., and 22-8B-1 et seq. NMSA 1978.

[6.80.4.3 NMAC - Rp, 6.80.4.3 NMAC, 6/29/2007; A, 9/29/2020]

**6.80.4.4 DURATION:**

Permanent.

[6.80.4.4 NMAC - Rp, 6.80.4.4 NMAC, 6/29/2007]

**6.80.4.5 EFFECTIVE DATE:**

June 29, 2007, unless a later date is cited at the end of a section.

[6.80.4.5 NMAC - Rp, 6.80.4.5 NMAC, 6/29/2007]

**6.80.4.6 OBJECTIVE:**

To establish the initial application and renewal process for charter schools, whether locally or state chartered, the appeal process of charter schools to the secretary of education and the secretary of education's review process.

[6.80.4.6 NMAC - Rp, 6.80.4.6 NMAC, 6/29/2007]

**6.80.4.7 DEFINITIONS:**

**A. "Applicant"** means one or more teachers, parents, or community members or a public postsecondary educational institution or nonprofit organization who submits an initial or renewal application to a chartering authority.

**B. "Application for start-up charter school"** means an application requesting the establishment of either a locally chartered or state-chartered charter school.

**C. "Authorizer"** means either a local school board or the commission that permits the operation of a charter school.

**D. "Charter school"** means a conversion school or start-up charter school authorized by a chartering authority to operate as a public school.

**E. "Chartering authority"** means either a local school board or the commission that permits the operation of a charter school.

**F. "Commission"** means the public education commission.

**G. "Conversion school"** means an existing public school within a school district that was authorized by a local school board or the commission to become a charter school prior to July 1, 2007.

**H. "Days"** means, unless otherwise specified in a provision in this rule or applicable statute, business days when the period referenced is 10 days or less, and calendar days when the period referenced is 11 days or more. In computing the amount of days, exclude the day of the event that triggers the period, and include the last day of the period. If the last day is a day when the department is closed, the period continues to run until the end of the next business day that the department is not closed. Whenever a person or entity shall act under this rule within a prescribed period after service of a notice or paper upon the person or entity, and the notice or paper is served by mail or courier service, three calendar days are added to the prescribed period.

**I. "Division"** means the charter schools division of the department.

**J. "Governing body"** means the governing structure of a charter school as set forth in the charter school's charter.

**K. "Head administrator"** means the duly licensed school administrator who is the director of the charter school, which is the person with duties similar to that of a superintendent as set forth in Section 22-5-14 NMSA 1978.

**L. "Locally chartered charter school"** means a charter school authorized by a local school board.

**M. "MEM"** means membership, which is the total enrollment of qualified students on the current roll of a class or school on a specified day.

**N. "Organizer"** means one or more persons or entities who seek to arrange, form, or otherwise establish a charter school.

**O. "Prospective applicants"** means one or more teachers, parents, or community members or a public post-secondary educational institution or nonprofit organization who submits a notice of intent to a chartering authority.

**P. "Secretary"** means the New Mexico secretary of public education.

**Q. "Start-up charter school"** means a public school developed by one or more parents, teachers, or community members who applied to and were authorized by a chartering authority to become a charter school.

**R. "Special education plan"** means a comprehensive written design or method that includes specific details on how the charter school shall:

(1) utilize state and federal funds to provide children with disabilities a free and appropriate public education, in accordance with applicable law;

(2) provide educational services, related services, and supplementary aids and services to children with disabilities in accordance with each child's individualized education program; and

(3) address a continuum of alternative educational placements to meet the needs of students with disabilities, in accordance with applicable law.

**S. "State-chartered charter school"** means a charter school authorized by the commission.

[6.80.4.7 NMAC - Rp, 6.80.4.7 NMAC, 6/29/2007; A, 6/30/2008; A, 6/30/2009; A, 12/31/2018; A, 9/29/2020]

#### **6.80.4.8 NOTICE OF INTENT TO ESTABLISH A CHARTER SCHOOL:**

**A.** The organizers of a proposed charter school shall provide a signed written notification to the commission and the school district in which the charter school is to be located of the organizers' intent to establish a charter school. The date for submitting a notice shall be no later than the second Tuesday of January of the year in which the prospective applicant plans to submit an application.

**B.** Written notification to the commission shall be made to the division written notification to a local school board shall be made to the superintendent of that school district who shall provide copies of the written notification to the local school board during a duly noticed board meeting.

**C.** If the second Tuesday of January falls on a legal holiday, the written notification shall be timely if personally delivered on the first day following the legal holiday that the division or office of the pertinent superintendent is open for business. Notice will also be considered timely if it is postmarked four calendar days prior to the second Tuesday of January, regardless of the date on which it is received. Failure to provide timely written notification may result in an application being rejected unless the organizers can demonstrate good cause why timely written notification was not given.

[6.80.4.8 NMAC - N, 6/29/2007; A, 6/30/2008; A, 6/30/2009; A, 9/29/2020]



#### **6.80.4.9 CONTENTS OF APPLICATION FOR START-UP CHARTER SCHOOL:**

A charter school application shall be a proposed agreement between the chartering authority and the charter school and shall include the following:

**A.** The mission statement of the charter school;

**B.** The goals, objectives, and student performance outcomes to be achieved by the charter school;

**C.** A description of the charter school's educational program, student performance standards, and curriculum that meets or exceeds the department's educational standards and shall be designed to enable each student to achieve those standards.

**D.** A description of the way a charter school's educational program will meet the individual needs of students, particularly those students determined to be at risk, including Native American students, economically disadvantaged students, students with disabilities, and English learners, and which will include the following:

**(1)** suggested modifications to the proposed educational program to meet individual student needs, such as bilingual, limited English proficient, and special education;

**(2)** an outline of a special education plan, the final plan of which shall be completed and submitted to the charter authorizer by the end of the planning year;

**(3)** how the charter school will provide access to other services including but not limited to counseling and health;

**(4)** assurances that the charter school will establish an executive director's equity council with members selected from the charter school community in an open and transparent process; and

**(5)** assurances the charter school head administrator and governing body, in consultation with the school equity council, will develop a culturally and linguistically relevant framework to help prepare students for college, career, and civic life through support of students' identities, and holistic development, including social, emotional, and physical wellness.

**E.** A description of the charter school's plan for evaluating student performance, the types of assessments that will be used to measure student progress toward achievement of the state's standards, and the school's student performance standards, the timeline for achievement of the standards, and the procedures for taking corrective action in the event that student performance falls below the standards.

**F.** Assurances that the charter school will be economically sound, including the submission of a proposed budget for the term of the charter and a description of the manner in which the annual audit of the financial and administrative operations of the charter school is to be conducted;

**G.** An assurance that the fiscal management of the charter school will comply with all applicable federal and state laws and rules related to fiscal procedures;

**H.** The names of the members of the governing body and a description of the operation of the charter school, including:

**(1)** the method of selecting the governing body;

**(2)** the qualifications and terms of members, the filling of vacancies, and the procedures for changing governing body membership; and

**(3)** the nature and extent of parental, professional educator, and community involvement in the governance and the operation of the school.

**I.** An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment will be addressed with affected employees and their recognized representatives, if any;

**J.** The employment and student discipline policy of the proposed charter school;

**K.** A proposed agreement between the charter school and the authorizer regarding their respective legal liability and applicable insurance coverage;

**L.** A description of how the charter school plans to meet the transportation and food service needs of its students;

**M.** A description of both the discretionary waivers and the waivers provided for in Section 22-8B-5 NMSA 1978 that the charter school is requesting or that will be provided from the local school board or the department and the charter school's plan for addressing and using these waiver requests; and

**N.** A description of the facilities the charter school plans to use; including an assurance that the facilities will meet the standards required in Section 22-8B-4.2 NMSA 1978.

[6.80.4.9 NMAC - Rp, 6.80.4.8 NMAC, 6/29/2007; A, 6/30/2008; A, 9/29/2020]

#### **6.80.4.10 TERM OF A CHARTER:**

**A.** A charter may be approved for an initial term of six years, provided that the first year shall be used exclusively for planning and not for completing the application. The planning year shall be the fiscal year in which the charter is authorized, beginning on the July 1 date on which applications were due and ending on June 30, regardless of the number of months that may be available to a charter school for planning activities.

**B.** A charter may be renewed for successive periods of five years each unless a lesser period is agreed to in writing by the charter school and its authorizer. The five years of the charter will commence on July 1 of the fiscal year after the charter was approved by its authorizer and shall align with the dates of the fiscal year.

[6.80.4.10 NMAC - N, 6/29/2007]

#### **6.80.4.11 REQUIREMENTS DURING THE PLANNING YEAR:**

**A.** For charter schools approved prior to July 1, 2010, prior to the end of its planning year, a newly authorized charter school shall demonstrate to the authorizer that its facilities meet the educational occupancy standards required by applicable New Mexico construction codes. For charters approved on or after July 1, 2015, prior to the end of its planning year, the charter school shall demonstrate to its authorizer that its facilities meet the relevant requirements for schools as set forth in Subsection C of Section 22-8B-4.2 NMSA 1978.

**B.** A charter school shall simultaneously notify the public school capital outlay council and its authorizer in writing of its readiness to demonstrate that its facilities meet the referenced educational occupancy standards.

**C.** The public school capital outlay council shall determine whether a charter school's facilities meet established educational occupancy standards, and if not, whether specific requirements are inappropriate or unreasonable for a charter school. If the public school capital outlay council determines that specific requirements of the referenced educational occupancy standards are inappropriate or unreasonable for a charter school, it may grant a variance. The public school capital outlay council shall provide written notification of its decision and the reasons thereto simultaneously to the charter school and its authorizer.

**D.** Prior to the end of its planning year, a state chartered charter school shall demonstrate that it has qualified as a board of finance and that it has satisfied any conditions imposed by the commission before commencing full operation for the remainder of its charter term.

**E.** Prior to the end of its planning year, the state-chartered charter schools shall apply to the commission for authorization to commence full operations. If the commission refuses to issue the authorization to commence full operation, it shall provide its reasons in writing which shall be limited to the reasons set forth in Subsection D of 6.80.4.11 NMAC.

[6.80.4.11 NMAC - N, 6/29/2007; A, 6/30/2008; A, 6/30/2009]

**6.80.4.12 INITIAL REQUIREMENTS AND REVIEW PROCESS FOR START-UP CHARTER SCHOOLS:**

**A.** Local school boards may approve the establishment of charter schools to be located in their respective school districts. The commission may approve the establishment of a charter school to be located anywhere in the state.

**B.** An applicant shall apply to only one chartering authority at a time. An applicant whose application has been denied by a chartering authority or approved with amendments unacceptable to the applicant may file the same application the following fiscal year with a different chartering authority.

**C.** Applications for start-up charter schools shall be submitted between June 1 and July 1 to be eligible for consideration for the following fiscal year. If July 1 falls on a Saturday or a Sunday, the deadline for filing applications shall be extended to the close of business of the [very] next Monday, even in the case of a school district closed for summer break. Applications will also be considered timely if they are postmarked four calendar days prior to July 1, regardless of the date on which they are received. Failure to submit a timely application shall result in an application being rejected by the authorizer, unless the parties agree to waive the filing deadline in accordance with Section 22-8B-6 NMSA 1978. Any such waiver shall be in writing and signed by persons authorized to take such action by the applicant and the chartering authority.

**D.** Enrollment in a start-up charter school shall be guided by the following.

**(1)** A charter applicant shall enroll students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available.

**(2)** A charter applicant shall advertise its enrollment process using newspapers, bulletin boards, and other methods designed to disseminate its availability to seek student enrollment and to ensure that there is equal opportunity for all parents and students to learn about the school and apply.

**(3)** A charter school shall not charge tuition or have admission requirements, except as otherwise provided in the Public School Code, Sections 22-1-1 et seq., NMSA 1978.

**(4)** In subsequent years of its operation, a charter school will give enrollment preference to previously properly admitted students who remain in attendance and siblings of students already admitted to or attending the school.

**E.** Any revision or amendment to the terms of the charter contract may be made only with the written approval of the authorizer.

**F.** A charter school shall be a nonsectarian, nonreligious, and non-home-based public school that operates within the geographic boundaries of a school district.

**G.** A charter school shall comply with the following federal laws: Age Discrimination Act of 1975; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and Part B of the Individuals with Disabilities Education Act.

**H.** A charter school shall comply with the same federal and state audit requirements as do other public schools in the state.

**I.** A charter school shall meet all applicable federal, state, and local health and safety requirements.

**J.** A charter school shall operate in accordance with and under authority of state law.

**K.** A charter school shall provide equitable access to, and participation in, its federally assisted program for students, teachers, and other program beneficiaries with special needs.

**L.** A charter school shall have an admissions process that does not discriminate against anyone on the basis of race, gender, national origin, color, disability, or age.

**M.** A charter school's head administrator or governing body shall not employ or approve the employment in any capacity of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, or sister-in-law of a member of the governing body or the head administrator. The governing body may waive the nepotism rule for family members of a head administrator.

**N.** Applications to the commission for establishment of a state-chartered charter school shall be made to the division. Applications to a local school board for establishment of a locally chartered charter school shall be made to the superintendent of that school district.

**O.** An application for a start-up school may be made by one or more teachers, parents, community members, by a public postsecondary educational institution, or a nonprofit organization.

**P.** The chartering authority shall be responsible for reviewing all applications for charter schools. Prior to the submission of the applications, the division shall provide at least three technical assistance workshops for prospective applicants on preparing a start-up application. The chartering authority shall not charge application fees.

**Q.** A review coordinator shall be used by the chartering authority to assist prospective applicants in the preparation of proposed charters. The director of the division shall designate a review coordinator in the division for the commission. The superintendent shall appoint a review coordinator for the local school board, unless the superintendent of a school district performs this duty. Prior to the deadline for submission of applications established by the chartering authority, the review coordinator or superintendent and any prospective applicants shall confer in an attempt to identify:

**(1)** any concerns regarding noncompliance with requirements of the Charter Schools Act (Sections 22-8B-1 et seq., NMSA 1978), this rule, or other applicable state or federal laws or rules which would arise from the establishment or operation of the proposed charter school;

**(2)** any licensure, curriculum, or other educational concerns which would arise from the establishment or operation of the proposed charter school; and

**(3)** any interests of the students, the school district, or the community which would be adversely affected by the establishment or operation of the proposed charter school and describe the apparent adverse effects.

