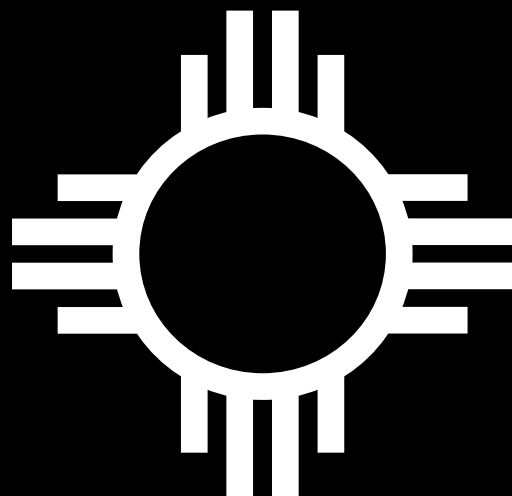


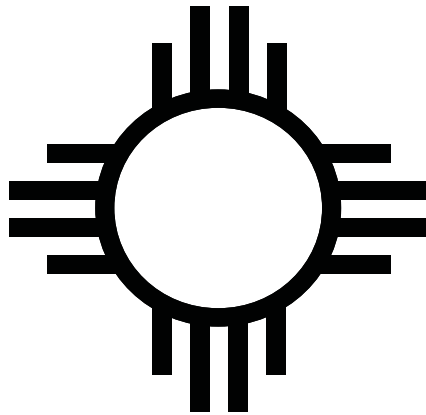
NEW MEXICO REGISTER



Volume XXV
Issue Number 16
August 29, 2014

New Mexico Register

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August 29, 2014



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

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Administrative Law Division
Santa Fe, New Mexico
2014

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New Mexico Register

Volume XXV, Number 16

August 29, 2014

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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.

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Notices of Rulemaking and Proposed Rules

NEW MEXICO OFFICE OF THE ATTORNEY GENERAL

OFFICE OF THE NEW MEXICO ATTORNEY GENERAL NOTICE OF PROPOSED AMENDED RULE

The Attorney General is proposing to amend 12.2.14 NMAC, regarding the misrepresentation of the age and condition of motor vehicles. The rule is being amended by the authority vested in the Attorney General pursuant to the New Mexico Unfair Practices Act, NMSA 1978, Section 57-12-13 (1967). The notice and rule will be published in the August 29, 2014, New Mexico Register.

The proposed amended 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; and in Las Cruces at 201 North Church Street, Suite 315.

The proposed amended rule is also posted on the Office of the Attorney General's website and may be accessed, free of charge, from the following website: www.nmag.gov.

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

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

You may also request a copy of the proposed amended 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 proposed amended rule.

You may also request a copy of the proposed amended rule by emailing: Ichavez@nmag.gov, subject line: "12.2.14 Amended Rule."

Any person who is or may be affected by this proposed amended rule may submit written comments.

Written comments concerning the proposed

amended rule may be submitted by mail to:

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

The Office of the New Mexico Attorney General will accept written comments for consideration provided on or before September 29, 2014.

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing to consider proposed rules in the New Mexico Wage Subsidy Program 8.102.462.13 NMAC. The hearing will be held from 1:00 - 2:00 pm on September 30, 2014. The hearing will be held at the Income Support Division conference room, 2009 S. Pacheco St., Santa Fe, NM. The conference room is located in Room 120 on the lower level.

The Human Services Register Vol. 37 No. 51 outlining the regulations is available on the Human Services Department website at <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>

Individuals wishing to testify or requesting a copy of the regulations should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling 505-827-7250.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 P.M. on the date of the hearing. Please send comments to:

Sidonie Squier, Secretary
Human Services Department
P.O. Box 2348, Pollon Plaza
Santa Fe, NM 87504-2348

You may send comments electronically to: brandi.sandoval@state.nm.us.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

NOTICE OF RULE HEARING

The State Records Administrator of the New Mexico Commission of Public Records, or designee, will hold a public hearing on Tuesday, September 2, 2014, at 9:00 a.m. to take public comment regarding the following proposed rulemaking actions:

Amendment

1.13.2 NMAC	Fees
1.13.10 NMAC	Records Custody, Access, Storage and Disposition
1.13.20 NMAC	Storage of Disaster Recovery Backup Files at the State Commission of Public Records - State Records Center and Archives
1.24.1 NMAC	General Provisions
1.24.10 NMAC	New Mexico Administrative Code
1.24.15 NMAC	New Mexico Register

Copies of the proposed rules are available at the office of the State Records Administrator located at 1205 Camino Carlos Rey, Santa Fe, NM 87507 and on the Commission of Public Records website at: www.nmcpr.state.nm.us/index.htm. Proposed rules can also be

provided in various accessible formats.

The hearing will be held at the State Records Center and Archives in the Commission Room on the second floor, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact Antoinette L. Solano at 476-7902 as early as possible.

NEW MEXICO PUBLIC REGULATION COMMISSION

NEW MEXICO PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING CASE NO. 12-00380-UT

NOTICE IS HEREBY GIVEN that the New Mexico Public Regulation Commission ("NMPRC" or "Commission") proposes the adoption of a new Rule 17.11.10 regarding the state rural universal service fund.

Copies of the Order Initiating Proposed Rulemaking containing additional information and filing instructions may be downloaded from the Proposed Rulemaking section of the Commission's website at <http://www.nmprc.state.nm.us> under Case No. 12-00380-UT or by calling the Commission's Records Management Bureau at (505) 827-6968.

Written Initial Comments and written Response Comments shall be filed by the deadlines below with the NMPRC Records Management Bureau at P.O. Box 1269, Santa Fe, NM 87504-1269 or by hand delivery to the NMPRC Records Management Bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501 as follows: Written initial comments not later than August 22, 2014, and written response comments not later than September 19, 2014. Comments shall refer to Case No. 12-00380-UT.

A public hearing shall be held on October 1, 2014, beginning at 1:30 p.m. at the offices of the Commission located in the 4th Floor Hearing Room of the old PERA Building, at 1120 Paseo de Peralta, in Santa Fe. The purpose of the hearing is give interested individuals, who have not filed written comments or written responses, an opportunity to give oral comments. The Commission may limit the time for each oral presentation to five minutes.

The record of this case will close

on October 15, 2014.

Interested persons should contact the Commission to confirm the date, time, and place of this public hearing because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Ms. Cecilia Rios at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

The proposed rulemaking is undertaken pursuant to the New Mexico Constitution, Article XI, Section 2 (1996); NMSA 1978, Sections 8-8-4(B)(10) (1998), 8-8-15 (1999, amended 2001), 63-9H-4 (1999, amended 2013) and 63-9H-6 (1999, amended 2013).

NEW MEXICO PUBLIC REGULATION COMMISSION

NEW MEXICO PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING CASE NO. 14-00216-TRP

The New Mexico Public Regulation Commission (NMPRC or Commission) gives notice of its proposed amendment of its Motor Transportation Rules, 18.3.1NMAC to 18.3.15 NMAC in order to define and regulate Transportation Network Companies (TNC's) pursuant to the Motor Carrier Act, NMSA 1978, Sections 65-2A-1 to -41 (amended 2013).

Copies of the Order Initiating Proposed Rulemaking containing additional information and filing instructions may be downloaded from the Proposed Rulemaking section of the Commission's website at <http://www.nmprc.state.nm.us> under Case No. 14-00216-TRP or by calling the Commission's Records Management Bureau at (505) 827-6968.

Written Initial Comments and written Response Comments shall be filed by the deadlines below with the Commission's Records Management Bureau at P.O. Box 1269, Santa Fe, NM 87504-1269 or by hand delivery to the NMPRC Records Management Bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501 as follows: Written Initial Comments not later than August 29, 2014 and written Response Comments not later than September 12, 2014. Comments shall refer to Case No. 14-00216-TRP.

A public hearing will be held on October 1, 2014, beginning at 1:00 p.m. at the offices of the Commission located in the 4th Floor Hearing Room of the old PERA Building, at 1120 Paseo de Peralta,

in Santa Fe. The purpose of the hearing is to give interested individuals who, in any capacity, have not filed written comments or written responses an opportunity to give oral comments. The Commission may limit the time for each comment to three minutes. The record of this case will close on October 23, 2014.

Interested persons should contact the Commission to confirm the date, time, and place of this public hearing because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Ms. Cecilia Rios at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

Statutory Authority: New Mexico Constitution, Article XI, Sec. 2; NMSA 1978, Section 8-8-4(B)(10)(1998); the Motor Carrier Act, § 65-2A-4(A)(11).

NEW MEXICO REGULATION AND LICENSING DEPARTMENT BOARD OF PHARMACY

NEW MEXICO BOARD OF PHARMACY

REGULAR BOARD MEETING

NOTICE TO THE PUBLIC

The New Mexico Board of Pharmacy will convene on **August 25th & 26th, 2014** at 9:00 a.m. in the **Ruidoso Convention Center, 111 Sierra Blanca Dr. Ruidoso, New Mexico** for the purpose of conducting a regular Board meeting.

Interested persons wishing to comment and/or present proposed language regarding rule hearings must submit documentation via fax (505)222-9845, mail or email to Larry Loring, Larry.Loring@state.nm.us or Debra Wilhite, debra.wilhite@state.nm.us **on or before the deadline of Wednesday, August 13, 2014, if in attendance please provide 12 copies for distribution to board members.** To receive copies of the agenda and any proposed rule, you may access the links on the agenda for printing via our website listed below or contact Debra Wilhite, Administrative Secretary, at (505) 222-9835 or fax (505) 222-9845, e-mail debra.wilhite@state.nm.us.

Anyone who needs special accommodations for the meeting should contact the board office at (505) 222-9830 as soon as possible.

The agenda (tentative) will be available starting August 15, 2014 through the

board's website: www.rld.state.nm.us/boards/pharmacy.aspx.

*The board may go into executive session at any time to discuss licensee and/or personnel matters.

The Board will address:

Rule Hearings:

16.19.4 NMAC – Pharmacist

16.19.10 NMAC – Limited Drug Clinics

16.19.11 NMAC – Nursing Home Drug Control

16.19.12 NMAC – Fees

16.19.20 NMAC – Controlled Substances

16.19.29 NMAC – Controlled Substance Prescription Monitoring Program

Board Orders and Surrenders:

Approval of Applications:

Other Board Matters:

***Executive Director's Report:**

Case presentations*

Petitioners must be in attendance or provide contact numbers to be available telephonically to present their request. Petitioners, if in attendance must provide 12 copies of the documentation regarding the request and/or any proposed language for distribution to board members on or before the deadline of Wednesday August 13, 2014 for presentation. (Board staff is not required to make copies.)

Published in the Albuquerque Journal July 23, 2014

NEW MEXICO REGULATION AND LICENSING DEPARTMENT PUBLIC ACCOUNTANCY BOARD

Public Accountancy Board
Notice of Proposed Rulemaking

The New Mexico Public Accountancy Board ("Board") will convene a public hearing and regular Board meeting on Tuesday, October 21, 2014. The hearing and meeting will be held at 9:00 a.m. in the Conference Room of the Regulation and Licensing Department Building, 5200 Oakland NE, Albuquerque, New Mexico. Notice of the meeting is given in accordance with the Board's Open Meetings Policy. The hearing will be held for the purpose of affording members of the public the opportunity to offer comments on proposed amendments to existing Board rules.

The Board's Rules Committee will recommend that the Board adopt amendments to the following rules:

NMAC NUMBER	RULE NAME
16.60.1 NMAC	General Provisions
16.60.2 NMAC	Certified Public Accountant (CPA) Examination Requirements
16.60.3 NMAC	Licensure and Continuing Professional Education Requirements
16.60.4 NMAC	Firm Permit, Peer Review Requirements, and Business Name Prohibitions
16.60.5 NMAC	Code of Professional Conduct

Notice of the hearing and Board meeting has been published in the New Mexico Register and in the Albuquerque Journal. Interested parties may access the proposed amendments on the Board's website at www.rld.state.nm.us/accountancy. Copies may also be obtained by contacting the Board office at (505) 222-9853. Written comments regarding the proposed amendments should be directed to Ms. Marie Aragon, Licensing Manager, Public Accountancy Board, 5200 Oakland NE, Suite D, Albuquerque, New Mexico 87113; faxed to (505) 222-9855; or sent via e-mail to Juanita.Aragon@state.nm.us. Comments must be received by 5:00 p.m. on Friday, October 17, 2014; however the submission of written comments as soon as possible is encouraged.

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 should contact the Board office at (505) 222-9852 by 5:00 p.m. on Friday, October 17, 2014.

**End of Notices and Proposed
Rules Section**

Adopted Rules

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT PROTECTIVE SERVICES DIVISION

This is an amendment to 8.26.6 NMAC, Section 7, effective 8/29/2014.

8.26.6.7 DEFINITIONS:

A. “Adult” means, for the purpose of 8.26.6 NMAC, a person who is age 18 years or older and is a client of and resides in a community home licensed by PSD.

B. “Child” means, for the purpose of 8.26.6 NMAC, a person who is under the age of 18 and is a client of and resides in a community home licensed by PSD.

C. “Child abuse and neglect check” is a review of the PSD information management system, also known as FACTS, or another state’s central abuse or neglect registry to determine if there have been any previous referrals on an individual to this state’s or another state’s protective services division.

D. “Community home” means a facility which operates 24 hours a day and provides full time care, supervision and support to no more than 16 children in a single residential building, [including a facility] and which meets the definition of “group home” as outlined in the Human Services Department Act, NMSA 1978, 9-8-13.

E. “Contact” for the purpose of 8.26.6 NMAC may include, but is not limited to:

- (1) the ability to make physical contact with children;
- (2) working in close proximity to children; and
- (3) having unsupervised access to children.

F. “Corrective action” means action taken by PSD in order to correct deficiencies or non-compliance with 8.26.6 NMAC.

G. “Corrective action plan” means a written plan developed by PSD that identifies the actions that will be taken to correct deficiencies or non-compliance with 8.26.6 NMAC.

H. “Criminal records check (CRC)” means, for the purpose of 8.26.6 NMAC, federal, state or local checks for criminal offenses conducted on all staff, interns or volunteers whose duties include contact with children, as defined in Subsection E of 8.26.6.7 NMAC.

I. “CYFD” means the children, youth and families department of

the state of New Mexico.

J. “Deficiency” means non-compliance with 8.26.6 NMAC, and other laws or regulations referenced herein.

(1) “Minor deficiencies” means those deficiencies that do not impair the safety, permanency or well-being of a child while in the community home’s care.

(2) “Substantial deficiencies” means those deficiencies that impair the safety, permanency or well-being of a child while in the community home’s care.

K. “Emergency suspension” means the prohibition of a community home’s operation for a stated period of time through the temporary withdrawal of the license, prior to a hearing on the matter, when immediate action is required to protect human health and safety.

L. “Governing board” means the organizational entity of an agency that has the ultimate responsibility for all planning, direction, control, and management of the activities and functions of a community home licensed pursuant to 8.26.6 NMAC.

M. “Incident” means any incident reportable to PSD that may include, but is not limited to:

(1) policy and procedure violations related to the health and safety of a child;

(2) abuse or neglect, as defined in Subsections N, Q and U of 8.26.6.7 NMAC, which may include but is not limited to:

(a) physical or sexual abuse, as defined in Subsections Q and U of 8.26.6.7 NMAC, by a staff member or volunteer to a child; or

(b) physical or sexual abuse, as defined in Subsections Q and U of 8.26.6.7 NMAC, by a child to another child;

(3) death or serious injury to a child;

(4) safety issues concerning a child;

(5) children who have run away;

or

(6) serious or contagious illnesses.

N. “Neglect” means, for the purpose of 8.26.6 NMAC, a child:

(1) who is without proper care, subsistence, education, medical or dental care necessary for the child’s well-being due to the refusal or failure to act on behalf of the child by the community home; or

(2) who has been physically or sexually abused and the community home knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm.

O. “On-site review” means the on-site review of a community home for the purpose of determining

whether 8.26.6 NMAC is being met.

P. “Permanency plan” means, for the purpose of 8.26.6 NMAC, a plan of intervention for the permanent placement of a child in PSD custody, as defined under the Adoptions and Safe Families Act.

Q. “Physical abuse” for the purpose of 8.26.6 NMAC includes, but is not limited to any case in which the child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:

(1) there is not a justifiable explanation for the condition or death;

(2) the explanation given for the condition is at variance with the degree or nature of the condition;

(3) the explanation given for death is at variance with the nature of the death; or

(4) circumstances indicate that the condition or death may not be the product of an accidental occurrence.

R. “Placement” means the point in time when the child is placed in the community home by a legal custodian or guardian.

S. “Protective services division (PSD)” refers to the protective services division of the children, youth and families department, and is the state’s designated child welfare agency.

T. “Service provider” means anyone, agency or individual, providing a service to a child.

U. “Sexual abuse” for the purpose of 8.26.6 NMAC, includes but is not limited to criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law.

V. “Substantial compliance” means a community home has complied with 8.26.6 NMAC, and that only minor deficiencies exist which do not impair the safety, permanency or well-being of a child.

W. “Variance” means, upon written application from a community home, PSD may in the exercise of its sole discretion issue a variance that allows non-compliance with 8.26.6 NMAC. Variances are issued in writing at PSD’s sole discretion.

X. “Wide scale emergency” means a natural disaster, such as floods, wild fires and pandemic diseases or human-caused disaster, whether intentional or accidental, such as acts of terrorism, transportation accidents and explosions. A wide scale emergency affects the entire community, with consequences that surpass the community’s resources

to respond, and typically, although not necessarily, results in a local, state, or national declaration of emergency.
[8.26.6.7 NMAC - N, 02/28/2014; A, 8/29/2014]

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

20.2.99 NMAC, Conformity to the State Implementation Plan of Transportation Plans, Programs, and Projects, filed 10/16/02 is repealed and replaced by 20.2.99 NMAC, Conformity to the State Implementation Plan of Transportation Plans, Programs and Projects, effective 09/15/14.

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 2 AIR QUALITY (STATEWIDE) PART 99 CONFORMITY TO THE STATE IMPLEMENTATION PLAN OF TRANSPORTATION PLANS, PROGRAMS AND PROJECTS

20.2.99.1 ISSUING AGENCY:
New Mexico Environmental Improvement Board.
[20.2.99.1 NMAC - Rp, 20.2.99.1 NMAC, 09/15/14]

20.2.99.2 SCOPE: Agencies affected by this part are: federal transportation agencies (the federal highway administration (FHWA) and the federal transit administration (FTA) of the United States department of transportation (US DOT)), and state and local agencies responsible for transportation planning and air quality management that are within the geographic jurisdiction of the environmental improvement board (see also 20.2.99.6 NMAC).

A. The provisions of this part shall apply in all nonattainment areas and maintenance areas for transportation-related criteria pollutants for which the area is designated as a nonattainment area or has a maintenance plan.

B. The provisions of this part apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}) and particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers ($PM_{2.5}$).

C. The provisions of this part apply with respect to emissions of the following precursor pollutants in nonattainment areas or maintenance areas:

(1) volatile organic compounds (VOCs) and nitrogen oxides in ozone areas;
(2) nitrogen oxides in nitrogen dioxide areas;

(3) volatile organic compounds or nitrogen oxides in PM_{10} areas if:

(a) the US EPA region 6 administrator or the department has made a finding (including a finding as part of the New Mexico state implementation plan (SIP) or a submitted implementation plan revision) that transportation-related emissions of one or both of these precursor emissions within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the metropolitan planning organization (MPO) (or the New Mexico department of transportation (NMDOT) in the absence of an MPO) and US DOT; or

(b) the applicable SIP (or implementation plan submission) establishes an approved (or adequate) motor vehicle emissions budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy;

(4) nitrogen oxides in $PM_{2.5}$ areas, unless both the US EPA regional administrator and the department have made a finding that transportation-related emissions of nitrogen oxides within the nonattainment area are not a significant contributor to the $PM_{2.5}$ nonattainment problem and has notified the MPO (or the NMDOT in the absence of an MPO) and US DOT, or the applicable implementation plan (or implementation plan submission) does not establish an approved (or adequate) motor vehicle emissions budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy; and

(5) VOCs, sulfur dioxide (SO_2) or ammonia (NH_3) in $PM_{2.5}$ areas either if the US EPA regional administrator or the department has made a finding that transportation-related emissions of any of these precursors within the nonattainment area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO (or the NMDOT in the absence of an MPO) and US DOT, or if the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) motor vehicle emissions budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

D. The provisions of this part apply to $PM_{2.5}$ nonattainment areas and maintenance areas with respect to $PM_{2.5}$ from re-entrained road dust if the US EPA regional administrator or the department has

made a finding that re-entrained road dust emissions within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO (or the NMDOT in the absence of an MPO) and US DOT, or if the applicable SIP (or implementation plan submission) includes re-entrained road dust in the approved (or adequate) motor vehicle emissions budget as part of the reasonable further progress, attainment or maintenance strategy.

E. The provisions of this part apply to maintenance areas through the last year of a maintenance area's approved CAA Section 175A(b) maintenance plan, unless the applicable implementation plan specifies that the provisions of this part (20.2.99 NMAC) shall apply for more than 20 years.

[20.2.99.2 NMAC - Rp, 20.2.99.2 NMAC, 09/15/14]

20.2.99.3 STATUTORY

AUTHORITY: Environmental Improvement Act, Paragraph (4) and (7) of Subsection A of Section 74-1-8 NMSA 1978 and Air Quality Control Act, Sections 74-2-1 NMSA 1978 *et seq.*, including specifically, Subsections (A), (B) and (C) of Section 74-2-5 NMSA 1978. Subsection (B) of Section 74-2-5 NMSA 1978 provides that the environmental improvement board shall adopt regulations "to attain and maintain national ambient air quality standards and prevent or abate air pollution."

[20.2.99.3 NMAC - Rp, 20.2.99.3 NMAC, 09/15/14]

20.2.99.4 DURATION:

Permanent.
[20.2.99.4 NMAC - Rp, 20.2.99.4 NMAC, 09/15/14]

20.2.99.5 EFFECTIVE DATE:

September 15, 2014, except where a later date is cited at the end of a section.
[20.2.99.5 NMAC - Rp, 20.2.99.5 NMAC, 09/15/14]
[The latest effective date of any section in this part is 09/15/14.]

20.2.99.6 OBJECTIVE: The purpose of this part is to implement Section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*), the related requirements of 23 U.S.C. 109(j), and regulations under 40 CFR Part 93 Subpart A, with respect to the conformity of transportation plans, programs and projects which are developed, funded or approved by the US DOT, the NMDOT, MPOs or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53) to the SIP, as developed pursuant to Section 110 and Part D of the CAA. This part sets forth policy and

procedures for consultations demonstrating and assuring conformity of such activities to the SIP and for resolving interagency conflicts.

[20.2.99.6 NMAC - Rp, 20.2.99.6 NMAC, 09/15/14]

20.2.99.7 DEFINITIONS:

Terms used but not defined in this part shall have the meaning given them by the CAA Titles 23 and 49 U.S.C., US EPA regulations, US DOT regulations, and 20.2.2 NMAC (Definitions), in that order of priority.

A. “Applicable implementation plan” is defined in Section 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under Section 110 (of the CAA), promulgated under Section 110(c), or promulgated or approved pursuant to regulations promulgated under Section 301(d) and which implements the relevant requirements of the CAA.

B. “CAA” means the Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.*

C. “Cause or contribute to a new violation” for a project means:

(1) to cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented; or

(2) to contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.

D. “CFR” means the code of federal regulations.

E. “Conformity determination” means the demonstration of consistency with motor vehicle emissions budgets for each pollutant and precursor identified in the applicable SIP. The conformity determination is the affirmative written documentation declaring conformity with the applicable SIP which is submitted to FHWA and FTA for approval with US EPA consultation. An affirmative conformity determination means conformity to the plan’s purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and that such activities will not:

(1) cause or contribute to a new violation of any standard in any area;

(2) increase the frequency or severity of any existing violation of any standard in any area; or

(3) delay timely attainment of any standard or any required interim emission

reductions or other milestones in any area.

F. “Consultation” means that one party confers with another identified party, provides or makes available all relevant information to that party, and, prior to taking any action, considers the views of that party and (except with respect to those actions for which only notification is required) responds to written comments in a timely, substantive written manner prior to any final decision on such action. Such views and written response shall be made part of the record of any decision or action. Specific procedures and processes are described in 20.2.99.102 through 20.2.99.110 NMAC.

G. “Control strategy implementation plan revision” is the implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (including implementation plan revisions submitted to satisfy CAA Sections 172(c), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), 189(b)(1)(A) and 189(d); and Sections 192(a) and 192(b), for nitrogen dioxide; and any other applicable CAA provisions requiring a demonstration of reasonable further progress or attainment).

H. “Criteria pollutants” are the six principal pollutants for which national ambient air quality standards exist.

I. “Department” means the New Mexico environment department.

J. “Design concept” means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade separated highway, reserved right-of-way rail transit, mixed traffic rail transit, exclusive busway, etc.

K. “Design scope” means the design aspects of a facility which will affect the proposed facility’s impact on regional emissions, usually as they relate to vehicle or person-carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.

L. “Donut areas” are geographic areas outside a metropolitan planning area boundary, but inside the boundary of a nonattainment area or maintenance area that contains any part of a metropolitan area(s). These areas are not isolated rural nonattainment area and maintenance areas.

M. “FHWA” means the federal highway administration of US DOT.

N. “FHWA/FTA project” means, for the purpose of this part, any highway or transit project which

is proposed to receive funding assistance and approval through the federal-aid highway program or the federal mass transit program, or requires federal highway administration (FHWA) or federal transit administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.

O. “FTA” means the federal transit administration of US DOT.

P. “Highway project” is an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it shall be defined sufficiently to:

(1) connect logical termini and be of sufficient length to address environmental matters on a broad scope;

(2) have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and

(3) not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Q. “Hot-spot analysis” is an estimation of likely future localized CO, PM₁₀ or PM_{2.5} pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment area or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality.

R. “Increase the frequency or severity” means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.

S. “Isolated rural nonattainment and maintenance areas” are areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations. Isolated rural areas that do not have federally required metropolitan transportation plans or transportation improvement programs (TIPs) and do not have projects that are part of the emissions in such areas are instead included in statewide TIPs. These are not donut areas.

T. “Limited maintenance plan” means a maintenance plan that US EPA has determined meets US EPA’s limited maintenance plan policy criteria

for a given national ambient air quality standard (NAAQS) and pollutant. To qualify for a limited maintenance plan, for example, an area must have a design value that is significantly below a given NAAQS, and it must be reasonable to expect that a NAAQS violation will not result from any level of future motor vehicle emissions growth.

U. “Maintenance area” means any geographic region of the United States previously designated nonattainment pursuant to the CAA amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under Section 175A of the CAA, as amended.

V. “Maintenance plan” means an implementation plan under Section 175A of the CAA, as amended.

W. “Memorandum of agreement” or “MOA” means a document agreed upon by cooperating parties.

X. “Metropolitan planning organization” or “MPO” means the policy board of an organization created as a result of the designation process in 23 U.S.C.134(d).

Y. “Milestone” has the meaning given in CAA Sections 182(g) (1) and 189(c) for serious and above ozone nonattainment areas and PM₁₀ nonattainment areas, respectively.

For all other nonattainment areas, a milestone consists of an emissions level and the date on which that level is to be achieved as required by the applicable CAA provision for reasonable further progress towards attainment.

Z. “Motor vehicle emissions budget” is that portion of the total allowable emissions, defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the national ambient air quality standards, for any criteria pollutant or its precursors, allocated by the state implementation plan to highway and transit vehicle use and emissions.

AA. “National ambient air quality standards” or “NAAQS” are those standards established pursuant to Section 109 of the CAA.

AB. “NEPA” means the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321, *et seq.*

AC. “NEPA process completion” means, for the purposes of this part, with respect to FHWA or FTA, the point at which there is a specific action to make a determination that a project is categorically excluded, to make a finding of no significant impact, or to issue a record of decision on a final environmental impact

statement under NEPA.

AD. “NMDOT” means the New Mexico department of transportation or its successor agency or authority, as represented by the department secretary or his or her designee.

