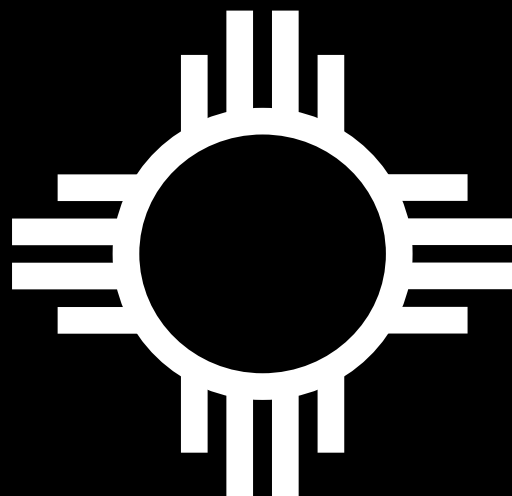


# **NEW MEXICO REGISTER**

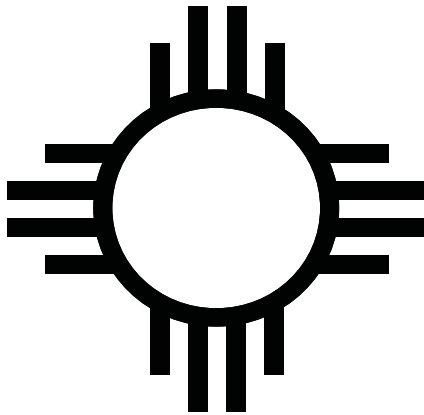


Volume XXI  
Issue Number 2  
January 29, 2010



# **New Mexico Register**

**Volume XXI, Issue Number 2**  
**January 29, 2010**



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

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2010

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# New Mexico Register

Volume XXI, Number 2

January 29, 2010

## Table of Contents

### Notices of Rulemaking and Proposed Rules

<b>Attorney General, Office of the</b>	
Consumer Protection Division	
Notice of Proposed New Rule and Public Hearing . . . . .	39
<b>Environmental Improvement Board</b>	
Notice of Rulemaking Hearing. . . . .	39
<b>Health, Department of</b>	
Scientific Laboratory Division	
Public Rules Notice . . . . .	40
<b>Higher Education Department</b>	
Notice of Public Hearing . . . . .	40
<b>Livestock Board</b>	
Notice of Rulemaking and Adoption of Rule Hearing and Regular Board Meeting . . . . .	40
<b>Naprapathic Practice Board</b>	
Legal Notice; Public Rule Hearing and Regular Board Meeting. . . . .	40
<b>Public Education Department</b>	
Notice of Public Hearing . . . . .	41
<b>Racing Commission</b>	
Notice of Rulemaking and Public Hearing. . . . .	41
<b>Regulation and Licensing Department</b>	
Construction Industries Division	
Notice of Public Hearing . . . . .	41
<b>Water Quality Control Commission</b>	
Notice of Public Hearing to Consider Proposed Amendments to 20.6.2 NMAC - Dairy Rules . . . . .	42
<b>Workforce Solutions, Department of</b>	
Notice of Rulemaking and Public Hearing. . . . .	42

### Adopted Rules

#### 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." Section 14-4-5 NMSA 1978.

*A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered*

<b>Agriculture, Department of</b>		
21.1.2 NMAC	A	Fees for Documents and Services. . . . .
21.18.4 NMAC	A	Seed Standards and Classifications . . . . .
<b>Public Education Department</b>		
6.61.11 NMAC	N	Licensure in Early Childhood Education, Birth - Pre-K . . . . .
6.61.12 NMAC	N	Licensure in Early Childhood Education, Pre-K - Grade 3 . . . . .
6.64.18 NMAC	N	Competencies for Teaching Gifted Students . . . . .
6.60.3 NMAC	A	Alternative Licensure . . . . .
6.60.4 NMAC	A	Licensure Reciprocity. . . . .
6.60.5 NMAC	A	Competency Testing for Licensure. . . . .
6.60.6 NMAC	A	Continuing Licensure for Licensed Educators in New Mexico . . . . .
6.61.2 NMAC	A	Licensure in Elementary Education, Grades K-8. . . . .
6.61.8 NMAC	A	Licensure in Early Childhood Education, Birth - Grade 3 . . . . .
6.61.10 NMAC	A	Teachers of Students with Blindness/Visual Impairment B-12 . . . . .
6.62.2 NMAC	A	Licensure for Educational Administration, Grades Pre K-12. . . . .
6.63.3 NMAC	A	Licensure for Instructional Support Providers Pre K-12
		Not Covered in Other Rules . . . . .

6.63.5 NMAC	A	Licensure for School Psychologists, Pre K-12. . . . .	67
6.68.2 NMAC	A	Denial of Applications for Licenses for School Personnel. . . . .	67
<b>Public Safety, Department of</b>			
Training and Recruiting Division - Law Enforcement Academy			
10.29.7 NMAC	A	In-Service Training Requirements . . . . .	73

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## Notices of Rulemaking and Proposed Rules

### NEW MEXICO OFFICE OF THE ATTORNEY GENERAL CONSUMER PROTECTION DIVISION

#### OFFICE OF THE NEW MEXICO ATTORNEY GENERAL NOTICE OF PROPOSED NEW RULE AND PUBLIC HEARING

Office of the Attorney General  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508  
(505) 827-6000  
[www.nmag.gov](http://www.nmag.gov)

The Attorney General is proposing a new rule addressing requirements for Motor Vehicle sales involving spot delivery. This rule is being promulgated by the authority vested in the Attorney General pursuant to the New Mexico Unfair Practices Act, NMSA 1978, Section 57-12-13 (1967).

The proposed rule is available at the Office of the Attorney General located in the Paul Bardacke Attorney General Complex in Santa Fe located at 408 Galisteo Street, Consumer Protection Division, at the Attorney General's Office located in Albuquerque at 111 Lomas Blvd. NW, Suite 120 or in Las Cruces at 201 North Church Street, Suite 315. The proposed rule is also posted on the Office of the Attorney General's website and may be accessed, free of charge, from the following website:

<http://www.nmag.gov/office/Divisions/CP/RuleProposals/Default.aspx>

To request that a copy of the proposed rule be mailed to you, please submit your request in writing to:

**Office of the Attorney General  
Consumer Protection Division  
Attention: Rebecca Branch  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508**

You may also request a copy of a proposed rule by calling the following telephone number:

**1 (800) 678-1508**

There is a \$.25 copying charge per page for written and telephone requests for copies of the rules. Any person who is or may be affected by this proposed rule and regulation may submit written comments. Written comments concerning the proposed rule may be submitted by mail to:

Office of the Attorney General  
Consumer Protection Division  
Attention: Rebecca Branch  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508

The Office of the New Mexico Attorney General will accept written comments for consideration as provided above no later than March 1, 2010.

### NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

#### NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on April 5, 2010 at 10:00 a.m. in Room 317 at the State Capital in Santa Fe, New Mexico. The purpose of the hearing is to consider the matter of EIB 09-14(R), proposed revisions to Air Quality Control Regulations 20.2.1 New Mexico Administrative Code (NMAC) (General Provisions).

The proponent of this regulatory adoption and revision is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from NMED regarding proposed revisions to 20.2.1 NMAC - *General Provisions* to comply with guidance issued by the U.S. Environmental Protection Agency (EPA) regarding the use of significant figures for calculating and reporting emission rates and concentrations when determining compliance with state and federal emission standards. The NMED will host an informational open house on the proposed revisions to 20.2.1 NMAC at the NMED Air Quality Bureau Office, 1301 Siler Rd, Building B, Santa Fe, New Mexico 87507, from 12:00p.m. - 4:00p.m. on February 23, 2010.

The proposed, revised regulation may be reviewed during regular business hours at the NMED Air Quality Bureau office, 1301 Siler Road, Building B, Santa Fe, New Mexico. Full text of NMED's proposed revised regulation is available on NMED's web site at [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us), or by contacting Gail Cooke at (505) 476-4319 or [gail.cooke@state.nm.us](mailto:gail.cooke@state.nm.us).

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures

- Environmental Improvement Board), the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the Air Quality Control Act Section, 74-2-6 NMSA 1978, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- (3) summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;
- (4) list and describe, or attach, each exhibit anticipated to be offered by that person at the hearing; and
- (5) attach the text of any recommended modifications to the proposed new and revised regulations.

Notices of intent for the hearing must be received in the Office of the Board not later than 5:00 pm on March 19, 2010, and should reference the docket number, EIB 09-14(R), and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Joyce Medina, Board Administrator  
Office of the Environmental Improvement Board  
Harold Runnels Building  
1190 St. Francis Dr., Room N-2150 / 2153  
Santa Fe, NM 87502  
Phone: (505) 827-2425, Fax (505) 827-2836

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with his testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability and needing help

in being a part of this hearing process should contact Judy Bentley by March 19, 2010 at the NMED, Personnel Services Bureau, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone 505-827-9872. TDY users please access her number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed revised regulations at the conclusion of the hearing, or the Board may convene a meeting at a later date to consider action on the proposal.

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## NEW MEXICO DEPARTMENT OF HEALTH SCIENTIFIC LABORATORY DIVISION

### Public Rules Notice

The New Mexico Department of Health will hold a public hearing regarding **7.33.2 NMAC** "Blood and Breath Testing Under The New Mexico Implied Consent Act". The purpose of the hearing is to hear public testimony and comments regarding the proposed changes to the rules. The Hearing will be held on **February 22, 2010 at 9:00 am** in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

A copy of the proposed rules can be obtained from the Scientific Laboratory Division's website, [www.sld.state.nm.us](http://www.sld.state.nm.us) or you can contact:

Nancy Drez  
Scientific Laboratory Division  
P.O. Box 4700  
Albuquerque, NM 87196  
505-841-2583

Please submit any written comments regarding the proposed rules to:  
Nancy Drez  
Scientific Laboratory Division  
P.O. Box 4700  
Albuquerque, NM 87196

The Department will accept public comment through the close of the hearing.