**R.** Prospective applicants are to direct any request for technical assistance and information through the authorizer's designated review coordinator. The review coordinator or superintendent shall ensure that the appropriate staff members respond to requests from prospective applicants for information on school operations, policies, or practices which prospective applicants regard as necessary to enable them to present an approvable application. Prospective applicants may request information using the Inspection of Public Records Act Sections 14-2-1 et seq. NMSA 1978. A review coordinator may require that requests for information not made pursuant to the Inspection of Public Records Act be in a format or directed to a specific person or office in the school district or department. Prospective applicants should not contact school district or department employees directly to obtain information.

**S.** Prior to the public meeting at which the decision is made, the chartering authority shall hold at least one public hearing to obtain information and community input to assist it in its decision whether to grant a charter school application. At any such hearing, which shall be duly noticed and held pursuant to the Open Meetings Act Sections 10-15-1 et seq. NMSA 1978 and the requirements contained in the Section 22-8B-6 NMSA 1978, members of the chartering authority may ask questions of the charter applicant and that applicant shall have an opportunity, subject to reasonable time limitations, to respond to any questions or concerns raised by any members of the chartering authority, and present to the chartering authority information that clarifies and verifies the information in the application that the applicant believes will assist the chartering authority in making its decision. Community input may include written or oral comments in favor of or in opposition to the application by the applicant, members of the local

community, and other interested individuals. Community input shall be provided within a time limit established by the chartering authority.

**T.** A charter applicant shall respond to requests for information that the chartering authority regards as necessary to verify and clarify issues identified in the charter application. The charter applicant and the chartering authority shall communicate in good faith in an attempt to verify and clarify issues identified in the charter application.

**U.** No earlier than three days after the public hearing to obtain information and community input, the chartering authority shall rule on the application in a public meeting. The public meeting at which the decision is made shall be held by September 1. The charter applicant and the chartering authority may, however, jointly waive the September 1 deadline provided they do so in a signed written statement. If not ruled upon by September 1, or the stipulated deadline, the charter application will be automatically reviewed by the secretary pursuant to the applicable provisions of Section 22-8B-7 NMSA 1978 and 6.80.4.14 NMAC.

**V.** A chartering authority may approve, approve with conditions, or deny an application. A chartering authority may deny an application where:

- (1)** the application is incomplete or inadequate;
- (2)** the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act Sections 22-8B-1 et seq. NMSA 1978;
- (3)** the proposed head administrator or other administrative or fiscal persons were involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal member was discharged from a public school for fiscal mismanagement;
- (4)** the public school capital outlay council has determined that the facilities do not meet the standards required in Section 22-8B-4.2 NMSA 1978;
- (5)** for a proposed state-chartered charter school, it does not request the governing body to be designated as a board of finance, or the governing body does not qualify as a board of finance;
- (6)** for a proposed charter school on tribal land, it fails to receive approval from the tribal government prior to the authorizer's decision on the proposed charter school; or
- (7)** the application is otherwise contrary to the best interests of the charter school's projected students, the local community, or the school district in whose geographic boundaries the applicant seeks to operate.

**W.** If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or imposition of conditions in writing within 14 days of the meeting. The written decision shall be based upon the vote that was taken at the public meeting and reflect the stated reasons for the vote of the chartering authority to deny a charter school application or approve the application with conditions. The written decision shall include specific reference to those reasons enumerated in Subsection V of 6.80.4.12 NMAC as well as a detailed explanation of the reason(s) that formed a basis for denial of the application, or approval with conditions, on a form developed by the department. If the chartering authority grants a charter, it shall deliver the approved charter to the applicant. The time within which to file notice of appeal shall commence upon receipt of the written denial. The chartering authority shall maintain a copy of the charter for its files.

**X.** If the approved charter contains a waiver request for release from department rules or the Public School Code, the applicant shall follow the procedures on requesting waivers from the department. The department shall notify the authorizer and the charter school whether the request is granted or denied and, if denied, the reasons thereto.

**Y.** If the authorizer denies a charter school application or imposes conditions for approval that are unacceptable to the charter applicant, the applicant may appeal the decision to the secretary pursuant to Section 22-8B-7 NMSA 1978 and Section 6.80.4.14 NMAC.

[6.80.4.12 NMAC - Rp, 6.80.4.9 NMAC, 6/29/2007; A, 6/30/2008; A, 6/30/2009; A, 9/29/2020]

#### **6.80.4.13 CHARTER SCHOOL RENEWAL PROCESS AND RENEWAL APPLICATIONS:**

**A.** The governing body of a charter school seeking to renew its charter shall file its renewal application with a chartering authority no earlier than 270 days prior to the date the charter expires. Commencing with any charters that are due to expire at any time after January 1, 2008, all applications for renewal shall be submitted no later than October 1 of the fiscal year prior to the expiration of the school's charter. The chartering authority shall rule in a public meeting on the renewal application no later than January 1 of the fiscal year in which the charter expires.

**B.** The governing body may submit its charter renewal application to either the commission or to the local school board of the school district in which the charter school is located, but may not submit the renewal application to both authorizers simultaneously.

**C.** The application shall contain:

**(1)** a report on the progress of the charter school in achieving the goals, objectives, student performance standards, state minimum educational standards, and



other terms of the initial approved charter application, including the accountability requirements set forth in the Assessment and Accountability Act (Sections 22-2C-1 et seq., NMSA, 1978);

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public, that will allow comparison of costs to other schools or comparable organizations and that is in a format required by the department;

(3) any changes to the original charter the governing board is requesting and any amendment to the initial charter, which were previously approved;

(4) a certified petition in support of the charter school renewing its charter status signed by not less than sixty-five percent of the employees in the charter school;

(5) a certified petition in support of the charter school renewing its charter status signed by at least seventy-five percent of the households whose children are enrolled in the charter school as identified in the school's 120-day report of the fiscal year prior to the expiration of the charter;

(6) a description of the charter school facilities and assurances that the facilities are in compliance with the requirements of Section 22-8B-4.2 NMSA 1978;

(7) a statement of the term of the renewal requested, if less than five years; if a charter school renewal application does not include a statement of the term of the renewal, it will be assumed that renewal is sought for a term of five years; and

(8) for charter schools located on tribal land, documentation of ongoing tribal consultation pursuant to Section 22-8B-12.2 NMSA 1978 and applicable federal laws and rules.

**D.** A chartering authority may refuse to renew a charter if it determines that:

(1) the charter school committed a material violation of any of the conditions, standards, or procedures set forth in the charter contract;

(2) the charter school failed to meet or make substantial progress toward achievement of the department's minimum educational standards or student performance standards.

(3) the charter school failed to meet generally accepted standards of fiscal management;

(4) the charter school violated any provision of law from which the charter school was not specifically exempted;

(5) the public school capital outlay council has determined that the facilities do not meet the standards required in Section 22-8B-4.2 NMSA 1978; or

(6) for a charter school located on tribal land, the charter school failed to comply with ongoing tribal consultation pursuant to Section 22-8B-12.2 NMSA 1978, Paragraph (8) of Subsection C of 6.80.4.13 NMAC, or applicable federal laws and rules.

E. If the chartering authority refuses to approve a charter school renewal application or approves the renewal application with conditions, it shall state its reasons for the non-renewal or imposition of conditions in writing within 14 days of the public meeting at which the vote was taken. The written decision shall restate the motion that was voted on in the public meeting and shall restate the reasons that were voted on in the public meeting during which the vote was taken. The written decision shall include specific reference to those reasons enumerated in Subsection D of 6.80.4.13 NMAC as well as a detailed explanation of the reason(s) that formed a basis for denial of the application, or approval with conditions, on a form developed by the department.

F. If the chartering authority grants renewal of a charter, it shall deliver the approved charter to the applicant and a copy to the chartering authority.

G. If the approved charter contains a waiver request for release from department rules or the Public School Code, the department shall notify the authorizer and the charter school whether the request is granted or denied and, if denied, the reasons thereto.

H. If the authorizer refuses to approve a charter school renewal application or imposes conditions for renewal that are unacceptable to the charter applicant, the applicant may appeal the decision to the secretary pursuant to Sections 22-8B-7 NMSA 1978 and 6.80.4.14 NMAC.

I. The chartering authority and charter school shall consult with the tribe(s), pursuant to Subsections C and D of Section 22-8B-12.2 NMSA 1978, prior to the suspension, revocation, or non-renewal of a charter school located on tribal land.

J. The provisions of this section shall apply to conversion schools.

[6.80.4.13 NMAC - Rp, 6.80.4.8 NMAC, 6/29/2007; A, 6/30/2008; A, 6/30/2009; A, 12/31/2018; A, 9/29/2020]

#### **6.80.4.14 APPEALS TO THE SECRETARY:**

A. Right of appeal. A charter applicant may appeal to the secretary from any chartering authority decision denying a charter school application, revoking or refusing to renew a previously approved charter, or imposing conditions for approval or renewal that are unacceptable to the applicant. Appeals from suspension of governing bodies

and head administrators by the secretary shall be governed by the procedures set forth in 6.30.6 NMAC.

**B. Notice of appeal and appellant's argument in support of appeal.**

**(1)** Filing and service of notice and argument in support of appeal. A charter applicant or governing body of a charter school that wishes to appeal a decision of a chartering authority concerning the denial, nonrenewal, or revocation of a charter, or the imposition of conditions for approval or renewal that are unacceptable to the charter school or charter school applicant shall file and serve a written notice of appeal and its argument in support of appeal within 30 days after service of the chartering authority's decision. One original plus four copies of the notice of appeal and argument in support of appeal together with the required attachments shall be filed with the secretary at the department's main office in Santa Fe. No notice of appeal or argument in support of appeal, including exhibits or required attachments, shall be filed using compact disks, floppy disks, or email; instead, paper documents shall be filed with the department.

**(2)** Appellant's argument in support of appeal. The appellant's argument in support of appeal shall include a statement of the reasons and argument in support of why the appellant contends the chartering authority's decision was in error with reference to the standards set forth in Subsection B of Section 22-8B-7 NMSA 1978 that the authorizer acted arbitrarily or capriciously, rendered a decision not supported by substantial evidence, or did not act in accordance with law. The appellant shall limit the grounds of its appeal to the authorizer's written reasons for denial, nonrenewal, revocation, or imposition of conditions.

**(3)** Required attachments. The appellant shall attach to each copy of the notice of appeal:

**(a)** a copy of the chartering authority's written decision, together with a copy of the authorizer's minutes or draft minutes of the meeting if available; and

**(b)** a copy of the charter or proposed charter in question.

**C. Filing and service of other documents.** An original document shall be filed with the secretary at the department's main office in Santa Fe. Each party shall simultaneously serve a copy of all documents filed with the secretary including any attachments upon the other party at that party's address of record on appeal. A party may file documents other than a notice of appeal and required documents referenced at Paragraph (5) of Subsection D of 6.80.4.14 NMAC, by email to the secretary provided that the email includes any attachments, as well as the sender's name and mailing address. Filings with the secretary shall reflect by certification of the sender that a copy of all documents being submitted is simultaneously being served on the other party, the method of service, and the address where filed. Filing or service by mail is not complete until the documents are received.

#### **D. Pre-hearing procedures.**

**(1)** Within 10 days after receipt of the notice of appeal, the secretary shall inform the parties by letter of the date, time, and location for the appeal hearing.

**(2)** Except for brief inquiries about scheduling, logistics, procedure, or similar questions that do not address the merits of the case, neither party shall communicate with or encourage others to communicate with any employee of the department about a pending appeal unless the other party is simultaneously served with a copy of any written communication or has an opportunity to participate in any conversation by meeting or conference call. Nor shall any employee of the department initiate such prohibited communications. The secretary shall disqualify himself or herself from hearing an appeal if the secretary determines, after learning of a prohibited communication, that the secretary is unable to render an unbiased decision. Appellants will be provided a point of contact in the letter referenced in Paragraph (1) of Subsection D of 6.80.4.14 NMAC.

**(3)** All submissions to the secretary on appeal shall focus on the factual and legal correctness of the chartering authority's decision in light of the grounds upon which the chartering authority denied the application, as set forth in Subsection M of Section 22-8B-6 NMSA 1978 or the grounds for non-renewal or revocation as set forth in Subsection K of Section 22-8B-12 NMSA 1978, and the standards for affirmance or reversal that the chartering authority's decision was arbitrary, capricious, not supported by substantial evidence, or otherwise not in accordance with the law.

**(4)** Within 15 days of the mailing date of the appellant's notice of appeal and reasons to the chartering authority, the chartering authority shall file one original copy and four copies with the secretary and serve upon the appellant one copy of the chartering authority's response to the appellant's arguments.

**(5)** While an appeal is pending, the parties are strongly encouraged to continue discussions and negotiations in an effort to resolve the matter by agreement and reestablish productive working relations. An appellant may withdraw an appeal at any time before the secretary reaches a final decision. If an appeal is withdrawn, the secretary shall approve an appropriate order of dismissal. The secretary's decision and order may incorporate the terms of any agreement reached by the parties. An appeal which has been withdrawn may not be refiled.

#### **E. Secretary hearing and decision.**

**(1)** Within 60 days after receipt of the notice of appeal, the secretary, after a public hearing that may be held in Santa Fe or in the school district where the proposed charter school has applied for a charter, shall review the decision of the chartering authority and make written findings.

**(2)** Participants at the hearing before the secretary shall be the designated representatives of the appellant, the chartering authority, and the division and other department staff as appropriate.

**(3)** The time allotment for a hearing shall be three hours. Both parties shall be allowed up to 30 minutes for their presentations. Department staff shall be allowed 20 minutes for their presentation. The appellant may reserve part of its 30 minutes for rebuttal if desired. The order of presentations will be department staff, appellant, chartering authority, and rebuttal by the appellant if time has been reserved. The parties may present remarks from whomever they wish in their 30 minutes but shall include any comments they wish to make on the staff recommendations within their allotted time. Presentations, questions, or discussions that exceed these limits may be ruled out of order by the secretary. The secretary may ask questions of the staff, the parties, or the secretary's counsel at any time and may take up to one hour after the staff's and the parties' presentations for further questions, discussion, and a decision. Unless stricken during the hearing for good cause or withdrawn, the parties can assume that the department staff and the secretary have reviewed their written submissions, which shall be deemed evidentiary submissions subject to be given increased or diminished weight based upon the oral presentations.

