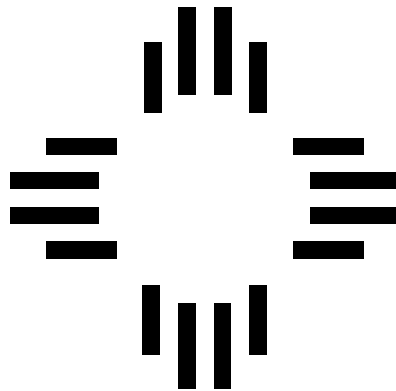


New Mexico Register

Volume XIII, Issue Number 7
April 15, 2002



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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Administrative Law Division
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New Mexico Register

Volume XIII, Number 7

April 15, 2002

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Adopted Rules and Regulations

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." 14-4-5 NMSA 1978

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

Education, Board of

* 6.2.2 NMAC A Operational By-Laws of the Educational Standards Commission..... 395

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* 2.82.12 NMAC N Qualified Excess Benefit Arrangement

* 2.82.4 NMAC A Service Credit

Please note that the (*) entries obey the reformatting rules set forth in 1.24.10 NMAC, effective 2/29/00

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Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail rules@rain.state.nm.us.

Notices of Rulemaking and Proposed Rules

NEW MEXICO CONSTRUCTION INDUSTRIES COMMISSION

Notice is hereby given that the Construction Industries Commission will hold a regular meeting on Friday, May 17, 2002 at 9:30 a.m., at the Main Conference Room of the Regulation and Licensing Department, 725 St. Michael's Drive, Santa Fe, New Mexico. The Commission will consider pending agenda items and discuss such other business as may require formal action by the Commission. Anyone who requires special accommodations is requested to notify the Commission at 725 St. Michael's Drive, Santa Fe, New Mexico 87501 of such needs at least ten days prior to the meeting.

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

OPEN MEETING NOTICE

Chairman, Alan Richardson has announced that a Monthly Board Meeting of the Industrial Training Board will be held as scheduled:

- DATE:** Friday, April 12, 2002
- LOCATION:** Wells Fargo Bank
Larry Willard's Office
Conference Room,
12th Floor
200 Lomas Blvd. NW
Albuquerque, New
Mexico 87102
- TIME:** 9:00 a.m. - 12:00 noon
- PURPOSE:** To review the Industrial Development Training Program's fiscal update and the Board will adopt policy (Title 5, Chapter 5, Part 50).

The Board will address and possibly take action on any other issues related to the Industrial Development Training Program.

For additional information, including a meeting agenda, please contact Therese R. Varela at (505) 827-0323. If you are disabled and require assistance, auxiliary aids and services, (Voice & TDD), and/or alternate formats in order to further your participation, please contact Cynthia Jaramillo, ADA Coordinator at (505) 827-0248. These individuals are employees of New

Mexico Economic Development
Department, 1100 St. Francis Dr., Santa Fe,
NM 87505-4147.

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

STATE BOARD OF FINANCE

NOTICE OF BOARD OF FINANCE RULE

The state Board of Finance is in the process of revising one of its rules: Real Property Purchases, Sales, Leases, Trades or Donations. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial Building, Santa Fe, NM 87501. The Board will consider adopting the proposed rule at its June 11, 2002 meeting. Please mail or deliver written comments on the proposed changes to Scott Stovall, 181 Bataan Memorial Building, Santa Fe, NM 87501 by May 17, 2002.

NEW MEXICO DEPARTMENT OF HEALTH

Notice of Public Hearing Department of Health Regulations

The New Mexico Department of Health will hold a public hearing to consider amending New Mexico Administrative Code Regulation: 7.27.7 NMAC, Trauma Care System. The hearing is scheduled for Thursday, May 16, 2002, beginning at 1:00 PM, at the offices of the Injury Prevention and EMS Bureau, 2500 Cerrillos Rd. in Santa Fe, New Mexico, 87505. A brief summary of the proposed amendments and new regulation are below.

1. Amendments to 7.27.7 NMAC, Trauma Care System. Changes include: renumbering throughout and format changes required by the New Mexico Administrative Code; a few additions and deletions to the definitions; changes for becoming a designated trauma center have gone from a Request For Proposal process to a process of application for trauma center designation through a letter of intent; revision of Trauma Patient Triage Criteria Guidelines; a revised Table for Standards for Level III and Level IV Hospital designation; and minor changes throughout. Proposed effective date is June 1, 2002.

Any person desiring to present testimony at

the hearing shall submit a written statement of intent at least five (5) days prior to the hearing to the address listed below. The statement shall provide the following: name of witness; whom witness represents; whether proponent, opponent, or interested party; brief statement of subject matter of testimony; anticipated length of presentation; identify parts of the amended or proposed regulations objected to, and state proposed substitute language; certify that witness will be available for cross examination by the Secretary or designated hearing officer. Written statements to be incorporated in the public record will also be accepted if submitted five (5) days in advance of the hearings. Statements for the record shall be entitled "Statement for the public record regarding regulation 7.27.7 NMAC, Trauma Care System."

Written statements shall be submitted by the close of business on Monday, May 11, 2002 to the address below. Copies of the proposed regulation may be obtained by calling, writing, or by sending an electronic mail request to the address listed below.

Ms. Cindy Walczak
Injury Prevention and EMS Bureau
2500 Cerrillos Rd.
Santa Fe, NM 87505
Tel: 505-476-7821
E-Mail: cindyw@doh.state.nm.us

NOTICE TO INDIVIDUALS WITH DISABILITIES

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g., sign language interpreter, to participate in the public hearing scheduled for Thursday, May 16, 2002 at 1:00 PM, at the Injury Prevention and EMS Bureau, 2500 Cerrillos Rd. in Santa Fe, NM 87505, please contact the individual listed above by May 11, 2002. TDD or TDY users can access the number via New Mexico Relay Network phone number for Albuquerque TDD users 505-275-7333, or outside Albuquerque 1-800-659-1779. Testimony will be accepted in any form.