AE. “Nonattainment area” means any geographic region of the United States which has been designated as nonattainment under Section 107 of the CAA for any pollutant for which a national ambient air quality standard exists.

AF. “Project” means a highway project or transit project.

AG. “Recipient of funds designated under Title 23 U.S.C. or the federal transit laws” means any agency at any level of state, county, city, or regional government that routinely receives Title 23 U.S.C. or federal transit law funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.

AH. “Re-entrained road dust” means emissions which are produced by travel on paved and unpaved roads, including emissions from anti-skid and de-icing material(s).

AI. “Regionally significant project” means a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals, as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area’s transportation network, including at a minimum:

(1) all principal arterial highways; and
(2) all fixed guideway transit facilities that offer an alternative to regional highway travel.

AJ. “Standard” means a national ambient air quality standard.

AK. “State implementation plan” or “SIP” means an applicable implementation plan and the applicable portion (or portions) of the New Mexico state implementation plan, or most recent revision thereof, which has been approved under Section 110, or promulgated under Section 110(c), or promulgated or approved pursuant to regulations promulgated under Section 301(d) of the CAA and which implements the relevant requirements of the CAA (see the definition for “applicable implementation plan”).

AL. “Title 23 U.S.C.” means Title 23 of the United States Code.

AM. “Transit” means mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.

AN. “Transit project” means an undertaking to: implement or modify a transit facility or transit-related program; purchase transit vehicles or equipment; or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules or fares. It may consist of several phases. For analytical purposes, it shall be defined inclusively enough to:

(1) connect logical termini and be of sufficient length to address environmental matters on a broad scope;
(2) have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and
(3) not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

AO. “Transportation control measure” or “TCM” means any measure that is specifically identified and committed to in the applicable implementation plan, including a substitute or additional TCM that is incorporated into the applicable SIP through the process established in CAA Section 176(c)(8), that is either one of the types listed in Section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the above, vehicle technology-based, fuel-based and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this part.

AP. “Transportation improvement program” or “TIP” means a transportation improvement program developed by a metropolitan planning organization under Title 23 U.S.C. 134(j).

AQ. “Transportation plan” means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR part 450.

AR. “Transportation project” is a highway project or a transit project.

AS. “US EPA” means the United States environmental protection

agency.

AT. “US DOT” means the United States department of transportation.

AU. “Written commitment” means, for the purposes of this part, a written commitment that includes a description of the action to be taken; a schedule for the completion of the action; a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and an acknowledgment that the commitment is an enforceable obligation under the applicable implementation plan.

[20.2.99.7 NMAC - Rp, 20.2.99.7 NMAC, 09/15/14]

20.2.99.8 DOCUMENTS:

Documents incorporated and cited in this part may be viewed at the New Mexico environment department, air quality bureau, Santa Fe, NM.

[20.2.99.8 NMAC - Rp, 20.2.99.8 NMAC, 09/15/14]

20.2.99.9 - 20.2.99.100 [RESERVED]

20.2.99.101 APPLICABILITY:

A. Action applicability.

(1) Conformity determinations are required for:

(a) the adoption, acceptance, approval or support of transportation plans and transportation plan amendments developed pursuant to 23 CFR part 450 or 49 CFR part 613 by an MPO (or NMDOT in the absence of an MPO) or US DOT;

(b) the adoption, acceptance, approval or support of TIPs and TIP amendments developed pursuant to 23 CFR part 450 or 49 CFR part 613 by an MPO (or NMDOT in the absence of an MPO) or US DOT; and

(c) the approval, funding, or implementation of FHWA/FTA projects.

(2) Conformity determinations are not required under this part for individual projects which are not FHWA/FTA projects.

B. Geographic and pollutant applicability are set out in 20.2.99.2 NMAC (Scope).

C. Limitations. In order to receive any FHWA/FTA approval or funding actions, including NEPA approvals, for a project phase subject to this subpart, a currently conforming transportation plan and TIP must be in place at the time of project approval.

D. Grace period for new nonattainment areas. For areas or portions of areas which have been continuously designated attainment or not designated for any standard for ozone, CO, PM₁₀, PM_{2.5} or NO₂ since 1990 and are subsequently redesignated to nonattainment or designated nonattainment for any standard for any

of these pollutants, the provisions of this subpart shall not apply with respect to that standard for 10 months following the effective date of final designation to nonattainment for each standard for such pollutant.

[20.2.99.101 NMAC - Rp, 20.2.99.109 NMAC, 09/15/14]

20.2.99.102 CONSULTATION:

A. 20.2.99.102 through 20.2.99.110 NMAC provide procedures for the interagency (federal, state, and local) consultation process, resolution of conflicts, and public consultation. Public consultation procedures will be developed in accordance with the requirements for public involvement in 23 CFR part 450. The affected agencies listed in Subsection C of 20.2.99.102 NMAC shall undertake a consultation process with each other prior to the development of:

- 1) conformity determinations; 2) major activities listed in 20.2.99.103 NMAC below; 3) specific major activities listed in 20.2.99.106 NMAC below; and 4) specific routine activities listed in 20.2.99.107 NMAC below. This consultation process shall follow the consultation procedures described in 20.2.99.105 NMAC below.

B. Prior to US EPA's approval of this part, any MPO (or NMDOT in the absence of an MPO) and NMDOT, before making any conformity determinations, shall provide reasonable opportunity for consultation with the department, the local transportation agency in the county where the nonattainment area or maintenance area is located, the local air quality agency in the county in which the nonattainment area or maintenance area is located, New Mexico FHWA division offices, FTA region 6 offices, and US EPA region 6, including consultation on the issues described in 20.2.99.103 NMAC. This opportunity for consultation shall be provided prior to the determination of conformity.

C. Affected agencies.

(1) Agencies which are affected by this part and which are required to participate in the consultation process are:

(a) the designated MPO for the nonattainment area or maintenance area;

(b) the department;

(c) NMDOT;

(d) the local transportation agency for the county or city in which the nonattainment area or maintenance area is located;

(e) the local transit agency for the city or county in which the nonattainment area or maintenance area is located;

(f) US EPA region 6;

(g) New Mexico FHWA division offices;

(h) FTA region 6;

(i) local air quality agencies; and

(j) any other organization or resource agency within the state responsible under state law for developing, submitting or implementing transportation-related provisions of an implementation plan.

(2) Agencies which may be affected by this part and which are entitled to participate in the interagency consultation process include:

(a) NMDOT district office for the county in which the nonattainment area or maintenance area is located; and

(b) the city or county government in the city or county where the nonattainment area or maintenance area is located.

D. Policy level points of contact and policy level meetings.

(1) The policy level points of contact for participating organizations are as follows:

(a) MPO: executive director or designee;

(b) department: secretary or designee;

(c) NMDOT: secretary or designee;

(d) NMDOT district office: district engineer;

(e) local government: chief administrative officer or designee;

(f) US EPA region 6: regional administrator or designee;

(g) FHWA NM division office: division administrator or designee;

(h) FTA region 6: regional administrator or designee; and

(i) other organizations: as directed in writing.

(2) Policy level meetings shall be those meetings to which the following individuals have been given ample notice thereof:

(a) policy level points of contact for all agencies which are required to participate in the conformity process; and

(b) the policy level points of contact for all agencies and organizations which are entitled to participate and have submitted a written request to participate in the conformity process.

[20.2.99.102 NMAC - Rp, 20.2.99.116 NMAC, 09/15/14]

20.2.99.103 AGENCY ROLES IN CONSULTATION:

Specific roles of the agencies participating in the interagency consultation process are listed below. Specific responsibilities of the agencies participating in the interagency consultation process are listed in 20.2.99.104 NMAC. For the purposes of this part, the lead agency for all conformity processes and procedures is that agency which is responsible for initiating the consultation process, preparing the initial and final

drafts of the document or decision, and for assuring the adequacy of the interagency consultation process.

A. The department shall be the lead agency for the development of:

- (1) applicable control strategy implementation plan revisions for the nonattainment area or maintenance area;
- (2) the list of transportation control measures (TCMs) to be submitted as part of the SIP; and
- (3) any amendments or revisions thereto.

B. In the case of areas in which an MPO has been established, the designated MPO for the nonattainment area or maintenance area shall be the lead agency for:

- (1) development of the unified planning work program under 23 CFR 450.314;
- (2) development of the transportation plan for the nonattainment area or maintenance area;
- (3) development of the transportation improvement program (TIP) for the nonattainment area or maintenance area;
- (4) any amendments or revisions thereto;
- (5) any determinations of conformity under this part for which that MPO is responsible;
- (6) choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas; and
- (7) development of TCMs, in cooperation with the department.

C. In the case of areas in which an MPO has not been established, NMDOT shall be the lead agency for:

- (1) development of the transportation plan for the nonattainment area or maintenance area;
 - (2) development of the TIP for the nonattainment area or maintenance area;
 - (3) any amendments or revisions thereto;
 - (4) any determinations of conformity under this part for which an MPO would otherwise be responsible;
 - (5) choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas; and
 - (6) development of TCMs, in cooperation with the department.
- [20.2.99.103 NMAC - Rp, 20.2.99.117 NMAC, 09/15/14]

20.2.99.104 AGENCY RESPONSIBILITIES IN CONSULTATION:

A. The department shall be responsible for developing or providing:

- (1) emissions inventories;
 - (2) motor vehicle emissions
- budgets;

- (3) air quality modeling;
- (4) attainment demonstrations;
- (5) control strategy implementation plan revisions;
- (6) regulatory TCMs; and
- (7) updated motor vehicle emissions factors.

B. The designated MPO (or, in nonattainment areas or maintenance areas where an MPO has not been established, NMDOT) shall be responsible for:

- (1) developing transportation plans and TIPs;
- (2) developing and evaluating TCM transportation impacts;
- (3) developing transportation and socioeconomic data and planning assumptions and providing such data and planning assumptions for use in air quality analysis to determine conformity of transportation plans, TIPs, and projects;
- (4) monitoring regionally significant projects;
- (5) developing system or facility-based or other programmatic (non-regulatory) TCMs;
- (6) providing technical input on motor vehicle emissions budgets; and
- (7) performing transportation modeling, regional emissions analyses and documentation of timely implementation of TCMs needed for conformity assessments.

C. NMDOT shall be responsible for:

- (1) providing technical input on proposed revisions to motor vehicle emissions factors;
- (2) distributing draft and final highway or transit project environmental documents to other agencies; and
- (3) convening air quality technical review meetings on specific highway or transit plans, programs and projects when requested by other agencies or as needed.

D. FHWA New Mexico offices and FTA region 6 shall be responsible for:

- (1) assuring timely action on final findings of conformity, after consultation with other agencies as provided in 20.2.99.102 through 20.2.99.110 NMAC; and
- (2) providing guidance on conformity and the transportation planning process to agencies participating in the interagency consultation process.

E. US EPA region 6 shall be responsible for providing guidance on conformity criteria and procedures to agencies participating in the interagency consultation process.

[20.2.99.104 NMAC - Rp, 20.2.99.118 NMAC, 09/15/14]

20.2.99.105 GENERAL CONSULTATION PROCEDURES: The

following are the responsibilities of lead and participating agencies at each stage of the consultation process.

A. It shall be the affirmative responsibility of the lead agency to initiate the consultation process by:

- (1) notifying other participants of the plan, program or project which must undergo the interagency consultation process;
- (2) preparing an initial draft of the document being developed, together with necessary supporting information;
- (3) convening consultation meetings and agendas when the initial draft of the document being developed is complete; and
- (4) appointing the conveners of technical meetings.

B. It shall be the responsibility of the lead agency to facilitate the interagency consultation process by:

- (1) conferring with all other agencies identified under Subsection C of 20.2.99.102 NMAC who are participating in the particular consultation process;
- (2) providing all appropriate information needed for meaningful input to the participating agencies, including timely notification of all policy level and relevant technical meetings;
- (3) soliciting early and continuing input from participating agencies;
- (4) scheduling consultation meetings as specified in this part;
- (5) conducting the consultation process as described in this section (20.2.99.105 NMAC);
- (6) assuring that all relevant documents and information, including drafts of the document being developed and necessary background documents, are supplied to all participants in the consultation process in a timely manner;
- (7) assuring, where required, policy-level contact with those agencies;
- (8) considering the views of each participating agency and (except with respect to those actions for which only notification is required) responding to written comments in a timely, substantive written manner prior to making any final decision on the document that is the subject of the consultation process; and
- (9) assuring that such views and written responses are made part of the record of any decision or action.

C. Regular consultation on major activities, as defined in 20.2.99.106 NMAC, shall include policy level meetings beginning no later than nine months prior to the date a final document is required (or the date on which such agency begins its own work on such document, if later) and continuing at regular, scheduled intervals no less frequently than quarterly. In addition, technical meetings shall be convened as

necessary. Not later than 30 days prior to the adoption or approval of the final document or decision, the lead agency shall supply the final draft document, including all relevant information and documents, as appropriate, to the participating agencies.

D. Regular consultation on routine activities, as defined in 20.2.99.107 NMAC, shall include meetings at regular, scheduled intervals no less frequently than semiannually, and shall be on the agenda of at least one policy level meeting. In addition, technical meetings shall be convened as necessary.

E. The lead agency shall provide each final document for which a consultation process was required to be undertaken (including, but not limited to, the relevant portions of SIPs or implementation plan revisions, transportation plans, and TIPs, and determinations of conformity), together with all supporting information, as appropriate, to each participating agency within 14 calendar days after adopting or approving such document or making such determination. The lead agency may supply a checklist of available supporting information, which the participating agencies may use to request all or part of such supporting information, in lieu of generally distributing all supporting information.

F. It shall be the responsibility of each participating agency (those listed in Paragraph (1) of Subsection C of 20.2.99.102 NMAC) during the consultation process to:

- (1) confer with the lead and other participating agencies (those listed in Paragraph (1) of Subsection C of 20.2.99.102 NMAC) in the consultation process;
- (2) review and comment as appropriate (including comments in writing) on all proposed and final draft documents and decisions within 30 days of receipt;
- (3) attend consultation and decision meetings;
- (4) assure policy-level contact with other participants;
- (5) provide input on any area of substantive expertise or responsibility (including, but not limited to planning assumptions, modeling, information on status of TCM implementation, and interpretation of regulatory or other requirements); and
- (6) provide technical assistance to the lead agency or consultation process in accordance with this section when requested.

G. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation if the conformity consultation purpose is specifically identified in the

announcement for the meeting and all participating agencies are notified of such meeting.

[20.2.99.105 NMAC - Rp, 20.2.99.119 NMAC, 09/15/14]

20.2.99.106 CONSULTATION PROCEDURES FOR SPECIFIC MAJOR ACTIVITIES:

An interagency consultation process among the members of the lead and participating agencies shall be undertaken for the following specific major activities in accordance with all the procedures specified in 20.2.99.105 NMAC above. The lead agency for each activity shall be as specified, and the participating agencies shall be the agencies specified in Subsection C of 20.2.99.102 NMAC above.

A. Evaluation and choice of each model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses, including vehicle miles traveled (VMT) forecasting. The lead agency shall be the MPO (or NMDOT in the absence of an MPO).

B. Determination of which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel), and which projects should be considered to have a significant change in design concept and design scope from the transportation plan or TIP. The lead agency shall be the MPO (or NMDOT in the absence of an MPO).

C. Evaluation of whether projects otherwise exempted from meeting the requirements of this part should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason. The lead agency shall be the MPO (or NMDOT in the absence of an MPO).

D. Determination of whether past obstacles to implementation of TCMs which are behind the schedule established in the SIP have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. Consultation shall also include consideration of whether delays in TCM implementation necessitate revisions to the SIP to remove TCMs or substitute TCMs or other emission reduction measures. The lead agency shall be the MPO (or NMDOT in the absence of an MPO).

E. Determination of whether:

- (1) the project is included in the regional emissions analysis supporting the

currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement; and

(2) the project's design concept and design scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility; the lead agency shall be the MPO (or NMDOT in the absence of an MPO).

F. Determination of what forecast of VMT to use in establishing or tracking motor vehicle emissions budgets, developing transportation plans, TIPs, or making conformity determinations. The lead agency shall be the MPO (or NMDOT in the absence of an MPO).

G. Verification of what forecast of VMT to use in developing SIPs. The lead agency shall be the air quality bureau of the department.

H. Consultation, within the context of a memorandum of agreement (MOA), on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas or air basins. The lead agency shall be NMDOT.

I. Evaluation of events which will trigger new conformity determinations. The lead agency shall be the MPO (or NMDOT in the absence of an MPO).

J. In the event that the metropolitan planning area does not include the entire nonattainment area or maintenance area, an interagency consultation process involving the designated MPO for the nonattainment area or maintenance area, NMDOT, local transportation agencies, and the department, shall be undertaken, in the context of an MOA, for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment area or maintenance area. The lead agency shall be NMDOT.

K. In nonattainment areas or maintenance areas where more than one MPO is involved, such MPOs must develop an MOA or memorandum of understanding reflecting their consultation.

L. In nonattainment areas or maintenance areas where the MPO's jurisdiction does not cover the entire nonattainment area or maintenance area, the MPO and NMDOT must develop an MOA or a memorandum of understanding reflecting their consultation.

M. In choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas, the lead agency shall be the MPO (or NMDOT in the absence of an MPO).

[20.2.99.106 NMAC - Rp, 20.2.99.120 NMAC, 09/15/14]

20.2.99.107 CONSULTATION PROCEDURES FOR SPECIFIC ROUTINE ACTIVITIES:

An interagency consultation process among the lead and participating agencies shall be undertaken for the following routine activities in accordance with all the procedures specified in 20.2.99.105 NMAC. The lead agency for each activity shall be as specified, and the participating agencies shall be the agencies specified in Subsection C of 20.2.99.102 NMAC above or as specified for the specific activity. Not later than 30 days prior to the preparation of the final document or decision, the lead agency shall supply all relevant information and documents, as appropriate, to the participating agencies.

A. Identification of projects located at sites in PM₁₀ nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM₁₀ hot-spot analysis. The lead agency shall be either the MPO or NMDOT, in cooperation with the department.

B. Assumption of the location and design concept and design scope of projects which are disclosed to the MPO, as required by Subsection D of 20.2.99.107 NMAC, but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis. The lead agency shall be either the MPO or NMDOT. Participating agencies shall include recipients of funds designated under Title 23 U.S.C. or the federal transit laws.

C. The design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys). The lead agency shall be either NMDOT or the MPO, as applicable. Participating agencies shall be the MPO, the department, and NMDOT.

D. Regionally significant non-FHWA/FTA projects.

(1) Assurance that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and design scope, or the no-build option are still being considered), including all those sponsored by recipients of funds designated under Title 23 U.S.C. or the federal transit laws, are disclosed to the MPO on a regular basis, and assurance that any changes to those plans are immediately disclosed. The lead agency for this process shall be the agency which is implementing the project. Participating agencies shall be the MPO, the

department, NMDOT, local transportation and transit agencies for the city or county in which the nonattainment area or maintenance area is located, and recipients of funds designated under Title 23 U.S.C. or the federal transit laws.

(2) The sponsor of any such regionally significant project, and any agency that becomes aware of any such project through applications for approval, permitting, funding or otherwise, shall disclose such project to the designated MPO for the nonattainment area or maintenance area and NMDOT in a timely manner. Such disclosure shall be made not later than the first occasion on which any of the following actions is sought:

(a) any policy board action necessary for the project to proceed;

(b) the issuance of administrative permits for the facility or for construction of the facility;

(c) the execution of a contract to design or construct the facility;

(d) the execution of any indebtedness for the facility;

(e) any final action of a board, commission or administrator authorizing or directing employees to proceed with design, permitting or construction of the project; or

(f) the execution of any contract to design or construct or any approval needed for any facility that is dependent on the completion of a regionally significant project.

(3) In the case of any such regionally significant project that has not been disclosed in a timely manner to the designated MPO for the nonattainment area or maintenance area, NMDOT, and other interested agencies participating in the consultation process, such regionally significant project and all other regionally significant projects of that sponsor shall be deemed to be not included in the regional emissions analysis supporting the currently conforming TIP's conformity determination and to be not consistent with the motor vehicle emissions budget in the SIP. In the case of repeated failures to disclose regionally significant projects by an agency that becomes aware of any such project through applications for approval, permitting or funding, all other regionally significant projects within the jurisdiction of such agency shall be deemed to be not included in the regional emissions analysis supporting the currently conforming TIP's conformity determination and to be not consistent with the motor vehicle emissions budget in the SIP.

(4) For the purposes of this section (20.2.99.107 NMAC), the phrase "adopt or approve of a regionally significant project" means the first time any action necessary to authorizing a project occurs, such as any policy board action necessary

for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to construct the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with construction of the project, or any written decision or authorization from the MPO that the project may be adopted or approved.

[20.2.99.107 NMAC - Rp, 20.2.99.121 NMAC, 09/15/14]

20.2.99.108 NOTIFICATION PROCEDURES FOR ROUTINE ACTIVITIES:

Notification of affected agencies (including those listed in Paragraph (1) of Subsection C of 20.2.99.102 NMAC) of transportation plan or TIP amendments which merely add or delete exempt projects shall be the affirmative responsibility of NMDOT or the MPO. Such notification shall be provided not later than 30 days prior to the preparation of the final draft of the document or decision. This process shall include:

A. notification of the affected agencies (including those listed in Paragraph (1) of Subsection C of 20.2.99.102 NMAC) early in the process of decision on the final document; and

B. supplying all relevant documents and information to the affected agencies (including those listed in Paragraph (1) of Subsection C of 20.2.99.102 NMAC).

[20.2.99.108 NMAC - Rp, 20.2.99.122 NMAC, 09/15/14]

20.2.99.109 CONFLICT RESOLUTION AND APPEALS TO THE GOVERNOR:

A. Any conflict among state agencies or between state agencies and an MPO shall be escalated to the governor if the conflict cannot be resolved by the heads of the involved agencies. Prior to such escalation, such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.

B. The department has 14 calendar days to appeal a determination of conformity (or other policy decision under this part) to the governor after NMDOT or the MPO has notified the department of the resolution of all comments on such determination of conformity or policy decision. Such 14-day period shall commence when the MPO or NMDOT has confirmed receipt by the secretary of the department of the resolution of the comments of the department. If the department appeals to the governor, the final conformity determination must have

the concurrence of the governor. The department must provide notice of any appeal under this subsection to the MPO and NMDOT. If the department does not appeal to the governor within 14 days, the MPO or NMDOT may proceed with the final conformity determination.

C. In the case of any comments with regard to findings of fiscal constraint or air quality effects of any determination of conformity, NMDOT has 14 calendar days to appeal a determination of conformity (or other policy decision under this part) to the governor after the MPO has notified the department or NMDOT of the resolution of all comments on such determination of conformity or policy decision. Such 14-day period shall commence when the MPO has confirmed receipt by the secretary of the department or NMDOT of the resolution of the comments of NMDOT. If NMDOT appeals to the governor, the final conformity determination must have the concurrence of the governor. NMDOT must provide notice of any appeal under this subsection to the MPO and the department. If NMDOT does not appeal to the governor within 14 days, the MPO may proceed with the final conformity determination.

D. The governor may delegate the role of hearing any such appeal under this subsection and of deciding whether to concur in the conformity determination to another official or agency within the state, but not to the head or staff of the department or any local air quality agency, NMDOT, a state transportation commission or board, any agency that has responsibility for one of these functions or an MPO.
[20.2.99.109 NMAC - Rp, 20.2.99.123 NMAC, 09/15/14]

20.2.99.110 PUBLIC CONSULTATION PROCEDURES:

A. Affected agencies making conformity determinations on transportation plans, programs and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans, TIPs, and projects, consistent with the requirements of 23 CFR part 450, including Sections 450.316 (a), 450.322(c), and 450.324(c) as in effect on the date of adoption of this part. Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.43. In addition, any such agency must

specifically address in writing all public comments which allege that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects to the extent otherwise required by law (e.g. NEPA).

B. The opportunity for public involvement provided under this section (20.2.99.110 NMAC) shall include access to information, emissions data, analyses, models and modeling assumptions used to perform a conformity determination, and the obligation of any such agency to consider and respond in writing to significant comments.

C. No transportation plan, TIP or project may be found to conform unless the determination of conformity has been subject to a public involvement process in accordance with this section, without regard to whether the US DOT has certified any process under 23 CFR part 450.

[20.2.99.110 NMAC - Rp, 20.2.99.124 NMAC, 09/15/14]

20.2.99.111 ENFORCEABILITY OF DESIGN CONCEPT AND DESIGN SCOPE AND PROJECT-LEVEL MITIGATION AND CONTROL MEASURES:

A. Prior to determining that a transportation project is in conformity, the MPO, other recipient of funds designated under Title 23 U.S.C. or the federal transit laws, FHWA or FTA must obtain from the project sponsor or operator written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local CO, PM₁₀, or PM_{2.5} impacts. Before a conformity determination is made, written contractual commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and included in the project design concept and design scope which is used in the regional emissions analysis or used in the project-level hot-spot analysis.

B. Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations shall provide written contractual commitments and must comply with the obligations of such commitments.

C. Written contractual

commitments to mitigation or control measures shall be obtained prior to a positive conformity determination, and project sponsors must comply with such commitments.

D. If the MPO or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the applicable hot-spot requirements, motor vehicle emissions budget requirements and interim emissions requirements are satisfied without the mitigation or control measure, and so notifies the agencies involved in the interagency consultation process required under 20.2.99.102 through 20.2.99.110 NMAC. The MPO (or NMDOT in the absence of an MPO) and US DOT must find that the transportation plan and TIP still satisfy the applicable requirements for motor vehicle emissions budgets and interim motor vehicle emissions budgets, and that the project still satisfies the requirements for hot spots, and therefore that the conformity determinations for the transportation plan, TIP and project are still valid. This finding is subject to the applicable public consultation requirements in 20.2.99.110 NMAC for conformity determinations for projects.
[20.2.99.111 NMAC - Rp, 20.2.99.150 NMAC, 09/15/14]

20.2.99.112 SAVINGS

PROVISION: The federal conformity rules under 40 CFR Part 93 Subpart A, in addition to any existing applicable state requirements, establish the conformity criteria and procedures necessary to meet the requirements of CAA Section 176(c) until such time as this conformity implementation plan revision is approved by US EPA. Following US EPA approval of this revision to the SIP (or a portion thereof), the approved (or approved portion of) the department's criteria and procedures would govern conformity determinations and the federal conformity regulations contained in 40 CFR Part 93 would apply only for the portion, if any, of the department's conformity provisions that is not approved by US EPA. In addition, any previously applicable SIP requirements relating to conformity remain enforceable until the department revises its SIP to specifically remove them and that revision is approved by US EPA.
[20.2.99.112 NMAC - Rp, 20.2.99.154 NMAC, 09/15/14]

HISTORY OF 20.2.99 NMAC:
Pre-NMAC History: None.

History of Repealed Material:

20.2.99 NMAC, Conformity to the State Implementation Plan of Transportation Plans, Programs, and Projects, filed 10/16/02 - Repealed effective 09/15/14.

Other History:

20 NMAC 2.99, Conformity To The State Implementation Plan Of Transportation Plans, Programs, And Projects, filed 11/14/94 was replaced by 20 NMAC 2.99, Conformity To The State Implementation Plan Of Transportation Plans, Programs, And Projects, filed 10/23/98, effective 11/23/98.

20 NMAC 2.99, Conformity To The State Implementation Plan Of Transportation Plans, Programs, And Projects, filed 10/23/98 was renumbered, reformatted and replaced by 20.2.99 NMAC, Conformity To The State Implementation Plan Of Transportation Plans, Programs, And Projects, filed 10/16/02, effective 11/15/02.

20.2.99 NMAC, Conformity to the State Implementation Plan of Transportation Plans, Programs, and Projects, filed 10/16/02 was replaced by 20.2.99 NMAC, Conformity to the State Implementation Plan of Transportation Plans, Programs and Projects, effective 09/15/14.

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.30.9 NMAC, Section 9, effective 4/01/2015.