**(4)** All presentations and discussion before the secretary shall focus on the factual and legal correctness of the chartering authority's decision in light of the standards and grounds set forth in Subsection M of Section 22-8B-6; Subsections B, C, or E of Section 22-8B-7; and Subsection K of Section 22-8B-12 NMSA 1978.

**(5)** The secretary may reverse the decision of the chartering authority, with or without the imposition of reasonable conditions, if the secretary finds that the chartering authority:

- (a)** acted arbitrarily or capriciously;
- (b)** rendered a decision not supported by substantial evidence; or
- (c)** did not act in accordance with the law.

**(6)** The secretary shall reverse a decision of the chartering authority denying an application, refusing to renew an application, or revoking a charter if the secretary finds that the decision was based upon a determination by the public school capital outlay council that the facilities of the proposed or existing charter school did not meet the standards required by Section 22-8B-4.2 NMSA 1978 and that the decision was:

- (a)** arbitrary or capricious;
- (b)** not supported by substantial evidence; or
- (c)** otherwise not in accordance with the law.

**(7)** The department shall promptly serve a formal notice of the secretary's decision upon the parties to the appeal.

**(8)** A person aggrieved by a final decision of the secretary may appeal the decision to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

**F.** The provisions of this section shall apply to conversion schools.

[6.80.4.14 NMAC - Rp, 6.80.4.10 NMAC, 6/29/2007; A, 6/30/2008; A, 10/15/2013; A, 12/31/2018; A, 9/29/2020]

#### **6.80.4.15 REVIEW ON THE SECRETARY'S OWN MOTION:**

**A.** The secretary, on the secretary's own motion, may review a chartering authority's decision to grant a charter.

**B.** Within 10 days after the secretary moves to review, the secretary shall issue an appropriate order establishing procedures for the chartering authority and the charter applicant to submit information and arguments for review by the secretary and division staff.

**C.** Within 60 days after the secretary moves to review, the secretary, at a public hearing that may be held in Santa Fe or in the district in which the proposed charter school applied for a charter, shall review the decision of the chartering authority and determine whether the decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would violate any standard in Subsection C of Section 22-8B-7 NMSA 1978.

**D.** If the secretary determines that the charter would violate any standard in Subsection C of Section 22-8B-7 NMSA 1978, the secretary shall reverse the chartering authority's decision and remand the decision to the chartering authority with instructions to deny the charter application, suspend or revoke the charter.

**E.** The timelines in 6.80.4.15 NMAC may be extended by the secretary for good cause. Good cause may include but shall not be limited to an agreement between the parties, a reasonable request from either party or reasonable consideration of the secretary's previously established meeting schedule.

**F.** A person aggrieved by a final decision of the secretary may appeal the decision to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

**G.** The secretary shall promptly serve a copy of the decision on the parties to the proceeding.

[6.80.4.15 NMAC - Rp, 6.80.4.11 NMAC, 6/29/2007; A, 6/30/2008; A, 10/15/2013]

#### **6.80.4.16 QUALIFICATION FOR BOARD OF FINANCE DESIGNATION:**

**A.** Within 90 days of approval of its charter application, the governing body of a state-chartered charter school shall file a separate application with the commission seeking approval as a board of finance. This deadline may be extended by the commission for good cause shown.

**B.** The application shall include:

(1) an affidavit or affidavits, signed by the personnel who will be given the responsibility of keeping the financial records of the charter school, describing the training completed, professional licensure held and degrees earned by them;

(2) a statement signed by every member of the governing body that the governing body agrees to consult with the department on any matter not covered by the manual of accounting and budgeting before taking any action relating to funds held as a board of finance;

(3) a copy of a certificate of insurance that indicates that the person who will be entrusted with handling the funds of the charter school is adequately bonded;

(4) a signed affidavit from each governing body member declaring that the member is not a governing body member of any other charter school and that the member was not a governing body member of another charter school that was suspended or failed to receive or maintain their board of finance designation.

**C.** Within 30 days of filing of the application to qualify as a board of finance, the commission shall issue a decision approving or denying the application. A copy of the decision will be provided to the governing body and the commission.

[6.80.4.16 NMAC - N, 6/29/2007; A, 6/30/2008]

#### **6.80.4.17 NEW MEXICO SCHOOL FOR THE ARTS:**

**A.** Upon approval by the commission, a state-chartered charter school may operate as the New Mexico school for the arts ("the school"), which shall be a statewide residential charter school for grades nine through 12 offering intensive preprofessional instruction in the performing and visual arts combined with a strong academic program that leads to a New Mexico diploma of excellence.

**B.** An application to the commission for approval of a charter shall contain assurances of compliance together with a plan for how the school will accomplish the following requirements contained in the New Mexico School for the Arts Act, Sections 22-15F-1 et seq. NMSA 1978:

(1) paying for all expenses associated with outreach activities and for room and board costs for students unable to pay all or part of the cost of room and board from a foundation or other private funding sources;

(2) working with a foundation or soliciting other private funding sources to obtain gifts, grants, and donations to ensure that the school has adequate revenue to make the payments described in Paragraph (1) of Subsection B of 6.80.4.17 NMAC;

(3) not using money received from the state other than charter school stimulus funds to make the payments described in Paragraph (1) of Subsection B of 6.80.4.17 NMAC;

(4) admitting an equal number of students from each of the state's congressional districts, to the greatest extent possible and without jeopardizing admissions standards;

(5) conducting its admissions process in a way that provides equal opportunity regardless of a student's prior exposure to artistic training and to the student's ability to pay for room and board; and

(6) conducting admissions criteria-free outreach activities throughout the state each year that acquaint potential students with the programs at the school, to include programs specifically for middle school students and workshops for teachers.

**C.** By July 1 after the first year the school has provided preprofessional instruction in the performing and visual arts and by July 1 every year thereafter, the school shall submit a report simultaneously to the division and the commission containing:

(1) non-personally identifiable demographic information about both applicants and students admitted to the school delineated by counties, congressional districts, socioeconomic status, gender, and ethnicity; and

(2) the number of students who requested financial assistance for room and board, the total amount of financial assistance provided, and the amounts distributed delineated by the source of gifts, grants, and donations received by the school.

**D.** During the planning year, the school shall develop a sliding-fee scale subject to the following considerations:

(1) the purpose of the sliding-fee scale is to defray all or part of the costs of room and board for students whose parents or guardians are financially unable to pay these fees;

(2) in determining ability to pay, the school may use a variety of methods including but not limited to:



- (a) self-disclosures in a financial aid application developed by the school;
  - (b) poverty thresholds as maintained by the United States census bureau;
  - (c) poverty guidelines as maintained by the United States department of health and human services;
  - (d) whether the public school that the student applicant most recently came from was a recipient of funds under Title I, Part A of the federal Elementary and Secondary Education Act of 1965, as amended;
  - (e) whether the student applicant for enrollment was eligible to receive free or reduced-price school meals at the public school previously attended; and
  - (f) the amount or percentage of assistance an enrolled student received for room and board the prior school year from the school; and
- (3) the school shall submit its sliding-fee scale to the commission for initial approval during the planning year and may request changes at subsequent commission meetings for good cause shown.

**E.** It shall be the responsibility of the school to obtain adequate funding from private sources to pay annual outreach costs and to defray all or part of room and board fees for students financially unable to pay. No state funds except for charter school stimulus funds received and used during the planning year may be used for these purposes. Private funding sources available to the school shall include the use of a foundation or the soliciting and receipt of gifts, grants, and donations. Failure to secure adequate funding for these purposes shall constitute grounds for denial or revocation of a charter.

**F.** Except for provisions of this rule related to admission of students by lottery, admission on a first-come, first-serve basis, the ability to charge for residential fees, admissions criteria, and location of the school anywhere in the state, all other provisions of this rule related to state-chartered charter schools shall apply to the school.

[6.80.4.17 NMAC - N, 6/30/2008; A, 12/31/2018; A, 9/29/2020]

#### **6.80.4.18 DISTANCE LEARNING:**

**A.** A charter school offering or seeking to offer distance learning courses to students shall comply with 6.30.8 NMAC.

**B.** Any charter school offering or seeking to offer distance learning courses in New Mexico pursuant to the Charter Schools Act, Sections 22-8B-1 et seq. NMSA 1978, shall be physically located in the state of New Mexico.

[6.80.4.18 NMAC - N, 6/30/2008; A, 9/29/2020]

#### **6.80.4.19 LOTTERY WHEN CHARTER SCHOOL CAP IS EXCEEDED:**

**A.** For purposes of compliance with Section 22-8B-11 NMSA 1978, the first five-year period shall be deemed to have ended in 2003 and the successive five-year periods begin in 2003.

**B.** If by October 1, the chartering authorities have authorized more charter schools than permitted by Section 22-8B-11 NMSA 1978, the department shall notify all chartering authorities with newly authorized charter schools that those charter schools may not be established for operations until a lottery is held.

**C.** Within 45 days after determining that the cap for charter schools has been exceeded, the department shall conduct a lottery at a publicly noticed meeting to determine the available slots for charter schools. The department shall randomly draw the names of charter schools from the available pool of all charter schools that were authorized by October 1. The charter schools whose names were drawn shall be given the available charter school slots until the maximum numbers of slots have been selected. The charter schools that are selected shall be approved for operation in the first fiscal year after the lottery. The charter schools whose names were not drawn shall be approved for operation in the second fiscal year after the lottery.

**D.** A charter school that was approved for operation in the second fiscal year after participation in a lottery shall not be subject to a second lottery in the event that in the second fiscal year more charter schools are authorized than permitted by Section 22-8B-11 NMSA 1978.

**E.** Any charter school authorized after October 1 in a year in which the department conducts a lottery pursuant to this rule, shall be approved for operation no earlier than the second fiscal year after the school was authorized.

[6.80.4.19 NMAC - Rn, 6.80.4.17 NMAC, 6/30/2008; 6.80.4.19 NMAC - N, 6/30/2009; A, 9/29/2020]

#### **6.80.4.20 [RESERVED]**

[6.80.4.20 NMAC - Rp, 6.80.4.20 NMAC, 07/25/2017]

#### **6.80.4.21 SEVERABILITY:**

Any part of this rule found by adjudication before a competent tribunal to be contrary to law shall be stricken without affect to the remainder.

[6.80.4.21 NMAC - Rn, 6.80.4.19 NMAC, 6/30/2009]

### **PART 5: CHARTER SCHOOL GOVERNING BODY TRAINING REQUIREMENTS**

**6.80.5.1 ISSUING AGENCY:**

Public Education Department, hereinafter the department.

[6.80.5.1 NMAC - N, 7/25/2017; A, 7/14/2020]

**6.80.5.2 SCOPE:**

This rule shall apply to all charter schools.

[6.80.5.2 NMAC - N, 7/25/2017]

**6.80.5.3 STATUTORY AUTHORITY:**

Section 22-8B-5.1 NMSA 1978.

[6.80.5.3 NMAC - N, 7/25/2017]

**6.80.5.4 DURATION:**

Permanent.

[6.80.5.4 NMAC - N, 7/25/2017]

**6.80.5.5 EFFECTIVE DATE:**

July 25, 2017, unless a later date is cited at the end of a section.

[6.80.5.5 NMAC - N, 7/25/2017]

**6.80.5.6 OBJECTIVE:**

To establish the mandatory training course requirements for all governing body members.

[6.80.5.6 NMAC - N, 7/25/2017]

**6.80.5.7 DEFINITIONS:**

**A. "Applicant"** means a source, individual, or entity that has submitted an application to the department for approval to provide governing body training.

**B. "Approved provider"** means a source, individual, or entity approved by the department to provide governing body training that consists of a designated curriculum provided by a designated facilitator.

**C. "Department-assigned training course code"** means the code assigned to an application package that meets the substantive review requirements.

**D. "Designated curriculum"** means the curriculum that was provided in the application submitted to the department for the purpose of receiving approval to provide training to governing bodies.

**E. "Designated facilitator"** means the individual identified in the application submitted to the department for the purpose of receiving approval to provide training to governing bodies.

**F. "Eligible facilitator"** means a proposed facilitator who is not disqualified for any of the reasons identified in Subparagraphs (b) and (c) of Paragraph (2) of Subsection E of 6.80.5.11 NMAC.

**G. "Governing body member"** means a member of a governing body of a charter school who will be a voting member upon completion of the initial seven-hour training provided by the department or who has completed the initial seven-hour training and is a voting member.

**H. "School specific onboarding"** means the action or process of integrating a new governing body member into the school by familiarizing the new governing body member with the school's governance structure and requirements, other governing body members, financial status (including budget), history, contract, goals, model, staff, strengths, and challenges, and current academic, financial, and organizational performance.

[6.80.5.7 NMAC - N, 7/25/2017; A, 7/14/2020]

#### **6.80.5.8 MANDATORY GOVERNING BODY TRAINING COURSE - NEW GOVERNING BODY MEMBERS:**

**A.** Within the first fiscal year of service, each new governing body member shall complete a governing body training course that consists of, at a minimum, 10 hours of governing body training provided by approved providers.

**B.** The department shall provide guidance that identifies specific standards within each area; however, applicants may identify additional standards within each area to address the needs of individual governing bodies and governing body members. The new governing body training shall include:

**(1)** two hours of training on public official/charter school governing body ethics and responsibilities;

**(2)** two hours of training on charter school fiscal requirements;

- (3) one hour of training on understanding and evaluating academic data;
- (4) one hour of training on open government, legal, and organizational performance requirements;
- (5) one hour of training on equity and culturally and linguistically responsive practices; and
- (6) three hours of additional training standards identified by the individual governing bodies and governing body members.

C. If a governing body member resigns his or her term prior to the end of the first fiscal year of service, the additional training hours required for that fiscal year shall be prorated based on the number of full and partial months during which the governing body member served and rounded to the nearest full hour.