**NEW MEXICO
HUMAN SERVICES
DEPARTMENT**

MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 9:30 a.m., on May 7, 2002, at the State Personnel building, small conference room (2600 Cerrillos Road), Santa Fe, New Mexico. The subject of the hearing will be Early & Periodic Screening, Diagnosis & Treatment (EPSDT) Rehabilitation Services Policy.

The EPSDT Licensed Speech and Language Pathologist policy section MAD-746.4, dated January 1, 1995, is being revised and combined with parts of the Rehabilitation Service Providers policy section MAD-767, dated February 1, 1995, to create one comprehensive policy for Rehabilitation Services for individuals under 21 years of age. The policy will include speech and language pathology, occupational therapy and physical therapy services. The revisions will include controlling symptoms and maintenance therapy for all three disciplines. It will also include licensing information. Section MAD-746.4 will be titled EPSDT Rehabilitation Services and section MAD-767 will continue to be used for adult rehabilitation services.

Interested persons may testify or submit written comments no later than 5:00 p.m., May 7, 2002, to Robin Dozier Otten, Secretary-Designate, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review at the local Income Support Division offices or by sending a self-addressed stamped envelope to Medical Assistance Division, Planning & Program Operations Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO
HUMAN SERVICES
DEPARTMENT**

MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 1:30 p.m., on May 7, 2002, at the State Library, Room 2027, (1205 Camino Carlos Rey), Santa Fe, New Mexico. The subject of the hearing will be Changes to Market Basket Index (MBI) to Nursing Facilities.

The New Mexico Human Services Department, Medical Assistance Division, currently allows Nursing Facilities an inflation factor using the Center for Medicare and Medicaid Services (CMS) Market Basket Index (MBI) for years 2 and 3. This register proposes that pursuant to budget availability and at the Department's discretion, the inflation factor will be used and that each July 1st notification will advise providers if the MBI has been approved, or if an MBI or a percentage up to the MBI will not be available for that year.

Interested persons may testify or submit written comments no later than 5:00 p.m., May 7, 2002, to Robin Dozier Otten, Secretary-Designate, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review at the local Income Support Division offices or by sending a **self-addressed stamped** envelope to Medical Assistance Division, Planning & Program Operations Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO
HUMAN SERVICES
DEPARTMENT**

MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 3:00 p.m., on May 10, 2002, at the State Personnel building, small conference room (2600 Cerrillos Road), Santa Fe, New Mexico. The subject of the hearing will be Breast and Cervical Cancer.

The New Mexico Human Services Department will hold a public hearing on proposed regulations to create a new Medicaid category is called the Breast and Cervical Cancer (BCC). Women determined eligible for Medicaid under the BCC program will receive full Medicaid benefits and are exempt from current Managed Care provisions. The proposed regulation covers women who have been screened by a contracted physician for breast or cervical cancer under the CDC National Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service (PHS) act, and identified in need of treatment for breast or cervical cancer. Covered treatment includes pre-cancerous conditions and early stage cancer. Income and resources are not a factor of eligibility for the new proposed Medicaid category.

Interested persons may testify or submit written comments no later than 5:00 p.m., May 10, 2002, to Robin Dozier Otten, Secretary-Designate, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review at the local Income Support Division offices or by sending a self-addressed stamped envelope to Medical Assistance Division, Planning &

Program Operations Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO
DEPARTMENT OF PUBLIC
SAFETY**

ADMINISTRATIVE SERVICES
DIVISION
GRANTS MANAGEMENT BUREAU

**NOTICE
N.M. DEPARTMENT OF
PUBLIC SAFETY
PUBLIC HEARING**

The Department of Public Safety will be holding a public hearing for the sake of receiving comments on proposed amendment revisions to Title 10, Chapter 10, Part 2 of NMAC, the applications procedures governing the Drug Control and System Improvement Formula Grant Program. The hearing will held at 9:00 A.M. on May 1, 2002, at the auditorium of the NM Law Enforcement Academy 4491 Cerrillos Road, Santa Fe, New Mexico.

Proposed amendments to the rule include, but not limited to, changes, additions and clarification of goals, priorities and program purpose areas to be funded.

Copies of the proposed amendments may be obtained by calling David C. Castañeda at 505.827.9060. Comments on these amendments are invited. Oral comments may be made at the hearing, or written comments may be substituted by mail to David C. Castañeda at the Department of Public Safety PO Box 1628, Santa Fe, NM 87594-1628, no later than April 28, 2002. Any individual with a disability, who is in need of a reader, amplifier, or other form of auxiliary aid or service in order to attend or participate in the hearing, should contact Mr. Castañeda at least ten (10) days prior to the hearing.

**NEW MEXICO
DEPARTMENT OF PUBLIC
SAFETY**

MOTOR TRANSPORTATION
DIVISION

NOTICE

**N.M. DEPARTMENT OF PUBLIC
SAFETY
PUBLIC HEARING**

The Department of Public Safety will be holding a public hearing for the sake of receiving comments on proposed amend-

ment revisions to 18.2.3 NMAC, the Motor Carrier Regulation pertaining to Motor Carrier Safety. The hearing will held at 10:00 A.M. on May 2, 2002, at the auditorium of the NM Law Enforcement Academy 4491 Cerrillos Road, Santa Fe, New Mexico.

Proposed amendments to the rule include, but not limited to, changes of definitions and adoptions with some modifications of Part 390.5 of the Code of Federal Regulation (49 CFR).

Copies of the proposed amendments may be obtained by calling David C. Castañeda at 505.827.9060. Comments on these amendments are invited. Oral comments may be made at the hearing, or written comments may be substituted by mail to David C. Castañeda at the Department of Public Safety PO Box 1628, Santa Fe, NM 87594-1628, no later than May 1, 2002. Any individual with a disability, who is in need of a reader, amplifier, or other form of auxiliary aid or service in order to attend or participate in the hearing, should contact Mr. Castañeda at least ten (10) days prior to the hearing.

**NEW MEXICO
DEPARTMENT OF PUBLIC
SAFETY**

LAW ENFORCEMENT ACADEMY
TRAINING & RECRUITING DIVISION

4491 CERRILLOS ROAD
SANTA FE, NM 87507-9721

NOTICE OF NMLEA BOARD MEETING AND PUBLIC HEARINGS

The New Mexico Law Enforcement Academy Board will hold a regularly scheduled Board meeting on Thursday, May 16, 2002, at 9:00 a.m., at New Mexico State University (Corbett Center, 3rd Floor, Dona Ana Room), Las Cruces, New Mexico.