19.30.9.9 ESTABLISHING CERTAIN LICENSES, PERMITS, CERTIFICATES AND FEES:

Licenses, permit, or certificate	Fee
A. Airborne hunting	\$10.00
B. Call pen	15.00
C. Class A lake	101.00
D. Additional Class A lake	26.00
E. Class A park	501.00
F. Field trial/importation	15.00
G. Falconry	25.00
H. Game bird propagation	10.00
I. Importation	
(1) protected ungulate:	
(a) initial \$500.00/source & up to 2 animals (valid 6 months)	
(b) for additional animals, not to exceed 30 ungulates from the same source property/owner \$50.00 per animal (if no acquisitions to source herd during 6 month period of validity)	
(c) for greater than 30 ungulates from the same source property/owner \$5.00 per animal (if no acquisitions to source herd during 6 months period of validity).	
(2) fish	
(a) annual application processing fee	25.00
(b) additional stocking and shipment fee	6.00
(3) non-domesticated animals per calendar year (1/1 to 12/31) except protected ungulates, game birds, fish or other:	
(a) class 1: importation of 1 to 5 animals	25.00
(b) class 2: importation of 6 to 99 animals	75.00
(c) class 3: importation of greater than 100 animals	300.00
(4) other (i.e., temporary importation, exhibition, game birds, restoration/recovery, etc.)	20.00
J. Protected mammal	10.00
K. Shooting preserve	200.00
L. Zoo	15.00
M. Scientific collecting/bird banding	15.00
N. Bait dealers	21.00
O. Transportation	0.00
P. Retention	1.25
Q. Triploid grass carp	25.00
R. Commercial fishing	25.00
S. Certificate of application:	
(1) NM resident	[8.00] 7.00
(2) Non-resident	[20.00] 13.00
T. Wildlife conservation stamp	10.00
U. Duplicate license	6.00
V. Landowner authorization certificate	9.00
W. Additional antelope permit tag	25.00
X. Migratory bird permit	0.00
Y. Big game depredation damage stamp resident	3.00
Z. Big game depredation damage stamp non-resident	10.00
AA. Public land user stamp	5.00
BB. Commercial collecting permit	50.00

[12-20-94, 3-31-98; 19.30.9.9 NMAC - Rn, 19 NMAC 30.1.9 & A, 7-16-01; A, 10-31-01, A, 12-28-01; A, 08-01-03; A, 3-16-09; A, 6-15-09; A/E, 7-9-10; A, 12-30-10; A, 04-01-15]

NEW MEXICO HIGHER EDUCATION DEPARTMENT

TITLE 5 POST-SECONDARY EDUCATION CHAPTER 7 TUITION AND FINANCIAL AID PART 6 FIRE FIGHTER AND PEACE OFFICER SURVIVORS SCHOLARSHIP

5.7.6.1 ISSUING AGENCY:
State of New Mexico Higher Education
Department.
[5.7.6.1 NMAC - N, 08/29/2014]

5.7.6.2 SCOPE: Provisions
of 5.7.6 NMAC apply to New Mexico
residents that apply to and are selected
to participate in the fire fighter and peace
officer survivors scholarship program
described in this rule, the state of New
Mexico higher education department, and
public post-secondary institutions in New
Mexico.
[5.7.6.2 NMAC - N, 08/29/2014]

**5.7.6.3 STATUTORY
AUTHORITY:** Sections 21-21F-1 through
21-21-F-5 NMSA 1978.
[5.7.6.3 NMAC - N, 08/29/2014]

5.7.6.4 DURATION:
Permanent.
[5.7.6.4 NMAC - N, 08/29/2014]

5.7.6.5 EFFECTIVE DATE:
August 29, 2014, unless a later date is cited
at the end of a section.
[5.7.6.5 NMAC - N, 08/29/2014]

5.7.6.6 OBJECTIVE: The
objective and purpose of 5.7.6 NMAC is to
provide a guideline for implementing the
Fire Fighters and Peace Officer Survivors
Scholarship Act. The purpose of this act
is to provide a scholarship opportunity to
the eligible dependents of fire fighters and
peace officers who lost their lives in the line
of duty.
[5.7.6.6 NMAC - N, 08/29/2014]

5.7.6.7 DEFINITIONS:

A. "Academic year"
means any consecutive period of two
semesters, three quarters or other
comparable units commencing with the fall
term each year.

B. "Department"
means the New Mexico higher education
department.

**C. "Educational
institution"** means any New Mexico public
post-secondary institution.

**D. "Eligible course for
reimbursement"** means a course for credit

included in a student's official transcript and
creditable toward a certificate or degree-
granting program.

E. "Fire Fighter" means
any member of a fire department that is
part of or administered by the state or any
political subdivision of the state.

F. "Line of duty" means
any action which a member is obligated or
authorized by law, rule, regulation, written
condition of employment or authorized
volunteer membership to perform.

**G. "Master's degree
course"** means a class for students who
hold a bachelor's degree who have been
admitted to a graduate school for the
purpose of pursuing a master's degree and
has not yet completed a master's degree.

H. "Member" means
a full-time or part-time paid employee
or a paid or unpaid volunteer who is
authorized by the police department,
sheriff's department or fire department to
be involved in and perform the duties and
responsibilities of the department.

I. "Peace Officer"
means any member of a police or sheriff's
department that is part of or administered
by the state or any political subdivisions of
the state and officers in the department of
corrections.

J. "Political subdivision"
means any entity of the state or local
government, created under either general or
special act, that receives or expends public
money from whatever source derived,
including counties, county institutions,
boards, bureaus or commissions;
municipalities; drainage, conservancy,
irrigation or other special districts; and
school districts.

K. "Recipient" means
a student awarded the fire fighter peace
officer survivors scholarship.

**L. "Satisfactory
academic progress"** means maintaining the
required academic progress toward degree
completion as determined by the institution.

M. "Survivor" means a
spouse, adopted child, or natural child of a
fire fighter or peace officer who was killed
in the line of duty. The survivor, if a child,
must have been twenty-one years of age or
under at the time of the qualifying parent's
death.

N. "Tuition" is the basic
educational charge that all students are
required to pay as a condition of admission
and attendance for academic services or the
course fee charged for certificate programs.
The actual rate per semester or year is set
by each institution.

**O. "Undergraduate
post-secondary student"** means a
matriculated student who has been admitted
to the college and has not yet completed a
bachelor's degree.

[5.7.6.7 NMAC - N, 08/29/2014]

**5.7.6.8 STUDENT
ELIGIBILITY:** All determinations of
survivors of peace officers, fire fighters
or other similar decedents employed by a
political subdivision of the state of New
Mexico shall be made by the department's
financial aid director. Appeal of any such
determination shall be determined by the
cabinet secretary of the higher education
department.
[5.7.6.8 NMAC - N, 08/29/2014]

**5.7.6.9 DURATION OF
SCHOLARSHIP:** The scholarship shall
continue for such time as the recipient
maintains satisfactory academic progress at
the educational institution, but in no event
shall any recipient receive the scholarship
for more than five academic years.
[5.7.6.9 NMAC - N, 08/29/2014]

**5.7.6.10 AMOUNT OF
SCHOLARSHIP:** The amount of the
scholarship shall be equal to the amount
of tuition charged by the educational
institution attended by the recipient.
[5.7.6.10 NMAC - N, 08/29/2014]

**5.7.6.11 ADMINISTRATION
OF FIRE FIGHTER AND
PEACE OFFICER SURVIVORS
SCHOLARSHIP:**

A. The department shall
authorize payments to public educational
institutions, for recipients, upon receipt of
documentation required by the department.

B. Awards shall be
limited for reimbursements to educational
institutions for tuition costs actually
incurred. No cash shall be released by an
educational institution to a recipient except
to reimburse actual payments.

C. Money shall be
allocated in the order that payment requests
are received and approved.

D. To request payment
institutions shall invoice the department on
a semester basis; institutions shall provide
supporting documents for each recipient
including class schedule, degree/certificate
program catalog requirements and any
additional documentation the department
may require to process the request.

E. Reimbursement
payments may also be authorized by
administrative rulings under specific
conditions.

[5.7.6.11 NMAC - N, 08/29/2014]

**5.7.6.12 TERMINATION
OF SCHOLARSHIP:** A scholarship is
terminated upon the occurrence of one or
more of the following:

A. Withdrawal by the
recipient from the institution.

B. Failure to remain enrolled in a satisfactory academic activity.

C. Failure to achieve satisfactory academic progress by the recipient as determined by the educational institution.

D. Substantial noncompliance by the scholarship recipient with the fire fighters and peace officer survivors scholarship act or the rules, regulations or procedures promulgated by the state of New Mexico higher education department.

[5.7.6.12 NMAC - N, 08/29/2014]

HISTORY of 5.7.6 NMAC: [RESERVED]

NEW MEXICO HIGHER EDUCATION DEPARTMENT

This is an emergency amendment to 5.7.20 NMAC, Sections 6 - 9 and 11, effective 8/15/14.

5.7.20.6 OBJECTIVE:

A. The objective of 5.7.20 NMAC is to provide a level of financial support to qualified New Mexico students who ~~[have obtained a New Mexico diploma of excellence from a New Mexico high school or a New Mexico high school equivalency credential and]~~ are enrolled full-time at an eligible New Mexico public college or university. This level of financial support is intended to help defray the cost of tuition at the public post-secondary educational institution where the student is enrolled.

B. A further purpose of 5.7.20 NMAC is to encourage New Mexico high school students who pursue a post-secondary education in New Mexico to complete a first four-year degree within a maximum of eight semesters or two-year degree within a maximum of four semesters (the number of semesters is so determined as the initial award is not made until the second semester of college enrollment).

C. As it applies to students with disabilities who may require special accommodations, the department, in consultation with the student and the office at the public post-secondary educational institution that serves students with disabilities, shall review both the definition of "full-time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case shall "full-time" mean fewer than six credit hours per semester and in no case shall eligibility extend beyond 14 consecutive semesters at a four-year institution and seven consecutive semesters at a two-year institution.

[5.7.20.6 NMAC - Rp, 5.7.20.6 NMAC, 08/15/2014; A/E, 8/15/14]

5.7.20.7 DEFINITIONS:

A. "Academic year"
means any consecutive period of two semesters (or three semesters for accelerated programs), three quarters or other comparable units commencing with the fall term each year.

B. "Accelerated program" means one in which a summer semester is a program requirement and not a student choice; a cohort that requires sequence of courses taken in summer semester.

C. "Consortium" means a written agreement between a home institution and one or more host institutions for consideration of combined enrollment for eligibility:

(1) home institution is the institution where the student is enrolled in a degree or certificate seeking program and is receiving lottery scholarship funds;

(2) host institution is the secondary institution where the student is taking part of their program requirements.

D. "Department"
means the New Mexico higher education department (NMHED).

E. "Full-time" means 15 or more credit hours each program semester of the regular academic year at a research institution or comprehensive institution; or 12 or more credit hours for each program semester at community colleges; or through a consortium agreement between the home and host institutions, or for legacy students in any program semester. For students enrolled through a consortium agreement the minimum credit hour eligibility requirement shall be based on the student's home institution.

F. "GPA" means grade point average.

G. "Immediately upon graduation" means enrollment anytime within the first academic semester following high school completion.

H. "Legacy student"
means a full time resident student who has received three or more program awards by the end of fiscal year 2014.

I. "Legislative lottery scholarship" means a scholarship awarded from proceeds of the New Mexico lottery tuition fund, to defray all or part of the cost of tuition.

J. "Non-enrollment"
means a student is not enrolled in a public post-secondary educational institution.

K. "Probation" means a period of time that a student fails to meet continuing eligibility for exceptional mitigating circumstances as determined by the ~~[financial aid director]~~ lead financial

aid officer at the institution; as described in Subsection C of 5.7.20.8 NMAC.

L. "Public post-secondary educational institution" means a research or comprehensive institution, as defined in Article XII, Section 11 of the New Mexico constitution, and branch community colleges or community college or technical and vocational institute as defined by Section 21-13, 14, and 16 NMSA 1978.

M. "Qualified student"
means a full-time student who completed high school, graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential while maintaining residency in New Mexico and who either:

(1) immediately upon completion of high school, graduation or receipt of a credential was accepted for entrance to and attended a public post-secondary educational institution; or

(2) within 120 days of completion of a high school curriculum or receipt of a high school equivalency credential began service in the United States armed forces and within one year of completion of honorable service or medical discharge from the service, attended a public post-secondary educational institution; and

(3) successfully completed the first semester at a public post-secondary educational institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full time enrollment.

N. "Summer semester"
means a semester equal to fall and spring semester in duration and intensity that is required as part of an accelerated program.

O. "Tuition scholarship"
means the scholarship that provides tuition assistance per semester for qualified students.

[5.7.20.7 NMAC - Rp, 5.7.20.7 NMAC, 08/15/2014; A/E, 8/15/14]

5.7.20.8 STUDENT ELIGIBILITY:

A. A scholarship may be awarded to a student in their second semester who has met first semester eligibility requirements as follows:

(1) has established New Mexico residency as defined in 5.7.18.9 NMAC or is eligible for a nondiscrimination waiver as defined in Subsection K of 5.7.18.10 NMAC;

(2) has ~~[received a New Mexico diploma of excellence from a New Mexico high school or a New Mexico high school equivalency credential]~~ been determined to be a qualified student pursuant to Section M of 5.7.20.7 NMAC;

(3) has met the requirements in Section E of 5.7.20.7 NMAC ~~[and Section~~

M of 5.7.20.7 NMAC];

(4) has met requirements in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC or students with exceptional mitigating circumstances as determined by the institution's ~~[financial aid director]~~ lead financial aid officer; students who are incapable of meeting the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC due to a documented exceptional mitigating circumstance do not forfeit eligibility for the legislative lottery scholarship; however, the following requirements shall apply:

(a) the student shall provide documents certifying the nature of the student's exceptional mitigating circumstance to the institution's ~~[financial aid director]~~ lead financial aid officer at the post-secondary educational institution at which the student is enrolling or will enroll; the institution's financial aid director shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC;

(b) if, in the professional judgment of the institution's ~~[financial aid director]~~ lead financial aid officer, the student's exceptional mitigating circumstance is recognized as a valid reason for the student's inability to meet the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC the student's initial eligibility for the legislative lottery scholarship shall be suspended or deferred unless and until such time that the student is capable of meeting the requirements of Paragraph (4) of Subsection A of 5.7.20.8 NMAC;

(5) has not been awarded a New Mexico scholars' scholarships or other state scholarships which are designated for 100% tuition; and

(6) students with disabilities shall obtain a referral from the student services division of the post-secondary educational institution where the student is enrolled that oversees students with special needs' requests to reduce the credit hours to be considered full semester for scholarship eligibility; referrals and any sufficient documentation shall be received within 30 days of the start of the student's first semester;

(7) students are encouraged, but are not required, to complete a free application for student aid (FAFSA) for lottery scholarship eligibility.

B. Continuing eligibility.

Upon satisfaction of the qualifying semester eligibility requirements, the scholarship will be awarded to the student beginning

with their second semester of enrollment. A student's continuing eligibility shall be determined on a semester basis.

(1) A legislative lottery scholarship award may be re-awarded to a student who:

(a) maintains a minimum of a 2.5 cumulative GPA; a student has the right to request use of the student's cumulative GPA earned at all New Mexico institutions; and

(b) maintains full time enrollment as provided in Subsection E of 5.7.20.7 NMAC; when a qualified student transfers after completion of the first semester from a two year institution to a four year institution for enrollment during the second or subsequent semester, a student will have met eligibility requirements, but said student must enroll in 15 credit hours upon transfer to maintain eligibility;

(i) receipt of a transfer transcript for sufficient documentation for eligibility;

(ii) student transfers shall defer to the receiving institution to determine eligibility.

(2) Students with disabilities may be re-awarded the legislative scholarship under the following conditions:

(a) a referral is obtained for each semester in which a reduction in credit hours is requested;

(b) maintains a minimum of a 2.5 cumulative GPA; and

(c) in no case shall eligibility extend beyond 14 consecutive semesters at a four year institution and six consecutive semesters at a two year institution.

(3) An eligible student that transfers shall continue to be eligible at the receiving institution after receipt of the student's transfer transcript containing eligibility confirmation.

C. Probation. Students who have been determined eligible and subsequently have exceptional mitigating circumstances as determined by the institution's ~~[financial aid director]~~ lead financial aid officer may be placed on a probationary status under the following conditions:

(1) the student shall provide documents certifying the nature of their exceptional mitigating circumstance to the ~~[financial aid director]~~ lead financial aid officer at the post-secondary institution at which the student is enrolling or will enroll;

(2) the ~~[financial aid director]~~ lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Paragraph (4) [(5)] of Subsection A of 5.7.20.8 NMAC;

(3) the student shall maintain enrollment at the public post-secondary

educational institution where eligibility was lost, if applicable;

(4) under no circumstances shall the student receive program awards in excess of those prescribed in Subsections A and B of 5.7.20.9 NMAC less the regular semester(s) of probation.

[5.7.20.8 NMAC -Rp, 5.7.20.8 NMAC, 08/15/2014; A/E, 8/15/14]

5.7.20.9 DURATION OF SCHOLARSHIP:

A. Upon qualification, the student's initial scholarship shall begin with the second semester of enrollment at a post-secondary educational institution. Thereafter, each scholarship is for a period of one semester subject to revocation for failure to maintain eligibility. The scholarship may be renewed on a semester basis until the award recipient has received three semesters of awards at a community college or seven semesters at a research and comprehensive institution of scholarship awards, or until the student graduates with a bachelor's degree from an eligible institution, whichever is sooner.

B. An award recipient may use the award at an eligible two-year post-secondary educational institution until the student receives three semesters of scholarship awards or an associate's degree and can continue to use the award at an eligible New Mexico four-year post-secondary educational institution if the student transfers to a four-year post-secondary educational institution without a break in attendance or the semester following receipt of the associate's degree. In no case shall a student receive more than seven semesters of the award with the exception of legacy students or students with disabilities.

C. A student may transfer from a four-year post-secondary educational institution to a two-year post-secondary educational institution, but in no case shall a student receive more than three semesters of awards at the two-year institution (including those awarded at the prior post-secondary educational institution) or until the student graduates with an associate's degree, whichever is sooner.

D. A student who has been previously eligible may request a leave of absence for cooperative education, military obligations, participation in a study abroad program through the home institution, or other exceptional mitigating circumstances.

E. The student's institutional ~~[financial aid director]~~ lead financial aid officer may approve a leave of absence for a period of up to one year if in the ~~[director's]~~ lead financial aid officer's professional judgment the student has provided sufficient documentation to justify the leave of absence. Subsequent

requests for an additional leave of absence by a student may be considered by the institution's financial aid director in increments not to exceed one year.

F. The [financial aid director] lead financial aid officer shall, in turn, ensure that the student does not receive program awards in excess of those prescribed in Subsections A and B of 5.7.20.9 NMAC and shall exclude the semesters of "non-enrollment" from the determination of eligible award semesters.

G. If a student becomes ineligible for a different state scholarship that is designated for 100% tuition, but satisfies the first semester eligibility requirements and thereafter is eligible for the legislative lottery scholarship, the student may begin receiving the legislative lottery scholarship for the remaining number of semesters of enrollment, not to exceed those prescribed in Subsections A and B of 5.7.20.9 NMAC.

[5.7.20.9 NMAC -Rp, 5.7.20.9 NMAC, 08/15/2014; A/E, 8/15/14]

5.7.20.11 ADMINISTRATION OF THE LEGISLATIVE LOTTERY SCHOLARSHIP:

A. Eligible post-secondary educational institutions shall:

(1) notify students of their possible eligibility, during their first regular semester of enrollment including transfer students who had the legislative lottery scholarship at previous institutions;

(2) designate their institution's [financial aid director] lead financial aid officer to be responsible for determining initial and continuing student eligibility for the legislative lottery scholarship under the terms of these rules and regulations;

(3) maintain a listing of each participating student to include but not be limited to:

(a) social security number as appropriate;

(b) cumulative GPA and completed enrollment hours in prior semesters;

(c) proof of initial and continuing enrollment;

(d) award semester; and

(e) other data fields deemed important by the department;

(4) draw-down files should be submitted to the department for eligible students as defined in Section 5.7.20.10 NMAC per semester; all fiscal year draw-downs shall be for eligible students enrolled during the same fiscal year;

(5) for students that satisfied the first semester eligibility requirements and seek continuing eligibility consideration, use professional judgment to determine that exceptional mitigating circumstances beyond the students control, for which

documentation exists in the student's file; the institutions shall defer to their institutional satisfactory academic progress policy when considering circumstances which include, but are not limited to, consideration for falling below the cumulative GPA requirement or successfully maintain full time enrollment as defined in Section E of 5.7.20.7 NMAC;

(6) provide to the department by April 15 each year the projected enrollment and tuition rates for the following academic year for their appropriate institution as follows: comprehensive, research institution in their second through eighth semester including qualified students in their fifth through eighth semesters who transferred from a community college; projected enrollment at each community college at each community college in their second through fourth semesters;

(7) publish the probation policy as defined in Subsection C of 5.7.20.8 NMAC;

(8) encourage consortium agreements, as defined in the code of federal regulations, 34 CFR 6685, in order to facilitate the enrollment of students and to facilitate the student's participation in this program;

(9) ensure that all available state scholarships including merit based 3% scholarship and New Mexico scholars are awarded before granting legislative lottery scholarships; the intent of this provision is that tuition costs shall be paid first for those students eligible for merit-based aid packages funded by 3% scholarships; in those instances when tuition is not fully covered by the merit-based aid package, said student is eligible for the tuition cost differential to be funded by the legislative lottery scholarship program; nothing in this section requires a public postsecondary educational institution to award a scholarship inconsistent with the criteria established or such scholarship; refer to Subsection G of 5.7.20.9 NMAC for additional provisions;

B. The department shall:

(1) determine a uniform percentage of the average of in-state tuition costs by sector by which to calculate tuition scholarships; all eligible institutions will be notified prior to June 1 annually;

(2) conduct audits to ascertain compliance with rules and regulations, if, during the audit process, evidence indicates that a student should not have received a legislative lottery scholarship, the department will provide guidance to the institutions for appropriate action;

(3) make available to the legislative finance committee and department of finance and administration, by November 1, the following information:

(a) the status of the fund;

(b) tuition scholarship program

participation data aggregated for each public postsecondary education institution to show:

(i) the number of qualified students and legacy students who received tuition scholarships and in the prior twelve month period;

(ii) the total number of students, including qualified students and legacy students, enrolled in the prior twelve-month period;

(iii) the amount of tuition scholarships funded by semester and the amount of tuition costs that were not offset by the tuition scholarship by semester; and

(iv) the number of qualified students and legacy students who graduated with a degree and, for each qualified student, the number of consecutive semesters and nonconsecutive semesters attended prior to graduation.

[5.7.20.11 NMAC -Rp, 5.7.20.11 NMAC, 08/15/2014; A/E, 8/15/14]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.29.5 NMAC, amending Sections 6, 8 thru 10 and adding Sections 11 and 12, effective August 29, 2014.

6.29.5.6 OBJECTIVE: ~~[The New Mexico content standards for English language development (NMELD)]~~ The department-approved English language development standards [provides] provide companion piece to the New Mexico content standards for English language arts (6.29.4 NMAC). ~~[This document]~~ The approved standards shall guide second-language instruction for PreK-12 English language learner students. The English language learner population falls into three basic categories: students whose primary or home language (L1) is other than English including recent immigrants; students from heritage language groups needing enrichment and further development of academic English, some of whom maintain degrees of fluency in their heritage language; and any other students needing enrichment and further development of academic English. Because instruction must address the appropriate proficiency level of the individual student, which may vary greatly for any age, some consideration must be made for the student's maturity level.

[6.29.5.6 NMAC - N, 08-31-2009; A, 08-29-2014]

6.29.5.8 ENGLISH LANGUAGE DEVELOPMENT

STANDARDS GRADE SPANS: [The New Mexico English language development standards are organized into five grade spans: PreK-K, 1-2, 3-5, 6-8, and 9-12.]

The English language development standards established by the department are organized in grade levels as follows: PreK-K, 1, 2, 3, 4, 5, 6, 7, 8, 9 - 10 and 11 - 12.

[6.29.5.8 NMAC - N, 08-31-2009; A, 08-29-2014]

6.29.5.9 ENGLISH LANGUAGE DEVELOPMENT STANDARDS PROFICIENCY LEVELS AND LANGUAGE DOMAINS:

A. The English language development standards have five general levels of English language proficiency: "entering" (level 1), "emerging" (level 2), "developing" (level 3), "expanding" (level 4), "bridging" (level 5)."

B. Reading, writing, listening and speaking skills are addressed at each proficiency level. ~~[Comprehension skills are assessed through the analysis of student performance on reading and listening assessments.]~~

[6.29.5.9 NMAC - N, 08-31-2009; A, 08-29-2014]

6.29.5.10 CONTENT STANDARDS FOR ENGLISH LANGUAGE DEVELOPMENT, Grades

PreK-12: The New Mexico English language development content standards distinguish five general standards: "Social and instructional language," "The language of language arts," "the language of mathematics," "the language of science," and "the language of social studies." Reading, writing, listening and speaking skills are addressed in each standard. ~~[Comprehension skills are assessed through the analysis of student performance on reading and listening assessments.]~~

A. English language proficiency standard 1: PreK- 12. Social and instructional language: English language learners communicate for social and instructional purposes within the school setting.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

B. English language proficiency standard 2: PreK-12. The

language of language arts: English language learners communicate information, ideas and concepts necessary for academic success in the content area of language arts.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

C. English language proficiency standard 3: PreK-12. The language of mathematics: English language learners communicate information, ideas and concepts necessary for academic success in the content area of mathematics.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

D. English language proficiency standard 4: PreK-12. The language of science: English language learners communicate information, ideas and concepts necessary for academic success in the content area of science.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

E. English language proficiency standard 5: PreK-12. The language of social studies: English language learners communicate information, ideas and concepts necessary for academic success in the content area of social studies.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral

communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

[6.29.5.10 NMAC - N, 08-31-2009; A, 08-29-2014]

6.29.5.11 IDENTIFICATION OF ENGLISH LANGUAGE LEARNER: A home language survey shall be completed for all new students initially enrolling in a public school.

A. Initial identification of students' home/heritage language(s) or language influence and parent notification must occur not later than 30 days after the beginning of the school year.

B. The home language survey shall be kept in each student's cumulative file.

C. Students for whom the home language survey indicates a language or language influence other than English shall be screened with the department-approved English language proficiency screening assessment.

D. Students receiving scores below the composite score established by the department to be used to determine English language proficiency will be classified as English language learners and are eligible to receive English language development services.

E. Students classified as English language learners must be assessed annually with the department-approved language development assessment.
[6.29.5.11 NMAC - N, 08-29-2014]

6.29.5.12 EXIT CRITERIA FOR ENGLISH LANGUAGE LEARNER STATUS:

A. English language learners attaining a composite score as determined by the department on the department-approved English language proficiency assessment will be deemed English language proficient.

B. Students attaining the composite score identified in Subsection A, above, must be monitored for two subsequent school years by the school district.

[6.29.5.12 NMAC - N, 08-29-2014]

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

6.50.1 NMAC, General Provisions (filed 7/1/2004) repealed and replaced by 6.50.1 NMAC, General Provisions, effective 09/01/2014.

6 NMAC 50.2, Contracts for Purchase of Professional Services and Insurance (filed 10/01/1997) repealed and replaced by 6.50.2 NMAC, Contracts for Purchase of Professional Services and Insurance, effective 09/01/2014.

6 NMAC 50.3, Procurement of or Self-Insurance of Risk-Related and Employee-Benefits Coverages (filed 10/01/1997) repealed and replaced by 6.50.3 NMAC, Procurement of Coverage for Risk-Related Exposures, Employee-Benefits and Due Process Reimbursement, effective 09/01/2014.

6 NMAC 50.4, Other Educational Entities Participation (filed 10/01/1997) repealed and replaced by 6.50.4 NMAC, Participation in Authority Coverages by Other Educational Entities, effective 09/01/2014.

6 NMAC 50.5, Employee-Benefits and Risk-Related Coverages Determination of Premium Levels (filed 10/01/1997) repealed and replaced by 6.50.5 NMAC, Determination of Premiums for Employee-Benefits, Risk-Related and Due Process Reimbursement Coverages, effective 09/01/2014.