[6.80.5.8 NMAC - N, 7/25/2017; A, 7/14/2020]

#### **6.80.5.9 MANDATORY GOVERNING BODY TRAINING COURSE CONTINUING GOVERNING BODY MEMBERS:**

A. Unless exempted from specific hourly training requirements as described below, each governing body member continuing to serve on a governing body beyond the end of their first fiscal year of service shall annually complete a governing body training course that consists of, at a minimum, eight hours of governing body training provided by approved providers. The department shall provide guidance that identifies specific standards within each area; however, applicants may identify additional standards within each area to address the needs of individual governing bodies and governing body members. The continuing governing body training shall include:

- (1) one hour of training on public official/charter school governing body ethics and responsibilities;
- (2) three hours of training on charter school fiscal requirements;
- (3) two hours of training on understanding and evaluating academic data;
- (4) one hour of training on open government, legal, and organizational performance requirements; and
- (5) one hour of training on equity and culturally and linguistically responsive practices.

B. Governing body members who have served on a governing body beyond the end of their first fiscal year of their service may be exempted from specific hourly training requirements based on the school's fiscal performance.

(1) For any school that has received an unmodified annual audit in each of the past three years with no material weaknesses, no multi-year repeat findings, no significant deficiencies, and that has received no more than two compliance findings in the current year, the school's governing body member shall be exempted from one of the two hours of required training relating to charter school fiscal requirements.

(2) The department shall annually identify the schools that are eligible, under the criteria established above, to claim an exemption for their governing body members.

**C.** The mandatory governing body training course shall be completed in one or multiple sessions during the fiscal year.

**D.** The mandatory governing body training course may not consist of any of the same governing body training that was completed by the governing body member in any of the prior years of the same contract term as long as additional governing body training is available.

**E.** Annually, the governing body training in each of the areas identified above shall be related to specific areas of growth within each area for individual governing bodies or governing body members based on the annual governing body evaluation.

**F.** If a governing body member who is no longer in the first fiscal year of his or her service on the governing body resigns his or her term prior to the end of the fiscal year, the hours required for that fiscal year shall be prorated based on the number of full and partial months during which the governing body member served and rounded to the nearest full hour.

[6.80.5.9 NMAC - N, 7/25/2017; A, 7/14/2020]

#### **6.80.5.10 GOVERNING BODY TRAINING REPORTING AND COMPLIANCE:**

**A.** Annually no later than July 1, each charter school shall ensure the department receives a record of attendance and completion for all governing body members who served on the governing body in the prior fiscal year. The record of attendance and completion may be provided either by the charter school or by the approved provider that provided the governing body training. Records are subject to verification by the department.

**B.** Records of attendance and completion shall include:

- (1) the name of the governing body member;
- (2) the name of the school for which the identified governing body member serves on the governing body; and
- (3) the governing body training's department-assigned training course code.

**C.** Failure to timely provide records of attendance and completion of the required number of governing body training hours for all governing body members who served on the governing body of the school in a fiscal year shall be reported by the department to the authorizer. Additionally, the non-compliance may result in progressive disciplinary action by the department or the authorizer, based on the authority of that entity, which may include but is not limited to:

**(1)** requiring the creation of a corrective action plan and completion of mandatory department-provided governing body training at the expense of the school or governing body member for any non-compliant governing body member who is still serving on the governing body;

**(2)** withholding, by the department, of no more than five percent of the charter school's monthly funding until the school comes into compliance with the requirements when the school has failed to comply with its corrective action plan and has one or more non-compliant members still serving on the governing body;

**(3)** suspension, by the department, of any or all of the governing body's authority when the school has failed to comply with its corrective action plan, funding has been withheld for at least 30 days, and the non-compliant governing body member is still serving on the governing body; and

**(4)** revocation or non-renewal of the school's charter when prior disciplinary action has not resulted in the school becoming compliant and has the non-compliant governing body member still serving on the governing body.

[6.80.5.10 NMAC - N, 07/25/2017; A, 7/14/2020]

#### **6.80.5.11 GOVERNING BODY TRAINING PROVIDER APPROVAL:**

**A.** No source, individual, or entity may provide governing body training, as defined in the charter schools act, unless it is an approved provider providing a designated curriculum with a designated facilitator. The approved provider may provide, as governing body training, only those designated curricula with the designated facilitators for which it has received approval from the department. Department approvals are valid for a term of 36 months, but may be revoked at any time.

**B.** The department shall, at a minimum, accept application packages on a biannual basis from applicants seeking to be approved providers. The department shall publish the application and application deadlines on its website annually no later than January 1. The department may approve trainings provided by the department or other state agencies on its own review without requiring the department or another state agency to apply for approval of the training; this review may also occur upon request from a governing body member.

**C. Review timeframes.** The timeframes for approving or disapproving an application package are:

- (1)** administrative completeness review: 25 days;
- (2)** substantive review: 75 days; and
- (3)** overall: 100 days.

**D. Administrative review.** The administrative completeness review begins the day after the department receives an application package.

**(1)** An application package to provide governing body training shall be administratively complete if:

**(a)** the application package identifies a specific individual as a proposed facilitator;

**(b)** the application package contains all the required information, materials, documents, attachments, signatures, and notarizations identified in the application posted on the department's website;

**(c)** all the application package's components are formatted as required;

**(d)** the proposed designated curriculum addresses at least one of the required areas identified in Subsection A of 6.80.5.9 NMAC; and

**(e)** all templates are unmodified, completely filled out, and from the current application package.

**(2)** If the application package is administratively incomplete when received, the department shall provide the applicant a notice of deficiency that states the reasons the application package was found to be administratively incomplete.

**(a)** Upon written notice to the applicant that the application package is administratively incomplete, the department shall close the applicant's file.

**(b)** If the submission deadline has not yet passed, an applicant may correct deficiencies in an administratively incomplete application package and submit a new application package in the same application cycle.

**(3)** An applicant who believes their application was erroneously designated as administratively incomplete may submit a written request for reconsideration to the department within 14 days of the date of notice.



**(a)** The request for reconsideration shall contain a clear statement indicating how the previously submitted application package fulfilled each of the requirements that were identified as having been deficient. The request for reconsideration shall not provide any new or additional information, documents, or materials.

**(b)** A request for reconsideration that does not address each deficiency identified in the notice or that contains new or additional information, documents, or materials shall not be considered and the applicant shall be notified that the request was not submitted according to Subsection D of 6.80.5.11 NMAC, and the applicant's file shall be closed.

**(4)** The department shall review a request for reconsideration that is submitted according to Paragraph (3) of Subsection D of 6.80.5.11 NMAC and provide a decision on the request for reconsideration within 14 days of receipt.

**(a)** If the department determines the application package was erroneously designated as administratively incomplete, the department shall reopen the applicant's file and send a written notice of administrative completeness to the applicant.

**(b)** If the department determines the application package was correctly designated as administratively incomplete, the applicant's file shall remain closed.

**(5)** If the application package is administratively complete, the department shall send a written notice of administrative completeness to the applicant.

**(6)** If the department does not provide a notice of deficiency or administrative completeness to the applicant within the administrative completeness review time frame, the application package is deemed administratively complete.

**E.** Substantive review. The substantive review begins when an application package is determined to be administratively complete.

**(1)** Within the overall review timeframe, the department shall provide the applicant with written notice of its decision to approve or disapprove the application to provide governing body training.

**(2)** The department shall approve an applicant to provide a designated curriculum with a designated facilitator if the applicant meets the following substantive requirements:

**(a)** the applicant has provided evidence that demonstrates the designated facilitator has knowledge, skills, and experience constituting expertise in the area of the designated curriculum;

**(b)** the designated facilitator proposed by the applicant has not been a governing body member, administrator, senior leader, or business manager of a charter

school that had its board of finance suspended or its charter revoked or non-renewed at the time of the activity that was the reason for the suspension, revocation, or non-renewal;

**(c)** the designated facilitator proposed by the applicant has not been convicted of a crime of moral turpitude, has not had a professional license revoked, and has not been subject to disciplinary action for ethical or fiscal misconduct;

**(d)** the applicant has demonstrated that the proposed designated curriculum addresses at least one of the required areas identified in Subsection A of 6.80.5.9 NMAC and is legally and factually accurate;

**(e)** the time allotted or planned for providing the training is sufficient and not excessive for the proposed content and materials provided;

**(f)** if the applicant intends on charging a fee for the governing body training, the fee is reasonable as compared to local and national providers of similar trainings;

**(g)** the proposed designated curriculum is designed to improve governing body members' knowledge, skills, and abilities to fulfill their statutory duties, comply with all applicable laws, and ensure charter schools meet the academic performance expectations of the department and the authorizer;

**(h)** if the training is to be provided virtually, the application includes a technology description that identifies methods that will be used to verify participant engagement throughout the training and terminate the training if the participant is not engaged. Virtual training shall also include an assessment of information understanding and retention at the end of training. The assessment shall be aligned to the training, shall not be passed with a score below eighty percent, and shall not allow multiple attempts by the participant. The applicant describes a process it will use to evaluate the quality of the trainings, which includes end of training evaluations completed by all attendees to evaluate:

**(i)** the knowledge and skill of the facilitator;

**(ii)** the quality and relevance of the information;

**(iii)** what actions the attendees will take based on what they learned in the governing body training; and

**(iv)** the value of the governing training in improving the attendees' knowledge, skills, and abilities to fulfill their statutory duties and comply with all applicable laws.

**F.** Upon completion of the substantive review, the department shall provide the applicant a notice of denial or approval.

**(1)** If an application package meets the substantive requirements, the department shall provide a written notice of approval that contains:

- (a)** the name of the training and facilitator;
- (b)** the number of approved hours for which the training will be eligible;
- (c)** the areas identified in Subsection A of 6.80.5.9 NMAC that the training will fulfill;
- (d)** the training's department-assigned training course code; and
- (e)** a copy of the approved application package.

**(2)** If an application package does not meet the substantive requirements, the department shall provide a written notice of denial that contains:

- (a)** a specific description of the reasons the application package did not meet the substantive requirements; and
- (b)** a copy of the denied application package.

**G.** An applicant that receives a notice of denial may submit a revised application package and written request for reconsideration to the department within 14 days of the date of notice.

**(1)** The request for reconsideration shall contain:

- (a)** a clear statement indicating how the previously submitted application package has been revised to address the deficiencies identified in the written notice of denial; and
- (b)** a revised application package with changes tracked with strikeouts and red, underlined insertions.

**(2)** A request for reconsideration that does not address each deficiency identified in the notice shall not be considered, the applicant shall be notified that the request was not submitted according to Subsection D of 6.80.5.11 NMAC, and the applicant's file shall be closed.

**H.** The department shall review a revised application package and request for reconsideration that is submitted according to Subsection G of this section and provide a decision on the request for reconsideration within 21 days of receipt.

(1) If the department determines the revised application package meets the substantive requirements, the department shall provide a written notice of approval in accordance with Paragraph (1) of Subsection F of 6.8.50.11 NMAC.

(2) If the department determines the revised application package does not meet the substantive requirements, the department shall provide a written notice of final action and denial in accordance with Paragraph (2) of Subsection F of 6.8.50.11 NMAC. The applicant may submit a new application pursuant to any established application deadlines.

[6.80.5.11 NMAC - N, 7/25/2017; A, 7/14/2020]

#### **6.80.5.12 APPROVED GOVERNING BODY TRAINING REPORTING REQUIREMENTS:**

**A.** Annually no later than July 1, each approved provider shall submit a report to the department on all trainings provided during the prior fiscal year and all planned or proposed dates to provide training in the upcoming year.

(1) For each training provided in the prior fiscal year, the report shall include:

(a) the date;

(b) the training's department-assigned training course code;

(c) the name of each governing body member attendee and the charter school on whose governing body they serve;

(d) sign in and sign out sheets for all attendees;

(e) for virtual trainings, the score on each assessment taken and the summary of participant engagement; and

(f) copies of a summary of the attendees' end of training evaluations.

(2) For all confirmed or proposed dates for the upcoming year, the report shall include:

(a) whether the governing body training is proposed or confirmed;

(b) the date and start time;

(c) the training's department-assigned training course code;

(d) the proposed location of the training;

(e) whether the training is open for general attendance by governing body members or is being offered to a specific, limited audience;

(f) the cost of the training; and

(g) the process for registration if the training is open for general attendance by governing body members.

**B.** For any governing body trainings that were not reported as proposed trainings in the July 1 report to the department, the approved provider shall provide written notice to the department at least 14 days prior to providing governing body training. The notice shall include the information identified in Paragraph (2) of Subsection A of 6.80.5.12 NMAC.

**C.** Each approved provider shall provide the department with written notice within seven days if at any time the designated facilitator's status as an eligible facilitator changes for the reasons outlined in Items (i-iv) of Subparagraph (h) of Paragraph (2) of Subsection E of 6.80.5.11 NMAC.

**D.** Annually no later than July 30, the department shall publish a list of all governing body trainings that are open for general attendance by governing body members on the department's website.

(1) The listing shall include:

(a) the date and start time;

(b) the training and facilitator name;

(c) the training's department-assigned training course code;

(d) the location of the training, if available;

(e) the number of approved hours for which the training will be eligible;

(f) the requirements identified in Subsection A of 6.80.5.9 NMAC that the training will fulfill;

(g) the cost of the training;

(h) the process for registration; and

(i) whether the governing body training is proposed or confirmed.

(2) Within seven days of receipt of notice that governing body training will be provided, for which the department did not receive notice in the annual reports, the

department shall update the listing on its website with the information identified in Subsection C of 6.80.5.12 NMAC.

**E.** Annually no later than August 15, the department shall publish on its website the prior year reports, described in Paragraph (1) of Subsection A of 6.80.5.12 NMAC, from each approved provider.

**F.** Failure to timely provide the reports required in Subsections A and B of 6.80.5.12 NMAC may result in revocation or suspension of the approved provider status.

[6.80.5.12 NMAC - N, 7/25/2017; A, 7/14/2020]

### **6.80.5.13      SUSPENSION OR REVOCATION OF APPROVAL OF GOVERNING BODY TRAINING:**

**A.** Any approved provider may have that approval suspended or revoked for the following reasons:

**(1)**      Failure to timely provide the reporting identified in 6.80.5.12 NMAC, including:

**(a)** annual reports; or

**(b)** reports of trainings that will be provided that were not identified in the annual reports.

**(2)**      A change in the status of the designated facilitator as an eligible facilitator as a result of any of the following:

**(a)** the charter school of which the designated facilitator is a governing body member, administrator, senior leader, or business manager has its board of finance suspended or its charter revoked or non-renewed, and the designated facilitator was in the role at the school at the time of the activity that was the reason for the suspension, revocation, or non-renewal; or

**(b)** the designated facilitator is convicted of a crime of moral turpitude, has a professional license revoked, or has been subject to disciplinary action for ethical or fiscal misconduct.