If you are an individual with a disability who wishes to attend the hearing or meeting, please contact Debra Gallegos at 827-1794. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

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## NEW MEXICO HIGHER EDUCATION DEPARTMENT

### NEW MEXICO HIGHER EDUCATION DEPARTMENT

The New Mexico Higher Education Department ("Department") hereby gives notice that the Department will conduct a public hearing in the Mabry Hall, New Mexico Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87505, on March 4, 2010, from 8:00 a.m. to 9:00 a.m.. The purpose of the public hearing will be to repeal 5.55.4 NMAC, Dual Credit. Full text of the Dual Credit Rule may still be accessed at NMPED, 6.30.7 NMAC.

Interested individuals may testify either at the public hearing or submit written comments regarding the proposed rulemaking to Ms. Ally Hudson, P-20 Policy and Programs Division, Higher Education Department, 2048 Galisteo Street, Santa Fe, New Mexico 87505 ([ally.hudson@state.nm.us](mailto:ally.hudson@state.nm.us)) (505) 476-8423 (telefax (505) 476-8453).

Written comments must be received no later than 5:00 pm on March 4, 2010. However, the submission of written comments as soon as possible is encouraged.

The proposed rulemaking action may be accessed on the Department's website (<http://hed.state.nm.us/>) or obtained from Ms. Ally Hudson, P-20 Policy and Programs Division, Higher Education Department, 2048 Galisteo Street, Santa Fe, New Mexico 87505 ([ally.hudson@state.nm.us](mailto:ally.hudson@state.nm.us)) (505) 476-8423 (telefax (505) 476-8453).

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Hudson as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

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## NEW MEXICO LIVESTOCK BOARD

### NEW MEXICO LIVESTOCK BOARD

#### NOTICE OF RULEMAKING AND ADOPTION OF RULE HEARING AND REGULAR BOARD MEETING

**NOTICE IS HEREBY GIVEN** that a rulemaking and adoption of rule hearing and a regular board meeting will be held on Tuesday, February 9, 2010 at the Museum Resources Division, Stuart Udall Center

for Museum Resources; 725 Camino Lejo; Santa Fe, New Mexico 87504 at 9:00 a.m. The Board will adopt rules regarding telephonic meetings, bovine trichomoniasis, health requirements for exhibition swine and other livestock and discuss other matters of general business.

Copies of the rule can be obtained by contacting Myles C. Culbertson, Executive Director, New Mexico Livestock Board, 300 San Mateo NE Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161. Copies of the agenda may be obtained at New Mexico Livestock Board office or by calling (505) 841-6161.

Anyone who requires special accommodations is requested to notify the New Mexico Livestock Board office at (505) 841-6161 of such needs at least five days prior to the meeting.

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## NEW MEXICO NAPRAPATHIC PRACTICE BOARD

### LEGAL NOTICE

#### Public Rule Hearing and Regular Board Meeting

The New Mexico Naprapathic Practice Board will hold a Rule Hearing on Friday, March 12, 2010. Following the Rule Hearing the New Mexico Naprapathic Practice Board will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Naprapathic Practice Board Rule Hearing will begin at 10:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Toney Anaya Building, West Capitol Complex, 2550 Cerrillos Road, Santa Fe, NM in the Hearing Room #2, 2<sup>nd</sup> Floor.

The purpose of the rule hearing is to consider adoption of proposed amendments, repeals and additions to the following Board Rules and Regulations in 16.6 NMAC: Part 3 Fees, Part 4 License Expiration and Renewal, Part 5 Inactive Status, Part 6 Continuing Education, Part 7 Licensure by Endorsement and Examination, Part 9 Supervision of Intern, and Part 10 Naprapathic Assistants.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office after February 12, 2010, you can contact the board office at the Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico 87504, call (505) 476-4980 or copies of the proposed rules are available on the Naprapathy board's website: [www.RLD.state.nm.us/naprapathy](http://www.RLD.state.nm.us/naprapathy).

In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing no later than March 1, 2010. Persons wishing to present their comments at the hearing will need eight (8) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4980 at least two weeks prior to the meeting or as soon as possible.

Kathy Ortiz, Administrator  
PO Box 25101- Santa Fe, New Mexico 87504

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

### NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The New Mexico Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on March 4, 2010, from 10:00 a.m. to 11:00 am. The purpose of the public hearing will be to obtain input on the following rule:

Rule Number	Rule Name	Proposed Action
6.30.7 NMAC	Dual Credit	Amend

Interested individuals may testify at the public hearing or submit written comments to Marcia Knight, New Mexico Public Education Department 300 Don Gaspar, Santa Fe, New Mexico 87501 or ([marcia.knight@state.nm.us](mailto:marcia.knight@state.nm.us)) (telefax (505) 827-1820).

Written comments must be received no later than 5 p.m. on March 4, 2010. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed on the Department's website (<http://ped.state.nm.us>) or obtained from Marcia Knight at the address listed above, or by phone (505) 827-1802. The proposed rules will be made available at least thirty days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Marcia Knight as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

## NEW MEXICO RACING COMMISSION

### NEW MEXICO RACING COMMISSION NOTICE OF RULEMAKING AND PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that the New Mexico Racing Commission will hold a Regular Meeting and Rule Hearing on February 25, 2010. The hearing will be held during the Commission's regular business meeting, beginning at 8:30 a.m. with executive session. Public session will begin at 10:30 a.m. The meeting will be held in the Boardroom at 4900 Alameda Blvd. NE, Albuquerque, New Mexico.

The purpose of the Rule Hearing is to consider adoption of the proposed amendments and additions to the following Rules Governing Horse Racing in New

Mexico No. 15.2.2 NMAC and 15.2.6 NMAC. The comments submitted and discussion heard during the Rule Hearing will be considered and discussed by the Commission during the open meeting following the Rule Hearing. The Commission will vote on the proposed rules during the meeting.

Copies of the proposed rules may be obtained from Julian Luna, Agency Director, New Mexico Racing Commission, 4900 Alameda Blvd NE, Suite A, Albuquerque, New Mexico 87113, (505) 222-0700. Interested persons may submit their views on the proposed rules to the commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the commission of such needs at least five days

prior to the meeting.

Julian Luna  
Agency Director

Dated: January 14, 2010

## NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

### STATE OF NEW MEXICO CONSTRUCTION INDUSTRIES DIVISION of the Regulation and Licensing Department

#### NOTICE OF PUBLIC HEARING

A Public Hearing on proposed amendments to NMAC 14.5.5 - Fees, Reinspection and NMAC 14.6.6 - Journeyman Ratios - will be held at the following locations:

\* **March 1, 2010, 1:00 pm - 4:00 pm: Farmington, NM** - McGee Park Convention Center, 3041 East Main St

\* **March 2, 2010, 9:00 am - 12:00 pm: Albuquerque, NM** - CID Conference Room: 5200 Oakland Ave., NE

\* **March 2, 2010, 9:00 am - 12:00pm: Santa Fe, NM** - CID Conference Room, 2550 Cerrillos Road, 3<sup>rd</sup> Floor

\* **March 3, 2010, 9:00 am - 12:00 pm: Las Cruces, NM** - CID Conference Room, 505 So. Main St., Suite 150

\* **March 4, 2010, 9:00 am - 12:00 pm: Roswell, NM** - City Council Chambers, 425 North Richardson

The draft rule will be available on the Construction Industries Division website: [www.rld.state.nm.us/cid](http://www.rld.state.nm.us/cid) or offices beginning February 9, 2010.

You are invited to attend and express your opinion on these proposed rules changes. If you cannot attend the meeting, you may send your written comments to the Construction Industries Division, 2550 Cerrillos Road, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Fax 505- 476-4685. All comments must be received no later than 5:00 p.m. March 3, 2010.

If you require special accommodations to attend the hearing, please notify the Division by phone, email or fax, of such needs no later than February 22, 2010. Telephone: 505-476-4686. Email: [www.rld@state.nm.us/cid](mailto:www.rld@state.nm.us/cid) Fax No. 505-476-4685.

## NEW MEXICO WATER QUALITY CONTROL COMMISSION

### NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO 20.6.2 NMAC - DAIRY RULES

The New Mexico Water Quality Control Commission (WQCC) will hold a public hearing following an open meeting beginning at 9:00 a.m. on April 13, 2010 and continuing on subsequent days, as necessary, in Room 307 of the State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, to consider proposed amendments to 20.6.2 NMAC. At the hearing, the WQCC will consider specific rules to protect ground water for the dairy industry (Dairy Rules) as required by NMSA 1978, Section 74-6-4(K) (2009) of the Water Quality Act. Under that statutory section, the Water Quality Control Commission is to adopt new rules for the dairy industry "to specify...the measures to be taken to prevent water pollution and to monitor water quality."

The New Mexico Environment Department will propose Dairy Rules in a revised petition to be filed with the WQCC on January 29, 2010. The revised petition will be available at: <http://www.nmenv.state.nm.us/gwb/> and will be considered at the hearing. The proposed Dairy Rules would add definitions, notice, permitting, engineering, operating, monitoring, contingency, closure, record retention, transfer and transition provisions for the dairy industry.

The hearing will be conducted pursuant to NMSA 1978, Section 74-6-6 of the Water Quality Act; the Guidelines for WQCC Regulation Hearings; and the Procedural and Scheduling Orders entered by the WQCC Hearing Officer appointed for this purpose. These documents are available at: <http://www.nmenv.state.nm.us/gwb/>. They may also be obtained electronically or reviewed in person by contacting the WQCC Administrator, Joyce Medina. Persons interested in participating should visit the website listed above or contact Ms. Medina closer to the date of the hearing to be apprised of any changes to these documents. Ms. Medina's contact information is:

Joyce Medina, WQCC  
Administrator,  
1190 St. Francis Dr.,  
PO Box 5469,  
Santa Fe, NM 87502  
Tel: (505) 827-2425  
Fax: (505) 827-2836  
Email: [joyce.medina@state.nm.us](mailto:joyce.medina@state.nm.us)

The WQCC is expected to make a decision

at its regular meeting in either September or October 2010.