6 NMAC 50.6, Notice of Risk-Related and Employee-Benefits Coverage (filed 10/1/1997) repealed and replaced by 6.50.6 NMAC, Notice of Risk-Related, Employee-Benefits and Due Process Reimbursement Coverages, effective 09/01/2014.

6 NMAC 50.7, Employee-Benefit and Risk-Related Minimum Benefit and Financial Standards Participation Waiver (filed 10/1/1997) repealed and replaced by 6.50.7 NMAC, Waiver of Participation in Authority Coverage Offerings by School Districts and Charter Schools-Minimum Standards, effective 09/01/2014.

6 NMAC 50.8, Employee-Benefit and Risk-Related Premium Payments (filed 10/01/1997) repealed and replaced by 6.50.8 NMAC, Employee-Benefit and Risk-Related Premium Payments, effective 09/01/2014.

6 NMAC 50.9, Coordination of Benefits Requirements - Duplicate or Overlapping

Benefits Coverages (filed 10/01/1997) repealed and replaced by 6.50.9 NMAC, Coordination of Benefits Requirements - Duplicate or Overlapping Benefits Coverages, effective 09/01/2014.

6.50.10 NMAC, Employee Benefit Coverage Enrollment Policy (filed 07/01/2004) repealed and replaced by 6.50.10 NMAC, Employee Benefit Coverage Enrollment Policy, effective 09/01/2014.

6 NMAC 50.11, Employee Benefit Savings Provision (filed 10/01/1997) repealed and replaced by 6.50.11 NMAC, Employee-Benefit Savings Provision, effective 09/01/2014.

6.50.12 NMAC, Loss Prevention Management System (filed 06/27/2000) repealed and replaced by 6.50.12 NMAC, Loss Prevention Management System, effective 09/01/2014.

6 NMAC 50.13, Claims Settlement Policy (filed 10/01/1997) repealed and replaced by 6.50.13 NMAC, Claims Settlement Policy, effective 09/01/2014.

6 NMAC 50.14, Participating Entity Workers Compensation Policy (filed 10/01/1997) repealed and replaced by 6.50.14 NMAC, Participating Entity Workers Compensation Policy Statement, effective 09/01/2014.

6 NMAC 50.15, Insurance Fraud (filed 10/01/1997) repealed and replaced by 6.50.15 NMAC, Insurance Fraud, effective 09/01/2014.

6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations (filed 06/16/2000) repealed and replaced by 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations, effective 09/01/2014.

6.50.17 NMAC, Use of School Facilities by Private Persons (filed 02/09/2010) repealed and replaced by 6.50.17 NMAC, Use of School Facilities by Private Persons, effective 09/01/2014.

6.50.18 NMAC, Use of Volunteers in Schools and School Districts (filed 02/09/2010) repealed and replaced by 6.50.18 NMAC, Use of Volunteers in Schools and School Districts, effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 1 GENERAL PROVISIONS

6.50.1.1 ISSUING AGENCY:
New Mexico Public School Insurance Authority.

[6.50.1.1 NMAC - Rp, 6.50.1.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.1.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.1.2 NMAC - Rp, 6.50.1.2 NMAC, 9/1/2014]

6.50.1.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.
[6.50.1.3 NMAC - Rp, 6.50.1.3 NMAC, 9/1/2014]

6.50.1.4 DURATION:
Permanent.
[6.50.1.4 NMAC - Rp, 6.50.1.4 NMAC, 9/1/2014]

6.50.1.5 EFFECTIVE DATE:
September 1, 2014 unless a later date is cited at the end of a section.
[6.50.1.5 NMAC - Rp, 6.50.1.5 NMAC, 9/1/2014]

6.50.1.6 OBJECTIVE:
A. The first objective of this part is to set forth the general terms, definitions and conditions governing this chapter, Parts 1-18, and to set forth the general authority of the board of directors of the authority. This part also includes rules to encourage interaction with other state agencies, school districts, other educational entities, charter schools and with residents of New Mexico to better inform them of the operations of the board and to learn of their needs and concerns.

B. The second objective of this part is to establish a code of ethics that must be adhered to by those persons defined as public officials and to provide penalties for failure to comply. The proper operation of a democratic government requires that public officials and those attorneys, consultants, agents and employees on whom they rely for advice and opinions be independent, impartial, and responsible to the people. When a sound code of ethics is promulgated and enforced, the public has confidence in the integrity of its government. The objective of the code of ethics is to advance openness in government by requiring disclosure by public officials of their private interests that may be affected by their public acts; to set standards of ethical conduct; to minimize pressures on public officials and to establish a process for reviewing and settling alleged violations.

C. The third objective of this part is to insure, in the interests of public policy, that all meetings of a quorum of the authority's board of directors held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action delegated to the authority shall be open to the public unless otherwise provided by law.
[6.50.1.6 NMAC - Rp, 6.50.1.6 NMAC, 9/1/2014]

6.50.1.7 DEFINITIONS: The definitions listed below apply to all rule pertaining to the authority, the authority's risk-related and employee-benefit coverages and any rules issued by the authority concerning risk or loss prevention, except where other rules contain more specific definitions of the same term or additional terms.

A. "Abatement" means the elimination of a recognized risk-related hazard as the result of a recommendation by a loss prevention representative or by the authority.

B. "Affidavit of domestic partnership" means a sworn, written statement, in a form approved by the authority, by which both members of a domestic partnership affirm, solely for the purpose of obtaining employee domestic partner benefits through the authority, that:

(1) the partners are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;

(2) the partners share a primary residence and have done so for 12 or more consecutive months;

(3) the partners are jointly responsible for each other's common welfare and share financial obligations;

(4) neither partner is married or a

member of another domestic partnership;

(5) both partners are at least 18 years of age;

(6) both partners are legally competent to sign an affidavit of domestic partnership; and

(7) the partners are not related by blood to a degree of closeness that would prevent them from being married to each other in the state of New Mexico.

C. "Affidavit terminating domestic partnership" means a sworn, written statement, in a form approved by the authority, by which an employee notifies the authority that domestic partner benefits should be terminated because the employee's domestic partnership relationship is terminated.

D. "Authority" means the New Mexico public school insurance authority.

E. "Board" means the board of directors of the authority.

F. "Change of status" means the change of status of an eligible employee or eligible dependent by:

(1) death;

(2) divorce or annulment;

(3) loss of employment;

(4) loss of group or individual

health insurance coverage through no fault of the person having the insurance coverage;

(5) birth;

(6) adoption or child placement

order in anticipation of adoption;

(7) legal guardianship;

(8) marriage;

(9) incapacity;

(10) establishment or termination through affidavit of domestic partnership or affidavit terminating domestic partnership; or

(11) fulfilling the actively at work requirement and minimum qualifying number of hours through promotion with salary increase or acceptance of a full-time position with salary increase with the same participating entity.

G. "Charter school" means a school organized as a charter school pursuant to the provisions of the 1999 Charter Schools Act, Section 22-8B-1 et seq., NMSA 1978.

H. "Contract period" when applied to employee benefit or risk-related coverages means the established period of time over which the authority provides insurance to participating entities. The contract period shall be specified by the board as part of a memorandum of coverage, a group benefits policy or administrative services agreement. The contract period may be different for different offerings, policies or agreements.

I. "Costs" means the direct and indirect monetary and economic

costs of insurance.

J. "Coverage" means insurance protection offered or provided by the authority to persons or entities entitled to participate in the authority's offerings.

K. "Critical hazard" means any risk-related exposure, hazardous condition, or other circumstance having an above average potential for immediate occurrence, but which is not immediately life threatening. A critical hazard is of less severity than an imminent hazard.

L. "Deductible" means the dollar amount which will be deducted from any payments made to or on behalf of a participating entity or employee or covered individual.

M. "Domestic partner" means an unrelated person living with and sharing a common domestic life with an employee of an entity offering domestic partner benefits, where the employee and the partner submit a properly executed affidavit of domestic partnership and where the employee and the partner presently:

(1) are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;

(2) share a primary residence and have done so for 12 or more consecutive months;

(3) are jointly responsible for each other's common welfare and share financial obligations; and

(4) are not married or in another domestic partnership.

N. "Domestic partner benefits" means dependent insurance coverage for a domestic partner offered to an employee as a benefit of employment pursuant to a written petition adopted by a member's governing body that:

(1) states that the member's governing body has voted in an open, public meeting to offer domestic partner benefits to its employees;

(2) sets forth the percentage contribution, if any, the member will make toward an employee's premium for domestic partner coverage;

(3) describes any evidence (documentation or other) the member will require in support of an affidavit of domestic partnership; and

(4) is received by the authority at its offices before the effective date the coverage is to begin.

O. "Due process reimbursement" means the reimbursement of a school district's or charter school's expenses as defined in Section 22-29-3 NMSA 1978 which are incurred as a result of a due process hearing as required pursuant to Section 22-29-12 NMSA 1978.

P. "Eligible dependent"

means a person obtaining health care coverage from the authority based upon that person's relationship to the eligible employee as follows:

(1) a person whose marriage to the eligible employee is evinced by a marriage certificate or who has a legally established common-law marriage in a state which recognizes common-law marriages and then moves to New Mexico;

(2) a person who is the domestic partner of an eligible employee, employed by an entity offering domestic partner benefits;

(3) a child under the age of 26 who is either:

(a) a natural child;

(b) a legally adopted child pursuant to the Adoption Act, Section 32A-5-1, et. seq. NMSA 1978 or otherwise by placement order, court order or decree;

(c) a step child who is primarily dependent on the eligible employee for maintenance and support;

(d) a natural or legally adopted child of the eligible employee's domestic partner or a child placed in the domestic partner's household as part of an adoptive placement, legal guardianship, or by court order (excluding foster children) and who is living in the same household and is primarily dependent on the eligible employee for maintenance and support;

(e) a child for whom the eligible employee is the legal guardian and who is primarily dependent on the eligible employee for maintenance and support, so long as evidence of the guardianship is evidenced in a court order or decree (notarized documents, powers of attorney, or kinship documents are not accepted as evidence);

(f) a foster child living in the same household as a result of placement by a state licensed placement agency, so long as the foster home is licensed pursuant to Section 40-7A-1, et. seq. NMSA, 1978;

(g) a child living in the same household after a petition for adoption of that child has been filed pursuant to the Adoption Act, Section 32A-5-1 et. seq. NMSA 1978 or a pre-placement study is pending for purposes of adoption of the child pursuant to Section 32A-5-1 et. seq. NMSA 1978; or

(h) a dependent child pursuant to a qualified medical support order;

(4) a dependent child over 26 who is wholly dependent on the eligible employee for maintenance and support and who is incapable of self-sustaining employment by reason of mental retardation or physical handicap, provided that proof of incapacity and dependency must be provided within 31 days before the child reaches 26 years of age; any child who becomes so incapacitated while covered

shall be allowed to continue coverage thereafter during the period of incapacity, and such times thereafter as may be authorized by the board;

(5) no provision in Paragraphs (1) through (4) of Subsection P of 6.50.1.7 NMAC shall result in eligibility of any person adopted by an eligible member pursuant to the adult adoption provisions of Section 40-14-5 NMSA 1978;

(6) no provision in Paragraphs (1) through (4) of Subsection P of 6.50.1.7 NMAC shall result in eligibility of any person who has met the requirements of any such paragraph for the primary purpose of obtaining eligibility under this chapter; any denial of eligibility under this subsection may be submitted for dispute resolution to the director of the authority pursuant to Subsection F of 6.50.10.13 NMAC, and the director's decision may be appealed by following the procedures specified in 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations.

Q. "Eligible participating entity board member, entity governing body member or authority board member" means an active participating entity board member, entity governing body member or authority board member whose entity is currently participating in the authority employee benefits coverages or who is eligible as an active authority board member or as an eligible retiree (Subsection R of 6.50.1.7 NMAC).

R. "Eligible retiree" means:

(1) a closed class: a "non-salaried eligible participating entity governing authority member" who is a former board member, who has served without salary as a member of the governing body of an employer eligible to participate in the benefits coverages of the authority, and is certified to be such by the director of the authority and has continuously maintained group health insurance coverage through that member's governing body; "eligible retiree" also includes former members of the authority board who has continuously maintained authority group health insurance; with respect to authority and participating entity board members who begin service after January 1, 1997, may participate in the benefits coverages; coverage will end at the request of the member, death or for non-payment;

(2) a "grandfathered retired employee" or "grandfathered retired employee dependent" defined as a retired employee or the dependent of the retired employee who meets all applicable retirement rules of the Educational Retirement Act and educational retirement board but does not receive an Educational Retirement Act pension, and who has been

allowed to continue authority coverages prior to the enactment of the Retiree Health Care Authority Act or by agreement between a new member school district or other educational entity;

(3) a "retired employee" who is drawing an Educational Retirement Act pension or with respect to a retired authority employee, a Public Employee Retirement Act pension, and desires to participate in the authority additional life coverage.

S. "Eligible employee" means an employee of an employer eligible to participate in the benefits coverages of the authority including eligible participating entity board members, entity governing body members and authority board members (Subsection Q of 6.50.1.7 NMAC), full-time employees (Subsection X of 6.50.1.7 NMAC), or eligible part-time employees (Subsection T of 6.50.1.7 NMAC).

T. "Eligible part-time employee" means a person employed by, paid by, and working for a participating entity less than 20 hours but more than 15 hours per week during the academic school term and is determined to be eligible for participation in authority employee benefits coverages by an annual resolution which, prior to May 1 of the previous year, is adopted by the participating entity governing body and approved by the authority board.

U. "Employee benefits minimum standards" means the minimum coverages, minimum limits and other factors as specified in authority rules for which insurance is offered.

V. "Established enrollment period" means the period of time and the dates for which an enrollment period is authorized by the authority. The established enrollment period shall be determined by the board on separate lines of employee benefit coverages as the authority board deems appropriate.

W. "Financial interest" means an interest of 10% or more in a business or exceeding \$10,000.00 in any business. For a board member, official, employee, agent, consultant or attorney this means an interest held by the individual, his or her spouse, his or her domestic partner, or his or her minor children.

X. "Full-time employee" means a person employed by, paid by and working for the participating entity 20 hours or more per week during the academic school term or terms. A full-time employee includes participating entity board members, entity governing body members and authority board members as defined in Subsections SS and TT of 6.50.1.7 NMAC.

Y. "Fund" means the authority account or accounts in which the money received by the authority is held.

Z. “Governing body”
means the elected board or other governing body that oversees and makes the policy decisions for a school district, charter school or other educational entity. (See also Subsection UU of 6.50.1.7 NMAC)

AA. “Imminent hazard”
means those conditions or practices which exist requiring suspension of activities or operations so as to avoid an occurrence which could reasonably be expected to result in death or serious physical harm immediately or before the imminence of such danger can be eliminated through the recommended abatement.

BB. “Ineligible dependents” means:

(1) common law relationships of the same or opposite sex which are not recognized by New Mexico law unless domestic partner benefits are offered by the employee's entity;

(2) dependents while in active military service;

(3) parents, aunts, uncles, brothers and sisters of the eligible employee;

(4) grandchildren left in the care of an eligible employee without evidence of legal guardianship; or

(5) any other person not specifically referred to as eligible.

CC. “Insider information”
means information regarding the authority which is confidential under law or practice or which is not generally available outside the circle of those who regularly serve the authority as board members, officials, employees, agents, consultants or attorneys.

DD. “Insurance” means basic insurance, excess insurance, re-insurance, retrospectively rated insurance, self-insurance, self-insured retention and all other mechanisms to provide protection from risks assumed by the authority.

EE. “Insurance policy”
means one or more basic insurance policies, excess insurance policies, reinsurance policies, retrospectively rated insurance policies, or other insurance policies sought or obtained by the authority from one or more insurance companies to provide contractual protection against one or more risks or perils or which provide health related services.

FF. “Line” means insurance protection which protects against a specific category or set of perils.

GG. “Loss prevention”
means a system for identification and reduction of risk-related exposures, hazardous conditions or other circumstances likely to produce a loss.

HH. “Loss prevention representative” means the employee of the contracted risk-related agency or the authority charged with the responsibility of providing loss prevention services to the

authority.

II. “Memorandum of coverage” means the document which lists all terms and conditions of risk-related coverages.

JJ. “Member” and “members” means all public school districts and charter schools mandated by the New Mexico Public School Insurance Authority Act, Section 22-29-9 et seq. NMSA 1978 to be members of the authority and all other educational entities voluntarily participating in the authority.

KK. “Minimum participation level” means that level of required participation by eligible employees of a participating entity in the authority employee benefits coverages for the particular line of coverage. The percentage level of required participation may vary from one line of coverage to another line of coverage as determined by the board from time to time.

LL. “Native American employees” or “native American dependents” are those persons on the membership rolls of any recognized Indian tribe, nation, or pueblo.

MM. “Occurrence” means continuous and repeated exposures to substantially the same general harmful conditions, accidents or events. All such exposures to substantially the same general condition shall be considered as arising from one occurrence.

NN. “Offering” refers to any single line offering, multi-option or package offering made available by the authority.

OO. “Other educational entity” means an educational entity as defined in Section 22-29-3, NMSA 1978 which is an authority member pursuant to Section 22-29-9E NMSA 1978.

PP. “Package offering”
means combining together of two or more lines of risk-related insurance.

QQ. “Participant” means a person receiving employee benefit coverage from the authority.

RR. “Participating entity”
means a school district, charter school or other educational entity receiving authority coverage.

SS. “Participating authority board member” means a person that is appointed to serve and is serving as a member of the authority board.

TT. “Participating entity board member” or “participating entity governing body member” means a person that is elected or appointed to serve and is serving as a member of the governing board of a participating entity.

UU. “Participating entity governing board” means the elected or appointed board or other governing

body that oversees and makes the policy decisions for the school board, charter school or educational entity.

VV. “Part-time employee”
means a person employed by, paid by and working for the participating entity less than 20 hours per week during the academic school term or terms.

WW. “Public official”
means a person serving the authority as board member, official, employee, agent, consultant or attorney or as a member of an ad hoc or standing authority advisory committee.

XX. “Recommendation”
means a method or means of risk-related corrective action suggested to a participating entity to eliminate a designated hazard.

YY. “Request for waiver”
means a request for waiver of participation.

ZZ. “Review board” means the risk-related loss prevention review board. In the event a risk-related loss prevention review board is not designated by the authority board, “review board” means the risk advisory committee of the board.

AAA. “RFP” means a request for proposals and consists of all papers including those attached to or incorporated by reference in a document used to solicit proposals for insurance policies or professional services.

BBB. “Risk-related coverage” means any coverage required under the Tort Claims Act, Section 4-41-1 et seq. NMSA 1978, or any other state mandate and any coverage provided at the authority's discretion.

CCC. “School district”
means any school district as defined in Section 22-29-3 NMSA 1978.

DDD. “Self-insured retention” means that dollar amount from the first dollar of loss up to a maximum amount for which the risk of loss is retained as determined by the authority.

EEE. “Special events” mean events that permit enrollment in employee-benefits coverages.

FFF. “State” means the state of New Mexico.

GGG. “Waiver” or “waiver of participation” means a written document issued by the authority to a school district or charter school excusing the school district or charter school from participation in an authority offering. A school district or charter school may submit a request for waiver of participation for each authority offering.

[6.50.1.7 NMAC - Rp, 6.50.1.7 NMAC, 9/1/2014]

6.50.1.8 COMMUNITY RELATIONS:

A. The board recognizes its responsibility to the public to provide information concerning all of its actions, its policies, and details of its educational and business operations. In recognition of this responsibility the board shall:

(1) open to the public all regular, special and emergency meetings of the authority's board of directors, board standing committees and board ad hoc committees with notice consistent with the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978 and the resolution adopted by the board governing open meetings;

(2) adopt an annual budget at an open public meeting announced publicly in advance;

(3) provide annual reports of financial and operational activities to members and to the public upon payment of reasonable copying costs pursuant to the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978; and

(4) inform the public of authority matters through appropriate public news media, authority publications and an informational website.

B. The board recognizes that constructive study, discussion and active participation by citizens are necessary to promote the best possible programs of insurance in the community. The board shall do the following to encourage this participation.

(1) The board shall invite participating entities to assist individually or in groups in matters of concern to the authority.

(2) The board shall select, from time to time, committees to serve as study groups to investigate concerns. Each committee shall be appointed by the board for a specific purpose and, after final reports have been completed, shall be dissolved. The function of such committees shall not extend beyond that of study and recommendation as the board shall not delegate its responsibility for discretionary action to any such group.

(3) The board shall encourage participation by school districts, charter schools, other educational entities, employees of educational institutions and interested citizens.

C. Members of the public are entitled to inspect and make copies of public documents of the authority in accordance with the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978.

[6.50.1.8 NMAC - Rp, 6.50.1.8 NMAC, 9/1/2014]

6.50.1.9 BOARD PROCEDURES AND GENERAL AUTHORITY:

This section establishes procedures governing the board operations

for conducting its business affairs and sets forth the general authority of the board.

A. The authority's board shall be composed of a total of 11 members as provided by Section 22-29-5 NMSA 1978. Solely for the purposes of board membership under Section 22-29-5 NMSA 1978, the term "participating educational entities" as used in that section is defined to mean those educational entities that participate in the authority employee benefits coverages or risk-related coverages or both.

B. Membership on the board shall be for a term not to exceed three years pursuant to Section 22-29-5, NMSA 1978. Members shall serve on the board at the pleasure of the party by which he has been appointed and may be removed by the appointing party for any reason at any time.

C. Alternate representatives to the board shall not be allowed. Voting by proxy also shall not be allowed.

D. A board member shall assume office at the time the appointing entity files written notification of the appointment of the board member at the office of the authority. The written notice shall contain the name, title, business address and business and home telephone number of the board member. A board member shall serve until written notification of a change is filed with the authority or until the three-year term is expired. There is no limitation as to the number of terms a board member may serve.

E. The board shall hold an annual meeting each August. At the option of the board the annual meeting may be scheduled to coincide with the regular August meeting of the board.

F. The officers of the board shall be elected from the board membership. The officers shall consist of a president, a vice-president and a secretary, who shall be elected at the annual meeting of the board and shall serve for a period of one year. An officer may be reelected to the same position or elected to fill another position as an officer of the board.

G. If an officer vacates his position on the board, the next lower officer shall automatically assume the duties of the higher officer. For example, if the presidency becomes vacant, the vice-president shall automatically assume the title and duties of president and the secretary shall automatically assume the title and duties of vice-president. After due notice, a new secretary will be elected by the board. In the alternative to the automatic progression to higher office, the board may call a special meeting for the purpose of conducting an election of officers in the event of any vacancy in a board office. Each of the new officers, however selected, shall

serve until election of officers at the next annual meeting.

H. The regular meetings of the board shall normally be held monthly, in a place to be determined from time to time by the board. The date of any regular meeting may be changed by a majority vote of a quorum of the board. The president or vice-president may cancel a regularly scheduled meeting of the board by giving notice of the cancellation in advance of any regularly scheduled meeting.

I. Robert's Rules of Order are adopted by the board and shall be used for the conduct of all meetings to be held by the authority. Robert's Rules of Order shall be binding in all cases where they are not inconsistent with New Mexico statutes and rules adopted by the authority.

J. Meetings of the board other than regular meetings shall be called according to the following procedures.

(1) A special meeting of the board is a meeting other than a regular or emergency meeting and may be called by the president, vice-president or any three board members for the specific purposes specified in the call. The call shall be made in accordance with the Open Meetings Act requirements, Section 10-15-1 et seq. NMSA 1978, and board resolutions.

(2) An emergency meeting of the board is a meeting other than a regular or special meeting and may be called by the president, vice-president, or any two members of the board to consider a sudden or unexpected set of circumstances affecting the authority for which time is of the essence. The call shall be made in accordance with the Open Meetings Act requirements, Section 10-15-1 et seq. NMSA 1978, and board resolutions.

K. A majority of all of the board members shall constitute a quorum for conducting the affairs of the authority. The president of the board shall be entitled to debate any issue and vote on any issue in the same manner as other members of the board. The president shall be considered to be a member of the board for purposes of a quorum. All matters will be determined by voice vote. Any member of the board may request a roll call vote on any issue. In the event of a roll call, it shall be in alphabetical order with the president voting last.

L. The board shall be addressed according to the following procedures.

(1) An individual may speak on any item that appears on the adopted agenda, before a final vote is taken, by notifying and subsequently being recognized by the president or vice-president. The president or vice-president may, at his discretion, limit the time any individual or entity is allotted to make a presentation and the president or vice-

president may, in his discretion, limit the time allotted for any subject.

(2) A person with a matter to present to the board shall submit the request in writing with appropriate supporting materials four days in advance of a regularly scheduled meeting, 24 hours in advance of a special meeting and three hours in advance of an emergency meeting.

M. The board retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the constitution of the state of New Mexico and statutes, including those prescribed by Sections 22-29-1 et. seq. NMSA 1978, and such other power and authority as may be conferred upon the board from time to time. In execution of those powers and duties specifically provided by law, the board has the following general power and authority to:

(1) exercise general control and management of the authority, third party administrators, consultants retained by the authority and other agents, servants and employees;

(2) establish such programs, and provide such services as it deems necessary for the proper and efficient operation of the authority and the good of the participating entities;

(3) exercise control and management of all authority assets and use such assets to promote authority business in such ways as the board deems necessary and proper in accordance with law;

(4) make and adopt or amend rules and regulations for governance of the authority by a majority of the board membership;

(5) make and adopt or amend substantive rules and regulations by a majority vote of the board membership;

(6) repeal a substantive rule of the authority by a majority vote of the board membership, but the board has no power to suspend any substantive rule except by a two-thirds vote of the membership of the board;

(7) make provisions for interpreting the authority's programs for dissemination to the public and to seek the opinion and advice of the participating entities concerning the authority's insurance programs;

(8) work in a cooperative manner with interested citizens in a continuous effort to improve the authority's programs;

(9) appoint advisory committees, including a risk advisory committee and an employee benefits advisory committee, which are permanent standing committees of the board, as well as ad hoc advisory committees as needed;

(10) establish an executive committee, a permanent standing committee

of the board, which shall be made up of the president, vice-president and secretary of the board and which shall serve as the agenda committee; and

(11) hire an executive director and to delegate to the executive director the day to day activities of the authority pursuant to board policy as developed in its open meetings.

N. The permanent risk advisory committee and the permanent employee benefits advisory committee shall be chaired by members of the board or if no board member is available, then by staff. The board shall name the advisory committee members from authority participating entities or covered individuals assuring a balance of large and small participating entities and a geographic balance.

O. An ad hoc advisory committee shall be established for a specific purpose or goal and shall be established for a stated period of time.

P. Members of advisory committees shall be appointed by the president of the board with the advice and consent of the board and shall serve at the pleasure of the board. Advisory committees shall provide notice of meetings as required by the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978, and these rules. Minutes in compliance with Subsection R of 6.50.1.9 NMAC shall be kept by the chairman or his designee. Advisory committee minutes shall be considered acted upon when the board acts on the advisory committee report.

Q. The authority shall pay per diem and mileage consistent with the Per Diem and Mileage Act, Section 10-8-1 et seq. NMSA 1978, as amended, and the applicable department of finance and administration rules. The per diem and mileage payments shall be limited to the following situations.

(1) Authority employees are entitled to receive per diem and mileage for travel incurred in the normal course and scope of their employment; provided however, that no employee shall be entitled to receive per diem and mileage for travel outside of the state without obtaining the board's prior approval for the travel.

(2) Authority board members are entitled to receive per diem and mileage for travel incurred for attending all regular, special and emergency board meetings, or any standing or ad hoc committee meetings of the board called pursuant to the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978 and the authority's open meetings resolution. In addition, the executive committee serving as the authority board agenda committee is entitled to receive per diem and mileage for travel incurred as necessary to conduct

the business of the board. Authority board members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of the board.

(3) Authority advisory committee members named by the board to serve on advisory committees are entitled to receive per diem and mileage for travel incurred for attending authority advisory committee meetings which has been scheduled in writing by the board or by the executive director. Authority advisory committee members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of the board.

R. Minutes of the board.

(1) The authority shall keep written minutes of all its open meetings. The minutes shall include as a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered, if any, and a record, where appropriate, of any decisions and votes taken which show how each member voted. All minutes of meetings shall be open to public inspection at reasonable times. Draft minutes shall be prepared within 10 working days after the meeting. Minutes shall not become official until approved by the board. The minutes shall be kept on file as the permanent official record of the authority.