**(3)**      Failure to keep appropriate and accurate governing body training records, which may include:

**(a)** falsifying attendance records for any governing body member;

**(b)** failing to provide or collect responses to the end of training survey;

**(c)** failing to provide verification of completion or attendance; or

**(d)** failing to keep sign-in and sign-out logs.

**(4)** Providing a governing body training that is not approved while identifying the training as approved, which may include:

**(a)** using a facilitator other than the designated facilitator;

**(b)** using a curriculum other than the designated curriculum;

**(c)** charging a fee in excess of the reasonable fee identified in the application;

or

**(d)** providing training for a time period that is substantially shorter than the time for which the training is approved.

**B.** If the department determines there is reason to suspend or revoke the approved provider status, the department shall provide a written notice of contemplated revocation or suspension.

**(1)** The notice shall contain:

**(a)** the training course codes and names for which the revocation or suspension is being considered;

**(b)** a specific description of the reasons for the suspension or revocation;

**(c)** if the department is proposing a suspension, the term and scope of the suspension; and

**(d)** the process for responding to the notice of contemplated revocation or suspension.

**(2)** An approved provider that receives a written notice of contemplated revocation or suspension may submit a response within 14 days of receiving the notice. The response shall contain:

**(a)** a clear statement that responds to each of the reasons for the contemplated action; and

**(b)** evidence or documentation to support the statement.

**(3)** The department shall review a response to a notice of contemplated revocation or suspension within 21 days of receipt.

(a) If the department determines the suspension or revocation is appropriate and justified, the department shall provide a written notice of suspension or revocation in accordance with Paragraph (1) of Subsection B of 6.80.5.13 NMAC.

(b) If the department determines the suspension or revocation is not appropriate and justified, the department shall provide a written notice that identifies:

(i) the continued term of approval for each of the training course codes and names for which the revocation or suspension was being considered; and

(ii) the specific response and evidence that supported the finding that the suspension or revocation was not appropriate or justified.

C. If an approved provider is suspended or revoked, the department shall, within seven days of the action remove that approved provider's trainings from the listing on its website identified in Subsection D of 6.80.5.11 NMAC. The department shall also provide notice on its website that the approved provider has had its approval revoked or suspended.

[6.80.5.13 NMAC - N, 07/25/2017; A, 7/14/2020]

## **CHAPTER 81: ALTERNATIVE EDUCATION - NONPUBLIC SCHOOLS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: REQUIREMENTS FOR NONPUBLIC SCHOOLS AND FOR PUBLIC EDUCATION DEPARTMENT ACCREDITATION [REPEALED]**

[This part was repealed on July 1, 2024.]

## **CHAPTER 82-99: [RESERVED]**

## **CHAPTER 100: VOCATIONAL REHABILITATION - CLIENT SERVICES**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: DIRECT CLIENT SERVICES**

#### **6.100.2.1 ISSUING AGENCY:**

State Board of Education.



[12-31-98; 07-30-99; Recompiled 10/31/01]

**6.100.2.2 SCOPE:**

The provisions of this regulation apply to: persons served by DVR; commercial and non-profit organizations that are either certified by DVR to provide vocational rehabilitation services or employed as its contractual agent; and those state and local governmental agencies which have entered into cooperative arrangements with DVR.

[12-31-98; Recompiled 10/31/01]

**6.100.2.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to Section 22-14-8 NMSA 1978.

[12-31-98; Recompiled 10/31/01]

**6.100.2.4 DURATION:**

Permanent.

[12-31-98; Recompiled 10/31/01]

**6.100.2.5 EFFECTIVE DATE:**

December 31, 1998

[12-31-98; Recompiled 10/31/01]

**6.100.2.6 OBJECTIVE:**

This regulation governs the administration of laws relating to vocational rehabilitation services. The purpose of DVR is to empower individuals with disabilities to maximize their employment, economic self-sufficiency, independence, and inclusion and integration into society; and to play a leadership role in promoting the meaningful and gainful employment and the independent living of individuals with disabilities, and assist providers of services in their efforts in this regard.

[12-31-98; Recompiled 10/31/01]

**6.100.2.7 DEFINITIONS:**

**A. "Applicant"** means an individual for whom a formal application for vocational rehabilitation services has been signed and submitted to DVR by the individual or the individual's authorized representative.

**B. [RESERVED]**

**C. [RESERVED]**

**D. [RESERVED]**

**E.** Community rehabilitation program means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement.

- (1)** Medical, psychiatric, psychological, social, and vocational services that are provided under one management;
- (2)** Testing, fitting, or training in the use of prosthetic and orthotic devices;
- (3)** Recreational therapy;
- (4)** Physical and occupational therapy;
- (5)** Speech, language, and hearing therapy;
- (6)** Psychiatric, psychological and social services, including positive behavior management;
- (7)** Assessment for determining eligibility and vocational rehabilitation needs;
- (8)** Rehabilitation technology;
- (9)** Job development, placement, and retention services;
- (10)** Evaluation or control of specific disabilities;
- (11)** Orientation and mobility services for individuals who are blind;
- (12)** Extended employment;
- (13)** Psycho-social rehabilitation services;
- (14)** Supported employment services and extended services;
- (15)** Services to family members when necessary to the vocational rehabilitation of the individual;
- (16)** Personal assistance services; or
- (17)** Services similar to the services described above.

**F. [RESERVED]**

**G. [RESERVED]**

**H. "Disability"** means a physical or mental impairment that constitutes or results in a substantial impediment to employment.

**I. [RESERVED]**

**J. "Employment outcome"** means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) as well as homemaking, sheltered employment, and home-based employment.

**K. [RESERVED]**

**L "Extended services"** means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that:

(1) Are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

(2) Are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

(3) Are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

**M [RESERVED]**

**N. "Functional limitations"** mean limitations imposed by an impairment that impede or limit an individual's functioning in one or more of the following areas (or in any area of physical or mental function):

(1) Sensory functioning;

(2) Manual dexterity;

(3) Motor coordination;

(4) Physical strength or stamina;

(5) Mobility;

- (6) Work habits;
- (7) Personal behavior;
- (8) Academic achievement;
- (9) Interpersonal relations;
- (10) Job seeking skills;
- (11) Physical appearance;
- (12) Physical or mental comfort;
- (13) Thought processes;
- (14) Learning;
- (15) Emotional stability;
- (16) Communication;
- (17) Speech;
- (18) Perception;
- (19) Judgment; or
- (20) Memory.

**O. [RESERVED]**

**P. [RESERVED]**

**Q. "Individual with a severe disability"** means an individual with a disability:

- (1) Who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- (2) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
- (3) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic

fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs.

**R. [RESERVED]**

**S. [RESERVED]**

**T. [RESERVED]**

**U. "Personal assistance services"** means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

**V. [RESERVED]**

**W. "Physical or mental impairment"** means a physical or mental condition which substantially contributes to limiting, or if not corrected will probably result in limiting, an individual's functioning. The same exclusions that apply to the definition of "disability" under this rule apply to the term "Physical or Mental Impairment".

**X. [RESERVED]**

**Y. [RESERVED]**

**Z. "Rehabilitation technology"** means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

**AA. "Substantial impediment to employment"** means a physical or mental impairment, in light of attendant medical, psychological, vocational, educational, and other related factors that impedes an individual's occupational performance by preventing the individual from obtaining, retaining, or preparing for employment consistent with the individual's capacities and abilities.

**BB. "Substantially limits"** means, in relation to the impairment, having a substantial consequence that is not temporary or easily ameliorated.

**CC. "Supported employment"** means competitive work in integrated work settings for individuals with the most severe disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work. Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.

**DD. "Temporarily or easily ameliorated"** means of no permanent or chronic consequence; a condition which is expected to last for a limited time only or to be corrected, either partially or totally, by an identified treatment, with little or no residual effects on functioning; an impairment for which the only service needed is payment of medical expenses.

**EE. [RESERVED]**

**FF. [RESERVED]**

**GG. [RESERVED]**

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.8 GENERAL POLICY: GENERAL POLICIES INCLUDE:**

**A.** Respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on the informed choice of individuals with disabilities;

**B.** Respect for the privacy, rights, and equal access of individuals with disabilities;

**C.** Inclusion, integration, and full participation of individuals with disabilities;

**D.** Support for the involvement of the family, advocates or authorized representatives, if desired or requested by the individual with a disability; and

**E.** Support for individual and systemic advocacy and community involvement.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.9 NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND FEDERAL GRANTS:**

DVR shall conduct programs and activities in such a manner that no person in the United States will be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any such program or activity on the ground of race, color, national origin, sex, religion, age, or physical or mental impairment.

[12-31-98; Recompiled 10/31/01]

**6.100.2.10 STAFFING OF THE STATE VOCATIONAL REHABILITATION PROGRAM:**

**A.** DVR shall employ sufficient number of staff with appropriate qualifications to carry out all functions required, including program planning and evaluation, staff development, rehabilitation facility development and utilization, medical consultation, and rehabilitation counseling services for individuals with severe handicaps.

**B.** DVR shall make personnel available who are able to communicate in the native languages of applicants with limited English-speaking ability from ethnic groups which represent substantial segments of the state population as well as personnel who are able to communicate with individuals who rely on special modes of communication such as oral and non-verbal communication devices.

**C.** DVR shall recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities.

**D.** DVR shall provide a system for the continuing education of the rehabilitation professionals and paraprofessionals it employs, particularly with respect to rehabilitation technology.

**E.** DVR shall set, establish and maintain standards to ensure that its personnel are appropriately and adequately prepared and trained.

[12-31-98; Recompiled 10/31/01]

**6.100.2.11 PLANNING:**

**A.** DVR shall develop and administer a state plan and a related strategic plan for vocational rehabilitation services which are effective for all political subdivisions, except in the case of any activity of demonstration projects or special initiatives likely to assist groups of individuals with disabilities.

**B.** DVR shall conduct public hearings to obtain comments for development of a state plan and strategic plan for provision of rehabilitation services, after appropriate and sufficient notice, to allow interested groups and organizations, and all segments of the public an opportunity to participate.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.12 ESTABLISHMENT OF STATE REHABILITATION ADVISORY COUNCIL:**

DVR shall establish a state rehabilitation advisory council, seek and consider the advice of the council, and transmit to the council: all plans, reports, and other information required to be submitted to the commissioner of the rehabilitation services administration; all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.13 INFORMATION, REFERRAL, AND OUTREACH:**

**A.** DVR will provide for the establishment and maintenance of information and referral programs (the staff of which shall include, to the maximum extent feasible, interpreters for individuals who are deaf) in sufficient numbers to assure that individuals with disabilities within the state are afforded accurate vocational rehabilitation information and appropriate referrals to other federal and state programs and activities which would benefit them.

**B.** DVR will conduct outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or under-served by the vocational rehabilitation system.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.14 COOPERATION WITH OTHER PUBLIC AGENCIES:**

**A.** DVR will enter into appropriate cooperative arrangements with, and utilize the services and facilities of, federal, state, and other governmental agencies administering programs related to the rehabilitation of handicapped individuals to ensure that clients with disabilities receive appropriate services.

**B.** When the state's share of the cost of a cooperative program for providing vocational rehabilitation services or for engaging in administrative activities of DVR is furnished in whole or in part by a state or local public agency other than DVR, each such cooperative program will be based on a written agreement which meets the requirements of applicable federal regulations.

**C.** DVR shall provide training to staff of other appropriate governmental agencies as to the availability and benefits of, and eligibility standards for, vocational rehabilitation services, in order to enhance the opportunity of individuals to obtain vocational rehabilitation services.



**D.** In providing for interagency cooperation, DVR will, as appropriate: establish interagency working groups; enter into formal interagency cooperative agreements that identify policies, practices, and procedures that can be coordinated among the agencies (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals); identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with state law) and procedures for resolving disputes between agencies; and include all additional components necessary to ensure meaningful cooperation and coordination.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.15 USE OF COMMUNITY RESOURCES:**

**A.** DVR will maximally utilize public or other vocational or technical training programs or other appropriate resources in the community; and, as appropriate, enter into agreements with the operators of community rehabilitation programs for the provision of services for the rehabilitation of individuals with disabilities.

**B.** DVR will assure that facilities used in connection with the delivery of services assisted under the state plan will comply with the Architectural Barriers Act of 1968, with section 504 of Rehabilitation Act of 1973 as amended, and with the Americans with Disabilities Act of 1990. DVR will require an assurance from each community rehabilitation program it employs, certifying that the program is either in compliance with the aforementioned regulatory requirements or documenting why it has a valid exemption under the law.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.16 CASE RECORDING:**

DVR shall maintain a case record for each applicant for, and recipient of, vocational rehabilitation services.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.17 AUTHORIZATION OF SERVICES:**

DVR shall authorize vocational rehabilitation services for individuals with disabilities in writing prior to providing such services. In emergency situations, DVR may make verbal authorization for vocational rehabilitation services, issuing prompt written authorization to the service provider.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.18 PROTECTION, USE AND RELEASE OF PERSONAL INFORMATION:**

DVR shall safeguard confidentiality of personal information about applicants for and recipients of vocational rehabilitation services.

[12-31-98; Recompiled 10/31/01]

**6.100.2.19 ESTOPPEL:**

Statements of fact or law by employees of DVR shall not estop DVR from acting in accordance with federal and state laws and regulations.

[12-31-98; Recompiled 10/31/01]

**6.100.2.20 FACTORS DISREGARDED IN DETERMINING ELIGIBILITY:**

DVR shall determine eligibility of applicants for services without regard to:

- A.** Sex, race, creed, religion, age, color, or national origin;
- B.** Upper or lower age limits if they result by themselves in a finding of ineligibility for any applicant who otherwise meets the basic eligibility requirements;
- C.** A residence requirement, durational or otherwise, which excludes from service any individual who is present in the state; or
- D.** Current illegal use of drugs, if the applicant is otherwise eligible for services.