In conjunction with the Board meeting, there will be Public Hearings regarding the following rules:

Subsection K of 10.29.9.14 NMAC (QUALIFICATION COURSE: DAY)

Subsection L of 10.29.9.14 NMAC (QUALIFICATION COURSE: NIGHT)

Subsection A of 10.29.7.8 NMAC (2002- 2003 TRAINING CYCLE)
10.29.4 NMAC (INSTRUCTOR CERTIFICATION)

Copies of proposed plans, standards, requirements, or rules may be

obtained by calling (505) 827-9255.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Darrel Hart, (505) 827-9255, as soon as possible. Public documents can be provided in various accessible formats.

Please contact Darrel Hart if additional information is needed.

**NEW MEXICO TAXATION
AND REVENUE
DEPARTMENT**

NOTICE OF HEARING AND PROPOSED RULES

The Department proposes to adopt the following regulations:

18.19.5.12 NMAC Section 66-5-9 NMSA 1978 Motor Vehicle Code
(Foreign Nationals Applying for Driver's Licenses)

18.19.5.13 NMAC Section 66-5-4 NMSA 1978
(Foreign Nationals May Apply for Licensure)

The Department also proposes to withdraw regulation 18.19.1.10 NMAC to Section 66-1-4.4 NMSA 1978 of the Motor Vehicle Code titled *Tax Identification Number Issued by Internal Revenue Service*.

The proposals were placed on file in the Office of the Secretary on April 5, 2002. Pursuant to Section 9-11-6.2 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about June 14, 2002.

A public hearing will be held on the proposals on Thursday, May 23, 2002, at 9:30 a.m. in the 1st floor auditorium of the Harold Runnels Bldg., 1190 St. Francis Drive, Santa Fe, New Mexico. Auxiliary aids and accessible copies of the proposals are available upon request; contact (505) 827-0908. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before May 23, 2002.

**TITLE 18: TRANSPORTATION
& HIGHWAYS**

**CHAPTER 19: MOTOR VEHICLE PROCEDURES, LICENSES, PERMITS
PART 5: DRIVER'S LICENSE**

18.19.5.12 [ALIENS] FOREIGN NATIONALS APPLYING FOR DRIVER'S LICENSES:

A. ~~[For purposes of applying for and issuing a driver's license, other than a commercial driver's license, the motor vehicle division will consider to be residents those individuals who are not citizens of the United States but who are living in New Mexico. As a means of identifying such individuals, the division will accept passports, visas issued by the United States or the following cards issued by the United States immigration and naturalization service: I-551 "resident alien" card; I-151 "alien registration receipt" card; I-688 "temporary resident" card; I-688A "employment authorization" card; or I-688B "employment authorization" card or the document entitled "matricula consular" issued by the Mexican consulate.]~~ Persons who are not citizens of the United States (foreign nationals) and who are ineligible for a social security number may apply for a driver's license, other than a commercial driver's license, by providing proof of identity, proof they are living in New Mexico and proof they are in the United States legally.

B. ~~[Within thirty days of the date the division is authorized by law to do so, the number of the passport, visa, card or matricula consular may be accepted in lieu of the social security number when the alien does not have a social security account number.]~~ Examples of acceptable proof of the applicant's identity include but are not limited to:

(1) valid passport issued by country of citizenship,

(2) valid documentation issued by the United States immigration and naturalization service (INS) such as, I-551 "resident alien" card, I-151 "alien registration receipt" card, or I-688 "temporary resident" card, and

(3) matricula consular issued by the Mexican consulate in Albuquerque

C. ~~[Any New Mexico driver's license issued to an alien will contain an expiration date not later than the expiration of the visa or card issued by the United States immigration and naturalization service or the expiration date, if any, of the matricula consular issued by the Mexican consulate.]~~ Examples of acceptable proof that the applicant is living in New Mexico include but are not limited to:

(1) documents such as utility bills, rental agreements, current student identification cards, and employment payroll receipts, and

(2) matricula consular issued by the Mexican consulate in Albuquerque.

D. Examples of acceptable documents proving the applicant's legal status in the United States include but are not limited to:

(1) valid passport issued by country of citizenship and a visa issued by the United States, and

(2) valid documentation issued by INS showing legal status

E. In lieu of a social security number the motor vehicle division will use the applicant's unique identifying number in the document evidencing legal status.

F. Any New Mexico driver's license issued to a foreign national will contain an expiration date not later than either the expiration of the documentation proving the applicant's legal status or two years, whichever occurs first. The motor vehicle division shall not issue a driver's license to an applicant whose duration of legal status is less than six months.

G. The motor vehicle division may require foreign nationals applying for a driver's license to provide a certified copy of their driving record with an English language translation of the certified copy from the jurisdiction where the foreign national is currently or was previously licensed.

H. Section 18.19.5.12 NMAC becomes effective within thirty days of the effective date of the provisions of Section 66-5-9(B) NMSA.

[18.19.5.12 NMAC - N, 6/29/01; A, XXX]

**TITLE 18: TRANSPORTATION & HIGHWAYS
CHAPTER 19: MOTOR VEHICLE PROCEDURES, LICENSES, PERMITS
PART 5: DRIVER'S LICENSE**

18.19.5.13 FOREIGN NATIONALS MAY APPLY FOR LICENSURE:

The motor vehicle division will consider persons who are not citizens of the United States but who meet the requirements of Section 18.19.5.12 NMAC as residents of this state for purposes of requiring and issuing driver's licenses, other than commercial driver's licenses.