(2) It is the practice of the authority staff (but not a requirement by the authority board) that board meetings are tape recorded. The board secretary shall make notes of board meetings sufficient to reflect the information required in Paragraph (1) of Subsection R of 6.50.1.9 NMAC, and the tape recording shall be available to the secretary, any board member or member of the public for review with regard to the accuracy of draft minutes. However, 30 days after minutes have been adopted by the board, the board secretary shall recycle the tapes by erasure and make them available for re-use.

[6.50.1.9 NMAC - Rp, 6.50.1.9 NMAC, 9/1/2014]

6.50.1.10 CODE OF ETHICS:

A. Registration and disclosure duties of public officials.

(1) Upon becoming a public official, a person shall provide registration information to the authority office as listed below. This information shall be updated every April and shall be available to the public at all times:

- (a) name;
- (b) address and telephone number;
- (c) professional, occupational or business licenses;

(d) membership on boards of directors of corporations, public or private associations or organizations; and

(e) the nature, but not the extent or amount, of his financial interests as defined in Subsection X of 6.50.1.7 NMAC within one month of becoming a public official.

(2) A public official who has a financial interest which may be affected by an official act of the authority, ad hoc or advisory committee shall declare such interest prior to discussion, voting, advising or taking any other action and that declaration shall be entered in the official minutes of the authority. A public official shall abstain from voting, advising or taking any other action including discussion on that issue if the decision, in his opinion, may affect his financial interest in a manner different from its effect on the general public.

B. No public official shall request or receive a gift or loan for personal use or for the use of others from any person involved in a business transaction with the authority with the following exceptions:

(1) an occasional non-pecuniary gift of insignificant value;

(2) an award publicly presented in recognition of public service;

(3) a commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of the state to engage in the business of making loans; or

(4) a political campaign contribution, provided that such gift or loan is properly reported and actually used in a political campaign.

C. No public official shall personally represent private interests before the authority board or any ad hoc or standing committee.

D. No public official shall use or disclose insider information regarding the authority for his own or other's private purposes.

E. No public official shall use authority services, personnel or equipment for personal benefit, convenience or profit, except when such use is generally available to the public and when in accordance with policies of the authority board.

F. No public official shall acquire or negotiate to acquire a financial interest at a time when the official believes or has reason to believe that it will be substantially or directly affected by his official acts.

G. No public official shall enter into a contract or transaction with the authority or its public officials, unless the contract or transaction is made public by filing notice with the authority board.

H. No public official

shall vote or otherwise participate in the negotiation or the making of any authority contract with any business or entity in which he has a direct financial interest.

I. No public official shall seek to be awarded a contract where such public official has participated in the process of preparation of the bid or request for proposals.

J. Any contract, approval, sale or purchase entered into or official action taken by a public official in violation of 6.50.1.10 NMAC may be voided by action of the authority board.

K. It is a violation of 6.50.1.10 NMAC for any public official knowingly, willfully or intentionally to conceal or fail to disclose any financial interest required to be disclosed by 6.50.1.10 NMAC or violate any of its provisions.

L. Any person may make a sworn, written complaint to the authority board of a violation by a public official of 6.50.1.10 NMAC. Such complaint shall be filed with the authority executive director or if it is a complaint against the executive director, then with the authority board. The complaint shall state the specific provision of 6.50.1.10 NMAC which has allegedly been violated and the facts which the complainant believes support the complaint. Within 15 days of receiving the complaint, the authority board in executive session shall appoint a hearing officer to review the complaint for probable cause. The hearing officer shall receive the written complaint and notify the person complained against of the charge. Persons complained against shall have the opportunity to submit documents to the hearing officer for his review in determining probable cause.

Within 15 days of undertaking the inquiry to determine probable cause, the hearing officer shall report his findings to the authority board. In the event the hearing officer rejects a complaint as lacking in probable cause, he shall provide a written statement of reasons for his rejection to the authority board and the complainant. Upon a finding of probable cause, within 30 days the hearing officer shall conduct an open hearing in accordance with due process of law. Within a time after the hearing, as specified by the authority board, the hearing officer shall report his findings and recommendations to the authority board for appropriate action based on those findings and recommendations. If the complaint is found to be frivolous, the authority board may assess the complainant the costs of the hearing officer's fees. Upon recommendation of the hearing officer, the authority board may issue a public reprimand to the public official; remove or suspend him from his office, employment or contract and refer complaints against public

officials to the appropriate law enforcement agency for investigation and prosecution.

M. The executive director and the authority board shall maintain the confidentiality of the complaint and instruct the complainant that he is also required to keep the complaint confidential pursuant to Subsection L of 6.50.1.10 NMAC. Except for the hearing, the proceedings shall be kept confidential by all parties concerned, unless the accused public official requests that the process be open at any stage.

N. A separate hearing officer shall be appointed by the authority board for each complaint. The hearing officer may be an authority board member, agent or employee of the authority or another person. The complainant and the person complained against have the right to one disqualification of a designated hearing officer.

[6.50.1.10 NMAC - Rp, 6.50.1.10 NMAC, 9/1/2014]

HISTORY OF 6.50.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA 86-1, Open Meetings Act Resolution, filed 09-18-86; NMPSIA 86-2, Definitions, filed 10-31-86; NMPSIA 88-2, Definitions, filed 11-4-88; NMPSIA 86-3, Board Procedures and General authority, filed 10-31-86; NMPSIA 86-4, Community Relations, filed 10-31-86; NMPSIA 89-2, Staff Headquarters, filed 08-03-89; NMPSIA Rule 93-1, Definitions, filed 03-22-93; NMPSIA Rule 93-3, Board Procedures and General authority, filed 03-22-93; Community Relations, filed 10-31-86; NMPSIA Rule 93-2, Community Relations, filed 03-22-93; NMPSIA Rule 89-200, Code of Ethics, filed 03-27-89; NMPSIA 93-4, Code of Ethics, filed 03-22-93.

History of Repealed Material:

6.50.1 NMAC, General Provisions (filed 7/1/2004) repealed 9/1/2014.

Other History:

NMPSIA Rule 93-1, Definitions (filed 03-22-93); NMPSIA Rule 93-2, Community Relations (filed 03-22-93); NMPSIA Rule 93-3, Board Procedures and General authority (filed 03-22-93); NMPSIA 93-4, Code of Ethics (filed 03-22-93) was all renumbered, reformatted, amended and replaced by 6 NMAC 50.1, General Provisions, effective 10/15/97. 6 NMAC 50.1, General Provisions (filed 10/1/97) was renumbered, reformatted, amended and replaced by 6.50.1 NMAC,

General Provisions, effective 7/15/2004. 6.50.1 NMAC, General Provisions (filed 7/1/2004) was repealed and replaced by 6.50.1 NMAC, General Provisions, effective 9/1/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 2 CONTRACTS FOR PURCHASE OF PROFESSIONAL SERVICES AND INSURANCE

6.50.2.1 ISSUING AGENCY:
New Mexico Public School Insurance
Authority.
[6.50.2.1 NMAC - Rp, 6 NMAC 50.2.1,
09/01/2014]
[The address of the New Mexico Public
School Insurance Authority is 410 Old Taos
Highway, Santa Fe, New Mexico 87501.]

6.50.2.2 SCOPE: This part
applies to all school districts, charter
schools, other educational entities, eligible
employees, eligible retired employees,
eligible dependents, eligible participating
entity governing body members, and
persons or entities authorized to participate
in the authority's employee benefits, risk-
related and due process reimbursement
coverages.
[6.50.2.2 NMAC - Rp, 6 NMAC 50.2.2,
09/01/2014]

6.50.2.3 STATUTORY
AUTHORITY: Subsection D of Section
22-29-7 NMSA 1978, directs the authority
to promulgate necessary rules, regulations
and procedures for the implementation of
the New Mexico Public School Insurance
Authority Act, Section 22-29-1 et seq.
NMSA 1978.
[6.50.2.3 NMAC - Rp, 6 NMAC 50.2.3,
09/01/2014]

6.50.2.4 DURATION:
Permanent.
[6.50.2.4 NMAC - Rp, 6.50.2.4 NMAC,
09/01/2014]

6.50.2.5 EFFECTIVE DATE:
September 1, 2014 unless a later date is
cited at the end of a section.
[6.50.2.5 NMAC - Rp, 6 NMAC 50.2.5,
09/01/2014]

6.50.2.6 OBJECTIVE: The
objective of this part is to establish
requirements for procurement of
professional services, consulting and
insurance services for the authority. The

objective is to set out policies to stimulate
maximum competition for provision of
these services. It is not the objective of
this part to restate the Procurement Code,
Section 13-1-1 et seq., NMSA 1978, but
only to supplement it where necessary.
[6.50.2.6 NMAC - Rp, 6 NMAC 50.2.6,
09/01/2014]

6.50.2.7 DEFINITIONS: As
used in this part: "professional services"
means the services of third party
administrators, insurance consultants,
banks, underwriters, brokers, agents,
architects, archaeologists, artists,
entertainers, auditors, engineers, clergymen,
land surveyors, landscape architects,
medical arts practitioners, scientists,
management and systems analysts, certified
public accountants, registered public
accountants, lawyers, psychologists,
planners, photographers, pilots, researchers,
teachers, writers, interpreters, and persons
or businesses providing similar services.
[6.50.2.7 NMAC - Rp, 6 NMAC 50.2.7,
09/01/2014]

6.50.2.8 CONTRACT
APPROVAL:
A. Every contract for
professional services, consulting or
insurance services shall be approved by the
board only after its general legal counsel
has reviewed it and has affirmed it is in
compliance with appropriate provisions of
the Procurement Code, Section 13-1-1 et
seq., NMSA 1978 and these rules.
B. All amendments
to contracts for professional services,
consulting or insurance services shall also
be subject to review and approval by the
board's general legal counsel as provided in
these rules.
[6.50.2.8 NMAC - Rp, 6 NMAC 50.2.8,
09/01/2014]

6.50.2.9 CONTRACT
REQUIREMENTS:
A. All contracts for
professional services, consulting or
insurance services shall be in a form and
contain such provisions as may be required
by the board and its general legal counsel.
B. Each contract for
professional services, consulting or
insurance services shall comply with the
Governmental Conduct Act, Section 10-
16-1 et seq. NMSA 1978. In particular the
provisions of Sections 10-16-7, 10-16-8 and
10-16-9 NMSA 1978 regarding contracts
between state agencies and public officers
or employees of the state, with the family
of the public officer or employee or with
a business in which the public officer or
employee or the family of the public officer
or employee shall be strictly observed.
When financial disclosure is required under

the Financial Disclosure Act, Section 10-
16A-1 et seq. NMSA 1978, the disclosure
shall be filed with the secretary of state.
[6.50.2.9 NMAC - Rp, 6 NMAC 50.2.9,
09/01/2014]

6.50.2.10 PROCEDURES FOR
ENTERING INTO CONTRACTS:
A. Contracts for
professional services, consulting or
insurance services shall be solicited,
negotiated and awarded through a
competitive sealed proposal process in
accordance with the Procurement Code,
Section 13-1-1 et seq., NMSA 1978. Sole
source, emergency and small purchases
shall also be solicited, negotiated
and awarded in accordance with the
Procurement Code, Section 13-1-1 et seq.,
NMSA 1978.

B. Proposals shall be
evaluated based on the requirements
set forth in the invitation for proposals,
which requirements shall include
criteria for evaluating proposals such
as experience, both quantitative and
qualitative, prior provision of similar
services, client references, price and
any other considerations the authority
deems relevant. No criteria may be used
in proposal evaluations that are not set
forth in the invitation for proposals. The
authority may provide that price is a factor,
but that a contract need not be awarded
to the vendor proposing the lowest price.
The award shall be made to the responsible
offeror or offerors whose proposal is most
advantageous to the authority, taking into
consideration the evaluation factors set forth
in the request for proposals.

C. All prospective
contractors shall submit to the board a
signed completed original of a contract
prepared by, reviewed and approved by
the authority's general legal counsel. The
contract form shall be submitted to and
approved by the board prior to initiating
any action with prospective contractors for
contractual services and prior to beginning
performance of any services pursuant to the
contract.

D. There shall be no
liability whatsoever by the authority, and
there shall be no services rendered unless
those services have commenced after
approval of a contract for services by the
board.
[6.50.2.10 NMAC-Rp, 6.50.2.10 NMAC,
09/01/2014]

6.50.2.11 MULTI-TERM
CONTRACTS: Any multi-term contract
for services (including the furnishing
of insurance) shall only be entered
into pursuant to the provisions of the
Procurement Code, Section 13-1-150
NMSA 1978 as amended and supplemented.

[6.50.2.11 NMAC - Rp, 6 NMAC 50.2.11, 09/01/2014]

6.50.2.12 RIGHT TO

PROTEST: Any offeror who is aggrieved in connection with a solicitation or award of a contract may protest to the executive director of the authority. The protest shall be submitted in writing within 15 calendar days after knowledge of the facts or occurrence giving rise to the protest.

[6.50.2.12 NMAC - Rp, 6 NMAC 50.2.12, 09/01/2014]

6.50.2.13 FILING OF PROTEST:

A. Protests must be in writing and addressed to the executive director.

B. The protest shall:

(1) include the name and address of the protestant;

(2) include the solicitation number;

(3) provide a statement of the grounds for protest;

(4) include supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time, in which case the expected availability date shall be indicated;

(5) a statement of the facts or occurrences giving rise to the protest; and

(6) specify the ruling requested from the director.

C. No formal pleading is required to initiate a protest, but protests shall be concise, logically arranged, and direct.

[6.50.2.13 NMAC - Rp, 6 NMAC 50.2.13, 09/01/2014]

6.50.2.14 PROCUREMENTS AFTER PROTEST:

A. In the event of a timely protest, as defined in 6.50.2.12 and 6.50.2.13 NMAC, the executive director shall not proceed further with the procurement unless he makes a written determination that it is necessary to go forward with the award of the contract to protect substantial interests of the authority. Such written determination shall set forth the basis for the determination.

B. In no circumstance will a procurement be halted after a contract has been awarded merely because a protest has been filed.

C. The point in time in which a contract is awarded is that point at which a legally enforceable contract is created, unless the context clearly requires a different meaning.

[6.50.2.14 NMAC - Rp, 6 NMAC 50.2.14, 09/01/2014]

6.50.2.15 PROCEDURE:

A. Upon the filing of a timely protest, the burden is on the protestant to give notice of the protest to and to cause service to be made (as provided in the Rules of Civil Procedure) upon the contractor if award has been made or, if no award has been made, notice to and service upon all bidders and offerors who appear to have a substantial and reasonable prospect of receiving an award if the protest is upheld or denied.

B. The protestant and every business that receives notice pursuant to Subsection A of 6.50.2.15 NMAC will automatically be parties to any further proceedings before the executive director. In addition, any other person or business may move to intervene at any time during the course of the proceedings. Intervention will be granted upon a showing of a substantial interest in the outcome of the proceedings. Intervenor shall accept the status of the proceedings at the time of their intervention; in particular, they must abide by all prior rulings and accept all previously established time schedules.

C. The executive director and all employees and the general legal counsel of the authority are not parties to the proceedings.

[6.50.2.15 NMAC - Rp, 6 NMAC 50.2.15, 09/01/2014]

6.50.2.16 AUTHORITY TO

RESOLVE PROTEST: The executive director may take any action reasonably necessary to resolve a protest regarding risk-related coverages. Such actions include, but are not limited to, the following:

A. issue a final written determination summarily dismissing the protest;

B. obtain information from the staff of the state purchasing agent or state central purchasing office;

C. require the parties to produce information or witnesses under their control for examination;

D. require parties to express their positions on any issue in the proceeding;

E. require parties to submit legal briefs on any issues in the proceeding;

F. establish procedural schedules;

G. regulate the course of the proceedings and the conduct of any participants;

H. receive, rule on, exclude or limit evidence;

I. take official notice of any fact that is among the traditional matters of official or administrative notice;

J. conduct hearings; and

K. take any action reasonably necessary to compel discovery or control the conduct of parties or

witnesses.

[6.50.2.16 NMAC - Rp, 6 NMAC 50.2.16, 09/01/2014]

6.50.2.17 HEARINGS:

A. Hearings are disfavored and will be held only when the executive director determines that substantial material factual issues are present that cannot be resolved satisfactorily through an examination of written documents in the record. Any party may request a hearing, but such requests shall be deemed denied unless specifically granted.

B. Hearings, when held, should be as informal as practicable under the circumstances, but the executive director has absolute discretion in establishing the degree of formality for any particular hearing. In no event is the executive director required to adhere to formal rules of evidence or procedure.

[6.50.2.17 NMAC - Rp, 6 NMAC 50.2.18, 09/01/2014]

6.50.2.18 RESOLUTION:

A. The executive director shall, within 30 days after receipt of all information or the date of any hearing, whichever is later, issue a written determination relating to the protest. The determination shall:

(1) state the reasons for the action taken; and

(2) inform the protestant of the right to judicial review of the determination pursuant to Section 13-1-183 N.M.S.A. 1978.

B. A copy of the written determination shall be sent immediately by certified mail, return receipt requested, to each of the parties.

[6.50.2.18 NMAC - Rp, 6 NMAC 50.2.19, 09/01/2014]

6.50.2.19 RELIEF:

A. If, prior to award of a contract, the executive director makes a determination that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be canceled.

B. If, after an award of a contract, the executive director makes a determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has not acted fraudulently or in bad faith:

(1) the contract may be ratified, affirmed and revised to comply with law, provided that a determination is made that doing so is in the best interests of the authority; or

(2) the contract may be terminated, and the business awarded the contract shall be compensated for the actual expenses reasonably incurred under the

contract plus a reasonable profit prior to termination.

C. If, after an award of a contract, the executive director makes a determination that a solicitation or award of a contract is in violation of law or that the business awarded the contract has acted fraudulently or in bad faith, the contract shall be canceled.

D. Except as provided in Paragraph (2) of Subsection B of 6.50.2.19 NMAC, the executive director shall not award money damages or attorneys' fees. [6.50.2.19 NMAC - Rp, 6 NMAC 50.2.20, 09/01/2014]

6.50.2.20 MOTION FOR RECONSIDERATION:

A. A motion for reconsideration of a written determination issued pursuant to 6.50.2.18 NMAC, may be filed by any party involved in the procurement. The motion for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification of the determination is deemed warranted, specifying any errors of law made, or information not previously considered.

B. A motion for reconsideration shall be filed not later than 10 days after receipt of the written determination.

C. The executive director shall issue a written response within 10 business days to the motion for reconsideration. A copy of the written response shall be sent immediately by certified mail, return receipt requested, to each of the parties. [6.50.2.20 NMAC - Rp, 6 NMAC 50.2.21, 09/01/2014]

6.50.2.21 DESIGNEE:

A. At any point during a protest proceeding the executive director or the board may appoint a designee, to act in place of the executive director. The designee will have all of the powers described in these rules regarding protest procedures except the power to issue a written determination under 6.50.2.18 NMAC. The designee only has authority to recommend a resolution to the executive director under that section.

B. The designee may be any person other than any person having made a proposal in response to the request for proposal.

C. A designee shall present a recommended written resolution to the executive director or the board and mail a copy to each of the parties. No party may appeal from the recommended resolution of the designee.

D. The executive director or the board shall approve, disapprove or

modify the recommended resolution of the designee in writing. Such approval, disapproval or modification shall be the written determination required by 6.50.2.18 NMAC.

[6.50.2.21 NMAC - Rp, 6 NMAC 50.2.22, 09/01/2014]

6.50.2.22 FINAL DETERMINATION:

A. In those proceedings in which no motion for reconsideration is filed, the written determination issued pursuant to 6.50.2.18 NMAC shall be the final determination for purposes of the time limits for seeking judicial review under Section 13-1-183 NMSA 1978.

B. In those proceedings in which a motion for reconsideration is filed, the written response to the motion issued pursuant to Subsection C of 6.50.2.20 NMAC shall be the final determination for purposes of the time limits for seeking judicial review under Section 13-1-183 NMSA 1978.

[6.50.2.22 NMAC - Rp, 6 NMAC 50.2.23, 09/01/2014]

6.50.2.23 COPIES OF COMMUNICATIONS:

A. Each party to a protest proceeding shall certify that it has provided every other party with copies of all documents or correspondence addressed or delivered to the executive director.

B. No party shall submit any material, evidence, explanation, analysis, or advice, whether written or oral, to the executive director or the board *ex parte*, regarding any matter at issue in a protest.

[6.50.2.23 NMAC - Rp, 6 NMAC 50.2.24, 09/01/2014]

6.50.2.24 PROTESTS REGARDING HEALTH CARE CONTRACT PURCHASING:

Protests concerning the authority's purchase of health care contracts shall be resolved by the procurement manager pursuant to the Health Care Purchasing Act, Section 13-7-1 et seq., NMSA 1978.

[6.50.2.24 NMAC - N, 09/01/2014]

6.50.2.25 CONTRACTS - AUDITS:

A. The authority has the primary responsibility for contract compliance monitoring. The board or its consultant if any, shall audit contracts on a random basis to determine:

(1) if the tasks called for in the scope of services have been performed;

(2) if the contract was completed in time and within budget; and

(3) if the services were performed to the satisfaction of the authority.

B. For purposes of compliance with this provision, every contract shall require the contractor to maintain detailed time records which indicate the date, time and nature of services rendered.

[6.50.2.25 NMAC - Rp, 6 NMAC 50.2.25, 09/01/2014]

6.50.2.26 VOUCHER APPROVAL -- PROFESSIONAL SERVICES

A. No voucher for payment of professional services will be approved by the board or its third party administrators, other than a payroll voucher or travel voucher, unless the contract and any amendments to the contract have been approved where required by these rules. All vouchers must contain the contract identification number.

B. The board or its third party administrators shall not approve any voucher for the payment of professional services unless the voucher certifies that the services have been rendered.

[6.50.2.26 NMAC - Rp, 6 NMAC 50.2.26, 09/01/2014]

HISTORY of 6.50.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA Rule 89-100, Contracts for Purchase of Professional Services and Insurance, filed 3/27/89.

NMPSIA Rule 93-5, Contracts for Purchase of Professional Services and Insurance, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.2, Contracts for Purchase of Professional Services and Insurance, filed 10/1/97 - Repealed effective 09/01/2014

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 3 PROCUREMENT OF COVERAGE FOR RISK-RELATED EXPOSURES, EMPLOYEE-BENEFITS AND DUE PROCESS REIMBURSEMENT

6.50.3.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.

[6.50.3.1 NMAC - Rp, 6 NMAC 50.3.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos

Highway, Santa Fe, New Mexico 87501.]

6.50.3.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.
[6.50.3.2 NMAC - Rp, 6 NMAC 50.3.2, 09/01/2014]

6.50.3.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.
[6.50.3.3 NMAC - Rp, 6 NMAC 50.3.3, 09/01/2014]

6.50.3.4 DURATION:
Permanent.
[6.50.3.4 NMAC - Rp, 6 NMAC 3.4, 09/01/2014]

6.50.3.5 EFFECTIVE DATE:
September 1, 2014 unless a later date is cited at the end of a section.
[6.50.3.5 NMAC - Rp, 6 NMAC 50.3.5, 09/01/2014]

6.50.3.6 OBJECTIVE: The objective of this part is to delineate the powers of the authority to procure insurance or to self-insure risk-related exposures and to provide for employee-benefit programs and due process reimbursement coverage and the general methods by which these coverages will be offered.
[6.50.3.7 NMAC - Rp, 6 NMAC 50.3.6, 09/01/2014]

6.50.3.7 DEFINITIONS:
[RESERVED]

6.50.3.8 AUTHORIZATION TO PROCURE INSURANCE OR TO SELF-INSURE RISK-RELATED, EMPLOYEE BENEFIT AND DUE PROCESS REIMBURSEMENT COVERAGES: The authority is authorized to provide for risk-related exposures, employee benefit programs and due process reimbursement coverage in the following ways.

A. Obtain basic, excess, reinsurance or retrospectively rated insurance policies for any combination of risk-related or employee-benefit coverages on behalf of all persons or entities authorized to participate in the authority's

coverages in compliance with the Procurement Code, Section 13-1-1 et seq. NMSA 1978, the Health Care purchasing Act, Section 13-7-1 NMSA 1978, and the competitive sealed proposal process of Section 13-1-28 NMSA 1978.

B. Self-insure all or any part of risk-related, employee benefit and due process reimbursement coverages offered to persons or entities authorized to participate in the authority's coverages.

C. Establish pooling and participation arrangements to provide risk-related or employee-benefit coverages on behalf of all persons or entities authorized to participate in the authority's coverages.

D. Establish reasonable self-insured retention or self-insured liability levels.

E. Establish reasonable deductibles, stop loss, out of pocket, co-pays or other cost containment mechanisms.

F. Modify any basic, excess, reinsurance or retrospectively rated insurance policies, pooling or participation agreements or other insurance coverage.

G. Add or delete one or more risks, one or more perils, one or more benefits or one or more lines in any self-insurance, insurance contract, pooling or participation agreement.

[6.50.3.8 NMAC - Rp, 6 NMAC 50.3.8, 09/01/2014]

6.50.3.9 AUTHORIZATION TO OFFER RISK RELATED COVERAGES: The authority is authorized to offer risk-related coverages to all school districts and charter schools. The authority may offer risk-related coverages to individual other educational entities by special agreement.

[6.50.3.9 NMAC - Rp, 6 NMAC 50.3.9, 09/01/2014]

6.50.3.10 AUTHORIZATION TO OFFER EMPLOYEE-BENEFIT COVERAGES:

A. The authority is authorized to offer employee-benefit coverages to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents and persons or entities authorized to participate in the authority's coverage.

B. The authority is authorized to offer mandatory benefit coverages as follows: Basic non-contributory life insurance and medical benefit plans whether insured or self-insured.

C. The authority is authorized to offer optional benefit coverages as follows: dental, vision, disability, or additional life and such other line or lines of coverage as the board may

determine from time to time.

[6.50.3.10 NMAC - Rp, 6 NMAC 50.3.10, 09/01/2014]

6.50.3.11 AUTHORIZATION TO OFFER DUE PROCESS REIMBURSEMENT COVERAGE:

A. The authority is authorized to include due process reimbursement coverage in its self-insured retention risk pool pursuant to Section 22-29-12 NMSA 1978, as amended and supplemented.

B. The board shall determine at the beginning of each fiscal year the amount available in the fund for reimbursements. The provisions for distribution of the fund amount shall be set forth in the general liability memorandum of coverage including the process for submitting claims and the method of distribution.

[6.50.3.11 NMAC - N, 09/01/2014]

HISTORY of 6.50.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA Rule 86-201, Procurement of and Self-Insurance of Employee Benefit Coverages, filed 10/31/86;
NMPSIA Rule 86-100, Procurement of and Self-Insurance of Related Coverages, filed 10/31/86;
NMPSIA Rule 93-6, Procurement of or Self-Insurance of Risk Related and Employee-Benefits Coverages, filed 33/22/93.