#### Technical Testimony:

In order to present technical testimony at the hearing, a person must file a notice of intent to present technical testimony with the WQCC Administrator no later than March 8, 2010. The notice shall:

1. identify the person for whom the witness(es) will testify;
2. identify each technical witness the person intends to present and state the qualifications of that witness including a description of their educational and work background;
3. attach the full direct testimony in writing of each technical witness;
4. include the text of any recommended modifications to the proposed regulatory change; and
5. identify and attach all exhibits to be offered by the person.

#### Participation by the General Public:

Any member of the public may present non-technical testimony and exhibits at the hearing. No prior notification is required. Persons desiring to present non-technical testimony may be heard each day that the hearing continues. The Hearing Officer may provide an opportunity to present such testimony outside normal working hours. A member of the public may submit a written non-technical statement for the record in lieu of oral testimony at any time before the close of the hearing.

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Judy Bentley at least ten days before the hearing date at NMED, Personnel Service Bureau, Room N-4071, 1190 St. Francis Dr., PO Box 5469, Santa Fe, NM 87502 or by telephone at (505) 827-9872. TDY users please access Ms. Bentley's number through the New Mexico Relay Network at 1-800-659-8331.

## NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS

### NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS NOTICE OF RULEMAKING AND PUBLIC HEARING

The New Mexico Department of Workforce (DWS) will hold a public hearing at 10:00 a.m. on February 12, 2010, in the State Purchasing Bid Room, 1st Floor at the Joseph Montoya Building, 1100 St. Francis Dr., Santa Fe, New Mexico to discuss the creation of 11.1.5 NMAC, which will

establish DWS policy on domestic abuse leave. Copies of the proposed rule are available online at <http://www.dws.state.nm.us/pdf/DomesticAbuseLeave.pdf> or upon request to Sherry Crespin at (505) 841-8471.

The hearing will be held before the General Counsel of DWS. All interested parties may attend the hearing and present their views orally or submit written comments prior to the hearing. Written comments must be directed to Clyde DeMersseman, Legal Council, New Mexico Department of Workforce Solutions, 401 Broadway P.O. Box 1928, Albuquerque, New Mexico 87102.

Anyone requiring special accommodations at the hearing must contact the above mentioned Sherry Crespin no later than February 2, 2010

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## End of Notices and Proposed Rules Section

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## Adopted Rules

### NEW MEXICO DEPARTMENT OF AGRICULTURE

This is an amendment to 21.1.2 NMAC, Sections, 2, 6, 7, 9 and 10, effective 01/29/10. The part name is also amended.

#### **PART 2 FEES FOR ~~[LISTS;]~~ DOCUMENTS AND SERVICES**

**21.1.2.2 SCOPE:** Part 2 shall apply to all persons requesting ~~[mailing lists;]~~ special documents, or special services from the New Mexico department of agriculture, division of agricultural and environmental services or one of the division's ~~[bureaus]~~ sections.

[7/1/97; 21.1.2.2 NMAC - Rn, 21 NMAC 1.2.2, 05/29/09; A, 01/29/10]

**21.1.2.6 OBJECTIVE:** The objective of Part 2 of Chapter 1 is to establish fees for ~~[requested lists and]~~ services plus certain documents issued by the New Mexico department of agriculture, division of agricultural and environmental services. [7/1/97; 21.1.2.6 NMAC - Rn, 21 NMAC 1.2.6, 05/29/09; A, 01/29/10]

#### **21.1.2.7 DEFINITIONS:**

A. "Division" means the division of agricultural and environmental services and its ~~[bureaus]~~ sections within the New Mexico department of agriculture.

~~[B. "Mailing list" means any list of persons licensed by the division. Each category or subcategory of licensee shall constitute a separate mailing list. Lists compiled by county shall constitute a separate mailing list for each county requested.]~~

~~[C.]~~ B. "Request for service" means any written or oral request by any public or private entity for services, ~~[mailing lists;]~~ or documents not routinely provided by the division as part of its official regulatory responsibilities or determined to be for the personal or commercial benefit of the person making the request.

[7/1/97; 21.1.2.7 NMAC - Rn, 21 NMAC 1.2.7, 05/29/09; A, 01/29/10]

#### **21.1.2.9 FEE SCHEDULE:**

A. All fees for ~~[lists;]~~ documents, or services rendered are due and payable at the time they are ordered or when billing is received, as appropriate. Failure to pay for either documents or services shall result in withholding all further services by the division until outstanding amounts are paid in full by cashier's check or money order.

B. Per diem at standard rates, hourly wages, and mileage charges may be assessed in addition to fees charged for documents when the use of New Mexico department of agriculture personnel is required to inspect or draw samples of a particular agricultural commodity for laboratory analysis as a prerequisite to preparation of the documents. Per diem, wage, and mileage charges ~~[with]~~ may be portal to portal- the time and distance traveled to perform the service and return. In addition, per diem at standard rates or other expenses for materials or shipping incurred as a result of providing special inspections or commodity sampling may be charged when applicable. These other expenses will be charged at actual cost.

C. The following fees shall apply:

~~[(1) printed mailing lists - \$35.00.~~

~~(2) printed mailing labels - \$50.]~~

~~[(3) (1) Certificates of inspection - \$2 per 100] \$5 per certificate.~~

~~[(4) certificate of origin for in-shell pecans - \$2 per form.]~~

~~[(5) (2) Federal phytosanitary certificate - not to exceed federal charges (certificate only; inspection and laboratory fees may be charged in addition to fees charged for certificates).]~~

~~[(a) Shipper is an employee of a university or state/federal laboratory or agency and the commodity is involved in a work-related project or program - "no charge."~~

~~[(b) Shipper is a current licensee under the New Mexico Plant Protection Act and commodity does not involve any threatened or endangered species or products made from them - "no charge."~~

~~[(c) Shipper does not meet criteria (a) or (b) above; waybill or invoice indicated that the total dollar amount of the commodity(ies) involved in the shipment is less than or equal to \$1,250 - \$19 each certificate.~~

~~[(d) Exporter shipping commodities under natural resource conservation service programs and possessing a pertinent copy of form RC-269-A, FORWARDING NOTICE - \$19 per certificate. The volume, weight or unit number of the commodity recorded on form KC-269-A must correspond to what is recorded on PPQ Forms 572 and 577; shipper must meet other paperwork requirements as detailed in most recent USDA phytosanitary notes.~~

~~[(e) Shipper does not meet criteria (a) through (d) above; waybill or invoice indicates that the total dollar amount of the commodity(ies) involved in the shipment is more than \$1,250 - \$30 each certificate.]~~

~~[(6) (3) State phytosanitary~~

certificates and state certificates of origin - ~~[\$5] \$15~~ per certificate (either fully or partially completed by New Mexico department of agriculture staff).

~~[(7) (4) Faxing of either state or federal certificates prepared by [NMDA] New Mexico department of agriculture to any destination requested by the shipper or consignee - \$5 per page.~~

~~[(8) (5) Special local need 24(c) registrations - \$35 each.~~

~~[(9) (6) Section 18 exemption from federal registration, preparation and submission - \$350 each.~~

~~[(10) (7) Laboratory analysis:~~

~~[(a) nematode analysis - \$25/ sample:~~

~~(b) bee identification - \$25/sample:~~

~~(i) insect identification - \$25/sample:]~~

~~[(ii) (a) pesticide formulation - \$150 per active ingredient.~~

~~[(iii) (b) tank mix samples - \$150 per active ingredient.~~

~~[(iv) (c) residue samples - \$300 per active ingredient.~~

D. For request for service not specifically covered by this rule, the division may charge a fee not to exceed the cost of providing the service as determined by the division director.

[7/1/97; 21.1.2.9 NMAC - Rn, 21 NMAC 1.2.9, 05/29/09; A, 01/29/10]

#### **21.1.2.10 WAIVER OF FEES:**

The division director may waive any or all fees if in ~~[his]~~ the division director's opinion the public interest would be served by exempting the party from the fee, or the fee is incidental to the cost of providing the service.

[7/1/97; 21.1.2.10 NMAC - Rn, 21 NMAC 1.2.10, 05/29/09; A, 01/29/10]

### NEW MEXICO DEPARTMENT OF AGRICULTURE

This is an amendment to 21.18.4 NMAC, Section 14, effective 01/29/10.

**21.18.4.14 S E E D CERTIFICATION AGENCY:** ~~[The New Mexico crop improvement association]~~ New Mexico state university seed certification is hereby designated to be the seed certification agency for the state.

[7/1/97; 21.18.4.14 NMAC - Rn, 21 NMAC 18.4.14, 05/29/09; A, 01/29/10]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

### TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 61 SCHOOL PERSONNEL - SPECIFIC LICENSURE REQUIREMENTS FOR INSTRUCTORS 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 - N, 01-29-10]

**6.61.11.2 SCOPE:** All persons  
seeking licensure in early childhood  
education, birth - pre-K.  
[6.61.11.2 NMAC - N, 01-29-10]

**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 - N - 01-29-10]

**6.61.11.4 DURATION:**  
Permanent  
[6.61.11.4 NMAC - N, 01-29-10]

**6.61.11.5 EFFECTIVE DATE:**  
January 29, 2010 unless a later date is cited  
in the history note at the end of a section.  
[6.61.11.5 NMAC - N, 01-29-10]  
[This rule is filed effective January 29, 2010,  
applicants will not be accountable for the  
requirements of this rule, which will not be  
implemented until July 1, 2014.]