[18.19.5.13 NMAC - N, XXX]

**TITLE 18: TRANSPORTATION & HIGHWAYS
CHAPTER 19: MOTOR VEHICLE PROCEDURES, LICENSES, PERMITS
PART 1: GENERAL PROVISIONS**

18.19.1.10 [TAX IDENTIFICATION NUMBER ISSUED BY INTERNAL REVENUE SERVICE: A tax identification number issued by the internal rev-

~~enue service to individuals not qualified to be issued a social security number will be accepted by the department in lieu of the social security number in all cases in which reporting a social security number is required under the Motor Vehicle Code, except for purposes of the New Mexico Commercial Driver's License Act]~~
[Reserved]

[3/31/98; 18.19.1.10 NMAC - Rn, 18 NMAC 19.1.10 9/14/00; Repealed, XXX]

**End of Notices and
Proposed Rules Section**

Adopted Rules and Regulations

NEW MEXICO BOARD OF EDUCATION

This is an amendment to 6.2.2 NMAC, Sections 6, 8, 9, 10, 11, 12, 13, 14, and 15.

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 2 STATE BOARD OF EDUCATION COMMISSIONS AND ADVISORY BOARDS PART 2 OPERATIONAL BYLAWS OF THE EDUCATIONAL STANDARDS COMMISSION

6.2.2.1 ISSUING AGENCY:
State Board of Education
[07-30-99; 6.2.2.1 NMAC - Rn, 6 NMAC
3.5.1.1, 11-14-00]

6.2.2.2 SCOPE: This regulation applies to the Educational Standards Commission.
[07-30-99; 6.2.2.2 NMAC - Rn, 6 NMAC
3.5.1.2, 11-14-00]

6.2.2.3 STATUTORY AUTHORITY: This regulation is adopted pursuant to Section 22-2-1, 22-2-2, and 22-2-8 NMSA 1978.
[07-30-99; 6.2.2.3 NMAC - Rn, 6 NMAC
3.5.1.3, 11-14-00]

6.2.2.4 DURATION:
Permanent.
[07-30-99; 6.2.2.4 NMAC - Rn, 6 NMAC
3.5.1.4, 11-14-00]

6.2.2.5 EFFECTIVE DATE:
July 30, 1999, unless a later date is cited at the end of a section.
[07-30-99; 6.2.2.5 NMAC - Rn, 6 NMAC
3.5.1.5 & A, 11-14-00]

6.2.2.6 OBJECTIVE:
A. The New Mexico State Board of Education (SBE), hereby creates an Educational Standards Commission (ESC) whose purpose shall be to advise the Board on issues relating to accountability and educational standards for New Mexico schools.

B. The purposes of the Commission are: a) To establish a consistent, systematic, standardized review process which assures a broad based consensus on issues relating to educational standards; b) To assure that proposals developed for the consideration of the SBE have been thoroughly and objectively examined; c) To establish a structure for recommending procedures to assure school level

accountability for attainment of standards; ~~and~~; d) To collaborate with the New Mexico State Department of Education (SDE) staff on matters pertaining to content standards, benchmarks and best practices; and e) To serve as a hearing board for the New Mexico Accountability System.
[07-30-99; 6.2.2.6 NMAC - Rn, 6 NMAC
3.5.1.6, 11-14-00; A, 04-15-02]

6.2.2.7 DEFINITIONS:
[Reserved]
[07-30-99; 6.2.2.7 NMAC - Rn, 6 NMAC
3.5.1.7, 11-14-00]

6.2.2.8 ORGANIZATION:
Composition of the Commission:
A. The Educational Standards Commission shall consist of nineteen (19) voting members appointed by the SBE according to the following classifications:

(1) ~~Four (4)~~ Five (5) public school classroom teachers, identified as positions 1, 2, 3, ~~and~~ 5, and 14. One of the public school classroom teachers shall be from an approved charter school.

(2) One (1) State Supported Educational Programs administrator or classroom teacher, identified as position 4.

(3) Two (2) school administrative personnel, identified as positions 6 and 7;

(4) One (1) special service personnel, an administrator other than a superintendent or a principal, identified as position 8;

(5) One (1) person employed by a school district representing a non-teaching area, identified as position 9;

(6) One (1) instructor from an institution of higher education, identified as position 10;

(7) One (1) chairperson or dean from a college of education, identified as position 11;

(8) One (1) representative from a post-secondary technical-vocational institution/community college, identified as position 12;

(9) One (1) representative from a nonpublic elementary and/or secondary institution, identified as position 13;

(10) Four (4) lay members representing parents, business, and/or community, identified as positions 15, 16, 17, and 18; and

(11) ~~One (1) classroom teacher union representative, identified as position 14; and~~

~~(12)~~ The State Superintendent of Public Instruction or his/her designee.

B. The SBE shall give due consideration to maintaining the representa-

tive nature of the ESC with regard to race, sex, geographic distribution, membership on professional organizations, and grade level assignments. Each member shall be a resident of New Mexico.

C. Members of the ESC shall be appointed to a three-year term beginning on July 1 of the calendar year in which the appointment is made. Eighteen members will be appointed to three year staggered appointments, with initial appointments of 1, 2, or 3 year terms. The following positions shall be in the first cycle for rotation: positions 1, 2, 3, 8, 13, and 16. Positions 4, 10, 12, 14, 17, and 18 will be in the second cycle for rotation. Positions 5, 6, 7, 9, 11, and 15 will be in the third cycle for rotation.

D. In the event that a member is no longer employed in the classification to which he/she was appointed, leaves the state, or resigns from the ESC, the SBE ~~shall~~ may appoint a successor to serve for the remainder of the term. Except for one ESC member from the SDE, no member shall serve more than two (2) consecutive terms. ESC members with previous service may be considered for re-appointment after one year absence.

E. The SBE may designate an alternate to serve in each of the above listed categories as it deems necessary should the appointee be unable to fulfill his/her term. The alternate shall automatically assume membership on the ESC for the remainder of the term when a vacancy occurs. The SBE may appoint or remove any member or dissolve the ESC through official action.

F. A chairperson and vice-chairperson shall be elected for one (1) year by majority vote of the quorum present at the third regular meeting of the calendar year. SDE staff shall be excluded from serving as chairperson or subcommittee chairperson. The chairperson may not serve more than two (2) consecutive years. In the event the chair becomes vacant, the vice-chairperson will become the chairperson for the remainder of the term. Any vacancy in the vice-chair position shall be filled by election of the membership.