History of Repealed Material:

6 NMAC 50.3, Procurement of or Self-Insurance of Risk-Related and Employee Benefits Coverages, filed 10/1/97 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

**TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 4 PARTICIPATION
IN AUTHORITY COVERAGES BY OTHER EDUCATIONAL ENTITIES**

6.50.4.1 ISSUING AGENCY:
New Mexico Public School Insurance Authority.

[6.50.4.1 NMAC - Rp, 6 NMAC 50.4.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.4.2 SCOPE: This part applies to other educational entities.
[6.50.4.2 NMAC - Rp, 6 NMAC 50.4.2, 09/01/2014]

6.50.4.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.
[6.50.4.3 NMAC - Rp, 6 NMAC 50.4.3, 09/01/2014]

6.50.4.4 DURATION:
Permanent.
[6.50.4.4 NMAC - Rp, 6 NMAC 50.4.4, 09/01/2014]

6.50.4.5 EFFECTIVE DATE:
September 1, 2014 unless a later date is cited at the end of a section.
[6.50.4.5 NMAC - Rp, 6 NMAC 50.4.5, 09/01/2014]

6.50.4.6 OBJECTIVE: The objective of this part is to set forth the procedures for other educational entities to join or exit the authority as well as rules and procedures concerning participation in authority coverages by other educational entities.
[6.50.4.6 NMAC - Rp, 6 NMAC 50.4.6, 09/01/2014]

6.50.4.7 DEFINITIONS:
[RESERVED]

6.50.4.8 PROCEDURE FOR JOINING THE AUTHORITY BY OTHER EDUCATIONAL ENTITIES:

A. Other educational entities who desire to join the authority shall provide the following to the authority:

(1) an up-to-date employee census including for all employees their age, gender and classification;

(2) a minimum of three years loss reports and claims experience for all lines of authority coverages the other educational entity wishes to participate in;

(3) submission of financial and benefit information which meets standards set by the board;

(4) a resolution of the governing body of the other educational entity stating that it is requesting authority membership and participation in the authority's offerings of risk related and employee benefits coverages and a statement that the other educational entity will abide by the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978, and all authority rules and board policies and will keep in force all authority coverages for

the duration of the then existing carrier agreements;

(5) an agreement in a form acceptable to the authority whereby the governing body of the other educational entity agrees that it will abide by and be bound by the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978, and all other authority rules and board policies, including authority claims processing, settlement practices and the authority schedule for payment of premiums, late penalties and applicable interest, and will take, pay for and keep in force for the duration of the carrier agreements all applicable authority coverages; and

(6) payment of an excess premium deposit equal to (10%) of the total annual first year premiums for the coverages selected by the educational entity desiring to join the authority.

B. An other educational entity desiring to participate in only some of the authority's coverages shall apply for waivers as is required of school districts and charter schools pursuant to Subsections C and D of Section 22-29-9 NMSA 1978.

C. The authority may reject any application by any other educational entity with or without cause.
[6.50.4.8 NMAC - Rp, 6 NMAC 50.4.8, 09/01/2014]

6.50.4.9 PROCEDURE FOR EXITING THE AUTHORITY BY OTHER EDUCATIONAL ENTITIES:

A. Other educational entities can voluntarily exit the authority only at the expiration of the carrier agreements for the authority coverages they have selected.

B. Under no circumstances can other educational entities voluntarily exit the authority prior to having been a member for a minimum of three years.

C. An other educational entity desiring to exit the authority shall make a request to the board in writing stating the reasons why it desires to exit no later than 90 days prior to the expiration date of the carrier agreements for the authority coverages the other educational entity has selected. The board shall vote whether to accept the resignation of the other educational entity at its next regular meeting following receipt of the other educational entity's request to exit.

D. The board shall reevaluate other educational entities who violate authority rules, regulations or board policies, which have poor loss histories or which evidence clear signs of fiscal irresponsibility and the board may at its discretion terminate the other educational entity's membership in the authority upon 90 day notice.

[6.50.4.9 NMAC - Rp, 6 NMAC 50.4.9, 09/01/2014]

6.50.4.10 PENALTIES AGAINST OTHER EDUCATIONAL ENTITIES FOR FAILURE TO PARTICIPATE AFTER JOINING THE AUTHORITY:

A. Other educational entities may not drop any authority coverages prior to the expiration of carrier contracts. However, should a successor governing body of a participating other educational entity drop participation by refusing continued premium payments, the other educational entity shall be terminated from all coverages by the authority upon 30 day notice and the following penalties shall be incurred.

(1) For risk-related coverages, the other educational entity shall forfeit to the authority any right to any reserves held on its behalf and shall pay to the authority the cost of any losses in excess of premium.

(2) For health and life employee benefits coverages, the other educational entity shall forfeit to the authority any right to any return premiums or reserves it may otherwise be entitled to. It shall pay to the authority any funds the authority has paid for or will pay for incurred claims related to the other educational entity in excess of premiums paid by the other educational entity as well as administrative expenses directly or indirectly related to claim payments including third party administrator costs and a reasonable percentage of the authority administrative costs.

B. If the other educational entity ceases to participate in authority coverages prior to expiration of the carrier contracts, it shall, in addition to any other penalties, pay to the authority any sums determined by the authority to be due in order to hold safe and harmless all other members of the authority from any adverse financial impact caused by its failure to participate.

[6.50.4.10 NMAC - Rp, 6 NMAC 50.4.10, 09/01/2014]

6.50.4.11 DUE DATES FOR ACCOUNTING BY THE AUTHORITY:

An accounting of funds and amounts owed by or to the other educational entity which has failed to participate, dropped coverages or exited the authority for any reason shall not be due from the authority any earlier than two years for employee benefits coverages and for risk-related coverages after the failure to participate, early exit or dropping of coverage by the other educational entity.

[6.50.4.11 NMAC - Rp, 6 NMAC 50.4.11, 09/01/2014]

HISTORY of 6.50.4 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center under: NMPSIA Rule 88-100, Participation Rules and Regulations Rule, 11/04/88. NMPSIA Rule 93-7, Other Educational Entities Participation, 3/22/93.

History of Repealed Material:

6 NMAC 50.4, Other Educational Entities Participation (filed 10/1/97) repealed 09/01/2014.

NMAC History:

6 NMAC 50.4, Other Educational Entities Participation, 10/01/97.

6 NMAC 50.4, Other Educational Entities Participation (filed 10/01/97) was repealed and replaced by 6.50.4 NMAC, Participation In Authority Coverages By Other Educational Entities, effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 5 DETERMINATION OF PREMIUMS FOR EMPLOYEE- BENEFITS, RISK-RELATED AND DUE PROCESS REIMBURSEMENT COVERAGES

6.50.5.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.
[6.50.5.1 NMAC - Rp, 6 NMAC 50.5.1, 09/01/2014]
[The address of the New Mexico Public School Insurance Authority is, 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.5.2**SCOPE:**

This part applies to all school districts, charter schools and other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.
[6.50.5.2 NMAC - Rp, 6 NMAC 50.5.2, 09/01/2014]

6.50.5.3**STATUTORY**

AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978 directs the authority to promulgate necessary rules, regulations and procedures for the implementation of

the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.5.3 NMAC - Rp, 6 NMAC 50.5.3, 09/01/2014]

6.50.5.4**DURATION:**

Permanent.

[6.50.5.4 NMAC - Rp, 6 NMAC 50.5.4, 09/01/2014]

6.50.5.5**EFFECTIVE DATE:**

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.5.5 NMAC - Rp, 6 NMAC 50.5.5, 09/01/2014]

6.50.5.6**OBJECTIVE:**

The objective of this part is to establish the policy for determining premium levels.

[6.50.5.6 NMAC - Rp, 6 NMAC 50.5.6, 09/01/2014]

6.50.5.7**DEFINITIONS:**

[RESERVED]

6.50.5.8**ESTABLISHMENT OF EMPLOYEE-BENEFIT AND RISK RELATED PREMIUMS:**

A. The authority shall establish premiums necessary to protect the solvency of the fund considering all expenses, potential expenses and costs of the authority programs.

B. Whenever possible, the authority shall obtain loss experience for each line of coverage for each participating entity.

C. Whenever possible and economically feasible, the authority shall obtain professional actuarial advice to establish premium levels.

D. Whenever possible, the authority shall consider the loss experience of each particular participating entity as a primary factor in establishing the premiums for that entity. However, the authority shall also use other factors as necessary to protect the stability and solvency of the fund.

E. Exposure information, which includes, but is not limited to, property values, vehicle counts, payroll, average daily attendance, budgets, new or hazardous exposures, is requested from each member typically in December of each year. This information is one of the factors used to allocate premiums among the members. The deadline for submission of this information to the authorized representative of the authority is the second Friday in January. The authorized representative shall have three to four weeks to review the data, ask and answer any questions and verify the information. The final deadline for the submission of all additional or amended exposure information by the members to the authorized representative is the second

Friday in February. The board will have the final decision to approve or reject any late received exposure information. If the exposure information is not received by the deadlines described above, the board may, at its discretion, impose a 10% penalty increase to that member's prior year's exposure information.

F. If, at any time, the authority becomes aware that a member has under reported exposure information, an additional premium will be charged at a rate to be determined by the board.

G. If, at any time, the authority becomes aware that a member over reports exposure information, the member will not receive any return of premiums paid. However, if there are extenuating circumstances, the member can request that the board waive the forfeiture of the return premium.

[6.50.5.8 NMAC - Rp, 6 NMAC 50.5.8, 09/01/2014]

6.50.5.9**ESTABLISHMENT OF DUE PROCESS REIMBURSEMENT PREMIUMS:**

Due process reimbursement coverage premiums shall be established in accordance with Section 22-29-12 NMSA 1978 and the applicable memorandum of coverage.

[6.50.5.9 NMAC - N, 09/01/2014]

6.50.5.10**NONDISCLOSURE OF PREMIUM CHANGES:**

Authority staff, actuaries or consultants shall not discuss or disclose to participating entities, employees, retirees or the public any premium changes until authorized to do so by the board.

[6.50.5.10 NMAC - Rp, 6 NMAC 50.5.9, 09/01/2014]

HISTORY of 6.50.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA Rule 86-207, Employee-Benefits Determination Of Premium Levels, filed 10-31-86;

NMPSIA Rule 93-8, Employee-Benefits And Risk-Related Coverages Determination Of Premium Levels, filed 3-22-93.

History of Repealed Material:

6 NMAC 50.5, Employee-Benefits And Risk-Related Coverages Determination Of Premium Levels, filed 10/1/97-Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 6 NOTICE OF RISK-RELATED, EMPLOYEE- BENEFITS AND DUE PROCESS REIMBURSEMENT COVERAGES

6.50.6.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.

[6.50.6.1 NMAC - Rp, 6 NMAC 50.6.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.6.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.6.2 NMAC - Rp, 6 NMAC 50.6.2, 09/01/2014]

6.50.6.3 STATUTORY

AUTHORITY: Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq., NMSA 1978.

[6.50.6.3 NMAC - Rp, 6 NMAC 50.6.3, 09/01/2014]

6.50.6.4 DURATION:

Permanent.

[6.50.6.4 NMAC - Rp, 6 NMAC 50.6.4, 09/01/2014]

6.50.6.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.6.5 NMAC - Rp, 6 NMAC 50.6.5, 09/01/2014]

6.50.6.6 OBJECTIVE: The objective of this part is to establish the procedure for providing notice of coverage of risk-related, employee benefits and due process reimbursement coverages.

[6.50.6.6 NMAC - Rp, 6 NMAC 50.6.6, 09/01/2014]

6.50.6.7 DEFINITIONS:

[RESERVED]

6.50.6.8 COVERAGE

NOTIFICATION: The authority will issue notification of coverage for each offering to each participating entity within 30 days of the inception of the coverage. The coverage notification may specify the types, limits, amounts and general terms of coverage to be provided to the participating entity. The notification shall state that a complete copy of the memorandum of coverage which governs risk-related and due process reimbursement coverages will be made available to all interested parties upon request. Each covered employee under employee benefits coverages shall receive a summary plan description or insurance certificate. The terms of the insurance policy or memorandum of coverage, not the coverage notification or summary shall control in any dispute over coverage. Final determination of whether a claim is covered rests solely with the authority.

[6.50.6.8 NMAC - Rp, 6 NMAC 50.6.8, 09/01/2014]

HISTORY OF 6.50.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA 86-103, Notice of Risk-Related Coverage, filed 10/31/86.

NMPSIA 86-206, Notice of Coverage, filed 10/31/86.

NMPSIA 93-9, Notice of Risk-Related and Employee Benefits Coverage, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.6, Notice of Risk-Related and Employee Benefits Coverage, filed 10/1/97 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 7 WAIVER OF PARTICIPATION IN AUTHORITY COVERAGE OFFERINGS BY SCHOOL DISTRICTS AND CHARTER SCHOOLS-MINIMUM BENEFIT AND STANDARDS

6.50.7.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.

[6.50.7.1 NMAC - Rp, 6 NMAC 50.7.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.7.2 SCOPE: This part

applies to all school districts and charter schools.

[6.50.7.2 NMAC - Rp, 6 NMAC 50.7.2, 09/01/2014]

6.50.7.3 STATUTORY

AUTHORITY: Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq., NMSA 1978.

[6.50.7.3 NMAC - Rp, 6 NMAC 50.7.3, 09/01/2014]

6.50.7.4 DURATION:

Permanent.

[6.50.7.4 NMAC - Rp, 6 NMAC 50.7.4, 09/01/2014]

6.50.7.5 EFFECTIVE DATE:

September 1, 2014 unless a later date is cited at the end of a section.

[6.50.7.5 NMAC - Rp, 6 NMAC 50.7.5, 09/01/2014]

6.50.7.6 OBJECTIVE:

The objective of this part is to establish the procedures for school districts and charter schools to obtain a waiver of participation in authority coverage offerings.

[6.50.7.6 NMAC - Rp, 6 NMAC 50.7.6, 09/01/2014]

6.50.7.7 DEFINITIONS:

A. "Individual line of coverage" means either "risk-related" or "group health insurance" as those terms are defined in Section 22-29-3 NMSA 1978.

B. "Minimum benefit standards" means the coverages required by the authority in its requests for proposal to the various insurance carriers.

C. "Minimum financial standards" means the premiums, deductibles, limits of liability, coinsurance and other financial parameters associated with the authority coverages as set forth in the requests for proposal sent to the various insurance carriers.

[6.50.7.7 NMAC - Rp 6 NMAC 50.7.7, 09/01/2014]

6.50.7.8 WAIVER OF

PARTICIPATION: School districts and charter schools shall participate in and accept all authority offerings, unless the school district or charter school has applied for and been granted a waiver for an individual line of coverage by the authority board. If a waiver is granted for an individual line of coverage, the school district or charter school will not be provided any insurance protection or coverage by the authority for the perils covered by that individual line of coverage.

The school district or charter school receiving the waiver accepts the obligation to obtain its own insurance protection for the perils covered by the individual line of coverage for which the waiver is granted. A school district or charter school that has been granted a waiver for an individual line of coverage shall be prohibited from participating in that individual line of coverage during the contract period, provided, however, the district or charter school may, if the authority contract period exceeds four years, again seek participation. However, a school district or charter school may, if the authority contract period exceeds four years, again seek participation as if it were an other educational entity pursuant to 6.50.4.8 NMAC.

[6.50.7.8 NMAC - Rp, 6 NMAC 50.7.8, 09/01/2014]

6.50.7.9 RESPONSIBILITIES OF SCHOOL DISTRICTS AND CHARTER SCHOOLS WHICH WAIVE PARTICIPATION IN AUTHORITY COVERAGES:

A. A school district or charter school may waive participation in either the risk related or group health insurance or both. Pursuant to Subsections C and D of Section 22-29-9, a school district or charter school must waive all risk-related or all group health insurance coverages or must petition for participation in the remaining coverages offered by the authority in that particular individual line of coverage.

B. Should a school district or charter school waive participation in an individual line of coverage, the school district or charter school shall be responsible for the following charges:

(1) For risk related coverages, the school district or charter school shall forfeit to the authority any right to any return premiums or reserves and shall be responsible to pay to the authority on demand the cost of any prior losses in excess of premium and all the appropriate expenses of the authority in defending, settling and administering any such losses;

(2) For group health insurance, the school district or charter school shall forfeit to the authority any right to any return premium or reserves it may be entitled to. The school district or charter school shall also pay to the authority any funds paid for prior incurred claims of the school district or charter school in excess of premium paid by the school district or charter school and shall pay to the authority all the appropriate expenses of the authority in defending, settling and administering such claims.

C. Any school district or charter school waiving participation in an individual line of coverage shall pay to

the authority any sums determined by the authority to be due in order to hold safe and harmless all other members of the authority from any adverse financial impact caused by the waiver of coverage. An accounting of funds and amounts owed by the school district or charter school shall not be due from the authority until two years after the waiver of participation has taken effect. [6.50.7.9 NMAC - Rp, 6 NMAC 50.7.9, 09/01/2014]

6.50.7.10 MINIMUM BENEFIT AND FINANCIAL STANDARDS:

Minimum benefit and financial standards shall be established by the authority pursuant Subsection B of Section 22-29-9, NMSA 1978, at the time of the request for proposal process for the line or lines of coverage proposed to be solicited by the authority. The terms and conditions of the requests for proposal which specify the minimum benefits and financial standards which the authority requires potential carriers to respond to shall also constitute the minimum benefit and financial standards which any district seeking a waiver of coverage must match.

[6.50.7.10 NMAC - Rp, 6 NMAC 50.7.10, 09/01/2014]

6.50.7.11 BOARD PROCEDURE FOR CONSIDERING REQUESTS FOR WAIVER:

A. In the event the authority determines it will issue a request for proposal for either risk-related or group health insurance because of termination of an existing contract during its term or because of expiration of an existing contract pursuant to the contractual term limit, the authority shall issue a schedule for the procurement. The request for proposal shall contain a proposed time schedule for responsive offers. The authority shall also set a target date for selection of a carrier. Sixty days prior to the carrier selection target date, the authority shall, by ordinary mail, send to each school district and charter school a copy of the authority's request for proposal notifying the school districts and the charter schools that the request for proposal sets forth the minimum benefits and financial standards for purposes of their opportunity to waive participation in the individual line of coverage being procured. The authority shall in the notice to the school districts and charter schools establish a deadline within which time any school district or charter school desiring a waiver must submit documentation of its proposal matching the authority's minimum benefits and financial standards. A copy of 6.50.7 NMAC shall be enclosed with the notice.

B. A school district or charter school that plans to file a request for

waiver for any individual line of coverage shall within 14 calendar days after receiving notice from the authority as required by Subsection A of 6.50.7.11 NMAC above, file a notice of intent to file a request for waiver for that particular individual line of coverage. The purpose of this preliminary filing is to permit the authority to structure its request for proposal to give notice to any proposed bidders of the approximate number of school districts and charter schools that may attempt to waive participation in that individual line of coverage, since this can have a significant effect on the procurement process.

C. Any school district or charter school that has filed a notice of intent to file a request for waiver, may, if the school district or charter school desires to continue its waiver efforts, seek proposals for insurance through a request for proposal in accordance with state law. The school district's or charter school's request for proposal shall, as a minimum, contain the minimum employee benefits and financial standards or the risk-related minimum benefits and financial standards as required by the authority's request for proposal. The school district or charter school may include additional coverages or additional limits in its request for proposal.

D. After the school district or charter school receives responses to its request for proposals and still desires to continue to seek a waiver, it shall prepare a request for waiver which affirmatively sets forth the coverages, the premiums and a summary of the school district's or charter school's data with respect to each of the criteria set forth in 6.50.7.12 NMAC.

E. The request for waiver of participation with all documentation shall be filed with the authority on or before the date on which the authority's request for proposal requires proposals to be received.

F. Any school district or charter school that does not timely file a notice of intent to file for a waiver of participation or a request for waiver of participation is prohibited from waiving out of the authority coverage.

G. When the authority receives a request for a waiver of participation, the authority shall immediately send a notice to the school district or charter school setting forth the time and place for a public board meeting to consider approval or rejection of the waiver request. Since time is of the essence, if necessary, the board shall call a special meeting in accordance with the Open Meetings Act, Section 10-15-1 et seq., NMSA 1978, to consider the waiver request.

H. At the meeting, the school district or charter school will present its proposed coverages and the

costs of those coverages. Then, the authority's executive director will explain the comparable coverages to be offered by the authority and their costs. The board shall review all documents and information presented orally and in writing and then shall either make its decision at the meeting or notify the school district or charter school of the decision in writing within five calendar days after the meeting.

I. The decision of the authority board to grant or deny a waiver of participation is final. Any district denied a waiver of participation may appeal such decision. An appeal shall be taken within thirty days from the date of the board action. Such appeal is on the record made before the authority board and the board decision may be reversed only if shown upon a review of the whole record to be arbitrary, capricious or in violation of law. [6.50.7.11 NMAC - Rp, 6 NMAC 50.7.11, 09/01/2014]

6.50.7.12 APPROVAL OR DISAPPROVAL OF REQUEST FOR WAIVER OF PARTICIPATION: The authority board shall approve or disapprove a waiver of participation based on the documentation submitted by the school district or charter school. The board shall grant a waiver to a school district or charter school that shows evidence to the satisfaction of the board that:

A. In the event the waiver is with regard to group health insurance:

(1) that the school district or charter school has secured a valid written enforceable commitment from an insurer to provide group health insurance;

(2) that the coverage committed to the school district or charter school and the plan benefits for their employees is at least as beneficial as the plan being procured by the authority;

(3) that there are no more exclusions from coverage and the exclusions are not broader than those set out in the authority's request for proposals;

(4) that the deductibles, stop loss, out of pocket costs, etc., if any, result in no more costs to the employees than would occur pursuant to the authority's request for proposals;

(5) that any cost containment features not result in any higher costs or burdens on the employees than would result under the authority's request for proposals;

(6) that the prospective insurer of the school district or charter school have the same or greater rating as that required in the authority's request for proposals;

(7) that the notice of intent to request a waiver has been timely filed;

(8) that the request for waiver of participation has been timely filed;

(9) that all the data required to

be included in the request for waiver of participation has been timely supplied;

(10) that the proposed insurer for the school district or charter school has satisfactorily demonstrated to the school district or charter school and to the authority that the insurer in its proposal to the school district or charter school has adequately accounted in its rates for such items as school district or charter school experience, incurred but not reported losses, medical inflation trends and other relevant factors for the purpose of allowing the school district or charter school and the authority to determine the future viability of the plan, if rates are under-quoted at inception and whether the proposed insurer for the school district or charter school meets the minimum financial standards of the authority; and

(11) that the total group health insurance offering available in that school district or charter school compares favorably in all respects with the authority's request for proposals;

B. In the event the waiver is with regard to risk-related insurance:

(1) that the school district or charter school has secured a valid written enforceable commitment from an insurer to provide risk-related insurance;

(2) that there are no more exclusions from coverage and the exclusions are not broader than those in the authority's request for proposal;

(3) that the deductibles, self insured retention, etc., if any, are no higher or result in any more costs to the school district or charter school than would occur pursuant to the authority's request for proposal;

(4) that any cost containment features not result in any higher costs or burdens on the school district or charter school than would result under the authority's request for proposals;

(5) that the prospective insurers of the school district or charter school provide coverages as broad as is required in the authority's request for proposals;

(6) that the prospective insurers of the school district or charter school have the same or greater rating as required in the authority's request for proposals;

(7) that the notice of intent to request a waiver has been timely filed;

(8) that the request for waiver of participation has been timely filed;

(9) that all the data required to be included in the request for waiver of participation has been included; and

(10) that the proposed insurer for the school district or charter school has satisfactorily demonstrated to the school district or charter school and to the authority that the insurer in its proposal to the school district or charter school has

adequately accounted in its rates for such items as school district or charter school experience, incurred but not reported losses, the nature of existing coverage(claims made or occurrence) and other relevant factors for the purpose of allowing the school district or charter school and the authority to determine the future costs of coverages, to determine if rates are under-quoted at inception and whether the proposed insurer for the school district or charter school meets the minimum financial standards of the authority.

[6.50.7.12 NMAC - Rp, 6 NMAC 50.7.12, 09/01/2014]

6.50.7.13 WITHDRAWAL, FAILURE TO FOLLOW PROCEDURES, EXPIRATION OF WAIVERS:

A. A request for waiver may be withdrawn at any time prior to or at the scheduled meeting.

B. Failure to follow the procedures set forth in this rule shall be adequate reason for rejection of the request for waiver.

C. Any waiver granted shall automatically expire at the end of the authority insurance contract for the line of coverage.

[6.50.7.13 NMAC - Rp, 6 NMAC 50.7.13, 09/01/2014]

6.50.7.14 AUTOMATIC WAIVER ALLOWED: School districts and charter schools are entitled to an automatic waiver for any line of coverage where the employee pays the full amount of the premium. If the school district or charter school desires insurance protection for a particular line of employee-pay-all coverage, the school district or charter school must affirmatively petition the authority for coverage. In granting the coverage the board shall first determine that the school district or charter school meets the minimum participation requirements as established by the board from time to time, that the school district or charter school will carry the coverage through the end of the contract period and that approval will not jeopardize the stability of the fund.

[6.50.7.14 NMAC - Rp, 6 NMAC 50.7.14, 09/01/2014]

HISTORY of 6.50.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA 86-101, Risk-Related Minimum Benefits and Risk-Related Financial Standards, filed 10-31-86;

NMPSIA 86-102, Waiver Of Participation For Risk-Related Coverages, filed 10-31-86;

NMPSIA 86-203, Waiver of Participation

for Employee-Benefit Coverages, filed 10-31-86;
 NMPSIA 88-2, Definitions, filed 11-4-88;
 NMPSIA 93-10, Employee-Benefit and Risk Related Minimum Benefit and Financial Standards Participation Waiver, filed 03-22-93;
 NMPSIA 86-2, Definitions, filed 10/31/86;
 NMPSIA 93-1, Definitions, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.7, Employee-Benefit and Risk-Related Minimum Benefit and Financial Standards Participation Waiver, filed 10/1/97- Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 8 EMPLOYEE-
BENEFIT AND RISK-RELATED
PREMIUM PAYMENTS**

6.50.8.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.

[6.50.8.1 NMAC - Rp, 6 NMAC 50.8.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.8.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body board members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.8.2 NMAC - Rp, 6 NMAC 50.8.2, 09/01/2014]

6.50.8.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.8.3 NMAC - Rp, 6 NMAC 50.8.3, 09/01/2014]

6.50.8.4 DURATION:

Permanent.

[6.50.8.4 NMAC - Rp, 6 NMAC 50.8.4, 09/01/2014]

6.50.8.5 EFFECTIVE DATE:

September 1, 2014, unless a later date is cited at the end of a section.

[6.50.8.5 NMAC - Rp, 6 NMAC 50.8.5, 09/01/2014]

6.50.8.6 OBJECTIVE: The objective of this part is to set forth the requirements for premium payment by participating entities.

[6.50.8.6 NMAC - Rp, 6 NMAC 50.8.6, 09/01/2014]

6.50.8.7 DEFINITIONS:

[RESERVED]

6.50.8.8 PREMIUM PAYMENT FOR RISK RELATED AND DUE PROCESS REIMBURSEMENT COVERAGES:

The authority shall invoice each member for risk-related and due process reimbursement coverages. Payment for risk-related and due process reimbursement coverages is due in full within 30 days after the billing date. Premium payments not received by the 10th day of the month following the due date shall be subject to an interest charge of 1.5% of the premium due for each month they are overdue.

[6.50.8.8 NMAC - Rp, 6 NMAC 50.8.8, 09/01/2014]

6.50.8.9 PREMIUM PAYMENT FOR EMPLOYEE BENEFITS COVERAGES:

The authority shall invoice each member, or the individual participant where direct billing is used, for the premiums for employee benefits coverages. Premium payments are due in full within 10 days after billing. Premiums are due no later than the 10th of the month for which coverage is intended.

[6.50.8.9 NMAC - N, 09/01/2014]

6.50.8.10 PREMIUM

PAYMENT PLAN: Any member unable to make its premium payment timely and in full must obtain a recommendation from the state secretary of education for any alternate payment schedule, which shall then be submitted to the board for approval. The board may accept or reject the secretary's recommendation.

[6.50.8.10 NMAC - Rp, 6 NMAC 50.8.9, 09/01/2014]

6.50.8.11 FAILURE TO PAY PREMIUMS WHEN DUE: If any member or individual participant responsible for making a premium payment fails to make the premium payments when due, the member or individual participant shall be subject to suspension of coverage or in an extreme case, as determined by the board, to termination of coverage. Notice of suspension or termination of coverage shall

be given to the member or to the individual as appropriate. Where the coverage has been suspended for non-payment of premiums, the authority shall act to protect the stability of the fund in determining whether to reinstate coverage.

[6.50.8.11 NMAC - Rp, 6 NMAC 50.8.10, 09/01/2014]

6.50.8.12 PROCEDURE FOR HANDLING DISPUTED BILLINGS:

In the event any member or individual disputes the amount of the authority's billing, the member or individual shall pay the bill and then file a written statement requesting a refund of the disputed amount setting forth the amount and the reasons the member or individual believes the billing constitutes an overcharge. The request shall be filed within 60 days after the submission of the billing. Requests for refunds that are not timely filed shall be deemed to be rejected. The board shall place complaints regarding the amount of the authority's billings that are timely filed on the agenda of one of its meetings and give notice to the affected member or individual so the member or individual may attend and be heard.