**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  
- age 4 years, whether they are developing  
either typically or atypically.  
[6.61.11.6 NMAC - N, 01-29-10]

**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 aides 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  
- two (0-2) 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 (2) 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 - twenty-one (3-21).  
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 - two (0-2) 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  
aides, 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 - N, 01-29-10]

### 6.61.11.8 REQUIREMENTS:

All persons who perform instructional  
services in early childhood education (i.e.,  
birth - four (0-4) 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 1986, the following:

(a) twelve (12) semester hours in  
English;

(b) twelve (12) semester hours  
in history including American history and  
western civilization;

(c) six (6) semester hours in  
mathematics;

(d) six (6) semester hours in  
government, economics, or sociology;

(e) twelve (12) semester hours in science, including biology, chemistry, physics, geology, zoology, or botany;

(f) six (6) semester hours in 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 fifteen (15) semester hours, six (6) of which would be practicum or supervised field experience nine (9) semester hours of student teaching component in early childhood education for one of the following ranges: birth - four (0-4) years of age with children who are developing either typically or atypically; and

(a) earn at least one hundred thirty-five (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 (3) years of documented, verified, satisfactory work experiences with at least two (2) 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 (6) 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 - N, 01-29-10]

**6.61.11.9 D E L A Y E D IMPLEMENTATION:** Despite the effective date of this rule, no licensure under this rule will be available for issuance by the PED until on or after July 1, 2014.  
[6.61.11.9 NMAC - N, 01-29-10]

**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 - four (0-4) 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 - eight (0-8) 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 out doors.

(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 on-going 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, on-going 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 on going

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 on-going 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 - eight (0-8) 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 - four (0-4) 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 (4).

(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 - four (0-4) 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, 01-29-10]

## **HISTORY OF 6.61.11 NMAC: [RESERVED]**

## **NEW MEXICO PUBLIC EDUCATION DEPARTMENT**

### **TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 61 SCHOOL PERSONNEL - SPECIFIC LICENSURE REQUIREMENTS FOR INSTRUCTORS 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 - N, 01-29-10]

**6.61.12.2 SCOPE:** All persons seeking licensure in early childhood education, pre-K - grade 3.

[6.61.12.2 NMAC - N, 01-29-10]

**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 - N - 01-29-10]

**6.61.12.4 DURATION:** Permanent

[6.61.12.4 NMAC - N, 01-29-10]

**6.61.12.5 EFFECTIVE DATE:** January 29, 2010, unless a later date is cited in the history note at the end of a section.

[6.61.12.5 NMAC - N, 01-29-10]

[This rule is filed effective January 29, 2010, applicants will not be accountable for the requirements of this rule, which will not be implemented until July 1, 2014.]

**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 3 - grade 3 whether they are developing either typically or atypically.

[6.61.12.6 NMAC - N, 01-29-10]

### **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 aides 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 - two (0-2) 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 (2) 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 - twenty-one (3-21). 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 - two (0-2) 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 aides, 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 3 - 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 - N, 01-29-10]

**6.61.12.8 REQUIREMENTS:** All persons who perform instructional services in early childhood education (i.e., age 3 - 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 1986, the following:

(a) twelve (12) semester hours in English;

(b) twelve (12) semester hours in history including American history and western civilization;

(c) six (6) semester hours in mathematics for candidates who entered a college or university prior to the fall semester of 2009, and nine (9) semester hours in mathematics for candidates who entered a college or university in or after the fall semester of 2009;

(d) six (6) semester hours in government, economics, or sociology;

(e) twelve (12) semester hours in science, including biology, chemistry, physics, geology, zoology, or botany;

(f) six (6) semester hours in 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 fifteen (15) semester hours, six (6) of which would be practicum or supervised field experience and nine (9) semester hours of student teaching component in early childhood education for one of the following age ranges: age 3 - grade 3 with children who are developing either typically or atypically; and

(a) earn at least one hundred thirty-five (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 (3) years of documented, verified, satisfactory work experiences with at least two (2) 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 (6) 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 - N, 01-29-10]

**6.61.12.9 D E L A Y E D IMPLEMENTATION:** Despite the effective date of this rule, no licensure under this rule will be available for issuance by the PED until on or after July 1, 2014.

[6.61.12.9 NMAC - N, 01-29-10]

**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 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 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 3 - 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 - eight (0-8) 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 on-going 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, on-going 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 on going 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 on-going 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 - eight (0-8) 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 (3) dimensional objects;

(iii) measurement of length, perimeter, area, time, weights, and temperature;

(vi) 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 (4) 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 3 - 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 - N, 01-29-10]

## **HISTORY OF 6.61.12 NMAC: [RESERVED]**

## **NEW MEXICO PUBLIC EDUCATION DEPARTMENT**

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

### **CHAPTER 64 SCHOOL PERSONNEL - COMPETENCIES FOR LICENSURE**

### **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]

## **HISTORY OF 6.64.18 NMAC: [RESERVED]**

## **NEW MEXICO PUBLIC EDUCATION DEPARTMENT**

This is an amendment to 6.60.3 NMAC, Section 8, effective 01-29-10.

### **6.60.3.8 REQUIREMENTS FOR ALTERNATIVE TEACHING LICENSURE:** To receive a level 1, five-year alternative teaching license, an applicant must meet the following requirements:

A. Degree requirements - An applicant for alternative licensure must meet the provisions of Subsection A, Paragraphs (1), (2) or (3):

(1) must possess a bachelor of arts or science degree from a regionally accredited college or university including completion of a minimum of thirty semester hours of graduate or undergraduate credit in a particular field that appertains and corresponds to the subject area of instruction and level of instruction that will enable the applicant to teach in a competent manner as determined by the PED; or

(2) must possess a master of arts or science degree from a regionally accredited college or university including completion of a minimum of twelve graduate credit hours in a particular field that appertains and corresponds to the subject area of instruction and level of instruction that will enable the applicant to teach in a competent manner as determined by the PED; or

(3) must possess a doctor's degree from a regionally accredited college or university; the degree shall correspond to the subject area of instruction and particular grade level that will enable the applicant to teach in a competent manner as determined by the PED.

B. Professional teacher education requirements - An applicant for alternative licensure who has earned at least a baccalaureate degree from a regionally accredited college or university but has never completed an educator preparation program must meet the provisions of Paragraphs (1), (2), or (3) or (4) of this subsection.

(1) Persons seeking either early childhood birth-grade 3, elementary K-8, or special education pre K-12 licensure, must complete various semester hours of credit earned through a regionally accredited college or university that has a PED-

approved alternative licensure program containing no less than twelve (12) nor more than twenty-one (21) semester hours of credit and meeting the following criteria:

(a) the credits must include six (6) semester hours of coursework in the teaching of reading; and

(b) the credits must include the PED competencies for entry level teachers that correspond to the license being sought; and

(c) the credits must be in a program approved by the PED; and

(d) the program must include a student teaching or field-based component.

(2) Persons seeking either middle level 5-9, secondary 7-12 or specialty area pre K-12 licensure, must complete various semester hours of credit earned through a regionally accredited college or university that has a PED-approved alternative licensure program containing no less than twelve (12) nor more than eighteen (18) semester hours of credit and meeting the following criteria:

(a) the credits must include three (3) semester hours of coursework in the teaching of reading; and

(b) the credits must include the PED's competencies for entry level teachers that correspond to the license being sought; and

(c) the credits must be in a program approved by the PED; and

(d) the program must include a student teaching or field-based component.

(3) Beginning February 1, 2007, successfully demonstrate the PED's approved competencies for entry level teachers that correspond to the license being sought by presenting for assessment by trained reviewers an internet web-based online portfolio which contains all of the components and fulfills all of the requirements described in Paragraph (3) of Subsection B of 6.60.3.8 NMAC. Such applicants shall also complete the reading coursework as set forth at Paragraphs (1) or (2) of this subsection and serve as the teacher of record for a full school year prior to being granted a portfolio review. Under no circumstance shall an individual be granted a portfolio review unless that person has passed all sections of the current PED required New Mexico teacher licensure tests in 6.60.5 NMAC, completed all required reading coursework and submitted verification from administration of the public school, charter school, accredited private school that the individual has been the teacher of record for at least one full school year. Teachers employed in New Mexico public schools, charter schools, accredited private schools who already hold standard teaching licensure at levels 1, 2, or 3-A, may obtain additional licensure in early childhood education, elementary education,

middle level education, pre K-12 specialty area education, secondary education, or special education by submitting an alternative licensure portfolio as long as they demonstrate the teaching competencies in 6.69.14 NMAC for the new license at the same level as their existing license or licenses.

(a) The portfolio shall include evidence of teaching competence that is collected from actual teaching experience as the teacher of record with pre K-12 students while the candidate is employed or works as the teacher of record in a New Mexico public, charter, private school or other early childhood, elementary, middle level or secondary educational setting. The portfolio shall be organized in the following five strands, with strands a, b and c presented together for review:

(i) an instruction strand that demonstrates knowledge of academic content, curriculum development, instructional planning, student assessment and appropriate use of technology and which includes specific evidence of: student achievement; and assessment techniques and procedures; and instructional plans and materials; and examples of student work and performance; and evidence of effective classroom management strategies and procedures; and evidence of implementation of state curriculum standards; and

(ii) a student learning strand that demonstrates knowledge of child or adolescent growth and development, classroom management techniques, communication skills and addressing the needs of diverse student needs and inclusion and which includes specific evidence of: adaptations/modifications for diverse learners; and classroom observation reports; and evidence of communication with students and parents;

(iii) a professional learning strand that demonstrates knowledge of professional growth and development and how the candidate works productively with parents, community and colleagues and which includes specific evidence of: collaboration with professional community; or research undertaken to improve classroom practice; and

(iv) verification by the superintendent of a public school district or other education employer or supervisor, that the work product in the portfolio is that of the candidate and that the data submitted is reasonable and accurate, that the candidate has served as the teacher of record for one full school year by the time of submission of the portfolio; and

(v) the recommendation of a public school superintendent or other education employer or supervisor, that based on local evaluations that the candidate be granted a level 1 alternative license.

(b) Unless special accommodations are requested in writing to PED 30 days in advance of portfolio submission, the portfolio and associated fees in Subsection E of 6.60.7.8 NMAC shall be submitted electronically through the online portfolio submission system following procedures established by the PED.