[12-31-98; Recompiled 10/31/01]

**6.100.2.21 ELIGIBILITY CRITERIA:**

**A.** An individual is eligible for assistance for vocational rehabilitation services if the individual:

- (1)** has a physical or mental impairment which, for the individual, constitutes or results in a substantial impediment to employment; and
- (2)** can benefit in terms of an employment outcome from vocational rehabilitation services; and
- (3)** requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

**B.** An individual who has a disability or is blind as determined under Title II or XVI of the Social Security Act is considered to have:

(1) a physical or mental impairment which constitutes or results in a substantial impediment to employment; and

(2) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome.

C. Determinations by other agencies, particularly education agencies, regarding whether an individual satisfies one or more factors relating to the determination that an applicant is an individual with a disability or a severe disability are to be used to the extent appropriate, available, and consistent with the requirement of the Rehabilitation Act of 1973, as amended.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.22 PRESUMPTION OF BENEFIT:**

A. There is a presumption that an individual can benefit in terms of an employment outcome from vocational rehabilitation services. Thus, all individuals applying for vocational rehabilitation services are presumed to be able to benefit in terms of an employment outcome from vocational rehabilitation services unless DVR can rebut this presumption.

B. To rebut this presumption, DVR must demonstrate by clear and convincing evidence that an individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

C. If there is an issue concerning the severity of an individual's disability, DVR must conduct an extended evaluation prior to determining that the individual is incapable of benefiting from services.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.23 TIME LIMIT FOR DETERMINING ELIGIBILITY:**

A. DVR shall determine whether an individual is eligible for vocational rehabilitation services within 60 days after the individual has submitted an application to receive services.

B. DVR may extend the 60 day limit for determining eligibility if:

(1) DVR notifies the individual that exceptional and unforeseen circumstances beyond its control preclude the completion of the eligibility determination within the 60 days and the individual agrees that an extension of time is warranted; or

(2) An extended evaluation is required.

[12-21-98; Recompiled 10/31/01]

**6.100.2.24 ASSESSMENT OF EXISTING DATA AND PRELIMINARY ASSESSMENT OF REHABILITATION NEEDS:**

**A.** The counselor assigned by DVR shall review existing data:

**(1)** To determine whether an individual is eligible for vocational rehabilitation services; and

**(2)** To assign the priority of the individual for order of selection (if and when an order of selection is in force).

**B.** If existing data are unavailable, insufficient, or inappropriate to make a determination of eligibility, the counselor assigned by DVR shall conduct a preliminary assessment to determine the individual's eligibility and priority for order of selection (if and when an order of selection is in force).

**C.** A preliminary assessment may include the provision of those vocational rehabilitation services necessary to determine whether the individual can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

**D.** Decisions regarding the nature and scope of the vocational rehabilitation services to be provided during a preliminary assessment shall be made on a case-by-case basis, with consideration given to the importance of providing assistive technology devices and services and work-site assessments as a part of the preliminary assessment.

**E.** In all cases of mental or emotional disorder, DVR shall require documentation of examination by a physician skilled in the diagnosis and treatment of such disorders, by a psychologist licensed by the state, or by a psychologist classified by the state personnel board, or other appropriate professional credentialed by or through the state.

[12-31-98; Recompiled 10/31/01]

**6.100.2.25 DETERMINATION OF ELIGIBILITY:**

When an applicant is determined eligible for vocational rehabilitation services, the counselor assigned by DVR shall prepare a signed and dated statement to this effect. Such a statement is prepared only after consultation with the individual, or, as appropriate, his parent, family member, guardian, or authorized representative, or after affording a clear opportunity for such consultation.

[12-31-98; Recompiled 10/31/01]

**6.100.2.26 DETERMINATION OF INELIGIBILITY:**

**A.** Any of the following reasons may constitute the basis for a determination of ineligibility:

- (1)** no impairment exists;
- (2)** an impairment exists; however, there is no clear evidence that it has resulted in a substantial impediment to employment;
- (3)** the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome; or
- (4)** **[RESERVED]**

**B.** When an applicant is determined ineligible for vocational rehabilitation services, the counselor assigned by DVR shall prepare a signed and dated statement to this effect. Such a statement of ineligibility is prepared only after consultation with the individual, or, as appropriate, his parent, family member, guardian, or authorized representative, or after affording a clear opportunity for such consultation.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.27 DETERMINATION OF THE NEED FOR EXTENDED EVALUATION:**

When the counselor assigned by DVR is unable to make a determination that vocational rehabilitation services are required for an applicant in terms of employment outcome unless there is an extended evaluation to determine rehabilitation potential, the counselor shall make a signed and dated statement of such inability, providing for an extended evaluation. Such a statement, providing for an extended evaluation, is prepared only after consultation with the individual, or, as appropriate, his parent, family member, guardian, or authorized representative, or after affording a clear opportunity for such consultation.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.28 EXTENDED EVALUATION TO DETERMINE ELIGIBILITY AND SCOPE OF SERVICES NEEDED:**

**A.** DVR provides vocational rehabilitation services under extended evaluation to determine eligibility based upon:

- (1)** The presence of a physical or mental impairment which for the individual constitutes or results in a substantial impediment to employment; and
- (2)** An inability to make a determination that vocational rehabilitation services are required for the individual in terms of an employment outcome.

**B.** DVR may provide vocational rehabilitation services necessary for the determination of eligibility, including those provided within a comprehensive assessment and, where appropriate, the provision of rehabilitation technology services to an applicant with a disability to assess and develop the capacities of the individual to perform in a work environment, for a total period not in excess of 18 months.

**C. [RESERVED]**

**D.** DVR may terminate vocational rehabilitation services necessary for the determination of eligibility at any time prior to the expiration of the 18-month extended evaluation period for the determination of eligibility when:

(1) The individual is found eligible for vocational rehabilitation services based upon a determination that the individual can be expected to benefit in terms of employment outcome from vocational rehabilitation services; or

(2) The individual is found ineligible for any additional vocational rehabilitation services on the basis of clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

[12-31-98; Recompiled 10/31/01]

**6.100.2.29 NOTIFICATION, AND REVIEW OF ELIGIBILITY DECISIONS:**

**A.** When an individual is determined eligible or ineligible for vocational rehabilitation services, DVR shall notify the individual in writing of the determination. DVR shall specify:

(1) The reasons for such a determination;

(2) The rights and remedies available to the individual, including, if appropriate, recourse to the impartial hearing process;

(3) The availability of services provided by the client assistance program to the individual; and

(4) The individual's right to re-apply for services upon a change of the individual's circumstances.

**B.** Within twelve months of the date of the determination of ineligibility DVR shall conduct a review to assess new information or changes in circumstances of the individual that may affect his eligibility.

**C.** DVR shall continue annual reviews of a determination of ineligibility at the request of the individual, his guardian, parent or representative.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.30 ORDER OF SELECTION:**

**[RESERVED]**

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.32 COMPREHENSIVE ASSESSMENT OF VOCATIONAL NEEDS:**

**A.** Once an individual is determined eligible for vocational rehabilitation services and to the extent necessary, DVR shall provide a comprehensive assessment of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, to determine the goals, objectives, nature and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program developed for the individual.

**B.** The assessment will be limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual.

**C.** The primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements, will be existing information and such information as can be provided by the individual and, where appropriate, by the family of the individual, and:

**(1)** may include, to the degree needed, an assessment of the personality, interest, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, employment opportunities, medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual; and

**(2)** may also include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavioral patterns necessary for successful job performance, including the utilization of work in real job situations to assist and develop the capacities of the individual to perform adequately in a work environment; and

**(3)** Where appropriate, the provision of rehabilitation technology services.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.33 INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM:**

**A.** The counselor assigned by DVR shall initiate and periodically update an individualized written rehabilitation program for each individual determined to be:

**(1)** In need of an extended evaluation to determine eligibility for vocational rehabilitation services; or

**(2)** Eligible for vocational rehabilitation services.

**B.** The counselor assigned by DVR and the individual shall jointly develop an individualized written rehabilitation program for provision of vocational rehabilitation services to the individual in accordance with that program, specifying:

**(1)** All services to be provided, except for assessments to determine the need for further services; and

**(2)** An appropriate employment objective which is consistent and feasible, considering the individual's capacities and abilities.

**C.** Any individualized written rehabilitation program developed for the purpose of extended evaluation shall relate only to the purpose of determining if the individual can achieve a suitable employment outcome.

**D.** The counselor assigned by DVR shall furnish a copy of the individualized written rehabilitation program and any subsequent amendments to the individual or, as appropriate, to the individual's authorized representative.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.34 PROGRAM CONTENT:**

At a minimum, each individualized written rehabilitation program shall contain:

**A.** A statement of the long-term appropriate vocational goal;

**B.** A statement of the intermediate objectives related to the attainment of the long-term goal, including the specific vocational rehabilitation services to be provided, the projected dates for the initiation and the anticipated duration of each such service, and, if appropriate, a statement detailing how such services shall be provided or arranged through cooperative agreement with other service providers;

**C.** If appropriate, a statement of the specific rehabilitation technology services to be provided and a statement of the specific on-the-job and related personal assistance services to be provided, including training in managing personal assistance services;



**D.** An assessment of the expected need for post-employment services, and, if appropriate, extended services as well a provision for a reassessment of the need for post-employment services prior to the point of successful rehabilitation;

**E.** Terms and conditions for providing goods and services, including objective criteria and an evaluation procedure and schedule for determining whether appropriate goals and objectives are being achieved;

**F.** Identification of entities that will provide the services and the process used to provide or procure such services, including information identifying other related services, and benefits provided pursuant to any federal, state, or local program (comparable/similar benefits);

**G.** A statement in the words of the individual or, if appropriate, the individual's authorized representative describing how the individual was informed about and involved in choosing goals, objectives, services, entities providing services, and methods used to provide such services;

**H.** A description of rights and remedies and a description of the availability of a client assistance program; and

**I.** The signature of the counselor assigned by DVR and the individual or, as appropriate, the individual's authorized representative.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.35 REVIEW:**

**A.** The counselor assigned by DVR shall review the individualized rehabilitation program with the individual annually, affording the individual or the individual's authorized representative an opportunity to review the individual's program and jointly re-develop the program and agree to its terms. Any revisions or amendments to the program resulting from the annual review shall be agreed upon and signed by the individual or, if appropriate, the individual's authorized representative and the counselor before such revisions shall take effect.

**B.** In those cases where an individualized written rehabilitation program has been developed for the purpose of extended evaluation to determine eligibility for vocational rehabilitation services, the counselor assigned by DVR shall conduct an assessment at least once in every ninety-day period during which such evaluation services are provided. At such time the counselor shall ascertain whether a determination of eligibility or ineligibility may be made.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.36 [RESERVED]**

#### **6.100.2.37 INDIVIDUAL PARTICIPATION IN THE COSTS OF VOCATIONAL REHABILITATION SERVICES:**

The counselor assigned by DVR shall request an individual with available financial resources to participate in the cost of his vocational rehabilitation services and shall negotiate the extent of that participation for all vocational rehabilitation services other than:

- A.** Assessment for determining eligibility and vocational rehabilitation needs, including vocational rehabilitation services provided during an extended evaluation for purposes of assessment;
- B.** Vocational rehabilitation counseling, guidance, and work-related placement services; and
- C.** Referral services.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.38 DETERMINATION OF COMPARABLE SERVICES AND BENEFITS:**

Prior to initiation of vocational rehabilitation services through an individualized written rehabilitation program, the counselor assigned by DVR shall determine the availability of comparable services and benefits to an individual, except when the determination:

- A.** Would delay the provision of comparable services and benefits to an individual at extreme medical risk (based upon medical evidence provided by an appropriate licensed medical professional); or
- B.** Would result in the loss of an immediate job placement due to a delay in the provision of such comparable services and benefits.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.39 UTILIZATION OF COMPARABLE SERVICES AND BENEFITS:**

**A.** DVR shall utilize comparable services and benefits determined to be available as appropriate in the provision of all vocational rehabilitation services to an individual or the individual's family members, except for the following services:

- (1)** assessment for determining eligibility and vocational rehabilitation needs;
- (2)** counseling, guidance, and work-related placement services, including job search assistance, placement assistance, job retention services, and personal assistance services;

(3) vocational and other training services not provided in an institution of higher learning, including personal and vocational adjustment training, books, tools, and other training materials;

(4) referral services;

(5) rehabilitation technology services; and

(6) post-employment services, including vocational rehabilitation services listed in this section, necessary to maintain, regain, or advance in employment.

(7) **[RESERVED]**

**B.** DVR shall not utilize comparable services and benefits when they are inadequate, or interfere with achieving the rehabilitation objective (including but not limited to those circumstances described in Section 38 [now 6.100.2.38 NMAC]).

**C. [RESERVED]**

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.40 SCOPE OF VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS:**

**A.** Vocational rehabilitation services provided by DVR are any goods or services necessary to render an individual with a disability employable, including, but not limited to, the following:

(1) An assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(2) Counseling, guidance, and work-related placement services for individuals with disabilities, including job search assistance, placement assistance, job retention services, personal assistance services, and follow-up, follow-along, and specific post-employment services necessary to assist such individuals to maintain, regain, or advance in employment;

(3) Vocational and other training services for individuals with disabilities, which shall include personal and vocational adjustment, books, or other training materials, and such services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals (except that no training services in institutions of higher education shall be paid for by DVR unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training);

**(4)** Physical and mental restoration services, including, but not limited to:

**(a)** corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes an impediment to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

**(b)** necessary hospitalization in connection with surgery or treatment;

**(c)** prosthetic and orthotic devices;

**(d)** eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

**(e)** special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

**(f)** diagnosis and treatment for mental and emotional disorders by a physician or licensed psychologist in accordance with state licensure laws.