[07-30-99; 6.2.2.8 NMAC - Rn, 6 NMAC
3.5.1.8, 11-14-00; A, 04-15-02]

6.2.2.9 EXECUTIVE COMMITTEE: The Executive Committee shall consist of the Chairperson, Vice-Chairperson, Subcommittee Chairs, the SBE liaison, and the State Superintendent of Public Instruction or his/her designee.
[07-30-99; 6.2.2.9 NMAC - Rn, 6 NMAC
3.5.1.9, 11-14-00; A, 04-15-02]

6.2.2.10 SUBCOMMITTEES

A. The chairperson ~~[shall]~~ may appoint subcommittees in support of Standards for Excellence ~~[for content standards, benchmarks and best practices, Accreditation,]~~ and Accountability.

B. Subcommittee members shall elect a chairperson for that subcommittee who shall inform the ESC of all its meetings through the Director of the Accreditation Unit. The subcommittees shall consist of:

(1) Standards for Excellence: Matters pertaining to educational standards shall include: establishing and reviewing procedures for ongoing review and revision of state level competencies, and coordination, review, and selection of best practices.

(2) ~~[Accreditation: Matters pertaining to accreditation shall include: establishing and reviewing procedures for accreditation of schools based on identified strengths, improvements, legal compliance, and locally determined standards.]~~

~~[(3)]~~ Accountability: Matters pertaining to accountability shall include: establishing and reviewing procedures for the accountability system for New Mexico's schools including, but not limited to: ongoing assessment and evaluation of students, program, and staff; to show what students know and can do as related to standards; and to recommend measurement of performance.

[07-30-99; 6.2.2.10 NMAC - Rn, 6 NMAC 3.5.1.10, 11-14-00; A, 04-15-02]

6.2.2.11 TASK FORCES:

Task forces to study and advise on specific issues may be appointed by the ~~[SBE's Instructional Services Committee]~~ SBE or one of its committees upon recommendation of the ESC.

A. Each task force shall solicit information, gather and evaluate data, and report its findings and recommendations in writing to the ESC.

B. Each task force shall include at least two members of the ESC, one of whom shall serve as chairperson of the task force.

[07-30-99; 6.2.2.11 NMAC - Rn, 6 NMAC 3.5.1.11, 11-14-00; A, 04-15-02]

6.2.2.12 MEETINGS

A. Time and Frequency: The ESC shall meet at least four (4) times annually. Notification of meetings will be given as soon as possible, but at least ten days prior to the day of the meeting. A majority of the currently appointed members of the ESC shall constitute a quorum.

B. Rules and Procedures

(1) A chairperson or vice-chairperson shall preside at all meetings. In the

absence of the chairperson or vice-chairperson, a temporary presiding officer shall be selected by the membership.

(2) Roberts Rules of Order, Newly Revised, shall be the authority on parliamentary procedure at any meeting unless otherwise provided by this regulation.

C. Commission Agenda

(1) An agenda will be formulated by the chairperson, the Director of the Accreditation Unit, the SBE liaison, and the State Superintendent of Public Instruction or his/her designee, and will be distributed to members of the ESC at least ~~[ten]~~ seven days prior to the meeting.

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

(3) Assignment of an agenda item to a subcommittee for further study and recommendations will be by concurrence of a majority of the ESC.

(4) Action on any agenda item may be taken at any time at the discretion of the ESC.

D. Announcement of Meetings

(1) The State Superintendent of Public Instruction will provide reasonable notice to the public, school districts, and appropriate professional associations of meetings of the ESC.

(2) All meetings of the ESC and/or Subcommittees shall be open, except as provided in the Open Meetings Act, Section 10-15-1, et seq., NMSA 1978.

E. Absences: A member who is unable to attend an ESC meeting may not send an alternative or proxy, with the exception of the State Superintendent of Public Instruction, whose designee will have voting rights. Two absences by a member during a calendar year may require a recommendation by the ESC to the SBE's Instructional Services Committee regarding the member's continuation on the ESC.

[07-30-99; 6.2.2.12 NMAC - Rn, 6 NMAC 3.5.1.12, 11-14-00; A, 04-15-02]

6.2.2.13 CHANNELS OF COMMUNICATION

A. Reports to the Board: The ESC chairperson, together with the State Superintendent of Public Instruction or his/her designee and the Director of the Accreditation Unit, will prepare a written or oral report after each meeting and will present it to members of the SBE. Any action by the SBE will be reported to the ESC at the

next meeting.

B. Recommendations from Subcommittees to the Commission: Recommendations from subcommittees for consideration by the ESC must be submitted to the chairperson in writing.

C. Recommendations to the ~~[State Board of Education]~~ SBE

(1) Recommendations to be submitted to the SBE for action shall require a simple majority by the ESC. A minority report may be filed by a group of at least four (4) members of the ESC, and shall be submitted with the majority report.

(2) Final action by the ESC on any item relating to the three subcommittees may not be taken until the matter has been referred to the appropriate subcommittee for action or recommendation to the ESC.

D. Dissemination of Information: Any information disseminated from this body other than to the SBE shall be to promote an understanding of the recommendations to be made to the SBE. The chairperson, or his/her designee, shall be the official spokesperson of the ESC and will, upon request, and with prior approval of the SBE's Instructional Services Committee, represent the ESC before public bodies.

[07-30-99; 6.2.2.13 NMAC - Rn, 6 NMAC 3.5.1.13, 11-14-00; A, 04-15-02]

6.2.2.14 SUPPORT OF THE COMMISSION

A. The Accreditation Unit shall serve as the staff office of the ESC. All communications to the ESC shall be addressed to: Director of Accreditation ~~[Unit, c/o Director]~~, New Mexico State Department of Education, 300 Don Gaspar, [Education Building,] Santa Fe, NM 87501-2786. The Director of the Accreditation Unit shall acknowledge each communique, noting the date of the next meeting of the ESC. Copies of all such communications shall be sent to the State Superintendent of Public Instruction or his/her designated representative to the ESC.

B. Whenever an employee of a school district, institute of higher education, private educational institute, or other public agency is appointed to membership of the ESC, the State Superintendent of Public Instruction shall request of that employer, on behalf of the SBE, that sufficient leave be granted to support the employee's participation on the ESC. ESC members may submit travel claims to the Director of the Accreditation Unit under provisions of the Mileage and Per Diem Act. Such claims will be reviewed by the fiscal Office of the SDE for compliance with state statutes and SDE procedures. Under no condition shall a member claim mileage and per diem from the SDE when

such a claim has been made to another agency.