(c) The portfolio shall be assessed for authenticity by the superintendent of the candidate's school district, (superintendent designee) or equivalent administrative officer of a school and shall be reviewed for demonstration of entry-level teacher competencies by three independent reviewers, as follows:

(i) The superintendent or equivalent school administrator shall complete the verification and recommendation strands in items (iv) and (v) of Subparagraph (a) of Paragraph (3) of Subsection B of 6.60.3.8 NMAC and the independent reviewers will rate the three competency strands in items (i) - (iii) of Subparagraph (a) of Paragraph (3) of Subsection B of 6.60.3.8 NMAC as "meets" or "does not meet" the competencies.

(ii) The three competency strands of a candidate's portfolio must be rated as "meets" by at least two reviewers and the verification and recommendation strands completed by the superintendent (superintendent designee) or equivalent administrative officer or a school must indicate verification authenticity, recommendation for licensure and verification of full school year experience in order for a candidate to be granted a level 1 alternative license.

(iii) If one of the independent reviewers rates any of the three competency strands as "meets" and the other reviewer rates the same strand as "does not meet," the rating will remain as "does not meet"; if two of the reviewers rate any of the three competency strands as "meets" and the third reviewer rates a strand as "does not meet", the strand will remain as "meets" for that strand.

(iv) The director of professional licensure at the PED will evaluate the ratings of the superintendent or equivalent school administrator of a school along with the ratings of the independent reviewers and shall approve or deny the candidate's application for level 1 alternative licensure.

(v) A candidate who does not successfully demonstrate the competencies in all three strands in items (i) - (iii) of Subparagraph (a) of Paragraph (3) of Subsection B of 6.60.3.8 NMAC may submit any failed strand one time as long as the resubmission is completed within one calendar year of the date of the original submission.

(vi) A candidate's

employing school or school district must act on strands in item (iv) - (v) of Subparagraph (a) of Paragraph (3) of Subsection B of 6.60.3.8 NMAC within 45 calendar days of the date of the portfolio submission or resubmission of any failed strands. Failure of an administrator to complete the process could cause the portfolio to become null and void.

(4) Demonstrate the PED's approved competencies for entry level teachers that correspond to the license being sought by way of evaluations conducted by a local school district over a period of at least two full school years as the teacher of record as part of a PED-approved school-based or statewide teacher preparation program that provides the professional development that is required to support a highly qualified teacher candidate for level 1 alternative licensure as defined in this rule. The professional development program shall be developed in collaboration with a college, university, or other professional development provider. Such applicants shall also complete the reading courses set forth at Paragraphs (1) or (2) of this subsection prior to being recommended for licensure by a local school district. Under no circumstance shall an individual be recommended for licensure by a local school district unless that person has passed all sections of the current PED-required New Mexico teacher test and serve as the teacher of record for at least one full school year.

C. Professional teacher education requirements - An applicant for alternative teaching licensure who has earned a post-baccalaureate degree and has at least five years of teaching experience at the post-secondary level ~~[but has never completed a teacher preparation program]~~ must meet the provisions of Paragraphs (1) or (2) and (3) and (4) of this subsection.

(1) Persons seeking either early childhood B-3, elementary K-8, or special education pre K-12 licensure, must complete six (6) semester hours of coursework in the teaching of reading earned through a regionally accredited college or university.

(2) Persons seeking either middle level 5-9, or secondary 7-12 licensure, must complete three (3) semester hours of coursework in the teaching of reading earned through a regionally accredited college or university.

(3) Complete an internship of at least one full school year while holding an internship license and working as a teacher in a school district, charter school, private school or state agency education program.

(4) Upon completion of the requirements in Subsections A, ~~[D;]~~ and E; and Paragraphs (1) - (3) of Subsection C of 6.60.3.8 the candidate for alternative teaching licensure who has met PED-approved competencies as verified to the

PED by the candidate's employer will be issued an alternative license as follows:

(a) level 2 for the teacher who has at least five years post-secondary teaching experience;

(b) level 3-A for the teacher who has at least six years post-secondary teaching experience.

D. Testing requirements: Except as provided in Paragraph (2) of Subsection C of 6.60.5.8 NMAC, an applicant for alternative licensure must pass all of the New Mexico teacher assessments including any applicable content knowledge assessment required by 6.60.5 NMAC, prior to receiving alternative licensure at any level.

E. An applicant for alternative teaching licensure must be a highly qualified, beginning early childhood, elementary, middle level, secondary, pre K-12, or special education teacher, or be a highly qualified beginning middle or junior high school teacher holding alternative elementary K-8 licensure.

[6.60.3.8 NMAC - Rp, 6.60.3.8 NMAC, 10-31-07; A, 01-29-10]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.60.4.NMAC, Section 8, effective 01-29-10.

### 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 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 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 [for at least seven (7) full school years] 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 for seven (7)] 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]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.60.5 NMAC, Sections 8 through 15, effective 01-29-10.

**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 ~~[New Mexico teacher assessments]~~ 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 beginning with the testing date in September, 2004)]~~ (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 ~~[content knowledge assessment]~~ 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 ~~[content knowledge assessment]~~ 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 ~~[content knowledge assessment(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 ~~[content knowledge assessment]~~ 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 ~~[content knowledge assessment(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 ~~[content knowledge assessment(s)]~~ 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 ~~[content knowledge assessment]~~ 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 ~~[content knowledge assessment(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 ~~[an endorsement in modern, classical and native languages (Spanish)]~~ 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 ~~[department]~~ 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 of 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.

(8) Individuals seeking access to the alternative assessment are required to complete the basic skills portion of the NMTA with modifications after requesting alternative testing arrangements. The PLB at the PED will assist eligible candidates in submitting requests for alternative testing arrangements.

(9) 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.

(10) 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.

(11) 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]

#### **[6.60.5.10] 6.60.5.11 SAVING S 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 [national teachers examination] 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]

**[6.60.5.11] 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]

**[6.60.5.12] 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 ~~[section 13 of 6.60.5 NMAC]~~ 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]

**[6.60.5.13] 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]

**[6.60.5.14] 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]

**NEW MEXICO PUBLIC EDUCATION DEPARTMENT**

This is an amendment to 6.60.6 NMAC, Sections 9 and 10, effective 01-29-10.

**6.60.6.9 REQUIREMENTS FOR ADVANCEMENT AND RENEWAL OF TEACHING LICENSES:**

A. A teacher holding a valid level 1 license and seeking a level 2 license pursuant to the provisions of this rule shall meet the following requirements, which may not be waived or substituted by any other experience:

(1) complete three full school years of teaching experience as the teacher of record at standard level 1 New Mexico licensure with successful annual evaluations, except that a teacher who has completed two full school years of teaching experience while holding standard teaching licensure in New Mexico or in another state or country or has obtained level 1 New Mexico

teaching licensure through reciprocity in 6.60.4 NMAC and is seeking advancement to level 2 may be required by a local New Mexico school district to complete up to two full years of teaching experience in New Mexico before being eligible for licensure advancement to level 2 except that a person who has completed one full school year of teaching in another state or country must teach for two full school years under standard level 1 New Mexico licensure; and

(2) submit, in a form acceptable to the director, a completed licensure application and either a professional development dossier (PDD), as provided in 6.69.4.11 NMAC or certification from the national board for professional teaching standards, and beginning in 2005, where the PDD 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 PDD approval dependent upon the completion of three full years of teaching experience at level 1 licensure. Dossiers may be submitted only between the following dates:

(a) for school year 2009/2010, October 15, 2009 and March 31, 2010;

(b) for school year 2010/2011, July 15, 2010 and March 31, 2011;

(c) for all subsequent years, July 15 and March 31;

(3) complete the mentorship requirement for beginning teachers in 6.60.10 NMAC.

B. A teacher holding a valid level 2 license and seeking a level 3-A license pursuant to the provisions of this rule shall meet the following requirements, which may not be waived or substituted by any other experience:

(1) complete three full school years of teaching experience as the teacher of record at standard level 2 New Mexico licensure with successful annual evaluations, except that a teacher who has four or more full school years of teaching experience while holding standard teaching licensure in New Mexico or in another state or country or has obtained level 2 New Mexico teaching licensure through reciprocity in 6.60.4 NMAC and who is seeking advancement to level 3-A may be required by a local New Mexico school district to complete up to two full years of teaching experience in New Mexico before being eligible for licensure advancement to level 3-A; and

(2) hold a post-baccalaureate degree from a regionally accredited college or university or hold certification from the national board for professional teaching standards; and

(3) submit, in a form acceptable to the director, a completed licensure application and either a professional development dossier (PDD), as provided in 6.69.4.11 NMAC or certification from

the national board for professional teaching standards, and beginning in 2005, where the PDD may be submitted up to three months in advance of the completion of the requirement in Paragraph (1) of Subsection B of 6.60.6.9 NMAC with final PDD approval dependent upon the completion of three full years of teaching experience at level 2 licensure. Dossiers may be submitted only between the following dates:

(a) for school year 2009/2010, October 15, 2009 and March 31, 2010;

(b) for school year 2010/2011, July 15, 2010 and March 31, 2011;

(c) for all subsequent years, July 15 and March 31;

C. A teacher holding a valid level 2 or level 3-A teaching license and seeking licensure renewal at the same level as the current license shall meet the requirements of either (1) or (2) below:

(1) If renewing a license through the PED, submit, along with the fee specified in 6.60.7.8 NMAC, a completed application for licensure renewal to the director and verification from the superintendent of the local school district or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the applicant has satisfactorily demonstrated the competencies for the current level of licensure and has met other requirements of the high objective uniform standard of evaluation for the current level of licensure as evidenced by the teacher's annual evaluations.

(2) If renewing a license through a local New Mexico school district, state institution, charter school, or private school, complete the PED's application for licensure renewal. The employing school district, charter school, state institution, or private school shall attach to the application the PED's verification by the superintendent of the local school district or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the applicant has satisfactorily demonstrated the competencies for the level of licensure sought and has met other requirements of the high objective uniform standard of evaluation for the level of licensure as is evidenced by the teacher's annual evaluations. These documents will be maintained on file in the teacher's personnel file in the local school district, state institution, charter school, or private school. The superintendent or the superintendent's designee will authorize the PED to issue the renewal of licensure through electronic notification procedures established by the PED when the PED determines such an electronic system is viable and operational.