**(5)** maintenance for additional costs incurred while participating in rehabilitation;

**(6)** interpreter services and note-taking services for individuals who are deaf, and reader services for those individuals determined to be blind after an examination by a physician skilled in the disease of the eye or by an optometrist, whichever the individual may select;

**(7)** recruitment and training services for individuals with disabilities to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

**(8)** rehabilitation teaching services, reader services, and orientation and mobility services for individuals who are blind;

**(9)** occupational licenses, tools, equipment, and initial stocks and supplies;

**(10)** transportation in connection with the rendering of any vocational rehabilitation service;

**(11)** telecommunications, sensory, and other technological aids and devices;

**(12)** rehabilitation technology services;

**(13)** referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed by dvr, if such services are not otherwise available;

**(14)** transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

**(15)** on-the-job or other related personal assistance services provided while an individual with a disability is receiving vocational rehabilitation services in this section;

**(16)** supported employment services (provided only to individuals with the most severe disabilities); and

**(17)** services to family members of individuals with disabilities if necessary to the adjustment and rehabilitation of the individual.

**B.** Vocational rehabilitation services when provided for the benefit of groups of individuals, may also include the following:

**(1)** in the case of any type of small business operated by individuals with the most severe disabilities, the operation of which can be improved by management services and supervision provided by DVR, the provision of such services and supervision, along or together with the acquisition by DVR of vending facilities or other equipment and initial stocks and supplies;

**(2)** the establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs) which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one individual with a disability. Such programs shall be used to provide services that promote integration and competitive employment;

**(3)** the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities;

**(4)** the use of services providing recorded material for individuals who are blind and captioned films or video cassettes for individuals who are deaf; and

**(5)** technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act of 1990 and that are seeking to employ individuals with disabilities.

#### **6.100.2.41 PROGRAM ACCESS:**

**A.** DVR shall:

(1) make its programs accessible to individuals with disabilities, ensuring all offices are physically accessible and reasonable accommodations are made to enable individuals with disabilities to take advantage of DVR services;

(2) ensure that individuals with disabilities are active participants in their respective rehabilitation programs, providing for meaningful and informed choices about the selection of the vocational rehabilitation services; and

(3) make referrals of individuals with disabilities to other agencies and organizations as appropriate, including the client assistance program.

**B. [RESERVED]**

**C. [RESERVED]**

**D. [RESERVED]**

**E. [RESERVED]**

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.42 INDIVIDUAL PARTICIPATION:**

An individual applying for or a recipient of vocational rehabilitation services must:

**A.** be available for assessment and vocational rehabilitation services for an indefinite or considerable period of time;

**B.** be responsive to DVR correspondence or telephone calls; and

**C.** accept, utilize, or participate in appropriate vocational rehabilitation services or diagnostics after a reasonable effort has been made to encourage his cooperation.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.43 CASE CLOSURE:**

**A.** The counselor assigned by DVR may close a case prior to or subsequent to provision of vocational rehabilitation services either because the individual:

(1) did not meet or did not continue to meet the eligibility criteria;

(2) was unavailable for assessment and vocational rehabilitation services for an indefinite or considerable period of time;

(3) was not responsive to DVR correspondence or telephone calls; or

(4) refused to accept, utilize, or participate in appropriate vocational rehabilitation services or diagnostics after a reasonable effort was made to encourage the individual's cooperation.

**B.** The counselor assigned by DVR may close a case when the individual is determined to be rehabilitated after the individual has been:

(1) determined eligible for vocational rehabilitation services;

(2) provided necessary assessment(s) of rehabilitation needs;

(3) provided counseling and guidance;

(4) provided appropriate and substantial vocational rehabilitation services in accordance with an individualized written rehabilitation program; and

(5) determined to have achieved a suitable employment outcome for at least sixty days.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.44 NOTIFICATION OF CLOSURE DECISIONS:**

**A.** After an individual has filed an application for services, DVR shall provide written notification whenever that individual's case is closed.

**B.** Written notification shall include any required amendment to the individualized written rehabilitation program and further specify:

(1) The reasons for the case closure;

(2) The rights and remedies available to the individual, including, as appropriate, recourse to the impartial hearing process; and

(3) The availability of services provided by the client assistance program.

[12-31-98; Recompiled 10/31/01]

#### **6.100.2.45 POST-EMPLOYMENT SERVICES:**

**A.** DVR shall provide specific post-employment services necessary to assist individuals rehabilitated through vocational rehabilitation services to maintain, regain, or advance in employment.

**B.** Required services must be related to the original plan and disability. If not, the division shall give consideration to opening a new case for the individual with a disability.

**C.** Any service, with the exception of medical care for acute conditions, may be provided as a post-employment service with the same requirements that apply to routine vocational rehabilitation services.

[12-31-98; Recompiled 10/31/01]

## **CHAPTER 101: VOCATIONAL REHABILITATION - PROCEDURAL SAFEGUARDS**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

### **PART 2: FAIR HEARINGS AND ALTERNATIVE DISPUTE RESOLUTIONS RELATED TO VOCATIONAL REHABILITATION**

#### **6.101.2.1 ISSUING AGENCY:**

Public Education Department.

[6.101.1 NMAC - Rp, 6.101.1 NMAC, 9/24/2024]

#### **6.101.2.2 SCOPE:**

The provisions of this regulation pertain to applicants for or recipients of vocational rehabilitation services who may be aggrieved by any action or inaction of the New Mexico division of vocational rehabilitation (hereinafter, NMDVR) or of the director of the NMDVR that affects the provision of vocational rehabilitation services.

[6.101.2.2 NMAC - Rp, 6.101.2.2 NMAC, 9/24/2024]

#### **6.101.2.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to the Rehabilitation Act of 1973, as amended, 34 CFR Part 361, Sections 9-24-8, 22-2-1, 22-2-2, 22-13-13, 22-14-8, and 22-14-12 NMSA 1978, and New Mexico Rules of Civil Procedure, District Court Rule 1-074.

[6.101.2.3 NMAC - Rp, 6.101.2.3 NMAC, 9/24/2024]



#### **6.101.2.4 DURATION:**

Permanent.

[6.101.2.4 NMAC - Rp, 6.101.2.4 NMAC, 9/24/2024]

#### **6.101.2.5 EFFECTIVE DATE:**

September 24, 2024, unless a later date is cited at the end of a section.

[6.101.2.5 NMAC - Rp, 6.101.2.5 NMAC, 9/24/2024]

#### **6.101.2.6 OBJECTIVE:**

To provide general policy for an applicant for or recipient of vocational rehabilitation services who is dissatisfied with any determination made by personnel of the NMDVR that affects the provision of vocational rehabilitation services to request a timely review of that determination through mediation or a fair hearing.

[6.101.2.6 NMAC - Rp, 6.101.2.6 NMAC, 9/24/2024]

#### **6.101.2.7 DEFINITIONS:**

**A. "Applicant"** means an individual applying for NMDVR services, and includes any representative of the applicant, such as a guardian, legal counsel, or other advocate.

**B. "Burden of proof"** means the responsibility of the party asserting a claim to prove that the claim is valid through the introduction of credible evidence.

**C. "Client assistance program" or "CAP"** means a nonprofit agency separate from the NMDVR that receives federal funds to provide information about and referral to services for individuals with a disability. The CAP also provides case advocacy for applicants and recipients to facilitate access to services funded under the Rehabilitation Act of 1973, as amended.

**D. "Collateral estoppel"** means a legal doctrine that prevents a party from relitigating an issue that was resolved in a previous lawsuit or administrative proceeding, even if the issue relates to a different claim.

**E. "Determination"** means any decision made by personnel of the NMDVR that affects the provision of vocational rehabilitation services to an applicant or recipient.

**F. "Fair hearing"** means a voluntary impartial due process hearing in which an impartial hearing officer conducts a hearing to review a disputed determination, hears

testimony and reviews evidence from the parties, and issues a written decision setting forth the findings and grounds for the decision.

**G. "Fraud"** means a scheme that involves submitting false or misleading information to the NMDVR in order to obtain a service.

**H. "Good cause"** means a substantial reason or legal justification for failing to appear, to request a continuance of any due process proceedings, to act, or to respond to an action. Good cause events are unforeseen and beyond the control of the party and include, but are not limited to, the following:

- (1) A personal emergency medical situation; or
- (2) Sickness or death of a close family member.

**I. "Individualized plan for employment" or "IPE"** means a written agreement to help a recipient with a disability who qualifies for services to find, get, and keep a job. It is designed to achieve an employment outcome consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**J. "New Mexico state rehabilitation council"** means the entity that reviews, analyzes, and advises the NMDVR regarding all rehabilitation programs and policies administered by the NMDVR under the Rehabilitation Act Amendments of 1998.

**K. "Mediation"** means a voluntary process by which the parties meet with an independent and impartial qualified mediator to assist them in settling differences or disputes prior to pursuing formal administrative or other legal remedies.

**L. "Mediation agreement"** means a written legal contract developed during mediation. Once a mediation agreement has been signed by both parties, it is binding.

**M. "Misrepresentation"** means an intentionally or negligently false representation made verbally, by conduct, or by nondisclosure or concealment, by an applicant or recipient for the purpose of deceiving, defrauding, or causing the NMDVR to rely on the representation in order to obtain a service.

**N. "Preponderance of evidence"** means the standard by which the party with the burden of proof shall show evidence to prove that the claim is more likely than not to be true.

**O. "Recipient"** means the individual receiving NMDVR services, and includes any representative of the recipient, such as a guardian, legal counsel, or other advocate.

**P. "Relevant evidence"** means evidence that is relevant if reasonable inferences can be drawn that shed light on a contested matter.

**Q. "Res judicata"** means a legal doctrine that another party cannot relitigate a matter for the same cause of action if a final judgement based on merits has been made previously in a lawsuit or administrative proceeding.

**R. "Vocational rehabilitation services"** means those services identified in 29 USC Section 723, which are provided to individuals with disabilities.

[6.101.2.7 NMAC - Rp, 6.101.2.7 NMAC, 9/24/2024]

#### **6.101.2.8 REVIEW OF DETERMINATION:**

**A.** Any applicant or recipient of vocational rehabilitation services who is dissatisfied with any determination made by personnel of the NMDVR that affects the provision of vocational rehabilitation services may request a timely review of that determination through mediation, a fair hearing, or both. An applicant or recipient may not request a fair hearing for a determination after mediation that results in a signed mediation agreement or after a hearing officer has rendered a final decision about that determination in a fair hearing.

**B.** Nothing in this rule shall be construed to create an entitlement to any vocational rehabilitation service.

[6.101.2.8 NMAC - Rp, 6.101.2.8 NMAC, 9/24/2024]

#### **6.101.2.9 MEDIATION:**

**A. Request.** A request for mediation shall be made in writing online, via email, or by mailed letter to the director of the NMDVR. Incomplete requests that do not contain all of the following required information shall not be considered:

- (1) the name of the NMDVR counselor assigned to the case;
- (2) the determination being contested; and
- (3) the date of the contested determination.

**B. Time limitation for request.** The request must be received by the director of the NMDVR within 45 calendar days of the date of the contested determination. Failure to submit the request within 45 calendar days may result in a denial of the request, as determined by the NMDVR, in its sole discretion.

**C. Appointment of mediator.** A qualified and impartial mediator shall be appointed on a random basis from a qualified pool of mediators established jointly by the New Mexico state rehabilitation council and the NMDVR or by agreement between the applicant or recipient and the director of the NMDVR. The mediator shall not be a current employee of the NMDVR.

**D. Duties of mediator.** A mediator facilitates discussions between the parties to help the parties come to a mutually agreed upon resolution of disputed issues by:

- (1) scheduling the mediation;
- (2) explaining how the mediation process works and the confidentiality of the process;
- (3) communicating with both parties to gather information about the contested issues and helping the parties work through the contestation;
- (4) assisting the parties in understanding the applicable laws, precedents, and other established guidelines;
- (5) helping the parties to find common ground and resolutions that both parties can accept; and
- (6) helping the parties complete the mediation paperwork at the conclusion of the mediation.

**E. Mediation process.** Mediations shall be scheduled and completed in a timely manner, but not later than 30 calendar days after receipt of the request if there is also a request for fair hearing pending. If no fair hearing request is pending, the mediation shall be completed no later than 45 days of the request.

- (1) The mediation shall be held in a location and manner that is convenient to the parties.
- (2) Mediation is voluntary on the part of both parties, and either party or the mediator may terminate the mediation at any point in the process for any reason. If the mediation is terminated for any reason, the applicant or recipient may request resolution through a fair hearing.
- (3) During the mediation process, the applicant or recipient may represent themselves or may be represented by a guardian, legal counsel, or another advocate of their choice.
  - (a) All expenses of such representation, including legal fees and travel costs, shall be the responsibility of the applicant or recipient.
  - (b) The applicant or recipient shall notify the NMDVR in writing of the name and contact information of the designated representative. Authorization for representation may be withdrawn at any time by giving written notice of the withdrawal to the NMDVR.

(4) Both parties shall have the opportunity to submit relevant evidence in the form of documentation or other information in support of their position.

(5) Discussions that occur during mediation shall be kept confidential and shall not be used as evidence in any subsequent fair hearing or civil proceeding. The parties will be required to sign a confidentiality agreement prior to the commencement of the process.

(6) If the parties reach agreement during the mediation, the terms of the agreement shall be described in a written mediation agreement developed by the parties with the assistance of the mediator.

(a) The mediation agreement shall be signed by both parties.

(b) A copy of the mediation agreement shall be mailed or emailed to both parties by the mediator.

(c) A signed mediation agreement is a binding and final resolution of the contested decision.

**F. Cost of mediation.** The NMDVR shall pay the costs of the mediation up to eight hours. However, the NMDVR shall not be required to pay any costs related to the representation of the applicant or recipient.

**G. Impact on provision of services.** Pending resolution through mediation, the NMDVR shall not suspend, reduce, or terminate services being provided under an IPE, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the applicant or recipient, as determined by the NMDVR, or the applicant or recipient requests a suspension, reduction or termination of services.

[6.101.2.9 NMAC - Rp, 6.101.2.9 NMAC, 9/29/2020; A, 9/24/2024]

#### **6.101.2.10 FAIR HEARING:**

**A. Request for a fair hearing.** A request for a fair hearing shall be made in writing online, via email, or by mailed letter to the director of the NMDVR. Incomplete requests that do not contain all of the required information will not be considered. Requests shall include the following information:

- (1) the NMDVR counselor assigned to the case;
- (2) the determination being contested; and
- (3) the date of the contested determination.