[07-30-99; 6.2.2.14 NMAC - Rn, 6 NMAC 3.5.1.14, 11-14-00; A, 04-15-02]

6.2.2.15 AMENDMENTS: A two-thirds vote of the ESC membership, discounting any vacancies due to resignation or expiration of term of membership, will be required to propose changes in bylaws. Proposed changes must be introduced thirty (30) days prior to a final vote, and if passed, will be subject to subsequent approval of the SBE.

[07-30-99; 6.2.2.15 NMAC - Rn, 6 NMAC 3.5.1.15, 11-14-00; A, 04-15-02]

NEW MEXICO EDUCATIONAL RETIREMENT BOARD

TITLE 2 PUBLIC FINANCE CHAPTER 82 EDUCATIONAL RETIREMENT PART 12 QUALIFIED EXCESS BENEFIT ARRANGEMENT

2.82.12.1 ISSUING AGENCY: Educational Retirement Board P.O. Box 26129 Santa Fe, New Mexico 87502-0129
[2.82.12.1 NMAC - N, 4-15-2002]

2.82.12.2 SCOPE: This rule applies to employees hired before July 1, 1999, who are not receiving retirement benefits pursuant to Section 22-11-30 or disability benefits pursuant to Section 22-11-37 as of that date, and whose benefits are limited by section 415(b) of the Internal Revenue Code. The preceding sentence shall apply to an employee who is rehired on or after July 1, 1999, if such employee was originally hired before July 1, 1999.
[2.82.12.2 NMAC - N, 4-15-2002]

2.82.12.3 STATUTORY AUTHORITY: The Educational Retirement Act, Section 22-11-1 to 22-11-53, NMSA 1978.
[2.82.12.3 NMAC - N, 4-15-2002]

2.82.12.4 DURATION: Permanent
[2.82.12.4 NMAC - N, 4-15-2002]

2.82.12.5 EFFECTIVE DATE: April 15, 2002, unless a later date is cited as the end of a section.
[2.82.12.5 NMAC - N, 4-15-2002]

2.82.12.6 OBJECTIVE: Establish a "qualified excess benefit arrangement" within the meaning of section 415(m) of the Internal Revenue Code.

[2.82.12.6 NMAC - N, 4-15-2002]

2.82.12.7 DEFINITIONS:

A. "Excess Benefit" means the monthly actuarial equivalent of the difference between the Unrestricted Benefit and the Maximum Benefit.

B. "Maximum Benefit" means the monthly actuarial equivalent of the maximum benefit permitted by section 415(b) of the Internal Revenue Code to be paid to a member or a beneficiary of the member during any Limitation Year.

C. "Limitation Year" means the calendar year.

D. "Unrestricted Benefit" means the maximum monthly retirement benefit payable to a member during any Limitation Year under Section 22-11-30 or 22-11-37, as applicable, determined without regard to the application of section 415(b) of the Internal Revenue Code.

[2.82.12.7 NMAC - N, 4-15-2002]

2.82.12.8 ELIGIBILITY: A member shall be considered eligible for Excess Benefits if the following conditions are met:

A. He or she shall have been hired before July 1, 1999.

B. He or she shall have elected (i) the retirement benefit as provided in Section 22-11-30 or an optional benefit pursuant to Section 22-11-29, or (ii) a disability benefit pursuant to Section 22-11-37.

C. He or she shall not have commenced receiving retirement or disability benefits as of July 1, 1999.

D. The amount of his or her retirement benefit or disability is limited by the application of section 415(b) of the Internal Revenue Code.

E. He or she shall not have elected to participate in an alternative retirement plan established pursuant to Section 22-11-47.

[2.82.12.8 NMAC - N, 4-15-2002]

2.82.12.9 APPLICATIONS: A member or a member's beneficiary who applies to the Director for benefits shall be automatically deemed to have also applied for an Excess Benefit.

[2.82.12.9 NMAC - N, 4-15-2002]

2.82.12.10 COMPUTATION, COMMENCEMENT AND FORM OF EXCESS BENEFIT

A. A member who is receiving retirement benefits in accordance with Section 22-11-29 or 22-11-30 or disability benefits in accordance with Section 22-11-37, or a beneficiary who is receiving survivor benefits following the death of the member, shall be entitled to receive an

Excess Benefit for any month in which he or she receives a monthly retirement or survivor benefit.

B. Any Excess Benefit payable to a member or a beneficiary shall be paid at such time or times and in such a form to the member or the member's beneficiary as the retirement benefit under Section 22-11-29 or 22-11-30 or the disability benefit under Section 22-11-37 is paid. The member or beneficiary shall have the right to receive as a portion of his or her first payment hereunder an amount equal to the sum of the Excess Benefit otherwise payable to him or her since July 1, 1999, had this arrangement been in effect as of July 1, 1999.

[2.82.12.10 NMAC - N, 4-15-2002]

2.82.12.11 SOURCE OF PAYMENTS:

A. The ERB shall pay all benefits arising under the qualified excess benefit arrangement and all costs, charges, and expenses related thereto, but only to the extent that ERB has sufficient funds as derived from contributions made pursuant to Sections 22-11-21 and 22-11-21.1, and except for those costs normally borne by other agencies or offices of the State of New Mexico or its political subdivisions.

B. The ERB may establish a grantor trust within the meaning of sections 671 through 678 of the Internal Revenue Code to pay benefits arising hereunder. In that event, benefits hereunder shall be paid from such trust to the extent permitted under the terms of the trust.

[2.82.12.11 NMAC - N, 4-15-2002]

2.82.12.12 NON-ASSIGNABILITY OF BENEFITS:

Except as specifically provided in the Educational Retirement Act and Subsection B and C of Section 22-11-42, benefits under the qualified excess benefit arrangement shall not be assignable in either law or in equity or be subject to execution, levy, attachment, garnishment, guarantee fund or similar assessment or any other legal process.