The license shall be printed by, and mailed to the license holder from, the PED. Under no circumstances will local school districts directly issue or print a New Mexico educator license. The PED shall determine how or if renewal fees authorized in 6.60.7.8 NMAC shall be paid by an applicant who renews the license under Paragraph (2) of Subsection C of 6.60.6.9 NMAC.

(3) If a teacher does not satisfactorily demonstrate the competencies for the level of licensure or other requirements of the high objective uniform standard of evaluation for licensure renewal, the applicant, depending on the outcome of any due process proceeding under the Uniform Licensing Act, sections 61-1-1 through 61-1-31, NMSA 1978, might not be issued a license.

D. A person holding a valid level 3-A license may choose not to renew the level 3-A license and apply for a level 2 license. The superintendent of the local school district or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure must submit to the director a verification that the applicant has satisfactorily met the high objective uniform standard of evaluation for level 2 license as is evidenced by the teacher's annual evaluations.

E. If a level 3-A teacher does not satisfactorily meet the high objective uniform standard of evaluation for level 3-A licensure renewal, the applicant, depending on the outcome of any due process proceeding under the Uniform Licensing Act, sections 61-1-1 through 61-1-31, NMSA 1978, might not be issued a level 3-A license. In that case, the applicant may be issued a level 2 license if the superintendent of the local school district or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure renewal, submits to the director a verification that the applicant has satisfactorily met the high objective uniform standards of evaluation for level 2 licensure as is evidenced by the teacher's annual evaluations.

F. A teacher who has taught in New Mexico under a standard teaching license for one full school year and who subsequently teaches under a standard teaching license in another state or authorization to teach in another country and has met the total amount of years for advancement required in Paragraph (1) of Subsection A of 6.60.6.9 NMAC or Paragraph (1) of Subsection B of 6.60.9 NMAC may advance to the next higher licensure level without presenting a dossier as required in Paragraph (2) of Subsection A of 6.60.9 NMAC, or Paragraph (3) of

Subsection B of 6.60.6.9 NMAC.

G. A person who fails to complete the requirements of a three (3) year, non-renewable internship license as specified in 6.60.3 NMAC, shall not be issued another internship license in the same or another teaching field or endorsement area.

[6.60.6.9 NMAC - N, 09-30-03; A, 08-31-04; A, 04-29-05; A, 05-31-06; A, 10-31-07; A, 06-15-09; A, 01-29-10]

#### **6.60.6.10 REQUIREMENTS FOR ~~[RENEWAL AND ADVANCEMENT FOR EDUCATORS OTHER THAN TEACHERS]~~ ADVANCEMENT AND RENEWAL OF LICENSES OTHER THAN TEACHING:**

A. A person holding a valid level 1 license and seeking a level 2 license pursuant to the provisions of this rule shall meet the following requirements:

(1) a completed application for continuing licensure shall be submitted to the director;

(2) the superintendent of the local school district, or the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for continued licensure must submit to the director a verification that the applicant has satisfactorily demonstrated the competencies required by the PED for a level 2 license of the type sought.

B. A person holding a valid level 2 license and seeking a level 3 license pursuant to the provisions of this rule shall meet the following requirements:

(1) a completed application for continuing licensure shall be submitted to the director;

(2) the applicant must hold a master's degree from a regionally accredited college or university;

(3) the superintendent of the local school district, or the governing authority of the state institution, charter school, or private school by which the applicant was most recently employed as of the date of the application for continued licensure must submit to the director a verification that the applicant has satisfactorily demonstrated the competencies required by the PED for a level 3-A license.

C. A person holding a valid level 2 ~~[and/or]~~ or level 3-A license and seeking continuing licensure pursuant to the provisions of this rule shall meet the requirements of either (1) or (2) below:

(1) If renewing licensure through the PED, submit, along with the fee specified in 6.60.7.8 NMAC, a completed application for continuing licensure to the director and verification from the superintendent of the local school district or the governing authority of the state institution, charter

school, or private school by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the applicant has satisfactorily demonstrated the competencies required by the PED.

(2) If renewing through a local school district, state institution, charter school, or private school, complete the PED's application for continuing licensure. The employing school or school district shall attach to the application the PED's verification by the superintendent of the local school district, the governing authority of the state institution, charter school, or private school by which the applicant has been most recently employed as of the date of the application for licensure renewal, that the applicant has satisfactorily demonstrated the competencies required by the PED. These documents will be maintained on file in the individual's personnel file in the local school district or school. The superintendent or the superintendent's designee will authorize the issuance of the renewal of licensure through procedures established by the PED. The license shall be printed by, and mailed to the teacher from, the PED. Under no circumstances will local school districts print a license. The PED shall determine how or if renewal fees authorized in 6.60.7.8 NMAC shall be paid by an applicant who renews the license under Paragraph (2) of Subsection C of 6.60.6.9 NMAC.

D. A person holding a valid level 2 teaching license and a level 3 counselor license seeking advancement to level 3-B, licensure in educational administration 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 either Paragraphs (1) or (2) of Subsection C of 6.60.6.10 NMAC.

[6.60.6.10 NMAC - N, 09-30-03; A, 08-31-04; A, 04-29-05; A, 05-31-06; A, 10-31-07; A, 01-29-10]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.61.2 NMAC, Section 8, effective 01-29-10.

### 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

1986, the following:

(a) twelve (12) semester hours in English;

(b) twelve (12) semester hours in history including American history and western civilization;

(c) six (6) semester hours in mathematics for candidates who entered a college or university prior to the fall semester of 2009 and nine (9) semester hours in mathematics for candidates who entered a college or university in or after the fall semester of 2009;

(d) six (6) semester hours in government, economics or sociology;

(e) twelve (12) semester hours in science, including biology, chemistry, physics, geology, zoology, or botany;

(f) six (6) semester hours in fine arts; and

(2) credits from a regionally accredited college or university which include thirty to thirty-six (30-36) 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 (24-36) 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 (6) 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 [New Mexico teacher assessments] NMTA or any successor teacher examination adopted by the [department] 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.

[11-14-98; 6.61.2.8 NMAC - Rn, 6 NMAC 4.2.3.2.8 & A, 10-31-00; A, 06-01-02; A, 06-30-03; A, 05-28-04; A, 10-31-07; A, 01-29-10]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.61.8 NMAC, Sections 1, 3, 4, 7, 8 and 9, effective 01-29-10.

### 6.61.8.1 ISSUING AGENCY: Public Education Department (PED)

[11-14-98, 07-30-99; 6.61.8.1 NMAC - Rn, 6 NMAC 4.2.3.17.1, 03-31-01; A, 06-15-06; 01-29-10]

### 6.61.8.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2 and [22-2-8-7] 22-10A-6, NMSA 1978.

[11-14-98; 6.61.8.3 NMAC - Rn, 6 NMAC 4.2.3.17.3, 03-31-01; A, 06-01-02; A, 01-29-10]

### 6.61.8.4 DURATION: [Permanent] June 30, 2014

[11-14-98; 6.61.8.4 NMAC - Rn, 6 NMAC 4.2.3.17.4, 03-31-01; A, 01-29-10]

### 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 aides 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, [and/or] 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 - twenty-one. 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 ~~and/or~~ or verbal prompts and cues, visual aides, 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 3, who is new to the profession, who has pursued a standard route to licensure, and who:

(1) meets the requirements for early childhood B-3 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.

[11-14-98; 6.61.8.7 NMAC - Rn, 6 NMAC 4.2.3.17.7, 03-31-01; A, 11-11-02; A, 08-15-03; A, 01-29-10]

#### **6.61.8.8 REQUIREMENTS:**

All persons who perform instructional services in early childhood education ~~[(i.e., birth through 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 development issued by the public education department ("PED")]~~ (i.e., birth - grade 3) 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, 2014 must meet the requirements for either birth - pre-K as stated in 6.61.11 NMAC, or pre-K-grade 3 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 1986, the following:

(a) twelve (12) semester hours in English;

(b) twelve (12) semester hours in history including American history and western civilization;

(c) ~~six (6)~~ nine (9) semester hours in mathematics;

(d) six (6) semester hours in government, economics, or sociology;

(e) twelve (12) semester hours in science, including biology, chemistry, physics, geology, zoology, or botany;

(f) six (6) semester hours in fine arts; and

(2) earn credits from a regionally accredited college or university which include: thirty-six to forty-two (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 eighteen to thirty (18-30) semester hours of practicum and supervised field experiences beginning in the first eighteen (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-3, 3-5, or 5-8 with children who are developing either typically or atypically; and

(a) one-hundred fifty (150) contact hours of practicum ~~and/or~~ 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 Subsection A, Paragraphs (1), (3) and (5) of 6.61.8.8 NMAC, six (6) 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; or

B. possess valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[11-14-98; 6.61.8.8 NMAC - Rn, 6 NMAC 4.2.3.17.8 & A, 03-31-01; A, 06-01-02; A, 08-15-03; A, 06-15-06; A, 01-29-10]

#### **6.61.8.9 IMPLEMENTATION:**

~~[All persons who are applying for licensure in early childhood education on or before June 30, 1996, who possess a bachelor's degree and who have three years of documented successful experience during the five-year period immediately preceding the effective date of this rule in the following types of programs will be entitled to licensure in early childhood education:~~

~~A. pre kindergarten - third grade elementary programs accredited by the PED; or~~

~~B. early childhood special education programs for pre-school aged children accredited by the PED; or~~

~~C. community programs or agencies which are contracted through the department of health for children birth through two years of age with developmental delays or who are at risk for such delays as defined by the Individuals with Disabilities Education Act (IDEA) Part H and the New Mexico family, infant, toddler policies and procedures.] All persons holding a current license in early childhood, birth - grade 3 prior to July 1, 2014 may advance or renew that license by meeting requirements stated in 6.60.6 NMAC. All persons whose license in early childhood, birth - grade 3 expired on or after June 30, 2014 must apply as an initial applicant and meet requirements stated in 6.61.11 NMAC, or 6.61.12 NMAC. [11-14-98; 6.61.8.9 NMAC - Rn, 6 NMAC 4.2.3.17.9, 03-31-01; A, 06-15-06; A, 01-29-10]~~

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.61.10 NMAC, Sections 1, 3 and 8, effective 01-29-10.