[6.50.8.12 NMAC - Rp, 6 NMAC 50.8.11, 09/01/2014]

HISTORY of 6.50.8 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA 86-105, Risk-Related Premium Payments, filed 10-31-86;

NMPSIA 86-205, Employee Benefit Premium Payments, filed 10-31-86;

NMPSIA 93-11, Employee-Benefit and Risk Related Premium Payments, filed 03-22-93.

History of Repealed Material:

6 NMAC 50.8, Employee-Benefit and Risk-Related Premium Payments, filed 10/1/97 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 9 COORDINATION
OF BENEFITS REQUIREMENTS -
DUPLICATE OR OVERLAPPING
BENEFITS COVERAGES**

6.50.9.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.

[6.50.9.1 NMAC - Rp, 6 NMAC 50.9.1,

09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.9.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits or risk-related coverages.

[6.50.8.2 NMAC - Rp, 6 NMAC 50.8.2, 09/01/2014]

6.50.9.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.8.3 NMAC - Rp, 6 NMAC 50.8.3, 09/01/2014]

6.50.9.4 DURATION: Permanent.

[6.50.8.4 NMAC - Rp, 6 NMAC 50.8.4, 09/01/2014]

6.50.9.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.8.5 NMAC-Rp, 6 NMAC 50.8.5, 09/01/2014]

6.50.9.6 OBJECTIVE: The objective of this part is to bring Subsection F of Section 22-29-9, NMSA 1978, to the attention of members and provide direction as to what other insurance may be maintained by members and to provide for claims where there is duplicate coverage.

[6.50.8.6 NMAC - Rp, 6 NMAC 50.8.6, 09/01/2014]

6.50.9.7 DEFINITIONS: [RESERVED]

6.50.9.8 SCHOOL DISTRICT AUTHORITY TO MAINTAIN INSURANCE: Each school district, charter school and other educational entity participating in the authority offerings shall not separately offer any competing employee-benefits insurance coverage. However, each member participating in the authority offerings may separately obtain any risk-related insurance coverage in addition to the coverage offered by the authority.

[6.50.8.8 NMAC - Rp, 6 NMAC 50.8.8, 09/01/2014]

6.50.9.9 AUTHORITY'S LIMITATION OF LIABILITY FOR DUPLICATE OR OVERLAPPING PREMIUMS PAID: To the extent that the insurance coverage purchased by the member or individual participant duplicates or overlaps insurance coverage provided by the authority, the authority will not reduce or rebate any portion of its premium nor is the authority liable to the participating entity or to any individual participant for any premiums paid by the participating entity or the individual participant for duplicate or overlapping coverage.

[6.50.8.9 NMAC - Rp, 6 NMAC 50.8.9, 09/01/2014]

6.50.9.10 RISK RELATED OVERLAPPING INSURANCE COVERAGES: Where there is other insurance, no matter how acquired or provided to an insured, the authority shall follow the "guiding principles for overlapping insurance coverages" adopted by the association of casualty and surety companies, the inland marine underwriters association, the national automobile underwriters association, the national board of fire underwriters, the national bureau of casualty underwriters and the surety association of America to determine the obligations of the authority with respect to apportionment of losses with other insurers.

[6.50.8.10 NMAC - Rp, 6 NMAC 50.8.10, 09/01/2014]

6.50.9.11 EMPLOYEE BENEFITS COVERAGE/ COORDINATION OF BENEFITS RULES: Coordination of benefits ("COB") rules of the authority's medical carrier shall prevail in any situation where a conflict exists with any other authority benefits carrier. In the event of a conflict among authority carriers addressed by COB rules, the COB rules of the carrier of coverages wherein the authority is at risk will prevail. In the event of a conflict between an authority carrier and a non-authority carrier addressed by the COB rules of the authority carrier, the authority carrier COB rules will prevail.

[6.50.8.11 NMAC - Rp, 6 NMAC 50.8.11, 09/01/2014]

HISTORY OF 6.50.9 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:
NMPSIA 86-104, Participating Entity Maintenance Of Risk-Related Insurance, filed 10/31/86;
NMPSIA 86-202, Employee Benefit Minimum Benefits and Employee-Benefit Financial Standards, filed 10/31/86;
NMPSIA 93-12, Participating Entity

Competing Employee Benefits Coverages Duplicate Or Overlapping Coverages and Coordination Of Benefits Rules, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.9, Coordination of Benefits Requirements - Duplicate or Overlapping Benefits Coverages, filed 10/1/97-Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 10 EMPLOYEE BENEFIT COVERAGE ENROLLMENT POLICY

6.50.10.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.10.1 NMAC - Rp, 6.50.10.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.10.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits coverages.

[6.50.10.2 NMAC - Rp, 6.50.10.2 NMAC, 09/01/2014]

6.50.10.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978 directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.10.3 NMAC - Rp, 6.50.10.3 NMAC, 09/01/2014]

6.50.10.4 DURATION: Permanent.

[6.50.10.4 NMAC - Rp, 6.50.10.4 NMAC, 09/01/2014]

6.50.10.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.10.5 NMAC - Rp, 6.50.10.5 NMAC, 09/01/2014]

6.50.10.6 OBJECTIVE: The objective of this part is to establish the enrollment policy for all persons or entities authorized to participate in the authority's employee benefits coverage. [6.50.10.6 NMAC - Rp, 6.50.10.6 NMAC, 09/01/2014]

6.50.10.7 DEFINITIONS:
A. "Actively at work"

means performing the material duties of your own occupation at your employer's usual place of business. You will also meet the actively at work requirement if you were absent from active work because of a regularly scheduled day off, holiday or vacation day or if you were capable of active work on the day before the scheduled effective date of your insurance or increase in your insurance.

B. "Employee" means full time employee as defined in Subsection Y of 6.50.1.7 NMAC. This definition applies to the rules related to employee benefits coverage contained in 6.50.10 NMAC only. [6.50.10.7 NMAC - Rp, 6.50.10.7 NMAC, 09/01/2014]

6.50.10.8 REQUIREMENTS FOR ENROLLMENT OF FULL TIME EMPLOYEES:

A. An employee shall be enrolled pursuant to his actual status at the time of enrollment. If a change in status of an employee occurs he must notify the employer within 31 calendar days of the change and complete any enrollment documents required by the authority.

B. An employee may enroll just himself only. However, if the employee chooses to enroll one eligible dependent, the employee shall enroll all eligible dependents unless one or more eligible dependents have other coverage. If the dependent of an eligible employee participant is enrolled in another medical plan, the eligible employee participant may enroll in the authority's medical plan as a single and in the two-party or family coverage for other lines. Evidence of the other coverage is required.

C. New eligible employees may enroll under the conditions set forth by the authority as follows:

(1) New eligible employees shall enroll within 31 calendar days of hire or within 31 calendar days of being upgraded to eligible employee. Evidence of upgrade is required.

(2) A new participating entity governing body member or new participating authority board member shall enroll within 31 days of being sworn in to office.

(3) Coverage is effective on the first day of the month following the day the employee applies, provided the employee

authorizes in writing that the premium is to be withheld from his payroll check, subject to the actively-at-work provision, and for self-payers, the first day of the month following receipt of the premium by the authority.

(4) Where an employee is on a 12-month payroll option, the employer shall deduct and remit from each payroll and shall remit the employer's contribution simultaneously.

(5) Where an employee seeks a transfer of benefits:

(a) the employee is covered until the end of the month for which coverage was paid at the school the employee is leaving;

(b) the employee shall enroll within 31 calendar days of hire at the school the employee is moving to; and

(c) participating entities shall coordinate the effective date to ensure duplicate premiums are not paid on behalf of the employee through the outgoing school as well as the incoming school.

(6) Eligible employee or dependents who involuntarily lose benefits coverage have a 31 day window to enroll in the authority. Supporting documentation showing the reason for the involuntary loss of benefits coverage, the date benefits coverage was lost, who was covered and what types of benefits coverage was lost must be submitted within 31 days from the date of loss of coverage. The effective date of new benefits coverage will be the first of the month following receipt by the authority of the documentation required and the necessary application or applications, provide that all enrollment rules of the authority are met.

(7) Eligible employee enrollment after the enrollment period shall be permitted to only in the authority's long-term disability plan and the voluntary life insurance plan upon providing the required evidence of medical insurability. Late enrollments shall not be permitted for medical, dental or vision coverages.

(8) If an eligible employee participant obtains dependent coverage for any eligible dependent from the authority, then the employee is required to enroll all eligible dependents in such coverage unless one or more eligible dependents have other coverage. If an eligible employee participant is divorced, and the divorce decree states that medical coverage will be provided by the ex-spouse for one or more dependents of the eligible employee participant, the employee is permitted to enroll as a single in the medical and in the two party or family coverage for other lines.

(9) An employee is prohibited from having duplicate coverage from the authority for any line of coverage. An employee is also prohibited from having

employee coverage and dependent coverage at the same time from the authority for any line of coverage. In the event of duplicate coverage, only one benefit will be paid. In those cases where an employee and his or her spouse or domestic partner are both eligible employees, either one may enroll into the coverage and the other be treated as an eligible dependent.

(10) An eligible employee is not permitted to enroll for a particular line of coverage unless the minimum participation level as determined by the authority is met.

(11) The participant shall only be permitted to switch from one plan to another plan within the same line of coverage during an established switch enrollment period and then only under the terms and conditions permitted by the authority.

(12) An employee may drop any line of coverage at any time at the employee's discretion, provided, however, any provision with respect to prohibition against dropping any lines of coverage shall be enforced. In divorce situations, a divorced eligible employee may not drop eligible dependents based on a change in status until a divorce decree is filed with the authority. When a domestic partnership is terminated, the employee, ex-domestic partner may not drop eligible dependents based on a change in status until the authority receives written notice that the domestic partnership is terminated in the form of an affidavit terminating domestic partnership. If the employee drops the line of coverage(s), the employee cannot re-enroll except as this part permits.

(13) Proper documentation, including evidence of medical insurability where required, must be provided by the eligible employee seeking coverage within 31 calendar days of the qualifying event. Coverage may be rejected where adequate proof and documentation satisfactory to the authority is not submitted in a timely manner.

(14) Eligibility for basic life is 15 hours or more per week.

[6.50.10.8 NMAC - Rp, 6.50.10.8 NMAC, 09/01/2014]

6.50.10.9 REQUIREMENTS FOR ENROLLMENT OF PART-TIME EMPLOYEES:

A. Part-time employees who work less than 20 hours a week but 15 hours per week or more are eligible for employee benefits if the member has passed a part-time resolution agreeing to provide employee benefits to part-time employees. A part-time resolution must be renewed in May of each year by the member in order for its part time employees to remain eligible for employee benefits.

B. Part-time employees

who work less than 15 hours per week are not eligible for employee benefits.

C. Part-time employees eligible for employee benefits may also enroll their dependents.

D. The requirements for enrollment for full time employees under 6.50.10.8 NMAC also apply to part-time employees.

E. Eligibility for basic life is 15 hours or more per week.
[6.50.10.9 NMAC - N, 09/01/2014]

6.50.10.10 REQUIREMENTS FOR ENROLLMENT OF EMPLOYEE DEPENDENTS:

A. Eligible employee participants may enroll their eligible dependents during the enrollment period established by the authority. If the employee is enrolled in family medical coverage, a newborn dependent of an employee parent is covered from the date of birth under the same lines of family coverage in which the employee parent is enrolled at the time of the newborn's birth. In cases where the employee is not enrolled in family medical coverage but has family coverage for other lines of employee benefits, the employee parent must enroll the newborn dependent within 31 calendar days from the date of birth to be covered from the date of birth. In cases where there is a change of status in premium (i.e., single to two-party, single to family, or two-party to family) due to the addition of a newborn dependent, the employee parent must enroll the newborn dependent within 31 calendar days from the date of birth to be covered from the date of birth. Certification of information from the official state publicly filed birth certificate or a state-filed birth certificate registration certification must accompany the enrollment form, or if the birth certificate or certification is not available, it must be submitted within 31 calendar days from the first day of the month following the newborn dependent's date of birth. Adopted dependents of an employee are eligible for coverage from the date of placement by a licensed state agency, a governmental agency or a court of competent jurisdiction. Supportive documentation of such placement is required with the change of status application within 31 calendar days of the date of placement.

B. The employee participant shall enroll the new eligible dependent within 31 calendar days of becoming an eligible dependent, except for newborns when family medical coverage is in effect at the time of the newborn's birth. Those persons considered to be a new eligible dependent are a newborn child, a new spouse, a domestic partner newly established by affidavit, a new

legally adopted child, legal guardianship and other similar situations where the dependent becomes a new family member and is otherwise an eligible dependent. Supportive documentation in the form of copies of publicly filed marriage certificates, certificate of birth certificate information, guardianships, placement or adoption decrees and affidavits of domestic partnership shall be submitted along with the enrollment application.

C. An eligible dependent has no greater coverage than the eligible employee participant and the eligible dependent can maintain coverage only to the extent that the eligible employee participant maintains his coverage, except as otherwise specifically provided in this rule or to the extent federal law may grant broader rights.

D. An eligible employee participant may drop any line of coverage for their eligible dependent at any time at the employee's discretion. However, any provision with respect to prohibition against dropping any lines of coverage shall be enforced. If the employee drops the line of coverage, that employee cannot re-enroll the eligible dependent except as this rule permits. If the employee drops one dependent, the employee must drop coverage on all eligible dependents except an employee may drop a dependent 18 years or above without dropping the other eligible dependents. In divorce situations, a divorced eligible employee may not drop eligible dependents based on a change in status until a divorce decree is filed with the authority. When a domestic partnership is terminated, the employee's ex-domestic partner may not drop eligible dependents based on a change in status until the authority receives written notice that the domestic partnership is terminated in the form of an affidavit terminating domestic partnership.

E. Proper documentation (together with application for coverage) including evidence of medical insurability where required, must be provided by the person seeking coverage within 31 calendar days of the qualifying event. Coverage may be rejected where adequate proof and documentation satisfactory to the authority is not submitted in a timely manner.

F. An eligible retired employee and eligible dependents shall be permitted to enroll in voluntary life only during the established enrollment period. The retiree shall be responsible for submitting paperwork prior to his retirement date to ensure no break in premium or coverage occurs. The retiree shall be responsible for premium payments for any monthly premiums.

G. The established enrollment period allowed by the authority

for active participating entity board members and eligible dependents is 31 calendar days after the board member has taken oath.

[6.50.10.10 NMAC - N, 09/01/2014]

6.50.10.11 SPECIAL EVENTS

ENROLLMENT: In cases of "special events" as defined in Subsection GGG of 6.50.1.7 NMAC, enrollment shall be allowed.

[6.50.10.11 NMAC - N, 09/01/2014]

6.50.10.12 REPORTING

REQUIREMENT: Authority insurance providers depend on timely reporting of dismissals, resignations, change in status, reports of new employees and eligible dependents and those dropping coverages. The only source of this information is from the participating entity. Participating entities shall report this information on or before the 15th day following notification from the employee of the event. In the event they fail to so timely report, the responsible participating entity shall be liable for any losses an eligible employee or dependent may incur as a result of the failure to timely report.

[6.50.10.12 NMAC - N, 09/01/2014]

6.50.10.13 ENROLLMENT AND ELIGIBILITY CONFLICTS:

A. In the event there is a conflict between a carrier's contract with the authority and this part regarding enrollment and eligibility, the carrier's contract shall prevail.

B. In the event there is a conflict between a carrier's contract with the authority and the policies of a participating entity regarding enrollment and eligibility, the carrier's contract shall prevail.

C. In the event there is a conflict between the policies of a participating entity policy and this part regarding enrollment and eligibility, this part shall prevail.

D. All disputes between a participating entity and an employee or part time employee in determining eligibility shall be resolved at the participating entity level.

E. As to questions of enrollment and eligibility, if miscommunication to an employee or part time employee by the participating entity has allegedly occurred, the participating entity shall provide a written statement to the authority indicating the party or parties who allegedly miscommunicated to the employee or part time employee and the circumstances in which the alleged miscommunication occurred.

F. As to questions of enrollment and eligibility, disputes not resolved between an employee or part time

employee, the participating entity and the authority or its contractors shall be resolved according to the procedures of 6.50.16 NMAC of these rules.

G. As to all other conflicts between the authority and carriers, the relevant conflicts provisions of the agreements between them shall control with regard to conflict resolutions.
[6.50.10.13 NMAC - N, 09/01/2014]

HISTORY OF 6.50.10 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA 86-200, Employee Benefit Coverage Enrollment Policy, filed 10/31/86.
NMPSIA 88-200, Employee Benefit Coverage Enrollment Policy, filed 11/4/88.
NMPSIA Rule 93-13, Employee Benefit Coverage Enrollment Policy, filed 3/22/93.
NMPSIA Rule 94-1, Employee Benefit Coverage Enrollment Policy, filed 5/20/94.

History of Repealed Material:

6.50.10 NMAC, Employee Benefit Coverage Enrollment Policy, filed 7/1/2004
- Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 11 EMPLOYEE BENEFIT SAVINGS PROVISION

6.50.11.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.
[6.50.11.1 NMAC - Rp, 6 NMAC.50.11.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.11.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits coverages.
[6.50.11.2 NMAC - Rp, 6 NMAC 50.11.2, 09/01/2014]

6.50.11.3 STATUTORY

AUTHORITY: Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations

and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.11.3 NMAC - Rp, 6 NMAC 50.11.3, 09/01/2014]

6.50.11.4 DURATION:

Permanent.
[6.50.11.4 NMAC - Rp, 6 NMAC 50.11.4, 09/01/2014]

6.50.11.5 EFFECTIVE DATE:

September 1, 2014 unless a later date is cited at the end of a section.
[6.50.11.5 NMAC - Rp, 6 NMAC 50.11.5, 09/01/2014]

6.50.11.6 OBJECTIVE:

The objective of this part is to protect those persons that have obtained employee benefits coverage from the authority in the past and may no longer be entitled to coverage under other provisions of this chapter.
[6.50.11.6 NMAC - Rp, 6 NMAC 50.11.6, 09/01/2014]

6.50.11.7 DEFINITIONS:

[RESERVED]

6.50.11.8 SAVINGS PROVISION (GRANDFATHER

CLAUSE): To the extent the adoption of Title 6, Chapter 50 purports to withdraw employee benefits coverage from any individual, group or class of persons currently receiving coverage from the authority, the authority intends by this savings clause (grandfather clause) to allow the authority to continue to provide such coverage to the individual, group or class of persons until the coverage lapses or is dropped.
[6.50.11.8 NMAC - Rp, 6 NMAC 50.11.8, 09/01/2014]

History of 6.50.11 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:
NMPSIA 86-208, Employee Benefit Savings Provision, filed 10/31/86.
NMPSIA Rule 93-14, Employee Benefit Savings Provision, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.11, Employee Benefit Savings Provision, filed 10/1/97 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 12 LOSS PREVENTION MANAGEMENT SYSTEM

6.50.12.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.
[6.50.12.1 NMAC - Rp, 6 50.12.1 NMAC, 09/01/2014]
[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.12.2 SCOPE: This part applies to all school districts, charter schools, other educational entities and persons or entities authorized to participate in the authority's coverage on matters involving risk-related coverages.
[6.50.12.2 NMAC - Rp, 6 50.12.2 NMAC, 09/01/2014]

6.50.12.3 STATUTORY

AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.
[6.50.12.3 NMAC - Rp, 6 50.12.3 NMAC, 09/01/2014]

6.50.12.4 DURATION:

Permanent.
[6.50.12.4 NMAC - Rp, 6 50.12.4 NMAC, 09/01/2014]

6.50.12.5 EFFECTIVE DATE:

September 1, 2014 unless a later date is cited at the end of a section.
[6.50.12.5 NMAC - Rp, 6 50.12.5 NMAC, 09/01/2014]

6.50.12.6 OBJECTIVE: The objective of this part is to establish a loss control and a loss prevention management system for the purpose of reducing claims and costs.

[6.50.12.6 NMAC - Rp, 6 50.12.6 NMAC, 09/01/2014]

6.50.12.7 DEFINITIONS:

[RESERVED]

6.50.12.8 LOSS PREVENTION PROGRAM:

A. The loss prevention program is hereby created to provide

a mechanism for the identification and abatement of hazards relating to all lines of coverage provided by the authority.

B. The loss prevention program is a service provided to the member school districts, charter schools and other educational entities in order to protect the insurance fund and its members from claims that could otherwise be prevented. The authority, through the program, provides recommendations for compliance to the members. It is the responsibility of the members to implement the recommendations for abatement.

C. All visits or inspections shall be performed by the loss prevention representative (LPR).

D. The LPR shall conduct evaluations of members. These evaluations shall include, but are not limited to:

(1) physical inspection of any or all of the members' structures, facilities, vehicles or equipment;

(2) review of the members' policies and procedures;

(3) observation of the members' scholastic and non-scholastic activities and operations; and

(4) interviews with members' administration, teachers, maintenance and other support personnel.

E. Within 25 working days following the LPR's completion of the onsite evaluation of a member, the LPR shall submit recommendations to the member for corrective action to eliminate the hazards or exposures observed.

F. Members shall have 20 working days from receipt of the LPR's report to reply to the LPR outlining their timetable for the implementation of recommendations, except for critical or imminent hazards as explained in Subsections G and H, below. If the hazard is not critical or imminent, upon request by the member, the LPR may grant additional time up to no more than 60 working days from receipt of the LPR's report for the member to reply.

G. Critical hazards are those hazards which have an above average potential for immediate occurrence, but are not immediately life threatening.

(1) The members shall have 10 working days from the receipt of the LPR's report to provide an implementation schedule of recommendations identified by the LPR as representing critical hazards.

(2) The LPR shall make a request to the loss prevention review board (LPRB) that any operation involving the critical hazard be suspended if:

(a) the member fails to submit a report within 10 working days;

(b) the member refuses to provide a report within 10 working days; or

(c) the member does not

satisfactorily fix the hazard within the time provided in the implementation schedule agreed upon or ordered.

H. Imminent hazards are those hazards which require suspension of activities or operations so as to avoid the threat of an occurrence which could reasonably be expected to cause death or serious physical harm before the danger can be eliminated through the recommended abatement.

(1) The LPR shall convey any recommendation involving an imminent hazard immediately to the highest available member official.

(2) The LPR shall require that any operations involving an imminent hazard be suspended pending implementation of the applicable recommendations.

(3) A notification of the imminent hazard, its accompanying recommendations, and any other verbal request made by the LPR to the member shall be conveyed in writing to the executive director, LPRB, and the member within 72 hours.

(4) The member shall have 72 hours from the receipt of the notice of an imminent hazard to respond to the LPR's recommendation and set forth a plan satisfactory to the LPR to immediately abate the imminent hazard.

(5) The LPR shall make a presentation to the chairperson of the LPRB and the executive director of the authority recommending that insurance coverage provided to the specific operation of the member be suspended if the member refuses or fails to submit a report within 72 hours regarding the immediate implementation of the LPR's recommendation for abatement of the imminent hazard.

(6) The executive director and the chairman of the LPRB shall consider the recommendation of the LPR and determine if the insurance coverage should be suspended pending a hearing before the LPRB under 6.50.12.11 NMAC.

I. The LPR shall physically re-inspect the hazard or exposure to ensure adequate abatement compliance.

J. The LPR shall provide loss prevention resource materials and activities where needed. These materials and activities shall include, but are not limited to:

(1) assisting members in the development of a member safety program when size and particular member activities warrant.

(2) providing sources for the procurement of safety related literature, materials or services.

[6.50.12.8 NMAC - Rp, 6 50.12.8 NMAC, 09/01/2014]

6.50.12.9 LOSS PREVENTION REVIEW BOARD:

A. The LPRB is hereby created to provide a mechanism for the review of loss prevention activities within the authority's jurisdiction. The LPRB is appointed by the board and, except as provided in Subsection B of this section, its membership shall be made up of the risk advisory committee.

B. In the event an LPRB is appointed in place of the risk advisory committee, it shall consist of five members, four of whom are appointed by the president of the authority board with the board's advice and consent. The risk advisory committee chairman shall be the fifth member of the LPRB and shall serve as the LPRB chairman.

C. The LPRB shall meet as required and as scheduled from time to time.

D. Special meetings may be called by the LPRB chairman, if he determines the need for a special meeting is justified, upon the request of any LPRB or authority board member, any chief executive officer of any member, or the LPR.

E. Notice of special meetings of the LPRB shall be sent to all LPRB members, the individual requesting the special meeting, and the LPR.

F. The notice required in Subsection E above shall indicate the date, time and place of the special meeting. It shall also clearly set forth the purpose for which the meeting is being called, said purpose being the only matter the LPRB may consider and act upon at the special meeting.

[6.50.12.9 NMAC - Rp, 6 50.12.9 NMAC, 09/01/2014]

6.50.12.10 LOSS PREVENTION REVIEW BOARD DUTIES:

A. The LPRB shall consider and act upon:

(1) requests by the LPR that a member be required to implement a specific recommendation;

(2) requests by a member that a recommendation by the LPR be vacated;

(3) any other matter with regard to the enforcement of the authority's loss prevention management system not specifically covered in this part.

B. The LPRB shall recommend to the authority board claims management and claims adjusting procedures as they relate to abatement recommendations. Such procedures shall address documentation and management of claims files.

[6.50.12.10 NMAC - Rp, 6 50.12.10 NMAC, 09/01/2014]

6.50.12.11 LOSS PREVENTION REVIEW BOARD PROCEEDINGS:

When considering a request as specified above, the LPRB chairman shall:

A. provide notification to all LPRB members, the LPR, and the affected member;

B. conduct the meeting allowing the LPR and the member representative the opportunity to present arguments and justifications for their respective requests, and permit members of the LPRB to ask questions of either party;

C. issue the decision of the LPRB within five days and:

(1) if the decision of the LPRB is in agreement with the member, the LPR's recommendation shall be vacated;

(2) if the decision of the LPRB is in agreement with the LPR, the recommendation shall be affirmed and the member directed to implement the recommendation;

(3) if the affirmed recommendation is not implemented as specified by the member, the LPR shall refer the matter to the authority board for action.

[6.50.12.11 NMAC - Rp, 6 50.12.11 NMAC, 09/01/2014]

6.50.12.12 ENFORCEMENT:

The responsibility for enforcement of LPRB decisions shall be vested in the authority board which may act as it sees fit to protect the integrity of the authority. These actions may include, but are not limited to issuing a notice of no coverage to the participating member. This notice shall state the specific circumstances for which coverage shall not be in effect, the reason for issuing the notice that no coverage is in effect and the date and time of inception of the no coverage notice. The notice of no coverage shall not affect any other area of coverage for the member. It shall only affect those specific circumstances stated in the notice of no coverage. Upon verification by the LPR to the authority board in writing that a hazard giving rise to a notice of no coverage has been abated, the authority board shall cancel the notice of no coverage.

[6.50.12.12 NMAC - Rp, 6 50.12.12 NMAC, 09/01/2014]

6.50.12.13 PROCEDURE FOR APPEAL OF AGENCY DECISIONS UNDER THIS PART:

An aggrieved member may appeal any final determination of the authority under this part by following the procedures specified in 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations. Review of any final decision or order of the authority under this part can only be sought as provided by 6.50.16 NMAC, by statute or by rules promulgated by the supreme court for appeal of state agency decisions.

[6.50.12.13 NMAC - Rp, 6 50.12.13

NMAC, 09/01/2014]

HISTORY of 6.50.12 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA 86-2, Definitions, filed 10-31-86; NMPSIA 88-2, Definitions, filed 11-04-88; NMPSIA Rule 93-1, Definitions, filed 03-22-93;

NMPSIA 93-15, Loss Prevention Management System, filed 03-22-93.

History of the Repealed Material:

6.50.12 NMAC, Loss Prevention Management System, filed 6/27/2000 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 13 CLAIMS SETTLEMENT POLICY

6.50.13.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.

[6.50.13.1 NMAC - Rp, 6 NMAC 50.13.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.13.2 SCOPE:

This part applies to all school districts, charter schools, other educational entities and persons or entities authorized to participate in the authority's risk-related coverages.