[2.82.12.12 NMAC - N, 4-15-2002]

2.82.12.13 AMENDMENT AND TERMINATION:

The ERB may amend or terminate this qualified excess benefit arrangement at any time.

[2.82.12.13 NMAC - N, 4-15-2002]

NEW MEXICO EDUCATIONAL RETIREMENT BOARD

This is an amendment to 2.82.4.8 and 2.82.4.9 of the NMAC.

2.82.4.8 EARNED SERVICE CREDIT:

A. Earned service credit shall be granted for prior employment on the basis of one month of credit for each month worked in regular employment, and when a regular work year consisted of a period of time less than 12 months, such period of time shall be considered a full year.

B. Earned service credit shall be granted for employment after July 1, 1957, on a quarterly basis and a member shall receive one quarter of credit for each calendar quarter in which he has earnings from regular employment. Four calendar quarters if credit shall constitute one year. The calendar quarters of a year shall begin and end as follows: July 1 through September 30; October 1 through December 31; January 1 through March 31; and April 1 through June 30.

C. Members who are granted paid sabbatical leave shall receive one calendar quarter of earned service credit for each quarter in which they receive pay for such leave after July 1, 1957. Members who received pay for sabbatical leave prior to July 1, 1957 shall receive one month of earned service credit for such month during which they received pay for such leave.

D. If a member is granted earned service credit while on paid sabbatical leave and that sabbatical leave is subsequently revoked, with salary payments returned to, or demanded by the administrative unit, under the terms of the leave agreement between the administrative unit and the member, the earned service credit granted during such sabbatical leave shall be revoked.

E. In the event of revocation of earned service credit as provided in Subsection D of 2.82.4.8 NMAC, disposition of contributions made by the member and administrative unit relating to the revoked period of earned service credit shall be as follows:

(1) Administrative unit contributions shall be credited to the administrative unit to be used against future contribution costs.

(2) Before the member contribution shall be disbursed, or credited, the administrative unit shall furnish the Board with proof of the settlement which has been made with the member. Following the

receipt of this proof, the member contributions shall be handled as follows:

(a) If the administrative unit has completed the financial settlement with the member without being reimbursed for member contributions relating to the leave and paid to the Board, the administrative unit shall be granted credit for such member contributions to be used against the future administrative unit contribution costs.

(b) If the administrative unit has been reimbursed by the member for member contributions relating to the leave and paid to the Board, such member contributions shall be paid to the member on a refund voucher separate from any other refund which might be requested by the member.

F. An exchange teacher who is working outside the New Mexico public schools, but who is being paid a regular salary by a "local administrative unit," shall receive earned service credit for such service.

G. Public school nurses whose first employment commenced after July 1, 1957 and prior to June 12, 1959 may acquire earned service credit for such employment if the contributions required by law are made. Such nurses are considered to have been provisional members prior to June 12, 1959.

H. Provisional members who were employed between July 1, 1957 and July 1, 1961 and who were not covered at that time, may receive earned service credit for such service if the contributory requirements set forth in Section 22-11-17 are met, and if such provisional members do not exempt themselves.

I. A provisional member who has exempted himself, may revoke such exemption by filing ERA Form #42 with his employer and by commencing regular contributions to the Educational Retirement Fund on the first day of the month following the filing of ERA Form #42, and earned service credit shall commence on that date.

J. A provisional member who exempted himself during the period July 1, 1957 to July 1, 1961 may receive earned service credit for service rendered prior to July 1, 1957 if he became covered under ERA subsequent to July 1, 1961 in lieu of exemption as provided in Section 22-11-17 as amended July 1, 1961. If a provisional member exempted himself from ERA coverage on or after July 1, 1961, he shall not be entitled to receive earned service credit for service rendered prior to July 1, 1957 by reason of later revoking the exemption or otherwise becoming covered.

K. The Board shall not allow contributory service credit when

token salaries are paid or when gratuitous service is performed. The ERB shall rule on each case involving gratuitous service or token salaries when each case is presented.

L. Notwithstanding Section 22-11-17(B) NMSA, 1978, a member may purchase any or all of the time that the member was exempt from ERA coverage. The cost of purchase shall be as prescribed in Section 22-11-17(C), NMSA, 1978, except that if the member purchases only a portion of the total exempt time, the cost shall be calculated by multiplying the cost of the exempt time by the ratio of time purchased to the total exempt time. Prior service, which was canceled due to the member's exemption, shall be restored in the same proportion as the exempt time purchased to the total exempt time.

M. In the event that a member was neither covered nor exempt from coverage under ERA, the member shall have the right to purchase such service, or portion thereof, at a cost calculated in the same manner as for the purchase of exempt service delineated in Section 22-11-17(C). In such cases, the local administrative unit must pay the employer cost, but only if the member purchases non-covered time.

N. The Board may accept rollover and employer payroll deduction contributions for the restoration of withdrawn earned service credit if the following conditions are met:

(1) The payments must be all or a portion of the member's interest qualified under Section 401(a) of the Internal Revenue Code.

(2) The payments shall contain only tax-deferred contributions and earnings on the contributions. The member and employer must submit satisfactory documentation, releases or indemnification to the Board against any and all liabilities that may be connected with the transfer, verifying that the proposed transfer is a qualifying contribution under the Internal Revenue Code.

(3) Payroll deductions and employer pickups are authorized by the governing body of the ERA employer.

(4) The Board may not accept rollover or employer pickup payroll deduction contributions in excess of the amount required to restore the withdrawn earned service credit.

O. For payments to restore earned service credit which commence on and after January 1, 2002, the Board may accept rollover and transfers if the following conditions are met:

(1) Rollovers must be eligible rollover distributions that are not includible in the income of the member by reason of

Internal Revenue Code sections 402(c), 403(b)(8), 408(d) or 457 (e)(16).

(2) Transfers must be direct trustee-to-trustee transfers from a qualified plan described in Internal Revenue Code section 401(a) or 403(a), an annuity contract described in Internal Revenue Code section 403(b) to the extent permitted by Internal Revenue Code section 403(b)(13), or an eligible plan under Internal Revenue Code section 457(b) to the extent permitted by Internal Revenue Code section 457(e)(13).