### 6.61.10.1 ISSUING AGENCY:

Public Education Department (PED)  
[6.61.10.1 NMAC - N, 08-15-03; A, 06-15-06; A, 01-29-10]

### 6.61.10.3 STATUTORY

**AUTHORITY:** Sections 22-2-1, 22-2-2, and [22-2-8.7;] 22-10A-6, NMSA 1978.

[6.61.10.3 NMAC - N, 08-15-03; A, 01-29-10]

### 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 ~~[either hold special education licensure as provided in 6.61.6.8 NMAC or]~~ meet the requirements of [Subsections A and B] 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 1986, the following:

(a) twelve (12) semester hours in English;

(b) twelve (12) semester hours in history including American history and western civilization;

(c) six (6) semester hours in mathematics;

(d) six (6) semester hours in government, economics, or sociology;

(e) twelve (12) semester hours in science, including biology, chemistry, physics, geology, zoology, or botany;

(f) six (6) semester hours in fine arts; and

(2) credits from a regionally accredited college or university which include twenty four to thirty-six (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 [public education department's (PED's)] PED's approved functional areas and related competencies in professional education; and

(3) a mandatory student teaching or practicum component; and

(4) twenty-four to thirty-six (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 (6) 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[+or].

B. ~~[Possess a valid certificate issued by the association of educational rehabilitation of students with visual impairments for the appropriate grade level and type.] [Reserved]~~

[6.61.10.8 NMAC - N, 08-15-03; A, 06-15-06; A, 01-29-10]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.62.2 NMAC, Sections 3, 7, 8 and 9, effective 01-29-10.

### 6.62.2.3 STATUTORY

**AUTHORITY:** Sections 22-2-1, NMSA 1978, 22-2-2, [NMSA 1978 and 22-10A-11] 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]

### 6.62.2.7 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. ~~bachelor's~~ degree and ~~master's~~ degree from a regionally accredited college or university to include an apprenticeship/internship must:

~~(1) be completed at a college or university with an educational administration program approved by the "PED" and consist 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) be completed under the supervision of a local school superintendent, private school official, charter school licensed administrator and consist of a minimum of 180 clock hours for one calendar year to include time at the beginning and end of the school year; the local school superintendent 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~~

~~B. a candidate who entered an administrator preparation program on or after April 4, 2003, must teach while holding a valid level 3-A New Mexico teaching license for at least one full school year or hold a current level 2 teaching license and for at least four years have held a level 3 school counselor's license while working as a teacher or school counselor; a candidate who entered an administrator preparation program prior to April 4, 2003, must hold a valid level 2 New Mexico teaching license;]~~

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

[C:] D. a minimum of eighteen (18) semester hours of graduate credit in an educational administration program approved by the [(PED); the eighteen semester hour program must address the PED's] 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

[D:] 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.

[6.62.2.9 NMAC - N, 01-29-10]

## **NEW MEXICO PUBLIC EDUCATION DEPARTMENT**

This is an amendment to 6.63.3 NMAC, Sections 7 and 8, effective 01-29-10.

### **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.

[(1) Professional interpreter

~~\_\_\_\_\_ (a) obtain certification from the national registry for interpreters for the deaf; or~~

~~\_\_\_\_\_ (b) obtain certification from the national association for the deaf national interpreter certification at levels 3, 4, or 5.~~

~~\_\_\_\_\_ (2) Education interpreter: Attain educational interpreter performance assessment levels 3.5 or above.]~~

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.

[H.] I. Speech language pathologist: obtain licensure from the New Mexico speech language pathology and audiology board.

[F.] J. Alcohol abuse counselor: obtain licensure from the New Mexico counseling and therapy practices board.

[F.] K. Drug abuse counselor: obtain licensure from the New Mexico counseling and therapy practices board.

[K.] L. Alcohol and drug abuse counselor: obtain licensure from the New Mexico counseling and therapy practices board.

[E.] 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]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.5 NMAC, Sections 1 and 8, effective 01-29-10.

### 6.63.5.1 ISSUING AGENCY:

Public Education Department (PED)  
[6.63.5.1 NMAC - Rp 6 NMAC 4.2.3.11.1, 07-01-03; A, 06-30-06; A, 01-29-10]

### 6.63.5.8 REQUIREMENTS FOR PERSONS SEEKING LEVEL 1, ENTRY LEVEL SCHOOL PSYCHOLOGIST LICENSURE: Level

1 entry level school psychologists shall have documentation in their personnel file with the school district, local education agency, or school-related setting of a level 3 supervising school psychologist who holds pre k-12 licensure pursuant to the provisions of this rule, and shall meet the requirements of Subsections A, B, and C:

A. a bachelor's and master's degree or educational specialist degree from a regionally accredited college or university; and

B. qualifications meeting Paragraph (1), (2), or (3):

(1) 60 graduate hours incorporating the PED 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 1200-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 approved by the [New Mexico PED] PED and include an internship in a school setting as described in Paragraph (1) of Subsection B of 6.63.5.8; or

(c) the 60 graduate hours as described in Paragraph (1) of Subsection B of 6.63.5.8 or Paragraph (2) of Subsection B of 6.63.5.8 above, with documentation of 1200 hours within a two (2) year period of successful supervised experience in one of the following areas: school psychology; psychological assessment and counseling, or other psychological interventions with at least 600 hours in a school-related setting;

(2) a doctoral degree in

psychology, 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; 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;

C. fulfill the requirements of Paragraph (1) or (2):

(1) passing with at least a score of [600] 156 the specialty area examination [of the national teachers examination] of the Praxis series exam in school psychology; or

(2) current school psychologist certification by the national association of school psychologists.

[6.63.5.8 NMAC - Rp 6 NMAC 4.2.3.11.8.1, 07-01-03; A, 06-30-06; A, 01-29-10]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.68.2 NMAC, Sections 1 and 6 through 19, effective 01-29-10.

### 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]

### 6.68.2.6 OBJECTIVE :

This [regulation] rule, adopted by the [public education department hereinafter the "department"] PED, governs the application process for initial issuance or continuing licensure of all types of licenses and certificates issued by the [department for school personnel in New Mexico] PED, as well as the denial of such applications. Applicants must also meet all requirements prescribed in [department regulations] 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 [Section B 22-10A-10 and 22-10A-11 NMSA 1978] 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 [department's] PED's rejection of an individual's properly made application for initial or continuing licensure due to incompetency, immorality, failure to satisfy the [department's] 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 education (hereinafter, "the secretary")] secretary of the PED, (secretary), that occur out of the presence [and/or] 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 [regulation] 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 [and/or] 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 [regulation] rule.

E. "Licensure" means a license issued by the [department] 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 [department] 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 [regulation] 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 (hereinafter, the "licensure bureau") of the [department], 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 [department-regulations] 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 [licensure-bureau] 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 [licensure-bureau] 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 [his/her] 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 [licensure-bureau] PLB has a properly made application with all the information necessary to determine [his-or-her] their qualifications for the license(s) and level(s) sought therein. When the [licensure-bureau] 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 [department] 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 [department regulations] 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 [licensure-bureau] 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 [department-regulations] 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 ~~[department licensure bureau or the educator ethics bureau (hereinafter, "ethics bureau")]~~ 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 ~~[department regulations]~~ 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 ~~[regulations]~~ rules; or

(4) a willful violation of any ~~[department regulation]~~ 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 ~~[department]~~ PED in connection with any private or public employment or in any dealings with the ~~[department]~~ PED; or

(8) the failure or refusal by an applicant for licensure with a criminal history to timely provide documents requested by the ~~[department]~~ 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 [H] 2 competencies where a local superintendent recommends to the secretary that the teacher's level [H] 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 the ethics bureau or licensure bureau (hereinafter, the "director")]~~ director of EEB or PLB (director) of purported facts reasonably believed by a superintendent to constitute grounds under this ~~[regulation]~~ 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 ~~[department's]~~ PED's licensure process shall not bar the ~~[department]~~ PED from denying an application or serving notice on an applicant.

C. Recommendation for denial of application.

(1) If the director of the ~~[ethics bureau or licensure bureau]~~ 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 ~~[department]~~ PED for the level of license sought or held is received by the director of the ~~[licensure bureau]~~ 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 ~~[his/her]~~ 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 ~~[licensure bureau]~~ 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 ~~his/her~~ 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 ~~licensure bureau~~ 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 educator ethics bureau or the director of the professional licensure bureau, on behalf of the department]~~ 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 [regulation] rule, including notice of final decision, may be served either personally or

by certified mail, return-receipt-requested, directed to the applicant at ~~his or her~~ 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 ~~[department's]~~ 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 ~~[department]~~ PED, believed to be sufficient for denying the application;

(2) instructions for requesting a hearing before the ~~[department]~~ PED in accordance with Subsection A of 6.68.2.13 below;