**B. Time limitation for request.** The request for a fair hearing must be received by the director of the NMDVR within 45 calendar days of the contested determination. Failure to submit the request within 45 calendar days may result in a denial of the requests, as determined by the NMDVR, in its sole discretion.

**C. Appointment of a hearing officer.** A qualified and impartial hearing officer shall be appointed on a random basis from a qualified pool of hearing officers established jointly by the New Mexico state rehabilitation council and the NMDVR, or by agreement of the applicant or recipient and the director of the NMDVR. The hearing officer shall not be a current employee of the NMDVR.

**D. Timing of hearing.** The fair hearing shall be held within 60 calendar days of the NMDVR's receipt of the applicant's or recipient's request for review of the contested determination, unless informal resolution of a mediation agreement is achieved prior to the sixtieth calendar day or both parties agree to an extension of time. The time limit may be extended by the hearing officer upon the request of either party for good cause shown.

**E. Pre-hearing conference.** At least 10 calendar days prior to the date of the fair hearing, the hearing officer shall conduct at least one pre-hearing conference on a date and time agreed upon by both parties. The time limit may be extended by the hearing officer upon the request of either party for good cause shown.

(1) All parties shall attend and participate in a pre-hearing conference.

(2) Failure to attend and participate in a pre-hearing conference may result in dismissal of the action.

(3) At the pre-hearing conference, the hearing officer may take action and make rulings on issues including, but not limited to:

(a) identifying any accommodations needed by the parties, representatives, and witnesses in the hearing, which may include the necessity for hearing or interpreter assistance or the need for a party or witness to appear by phone or video rather than in person;

(b) identifying, simplifying, and clarifying issues and dates directly related to the contested NMDVR determination identified in the fair hearing request;

(c) eliminating irrelevant or non-hearable issues as determined by the hearing officer;

(d) identifying potential witnesses and exhibits from each party and establishing deadlines and procedures for the parties to share witness and exhibit lists and exhibits;

(e) establishing procedural matters pertaining to the conduct of the fair hearing; and

(f) establishing deadlines for pre-hearing motions and responses.

**F. Fair hearing process.** Fair hearings shall be scheduled and conducted within 60 calendar days of the request for hearing, unless the parties mutually agree to an extension in writing, or the hearing officer extends the time for good cause shown. Fair hearings shall be held in a location and manner that is convenient to the parties.

(1) Fair hearings are not open to the public.

(2) During the fair hearing process, the applicant or recipient may represent themselves or may be represented by a guardian, legal counsel, or another advocate of their choice.

(a) All expenses of such representation, including legal fees and travel costs, shall be the responsibility of the applicant or recipient.

(b) The applicant or recipient shall notify the NMDVR in writing of the name and contact information of the designated representative. Authorization for representation may be withdrawn at any time by giving written notice of the withdrawal to the NMDVR.

(3) Each party has certain procedural due process rights during the hearing, and may:

(a) make opening and closing statements;

(b) call and examine witnesses and introduce exhibits;

(c) cross-examine witnesses;

(d) re-direct their witnesses following cross-examination;

(e) impeach any witness; and

(f) rebut any relevant witness.

(4) Oral evidence shall be taken only under oath or affirmation.

(5) The order of presentation for hearings is as follows:

(a) opening of proceedings and disposition of preliminary and pending matters of the hearing officer;

(b) if the hearing officer requires, the applicant or recipient shall submit oral opening statements; otherwise, parties may submit oral opening statements voluntarily;

(c) if the hearing officer requires, the NMDVR shall submit oral opening statements; otherwise, parties may submit oral opening statements voluntarily;

(d) applicant's or recipient's case-in-chief;

(e) the NMDVR's case-in-chief;

(f) applicant's or recipient's rebuttal;

(g) the NMDVR's rebuttal;

(h) if the hearing officer requires, the applicant or recipient shall submit oral or written closing statements; otherwise, parties may submit oral or written closing statements voluntarily;

(i) if the hearing officer requires, the NMDVR shall submit oral or written closing statements; otherwise, parties may submit oral or written closing statements voluntarily; and

(j) closing of the proceedings by the hearing officer.

**G. Duties of hearing officer.** The hearing officer shall:

(1) conduct a pre-hearing conference no later than 10 calendar days prior to the scheduled fair hearing date, unless extended by agreement of both parties, or for good cause shown.

(2) administer an oath or affirmation to all witnesses before testimony is given.

(3) regulate the course and conduct of the hearing.

(4) maintain decorum during the hearing.

(5) assure that all properly raised and relevant issues are considered.

(6) make rulings on the introduction of testimony and other evidence. The formal Rules of Evidence and Rules of Civil Procedure do not apply but may lend guidance to the hearing officer when making rulings.

(7) request post-hearing statements or documentation from both parties if needed.



(8) ensure that all pre-hearing and hearing proceedings are properly recorded.

(9) create the record on appeal of the case which shall include, but not be limited to:

(a) the recordings of the pre-hearing and hearing proceedings;

(b) all exhibits admitted into the record;

(c) all pleadings made by the parties;

(d) all correspondence related to the pre-hearing(s) and hearing(s) by the parties and the hearing officer; and,

(e) the final written decision.

(10) review the evidence and testimony and issue a decision and order based on the facts presented as the hearing, and the provisions of the approved vocational rehabilitation services portion of the Unified or Combined State Plan, the Rehabilitation Act of 1973, as amended, accompanying federal and state regulations, and NMDVR policies that are consistent with the federal requirements.

(11) prepare a written report that states the findings and grounds for the decision and order. The written report shall be mailed and emailed to both parties within 30 calendar days of the completion of the fair hearing.

**H. Burden of proof.** The burden of proof at the fair hearing is on the applicant or recipient to prove by a preponderance of evidence that the contested NMDVR determination is in violation of the Unified or Combined State Plan, the Rehabilitation Act of 1973, as amended, accompanying federal and state regulations, or NMDVR policies that are consistent with the federal requirements.

**I. Dismissal prior to fair hearing.** The hearing officer shall consider a motion for dismissal without a fair hearing. If the hearing officer finds that a motion for dismissal should be granted, they may enter a final order of dismissal which may be appealed in accordance with Section 11 of this rule. The reasons to consider a motion for dismissal are:

(1) lack of jurisdiction;

(2) unripe or moot questions;

(3) failure to pursue the cause by the applicant or recipient;

(4) failure to raise a justiciable issue in the request for hearing;

- (5) unnecessary duplication of proceedings, res judicata, or collateral estoppel;
- (6) withdrawal of the request for hearing by the applicant or recipient;
- (7) failure to appear or participate at the pre-hearing conference or the fair hearing by the applicant or recipient; or
- (8) the matter was successfully resolved through informal resolution or a mediation agreement prior to the hearing.

**J. Cost of a fair hearing.** The NMDVR shall pay the costs of the fair hearing, including the pre-hearing conference. However, the NMDVR shall not be required to pay for any costs related to the representation or travel of the applicant or recipient, or the applicant's or recipient's representative.

**K. Impact on provision of service.** Pending the decision and order of the hearing officer, the NMDVR shall not suspend, reduce, or terminate services being provided under an IPE, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the applicant or recipient or the applicant, as determined by the NMDVR, or recipient requests a suspension, reduction, or termination of services.

**L. Implementation of final decision.** The decision and order of the hearing officer is binding and shall be implemented pending review of any civil action filed with a court of competent jurisdiction. Either party has the right to contest the decision of the hearing officer by bringing a civil action in any state court of competent jurisdiction or in a district court of the United States with competent jurisdiction without regard to the amount in controversy. The civil action shall be brought within 30 calendar days of the hearing officer's final decision and in accordance with New Mexico Rules of Civil Procedure, District Court Rule 1-074.

**M. Cost of civil action litigation.** Each party shall bear its own costs for the civil action including, but not limited to, filing costs and attorney fees. The NMDVR shall not be required to pay for any costs related to the representation or travel of the applicant or recipient or the applicant's or recipient's or recipient's representative.

[6.101.2.10 NMAC - Rp, 9/24/2024]

## **CHAPTER 102: VOCATIONAL REHABILITATION - ANCILLARY SERVICES**

### **PART 1: GENERAL PROVISIONS [RESERVED]**

## **PART 2: INTERPRETER SERVICES FOR THE DEAF AND HARD OF HEARING**

### **6.102.2.1 ISSUING AGENCY:**

State Board of Education.

[12-31-98; 07-30-99; Recompiled 10/31/01]

### **6.102.2.2 SCOPE:**

The provisions of this regulation apply to interpreter services for any deaf person requesting or receiving services from any health, welfare or educational agency under the authority of the state or any political subdivision of the state or municipality, or any administrative or judicial proceeding in which an interpreter would be required for a principal party in interest.

[12-31-98; Recompiled 10/31/01]

### **6.102.2.3 STATUTORY AUTHORITY:**

This regulation is adopted pursuant to Sections 22-14-8 and 38-9-7(C) NMSA 1978.

[12-31-98; Recompiled 10/31/01]

### **6.102.2.4 DURATION:**

Permanent.

[12-31-98; Recompiled 10/31/01]

### **6.102.2.5 EFFECTIVE DATE:**

December 31, 1998.

[12-31-98; Recompiled 10/31/01]

### **6.102.2.6 OBJECTIVE:**

This regulation establishes a fee schedule for interpreters for persons who are deaf and hard of hearing.

[12-31-98; Recompiled 10/31/01]

### **6.102.2.7 DEFINITIONS [RESERVED]**

[Recompiled 10/31/01]

#### **6.102.2.8 PROCEDURE:**

The following procedures will be utilized by the agency in providing interpreter services to deaf and hard of hearing individuals, including staff. Deaf and hard of hearing individuals vary considerably in terms of their receptive and expressive communication skills. Multi-disabled persons such as deaf-blind, deaf-mentally retarded, deaf-cerebral palsy, deaf-spinal injured and deaf-brain injured will have special communication problems presenting major challenges for interpreters. It is essential for the deaf or hard of hearing person to receive the most appropriate interpreter for their individual needs. The agency must, in full consultation with the deaf individual, evaluate the interpreting needs of the person prior to the appointment time. Client choice must be considered a priority as the deaf individual know best what their communication level needs involve.

[12-31-98; Recompiled 10/31/01]

#### **6.102.2.9 STANDARDS FOR INTERPRETERS:**

**A.** Interpreters utilized by the agency shall be certified by the national registry of interpreters for the deaf (RID) or through the state quality assurance (QA) system through the commission for the deaf and hard of hearing (CDHH).

**B.** The CDHH will evaluate the qualifications of interpreters through a quality assurance (AQ) system and will provide the results of these evaluations. The QA system will consist of five levels from level 1 to level 5 with level 5 being the highest certification level. Interpreters with valid RID certifications and those who are non-certified "candidates" will be "grand-fathered in" once the QA system is implemented. For those interpreters who are non-certified, a time limit of six months will be given to take and pass the QA system once the system is implemented. For those who can prove extenuating circumstances exist beyond the interpreter's control, another six months may be allowed. This will be decided by the CDHH at that time. DVR will maintain a list of qualified interpreters and update this list on a quarterly basis. When no approved interpreter is available, an unapproved interpreter may be used, only with prior approval by the state coordinator of deaf services. Family members should not be used as interpreters except in cases of emergency.

[12-31-98; Recompiled 10/31/01]

#### **6.102.2.10 COURTROOM AND LEGAL SITUATIONS:**

Due to the nature of legal and courtroom interpreting, which requires interpreters who are highly skilled and knowledgeable in this field, it is recommended that the court select the most qualified interpreter possible in order to protect consumers who are deaf. Also recommended is the utilization of two or more interpreters in the courtroom for criminal cases to assure communication is accurate.

[12-31-98; Recompiled 10/31/01]

#### **6.102.2.11 FEE SCHEDULE:**

Interpreters who travel less than 75 map miles for the assignment may charge a minimum two hour fee per assignment. The minimum fee is four hours when the interpreting assignment requires traveling 75 plus map miles one way. An interpreter traveling 25 miles or more one way to an assignment may charge mileage. Fee schedules for long-term assignments (e.g. college or vocational training) should be negotiated between the agency and the interpreter. Travel expenses shall be reimbursed at the rates established for New Mexico state employees. For interpreting assignments that are longer than 2 hours, the hiring of more than one interpreter is strongly suggested due to the fatigue level experienced during long assignments.

**A. ALLOWABLE FEE SCHEDULE:** The following is a table listing and describing the various QA and RID certification levels and kinds of interpreting skills along with the allowable fee schedule. An explanation of the RID codes used to describe the various levels is included.

- (1) RID: MCSC, SC:L - \$50 Per Hour
- (2) Level 5 or RID: CSC, CI/CT, CDI (RSC), CDI:P, OIC:C, PSC, SC:PA, CLIP - \$35 Per Hour
- (3) Level 4 or RID: CT OR CI - \$30 Per Hour
- (4) Level 3 OR RID: IT/TC, OIC:VS, OIC:SV - \$25 Per Hour
- (5) Level 2 OR RID: IC OR TC - \$20 Per Hour
- (6) Level 1 or non-certified candidate - \$15 Per Hour

#### **B. LISTING OR RID CERTIFICATIONS:**

- (1) MCSC - Master Comprehensive Skills Certificate
- (2) SC:L - Specialist Certificate: Legal
- (3) SC:PA - Specialist Certificate: Performing Arts
- (4) RSC - Reverse Skills Certificate
- (5) CSC - Comprehensive Skills Certificate
- (6) \* CI - Certificate of Interpreting
- (7) \* CT - Certificate of Transliterating

- (8)** IC - Interpreting Certificate
- (9)** TC - Transliterating Certificate
- (10)** OIC:C - Oral Interpreter Certificate: Comprehensive
- (11)** OIC:S/V - Oral Interpreter Certificate: Spoken to Visible
- (12)** OIC:V/S - Oral Interpreter Certificate: Visible to Spoken
- (13)** EIC - Expressive Interpreting Certificate
- (14)** ETC - Expressive Transliterating Certificate
- (15)** CDI - Certified Deaf Interpreter
- (16)** P= - Provisional

\*CI and CT when held concurrently by the interpreter are equivalent to the former CSC awarded by RID.

[12-31-98; Recompiled 10/31/01]