(3) The rollovers and transfers shall contain only pre-tax deferred contributions and earnings on the contributions. The member and employer must submit satisfactory documentation, releases, or indemnification to the Board against any and all liabilities that may be connected with the rollover or transfer verifying that the proposed rollover or transfer is permissible under the Internal Revenue Code.

(4) Payroll deduction contributions shall no longer be allowed for the purchase of earned service credit if the contributions would commence on or after July 1, 2002.

(5) The Board may not accept rollovers or transfers in excess of the amount required to restore the withdrawn earned service credit.
[6-30-99; 2.82.4.8 NMAC - Rn, 2 NMAC 82.4.8, 11-30-2001; A, 4-15-2002]

2.82.4.9 ALLOWED SERVICE CREDIT:

A. For the purpose of granting allowed service credit, pursuant to Section 22-11-34A(4) a "public school or public institution of higher learning" in another state, territory, or possession of the United States shall be taken to mean one that is open to the public without regard to race, creed, or color, and such school or institution need not be tax supported. The out-of-state public school shall be accredited by the state in which it is located or another accrediting organization which is recognized by the state. Service credit purchasable pursuant to Section 22-11-34, Paragraph A (4a) shall not include employment as a graduate assistant, teaching assistant or teaching fellow or in any position of a similar nature while the member was enrolled as a student in that institution.

B. The Director shall use the salary information on file with the Board in determining "average annual salary" under Section 22-11-34, Paragraph A (3). If there have been years of service performed by the member for which there are no salaries recorded with the Board, the applicant for military service credit shall be required to furnish reasonable evidence, if

such is available, satisfactory to the Director of the salaries earned during such years. If reasonable evidence of the salaries earned is not available, the Director shall set amounts to be used which, in his opinion, are representative of reasonable annual salaries for periods of time involved for the position held by the applicant at that time.

C. When the actual cost of purchase of military service credit is calculated under Section 22-11-34, Paragraph A (3), the member's last full quarter earned salary and length of service through the last calendar quarter prior to the date on which he makes payment, shall be the last salary annualized and included in determining the overall "average annual salary".

D. Members who were not employed on the effective date of Section 22-11-34, Paragraph A (3), but who have earned service credit and military service, shall have three years after the date of their re-employment in which to consummate purchase of the service credit provided under that section.

E. Members who were employed on the effective date of Section 22-11-34, Paragraph A (3), having no previous military service and who later terminate employment and subsequently serve in the military service and are then re-employed, have three years from the date of such re-employment in which to consummate purchase of the service credit provided under that section.

F. No retirement service credit shall be allowed for military service except for regular active duty in the armed forces of the United States.

G. Purchase of allowed service credit as provided in Section 22-11-34, Paragraph A (3), may be carried out while the member is either employed or unemployed, but may not be carried out while the member is retired.

H. Notwithstanding the provisions of Subsection A of 2.82.3.8 NMAC the "annual salary" to be used in calculating the cost of allowed service credit described in section 22-11-34 (4) shall be an annualized salary. For the purpose of this rule, employment shall be viewed as either full-time or part-time employment, and an annualized salary shall be defined as follows:

(1) For full-time employees: The annual salary as defined in Subsection A of 2.82.3.8 NMAC.

(2) For part-time employees: The total remuneration for the part-time employment divided by the full-time equivalency.

(3) For employees on sabbatical leave: The amount that would have been earned during the entire year had the mem-

ber been on regular assignment. In determining the full-time equivalency of an employee, the Director may refer to the administrative unit's approved budget for the fiscal year under consideration.

I. Prior to the purchase of allowed service credit under Section 22-11-34, Paragraph 4(d), NMSA, 1978, a member must provide satisfactory evidence that the private school was accredited by the State Board of Education at the time of the member's employment.

J. The Board may accept rollover and employer pickup payroll deduction contributions for the purchase of allowed service credit if the following conditions are met:

(1) The payments must be all or a portion of the member's interest qualified under Section 401(a) of the Internal Revenue Code.

(2) The payments shall contain only tax-deferred contributions and earnings on the contributions. The member and employer must submit satisfactory documentation, releases or indemnifications to the Board against any and all liabilities that may be connected with the transfer, verifying that the proposed transfer is a qualifying contribution under the Internal Revenue Code.

(3) Payroll deductions and employer pickups are authorized by the governing body of the ERA employer.

(4) The Board may not accept rollover or employer pickup payroll deduction contributions in excess of the amount required to purchase the allowed service credit.

K. For payments to purchase allowed service credit which commence on and after January 1, 2002, the Board may accept rollover and transfers if the following conditions are met:

(1) Rollovers must be eligible rollover distributions that are not includible in the income of the member by reason of Internal Revenue Code sections 402(c), 403(b)(8), 408(d) or 457 (e)(16).

(2) Transfers must be direct trustee-to-trustee transfers from a qualified plan described in Internal Revenue Code section 401(a) or 403(a), an annuity contract described in Internal Revenue Code section 403(b) to the extent permitted by Internal Revenue Code section 403(b)(13), or an eligible plan under Internal Revenue Code section 457(b) to the extent permitted by Internal Revenue Code section 457(e)(13).

(3) The rollovers and transfers shall contain only pre-tax deferred contributions and earnings on the contributions. The member and employer must submit satisfactory documentation, releases, or indem-

nification to the Board against any and all liabilities that may be connected with the rollover or transfer verifying that the proposed rollover or transfer is permissible under the Internal Revenue Code.

(4) Payroll deduction contributions shall no longer be allowed for the purchase of allowed service credit if the contributions would commence on or after July 1, 2002.

(5) The Board may not accept rollovers or transfers in excess of the amount required to purchase the allowed service credit.

[6-30-99; 2.82.4.9 NMAC - Rn, 2 NMAC 82.4.9, 11-30-2001; A, 4-15-2002]

End of Adopted Rules and Regulations Section

2002
SUBMITTAL DEADLINES AND PUBLICATION DATES

Volume XIII	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 18	March 29
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
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Issue Number 10	May 16	May 31
Issue Number 11	June 3	June 14
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Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
Issue Number 23	December 2	December 13
Issue Number 24	December 16	December 30

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