(3) a statement that the ~~[department's]~~ 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 ~~his or her~~ their rights under this [regulation] 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 ~~[department]~~ 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 ~~[department]~~ PED, by delivery of such request to the ~~[department's]~~ 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 ~~[department]~~ 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 ~~[department and the statutes and regulations]~~ PED and the statutes and rules authorizing the ~~[department]~~ 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 ~~[department]~~ 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 ~~[department]~~ PED. Upon receipt of the request for a hearing, the director of the ~~ethics bureau or the licensure bureau~~ 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 ~~his/her~~ 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 [his/her] 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 [department] 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 [his/her] 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 [his/her] 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 [regulation] 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 [department] 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 [department] PED. The burden of proof shall be upon the [department] 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 [department] PED maintains its office. In any case, however, the applicant and the [department] 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 [department] 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/or] 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 [his-or-her] 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 [department] PED, by tape recording. The [department] PED shall observe any standards pertaining to tape recordings established for the district courts. In any event, the [department] 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 [him/her] 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 [department] PED where he failed to request a hearing, to reopen the proceeding, and upon finding such cause sufficient, the hearing officer or the [department] PED, as the case may be, shall schedule a hearing and give the applicant notice of such as required by this [regulation] 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 [department] PED shall continue to have jurisdiction to hear a case under this [regulation] 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 [regulation] 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 [his/her] their licensure as though it expired on the original expiration date as long as [he/she] 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 [department] 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 [his-or-her] 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/or] and make other findings and conclusions as [he-or-she] 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 [his/her] 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 [his-or-her] 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 [human services department] HSD has provided to the [department] 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 [department] 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 [department's] 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 [his/her] 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 [he/she] 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 ~~[his or her]~~ 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 ~~[his or her]~~ their last known address, or to ~~[his or her]~~ their attorney, as shown by the records of the ~~[department]~~ 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 ~~[department]~~ PED if the applicant waives in writing ~~[his or her]~~ 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 ~~[his/her]~~ 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 ~~[department]~~ PED and waives in writing ~~[his or her]~~ 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 ~~[his or her]~~ 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 ~~[his or her]~~ 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]

### **NEW MEXICO DEPARTMENT OF PUBLIC SAFETY TRAINING AND RECRUITING DIVISION Law Enforcement Academy**

This is an amendment to 10.29.7 NMAC, Sections 8 and 9, effective 3/1/2010.

#### **10.29.7.8 [2008-2009] 2010-2011 IN-SERVICE TRAINING CYCLE FOR LAW ENFORCEMENT OFFICERS:**

A. All New Mexico certified law enforcement officers shall receive a minimum of forty (40) hours of training bi-annually.

(1) A minimum of four (4) hours shall be in safe pursuit pursuant to Section 29-20-3 NMSA 1978.

(2) A minimum of one (1) hour shall be in domestic abuse incident training pursuant to Section 29-7-4.1 NMSA 1978.

(3) A minimum of two (2) hours shall be in the detection, investigation and reporting of a crime motivated by hate pursuant to Section 31-18B-5 NMSA 1978.

(4) For all officers who may be involved in the arrest of DWI offenders as a normal part of their duties, ~~[eight (8)]~~ four (4) hours shall be in NHTSA approved

standardized field sobriety testing (SFST) protocols.

(5) A minimum of ~~[four (4) hours]~~ one (1) hour shall be in ensuring child safety upon arrest pursuant to the Law Enforcement Training Act and Criminal Procedure Act.

(6) Four (4) hours of academy approved ~~day and night~~ firearms training ~~[This curriculum will include; safety briefing, fundamentals of marksmanship, shooting on the move, shooting from barricade/vehicle positions (standing, kneeling and prone, weak and strong side), malfunction clearances, reloading (tactical and speed), engaging multiple adversaries, decisional shooting, one handed (strong and weak side) malfunction clearances and reloading, weapons retention/disengagement shooting, and shooting with flashlight techniques. This training shall be divided into two (2) hours of day and two (2) hours of night training. This training can include the use of simunition, airsoft or other "force-on-force" training equipment that utilizes realistic police weapons firing non-lethal munitions such as marking cartridges or pellets.] on agency approved weapons systems, including but not limited to duty handgun, backup handgun, shotgun, and rifle. Qualification testing may not be used as training to meet this requirement.~~

(7) A minimum of three (3) hours of academy approved training in the enforcement of the off-highway Motor Vehicle Act for all officers who may be involved in the enforcement of Sections 66-3-1001 through 66-3-1015 NMSA 1978, as a normal part of their duties.

~~[(7)]~~ (8) Remaining hours may be in maintenance or advanced areas.

B. Required training may be received through the following means.

(1) The advanced training bureau will contract for course instruction at the regional training sites.

(2) Where scheduling will allow, the training and recruiting division will assign staff to instruct the course at the regional training sites.

(3) Curriculum developed by the training and recruiting division will be provided to individual agencies upon request for their own certified instructors to present to their officers, provided the instructor is qualified in the subject matter. Recommended training topics include: human trafficking investigations (curriculum developed by the New Mexico attorney general's office), entering missing persons into NCIC (curriculum developed by the NMDPS law enforcement records bureau), and legal update (curriculum developed by the advanced training bureau).

~~[(4) The training and recruiting division will provide instructional video tapes which can be loaned to agencies. Agency instructors or facilitators will conduct the~~

training using the same guidelines for other video training. Facilitator guidelines and exams will accompany the video tape.]

~~[(5)]~~ (4) Individual agencies develop curriculum for review and approval (accreditation) by the academy which meets the criteria established by the board.

**C.** This ~~[five-pronged]~~ four-pronged approach gives all agencies the flexibility they need to address individual training needs. It also allows the board to implement a planned program of in-service training that is responsive to the changing demands placed upon law enforcement and the opportunity to have statewide consistency in certain critical areas.

**D.** Implementation is to begin on ~~[January 1, 2008]~~ January 1, 2010.

**E.** Officers obtaining certification between ~~[January 1, 2008 and December 31, 2008]~~, January 1, 2010 and December 31, 2010, will be required to obtain one-half of the in-service training requirements. Officers obtaining certification between ~~[January 1, 2009, and December 31, 2009]~~, January 1, 2011, and December 31, 2011, will be required to meet the next two-year requirement which will go into effect on ~~[January 1, 2010]~~ January 1, 2012. This policy will apply in subsequent two-year cycles. Officers transferring from one agency to another will carry with them the responsibility for in-service training.

[1/30/93, 12/15/93, 1/17/94, 12/7/95, 10/1/97, 1/1/98, 1/1/00; 10.29.7.8 NMAC - Rn, 10 NMAC 29.7.8, 7/1/01; A, 1/1/02; A, 6/14/02; A, 01/01/04; A, 04/15/04; A, 12/30/05; A, 12/14/06; A, 10/31/07; A, 11/15/07; A, 03/01/10]

#### **10.29.7.9 ~~[2008-2009]~~ 2010-2011 TRAINING CYCLE FOR TELECOMMUNICATORS:**

**A.** ~~[Eight (8) hours of maintenance training/education may apply towards the 20-hour requirement. This is training/education which insures that previously learned knowledge, skills, and abilities of a critical nature are maintained at an acceptable level of proficiency. NCIC-NMLETs, CPR, call handling, emergency medical dispatching are examples of areas where periodic maintenance is measured and/or tested.]~~ All New Mexico certified telecommunicators shall receive a minimum of twenty (20) hours of training bi-annually.

**B.** ~~[A minimum of eight (8) hours are required of advanced and specialized training/education. This is training/education which is designed to improve upon or add to the knowledge, skills, and abilities of the telecommunicator. Any accredited advanced, specialized, departmental in-service, college, or video training would qualify.]~~ Training may be in advanced and specialized training/education or any maintenance training area

which is designed to improve upon or add to the knowledge, skills, and abilities of the telecommunicator.

~~[(C.) A minimum of four (4) hours are required from one or any combination of the following subjects: cultural awareness, stress/anger management, domestic violence, critical incident response, ethics, suicide call handling, violence in the work place, legal update and amber alert.]~~

~~[(B.) C.]~~ Required training may be received through the following means.

(1) The CIRT bureau will arrange for course instruction at regional training sites.

(2) Where scheduling will allow, the training and recruiting division will assign staff to instruct the course at regional training sites.

(3) The curriculum will be developed by the training and recruiting division and provided to individual agencies for their own certified instructors to present to their telecommunicators, provided the instructor is qualified in the subject matter.

~~[(4) The training and recruiting division will produce instructional video tapes which can be loaned to agencies. Agency instructors will facilitate the training using the same guidelines for other video training. Facilitator guidelines and exams would accompany the video tape.]~~

~~[(5)]~~ (4) Individual agencies develop curriculum for review and approval (accreditation) by the academy which meets the criteria established by the board.

**[E.] D.** This ~~[five-pronged]~~ four-pronged approach gives all agencies the flexibility they need to address individual training needs. It also allows the board to implement a planned program of in-service training that is responsive to the changing demands placed upon telecommunicators and the opportunity to have statewide consistency in certain critical areas.

**[F.] E.** Implementation is to begin on ~~[January 1, 2008. This two-year period consists of the eight (8) hours of maintenance training required in Subsection A of 10.29.7.9 NMAC, the eight (8) hours of advanced training required in Subsection B of 10.29.7.9 NMAC, and the four (4) hours of training required in Subsection C of 10.29.7.9 NMAC]~~ January 1, 2010.

**[G.] E.** Telecommunicators obtaining certification between ~~[January 1, 2008 and December 31, 2008]~~ January 1, 2010 and December 31, 2010, will be required to obtain one-half of the in-service training requirement. Telecommunicators obtaining certification between ~~[January 1, 2009, and December 31, 2009]~~ January 1, 2011, and December 31, 2011, will be required to meet the next two-year requirement which will go into effect on ~~[January 1, 2010]~~ January 1, 2012. This policy will apply in subsequent

two-year cycles. Telecommunicators transferring from one agency to another will carry with them the responsibility for in-service training.

[10.29.7.9 NMAC - N, 01/01/04; A, 12/30/05; A, 10/31/07; A, 03/01/10]

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### **End of Adopted Rules Section**

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## **Submittal Deadlines and Publication Dates 2010**

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Issue Number 1	January 4	January 15
Issue Number 2	January 19	January 29
Issue Number 3	February 1	February 12
Issue Number 4	February 15	February 26
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 3	May 14
Issue Number 10	May 17	May 28
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 30
Issue Number 15	August 2	August 16
Issue Number 16	August 17	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 18	October 29
Issue Number 21	November 1	November 15
Issue Number 22	November 16	December 1
Issue Number 23	December 2	December 15
Issue Number 24	December 16	December 30

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