[6.50.13.2 NMAC - Rp, 6 NMAC 50.13.2, 09/01/2014]

6.50.13.3 STATUTORY

AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.13.3 NMAC - Rp, 6 NMAC 50.13.3, 09/01/2014]

6.50.13.4 DURATION:

Permanent.

[6.50.13.4 NMAC - Rp, 6 NMAC 50.13.4, 09/01/2014]

6.50.13.5 EFFECTIVE DATE:

September 1, 2014 unless a later date is

cited at the end of a section.

[6.50.13.5 NMAC - Rp, 6 NMAC 50.13.5, 09/01/2014]

6.50.13.6 OBJECTIVE: The objective of this part is to establish a policy for settling claims against authority insureds.

[6.50.13.6 NMAC - Rp, 6 NMAC 50.13.6, 09/01/2014]

6.50.13.7 DEFINITIONS: [RESERVED]

6.50.13.8 SETTLEMENT

POLICIES: The authority retains the right at its sole discretion to decide the terms and conditions of settlement of any claim against any authority insured. The authority will not settle a claim against an authority insured for an amount in excess of \$25,000 without first notifying the insured of the proposed settlement and the rationale supporting the proposed settlement. After the authority has notified an insured of a proposed settlement, the authority retains the power to proceed to settle the claim as the authority deems in the best interest of the authority. Should the insured object to the proposed settlement by the authority, the insured shall (if the proposed settlement is a payment of money damages) be offered a payment in an amount equal to the money damages proposed to be paid by the authority under the settlement. The offer to the insured shall be made on condition that the insured release the authority from any further liability on the claim. If the insured accepts the offer, the authority will not consummate the proposed settlement with the claimant. The insured shall then be responsible for defense and settlement or payment of any judgment with regard to the claim and the authority on payment of the settlement amount to the insured shall be released by the insured from all further responsibility for the claim.

[6.50.13.8 NMAC - Rp, 6 NMAC 50.13.8, 09/01/2014]

HISTORY OF 6.50.13 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA Rule 93-16, Claims Settlement Policy, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.13, Claims Settlement Policy, filed 10/1/97 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 14 PARTICIPATING ENTITY WORKERS' COMPENSATION POLICY STATEMENT

6.50.14.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.
[6.50.14.1 NMAC - Rp, 6 NMAC 50.14.1, 09/01/2014]
[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.14.2 SCOPE: This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's workers' compensation program.
[6.50.14.2 NMAC - Rp, 6 NMAC 50.14.2, 09/01/2014]

6.50.14.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.
[6.50.14.3 NMAC - Rp, 6 NMAC 50.14.3, 09/01/2014]

6.50.14.4 DURATION: Permanent.
[6.50.14.4 NMAC - Rp, 6 NMAC 50.14.4, 09/01/2014]

6.50.14.5 EFFECTIVE DATE: September 14, 2014 unless a later date is cited at the end of a section.
[6.50.14.5 NMAC - Rp, 6 NMAC 50.14.5, 09/01/2014]

6.50.14.6 OBJECTIVE: The objective of this part is to direct school districts, charter schools and other educational entities to adopt a policy in order to establish the particular entity's procedure for the selection of health care providers, for use of sick leave and for payment of insurance premiums when a worker has filed a workers' compensation claim.
[6.50.14.6 NMAC - Rp, 6 NMAC 50.14.6, 09/01/2014]

6.50.14.7 DEFINITIONS:

[RESERVED]

6.50.14.8 WORKERS' COMPENSATION CLAIM POLICY: All school districts, charter schools, other educational entities and any other entities participating in the authority's workers' compensation coverages shall adopt a workers' compensation claim policy for its employees substantially in the form as set forth in Subsections A through I of 6.50.14.9 NMAC, selecting one of two options available for the selection of health care providers, for use of sick leave and for payment of insurance premiums while an employee is disabled from work. The form policy is also downloadable from the authority's website at: <https://nmopsia.com> and will be updated from time to time.
[6.50.14.8 NMAC - Rp, 6 NMAC 50.14.8, 09/01/2014]

6.50.14.9 WORKERS' COMPENSATION FORM POLICY FOR SCHOOL DISTRICTS, CHARTER SCHOOLS, OTHER EDUCATIONAL ENTITIES AND OTHER ENTITIES PARTICIPATING IN AUTHORITY WORKERS' COMPENSATION INSURANCE PROGRAM: All entities participating in the authority workers' compensation coverage shall adopt a policy substantially in the following form, selecting one of two options available for the selection of health care providers, for use of sick leave and for payment of insurance premiums while an employee is disabled from work.

A. Workers' compensation eligibility. In accordance with applicable workers' compensation statutes, all employees of (*insert name of participating entity*) who have a work-related injury are eligible for coverage.

B. Reporting accidents. An injured worker must report all work-related accidents or injuries immediately to his immediate supervisor by completing and submitting the notice of accident form, whether or not medical care is needed. The worker's supervisor must then complete the supervisor's accident investigation report form. Both documents must be submitted to the employer's designated workers' compensation administrator within 24 hours from the time the supervisor is informed of the accident. The workers' compensation administrator then must complete the employer's first report of accident form and forward all three forms to the third party administrator within 72 hours from the employer's first knowledge of the accident. The forms are available to download on the authority's website at: <https://nmopsia.com>.

C. Emergency medical treatment. When an injury or illness is life threatening in nature, the injured worker

shall seek emergency treatment at the nearest emergency facility or by calling 911. After the emergency has abated, the injured worker will notify the employer in writing of the work related injury and present any disability or return to work notices.

D. Selection of health care provider policy options.

(1) Each employer shall determine as a matter of policy whether it elects to initially select the health care provider or whether the injured worker is permitted to make the initial selection. Each employer shall also provide at the time of hiring or during employee orientation the following information in writing:

(a) Option 1 for selection of health care provider: (name of participating entity) elects to have injured workers treated at (insert name and location of facility); or

(b) Option 2 for selection of health care provider: (name of participating entity) permits the injured worker to initially select the health care provided as provided by Subsection B of Section 52-1-49 NMSA 1978.

(2) Upon notice of an accident or injury, the employer shall notify the injured worker in writing whether the employer's policy directs that medical care shall be provided by health care provider selected by the employer or whether the policy permits the worker to initially select the health care provider. The party who did not select the initial health care provider has the right to change to a different health care provider 60 days from the date the worker receives treatment from the selected provider.

E. Workers' compensation benefits.

(1) Medical benefits include all medical, surgical, and drug expenses that are reasonable, necessary and related to the work injury.

(2) Lost wage benefits are payments to a worker who is disabled from work in the opinion of an authorized health care provider and cannot earn wages. Lost wage benefits are based on a portion of his average weekly wage up to a maximum limit set by the Workers' Compensation Act, Sections 52-1-1 et seq. NMSA 1978. The first 7 days (consecutive or non-consecutive) is the statutory waiting period when no disability benefits are paid.

F. Sick leave and insurance premium payment options.

Each employer shall determine as a matter of policy whether it elects to allow an injured worker to use paid time off during the initial 7 days of the statutory waiting period and how his insurance premiums will be paid while he is disabled. There are only two options as follows:

(1) Employer Option #1:

(a) Use of sick leave:

The initial 7 day period that a worker is absent due to a work related occurrence is the statutory waiting period in which no lost wage benefits are paid under the workers' compensation claim. The initial 7 day period can be consecutive or non-consecutive days and must be charged to paid time off. If the worker continues to be disabled after the 7 day waiting period, he will be entitled to lost wage benefits equal to 66 2/3% of his average weekly wage up to the statutory maximum allowed at the time of his injury. The worker is not permitted to use paid time off leave after the 7 day waiting period. If the disability persists past 28 days, the worker will then be paid the lost wage benefits for the initial 7 day waiting period and the worker is required to reimburse their paid time off bank;

(b) Payment of Insurance

premiums: When an absence is due to a work related occurrence, the worker does not receive wages from the employer. During the period of disability, the worker shall pay his portion of any insurance premiums for employer provided insurance directly to the employer. The employer will continue payment of its matching portion of the insurance premiums until the employee returns to work from the qualifying disability, through the end of the current fiscal year or for as long as the worker continues to pay his portion of the premiums, whichever occurs first.

(2) Employer Option #2:

(a) Use of sick leave:

The initial 7 day period that a worker is absent due to a work related occurrence is the statutory waiting period in which no lost wage benefits are paid under the workers' compensation claim. The initial 7 day period can be consecutive or non-consecutive days and must be charged to paid time off. If the worker continues to be disabled after the 7 day waiting period, he will be entitled to lost wage benefits equal to 66 2/3% of his average weekly wage up to the statutory maximum allowed at the time of his injury. In order to allow the worker to maintain other employment benefits such as 401(k) contributions and health insurance premiums for family members and dependents, the worker is permitted to use paid time off leave in addition to workers' compensation benefits to equate to 100% of the worker's gross wage. The worker will not be paid in excess of 100% of his gross wages when both paid time off leave and compensation benefits are combined. The worker will not be entitled to any advancement of additional paid time off that the worker might potentially accrue during the balance of the fiscal year. If the disability persists past 28 days, the worker will then be paid

the lost wage benefits for the initial 7 day waiting period and the worker is required notify the employer in writing for proper reimbursement their paid time off bank;

(b) Payment of Insurance

premiums: When an absence is due to a work related occurrence, the worker does not receive wages from the employer. During the period of disability, the worker shall pay his portion of any insurance premiums for employer provided insurance directly to the employer or if the worker uses paid time off leave, the worker's portion of the insurance premiums will continue to be deducted from the checks issued by the employer. The employer will continue payment of its matching portion of the insurance premiums until the employer returns to work from the qualifying disability, through the end of the current fiscal year or for as long as the worker continues to pay his portion of the premiums, whichever occurs first.

G. Family medical leave

act. Family medical leave act benefits will run concurrently with the worker's time off for a work related injury.

H. Returning to work.

Employees returning to work from a work related disability shall:

(1) submit a written

medical statement from the treating physician to the workers' compensation administrator that they are physically able to return to perform the essential job functions of the original position; and

(2) if physically unable

to return to performance of the essential job functions of the original position, the worker shall submit a written medical statement from the treating physician for review by his supervisor, human resources and the workers' compensation administrator detailing which specific functions of the original position that he is physically able to perform and which he cannot; such written medical statement shall specify the employee's physical capacity in the terms outlined in Section 52-1-26.4, NMSA 1978; within five days of receiving this written notification, the employer shall advise the worker in writing of the availability of accommodating work and the start date on which the employee is expected to fill the accommodating position.

(3) If physically unable

to perform even marginal job duties, the worker shall submit a written medical statement from the treating physician to the workers' compensation administrator to that effect for review by his supervisor, human resources and the workers' compensation administrator; and

(4) present himself

for work within 1 working day after being released to return to work by his treating physician or of being notified of

accommodating work by the employer.

I. Workers'

compensation assessment fee. Workers covered by workers' compensation under the New Mexico Workers' Compensation Act, Sections 52-1-1 et seq., NMSA 1978 are required to pay a quarterly fee. The worker's contribution is taken as a quarterly payroll deduction.

[6.50.14.9 NMAC - Rp, 6 NMAC 50.14.9, 09/01/2014]

6.50.14.10 CONFLICT WITH

STATUTE: In the event of a conflict between this part and the Workers' Compensation Act, Sections 52-1-1 et seq. NMSA 1978, the provisions of the act shall prevail.

[6.50.14.10 NMAC - Rp, 6 NMAC 50.14.10, 09/01/2014]

6.50.14.11 CLAIMS

DETERMINATION: No school district, charter school or educational entity has the authority to accept or acknowledge liability for any workers' compensation claim. There is no liability for a workers' compensation claim until liability is acknowledged in writing by an authorized employee of the authority's third party administrator.

[6.50.14.11 NMAC - Rp, 6 NMAC 50.14.11, 09/01/2014]

6.50.14.12 WORKERS'

COMPENSATION IS THE

EXCLUSIVE REMEDY: In any case where an insured under the authority's workers' compensation program is eligible to receive workers' compensation benefits for an injury, the exclusive remedy for such injury is workers' compensation benefits. Such injured insured shall have no claim for additional benefits under either the authority benefits or risk programs, including but not limited to underinsured, uninsured and unknown motorist coverages. Provided, however, this does not prohibit an insured from claiming benefits (in addition to workers' compensation) if provided under a short or long-term disability policy, life insurance policy or medical benefits policy (so long as an insured is limited to one recovery for medical expenses).

[6.50.14.2 NMAC - Rp, 6 NMAC 50.14.12, 09/01/2014]

HISTORY OF 6.50.14 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA Rule 93-17, Participating Entity Workers' Compensation Policy, filed 3/22/93.

NMPSIA Rule 93-18, Workers' Compensation is the Exclusive Remedy, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.14, Participating Entity Workers Compensation Policy, filed 10/1/97 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 15 INSURANCE FRAUD**

6.50.15.1 ISSUING AGENCY:

New Mexico Public School Insurance Authority.
[6.50.15.1 NMAC - Rp, 6 NMAC 50.15.1, 09/01/2014]
[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.15.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.
[6.50.15.2 NMAC - Rp, 6 NMAC 50.15.2, 09/01/2014]

6.50.15.3 STATUTORY

AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.
[6.50.15.3 NMAC - Rp, 6 NMAC 50.15.3, 09/01/2014]

6.50.15.4 DURATION:

Permanent.
[6.50.15.4 NMAC - Rp, 6 NMAC 50.15.4, 09/01/2014]

6.50.15.5 EFFECTIVE DATE:

September 1, 2014 unless a later date is cited at the end of a section.
[6.50.15.5 NMAC - Rp, 6 NMAC 50.15.5, 09/01/2014]

6.50.15.6 OBJECTIVE: The objective of this part is to establish appropriate penalties for insurance fraud in order to deter fraudulent conduct and thus minimize unnecessary expense to the authority and its participating members.
[6.50.15.6 NMAC - Rp, 6 NMAC 50.15.6, 09/01/2014]

6.50.15.7 DEFINITIONS:

[RESERVED]

6.50.15.8 INSURANCE**FRAUD:**

A. Forfeiture of rights to coverage and benefits. Anyone who knowingly or willfully:

(1) makes any false or fraudulent statement or representation as to any material fact in or with reference to any application for insurance or other coverage; or

(2) for the purpose of obtaining any money or benefit, presents or causes to be presented a false or fraudulent claim, or any proof in support of such a claim for payment of loss under a policy; or

(3) prepares, makes or subscribes to a false or fraudulent account, certificate, affidavit or proof of loss, or other document, with intent that the same may be presented or used in support of such a claim; or

(4) makes any false or fraudulent statements or representations on or relative to any application for a policy, for the purpose of obtaining any benefit. shall forfeit all employee and dependent rights to coverage or benefits.

B. Termination of coverage: In the event an official or employee of a participating school district, charter school or other educational entity knowingly or willfully engages in any of the actions listed in Subsection A of 6.50.15.8 NMAC, the employer shall take the appropriate disciplinary action against the offending official or employee. If such appropriate disciplinary action is not taken, the authority reserves the right to terminate coverage for the participating school district, charter school or other educational entity.

[6.50.15.8 NMAC - Rp, 6 NMAC 50.15.8, 09/01/2014]

History of 6.50.15 NMAC:**History of Repealed Material:**

6 NMAC 50.15, Insurance Fraud, filed 10/1/97 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 16 ADMINISTRATIVE
APPEAL OF AUTHORITY
COVERAGE DETERMINATIONS**

6.50.16.1 ISSUING AGENCY:

New Mexico Public School Insurance

Authority.

[6.50.16.1 NMAC - Rp, 6.50.16.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.16.2 SCOPE: This part applies to all appeals of authority coverage determinations by school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's programs.

[6.50.16.2 NMAC - Rp, 6.50.16.2 NMAC, 09/01/2014]

6.50.16.3 STATUTORY

AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.16.3 NMAC - Rp, 6.50.16.3 NMAC, 09/01/2014]

6.50.16.4 DURATION:

Permanent.
[6.50.16.4 NMAC - Rp, 6.50.16.4 NMAC, 09/01/2014]

6.50.16.5 EFFECTIVE DATE:

September 1, 2014 unless a later date is cited at the end of a section.
[6.50.16.5 NMAC - Rp, 6.50.16.5 NMAC, 09/01/2014]

6.50.16.6 OBJECTIVE: The objective of this rule is to clarify the relationship between the authority and its members and to establish a fair and uniform procedure for school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's programs to appeal authority coverage determinations.

[6.50.16.6 NMAC - Rp, 6.50.16.6 NMAC, 09/01/2014]

6.50.16.7 DEFINITIONS: As

used in this rule:

A. "Authority" means the New Mexico public school insurance authority or its authorized representatives.

B. "Authority board" or **"board"** means the board of directors of the New Mexico public school insurance authority.

C. "Appellant" means any party who complains that a coverage

determination may be in violation of any law, rule, regulation, or order administered or promulgated by the authority and who initiates a proceeding under this rule by filing a petition for review with the authority.

D. “Coverage determination” and “determination” mean any decision, order or disposition by the authority denying coverage, limiting the scope of coverage or limiting the amount of payment of a claim of a member or employee, except for workman’s compensation claims.

E. “Document” means, except as otherwise used in the provisions of this rule governing discovery, any written submission in a formal proceeding which is not a pleading or which is required to be filed by authority rule or order outside a formal pleading; this includes items such as reports, exhibits, and studies; at the option of the party or staff making a filing, any document may additionally be presented in a form the hearing officer so orders.

F. “Employee” means a person employed by a member school district, charter school or other educational entity, or an employee’s representatives in the event of legal incapacity, and includes volunteers or officials entitled to authority liability coverage pursuant to the Tort Claims Act, Subsection F of Section 41-4-3 NMSA 1978.

G. “Final coverage determination by the authority” with respect to a member means a coverage letter from the authority’s contracted general counsel or contracted claims adjuster or with respect to an employee means a coverage letter from the authority’s contracted third party benefits administrator or authorized authority staff member.

H. “Hearing” means any proceeding that is noticed for “hearing” by the authority or hearing officer and shall include an opportunity for the parties to present such evidence, argument, or other appropriate matters as the presiding officer shall deem relevant and material to the issues; hearings may be conducted by telephone conference call at the discretion of the presiding officer.

I. “Hearing officer” means a person appointed by the authority as a hearing examiner, who is designated by the authority to conduct any hearing or investigation which the authority is authorized to conduct, to take testimony in respect to the subject under investigation, report such testimony and provide to the authority a proposed decision with regard to the issues.

J. “Member school districts, charter schools and other participating entities” herein referred to collectively as “members” means all

public school districts and charter schools mandated by the act to be members of the authority and all other educational entities voluntarily participating in the authority.

K. “Party” means any person or entity that initiates or responds to an authority proceeding by filing a petition for review with the authority and includes the authority; unless the context indicates otherwise, the term “party” may also refer to counsel of record for the party.
[6.50.16.7 NMAC - Rp, 6.50.16.7 NMAC, 09/01/2014]

6.50.16.8 RELATIONSHIP BETWEEN THE AUTHORITY, ITS MEMBERS AND COVERED EMPLOYEES: These findings and policy considerations guide the authority in adopting the following regulations and providing a procedure for administrative appeal of authority coverage determinations:

A. The authority is an agency of the state of New Mexico and is endowed only with those powers and duties stated in the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978 (“act”). The relationship between the authority and its members or employees, and any coverage provided by the authority to them, is defined and constrained by the act and by authority rules, regulations and procedures lawfully promulgated under the act.

B. The members of the authority participate pursuant to Section 22-29-9, NMSA 1978 of the act, which provides that school districts and charter schools shall participate in the authority unless they are granted a waiver of participation pursuant to the procedures provided in that section of the act. Section 22-2-9 NMSA 1978 also provides that other educational entities may participate in the authority.

C. The act does not empower the authority to contract with its members or employees. There is no relationship between the authority and its members or employees based upon or arising out of any contract between the authority and its members or employees.

D. The insurance protection provided by the authority to its members is provided either by insurance policies contracted through private insurers or through the statutory self-insurance program administered by the authority.

E. For the benefit of the authority and its members and their employees, the following regulations provide a formal procedure for members and employees to appeal authority coverage determinations. Therefore, the following procedures for appeal from any coverage determination or ruling of the authority are

provided as the exclusive remedy for any person or entity challenging a coverage determination of the authority.
[6.50.16.8 NMAC - Rp, 6.50.16.8 NMAC, 09/01/2014]

6.50.16.9 PROCEDURE FOR APPEAL OF A FINAL COVERAGE DETERMINATION OF THE

AUTHORITY: An aggrieved member or employee may appeal any final coverage determination of the authority by following the procedures specified herein. Review of any final decision or order of the authority can only be sought as provided by statute or by rules promulgated by the supreme court for appeal of state agency decisions.
[6.50.16.9 NMAC - Rp, 6.50.16.9 NMAC, 09/01/2014]

6.50.16.10 PETITION FOR REVIEW:

Every appeal of a coverage determination of the authority shall be initiated by mailing a petition for review, within 30 days of the mailing date of the determination, to the executive director of the New Mexico Public School Insurance authority by certified mail.

A. A petition for review must specify and include:

(1) the name of the employee or member appealing, and, for institutional parties, the name, position, address and phone number of a person who will be responsible for receiving communications from the authority;

(2) a full description of the coverage determination being appealed, including the date of the determination and, specifically, the substance of the determination that is being appealed;

(3) a short, concise statement of the grounds for the appeal;

(4) if the authority determination is in a writing, a copy of the writing must be attached to the notice;

(5) copies of all documents, photographs or other tangible evidence that appellant contends provides support for appellant’s position; and

(6) a memorandum stating the complete argument for overturning the determination of the authority, including a statement of relevant facts, an outline of controlling law, and the appellant’s argument.

B. An extension of up to 14 days to provide the items specified in Paragraphs (5) and (6) of Subsection A of 6.50.16.10 NMAC may be granted at the discretion of the authority upon written request of the appellant.
[6.50.16.10 NMAC - Rp, 6.50.16.10 NMAC, 09/01/2014]

6.50.16.11 FINAL DECISION OF THE AUTHORITY BASED ON

PETITION FOR REVIEW:

A. Within 30 days following receipt of the completed petition for review, including all supporting documents, the board shall either:

(1) issue a final decision vacating or modifying the coverage determination of the authority consistent with appellant's argument; or

(2) issue a notice of hearing setting, such hearing to be held no less than 30 days and no more than 45 days after the date the notice of setting is mailed to appellant.

B. Either the final decision in conformity with appellant's argument or the notice of hearing setting shall be mailed to appellant by first-class mail. A notice of hearing setting shall specify the date, time, location and subject matter of the hearing. [6.50.16.11 NMAC - Rp, 6.50.16.11 NMAC, 09/01/2014]

6.50.16.12 SETTLEMENT OF APPEAL: The appellant and the authority may, at any time, either prior to or during a proceeding under this rule, informally settle a dispute by the consent of the parties. [6.50.16.12 NMAC - Rp, 6.50.16.12 NMAC, 09/01/2014]

6.50.16.13 PRE-HEARING PROCEDURE:

A. Hearing officer. The board shall appoint a hearing officer for an appeal within 7 days after mailing the notice of setting. The board shall provide appropriate clerical support and space for any hearings conducted. Venue for any hearings shall be Santa Fe county unless the hearing officer in view of convenience to parties and witnesses orders that another location is more appropriate. The hearing officer shall oversee all proceedings after the hearing is set. The hearing officer will also provide written findings of fact and a disposition recommendation to the board within 14 days after completion of a hearing. The board shall make a final decision, after review of the recommendations of the hearing officer, and mail a notice of final decision to appellant within 30 days of receipt of the hearing officer's recommendations.

B. Representation of parties:

(1) The authority shall be represented in proceedings under this rule by its general counsel or a staff member of the authority appointed by the executive director for this purpose.

(2) The appellant may appear pro se, if appellant is an individual, or by an administrator of an institutional appellant who has been appointed for that purpose by the governing body of the institution. Any appellant may be represented by legal

counsel licensed to practice law in the state of New Mexico.

C. Production of authority documents:

(1) Should a hearing be set by the board, the authority shall make available for copying and inspection all documents that the authority determines to be relevant to the initial determination being appealed within seven days of the date the hearing setting is issued. "Relevance," in this context is to be construed liberally in favor of production.

(2) Documents may be withheld or redacted by the authority only when the relevant material is protected from disclosure or otherwise privileged under New Mexico law. In the interest of complete disclosure, redaction shall be favored over withholding the document.

(3) Should any documents be withheld pursuant to New Mexico law, a list or privilege log generally identifying each document, its contents and the claimed privilege shall be provided to the appellant at the time of production.

(4) Documents produced shall be made available for inspection and copying at the offices of the authority.

D. Production of appellant or other party documents: The hearing officer for good cause shown may order inspection, production and copying of documents deemed relevant that are in the possession, custody or control of the appellant member, employee or other party.

E. Authority, appellant, member and employee arguments: At least 14 days before the date set for the hearing, all parties shall file simultaneously memorandums stating their complete arguments for or against the authority determination, including a statement of relevant facts, an outline of controlling law and the relief requested. Each party must mail or deliver the original memorandum and one copy to the hearing officer and one copy to the representative of each other party.

F. Witness and exhibit lists: Each party must file witness and exhibit lists at least 14 days before the date set for the hearing by mailing or delivering the original to the hearing officer and one copy to the representative of each other party. Witnesses must be identified with particularity. The party calling a witness must provide the witness's name and address and must describe the subject matter of the testimony expected to be elicited from each witness. Each document or object identified in the exhibit list must be immediately made available for inspection and copying. Only witnesses properly identified in the witness list will be permitted to testify in the hearing and only exhibits properly identified in the exhibit

list will be admissible in the hearing unless upon good cause being shown the hearing officer determines otherwise.

[6.50.16.13 NMAC - Rp, 6.50.16.13 NMAC, 09/01/2014]

6.50.16.14 HEARINGS:

A. Rights of parties and those offering comment. At any hearing, all parties shall be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the hearing. Non-parties wishing to make comments shall be entitled to make an oral or written statement for the record but such statement shall not be considered as evidence. Non-parties making comment shall not have the right to introduce evidence or examine or cross-examine witnesses, to receive copies of pleadings or documents, to appeal from any decision or order, or to otherwise participate in the hearing other than by making their comments.

B. Continuance. Any party who desires a continuance shall request a continuance immediately upon receipt of notice of hearing or as soon thereafter as facts requiring such continuance come to the party's knowledge. The hearing officer may grant a request for continuance if timely made and supported by reasonable cause. The hearing officer may also grant a continuance at any time in the hearing officer's sound discretion.

C. Order of presentation. The hearing officer shall determine the order of presentation of the evidence and shall be guided in this matter by the interests of fairness and justice.

D. Rules of evidence.

(1) All relevant evidence is admissible which, in the opinion of the hearing officer, is the best evidence most reasonably obtainable, having due regard to its necessity, competence, availability and trustworthiness.

(2) In passing upon the admissibility of evidence, the hearing officer shall give consideration to, but shall not be bound by, the New Mexico rules of evidence which govern proceedings in New Mexico district courts. The hearing officer shall also give consideration to the legal requirement that any final decision on the merits be supported by competent evidence.

(3) All testimony to be considered as evidence in a hearing shall be made under oath.

(4) The parties may agree to submit written stipulations of fact or law or both to the hearing officer and such stipulations shall be binding upon the parties entering into the stipulation.

(5) A hearing officer may take administrative notice of the following

matters if otherwise admissible under this rule: rules, regulations and procedures of the authority and other government agencies; decisions, records and transcripts in other authority proceedings; state and federal statutes; decisions of state and federal courts; and matters of which the courts of this state may take judicial notice. Matters noticed are admitted into evidence to the same extent as other relevant evidence.

E. Proposed findings. The hearing officer may require all parties of record to file proposed forms of order, including proposed findings of fact and conclusions of law, at the close of testimony in the proceeding.
[6.50.16.14 NMAC - Rp, 6.50.16.14 NMAC, 09/01/2014]

6.50.16.15 CONFLICTS: If an employee or official of an aggrieved member is on the authority board, that authority board member shall abstain from any participation, discussion, action or voting with respect to the petition for review. In the event an aggrieved authority employee files a petition for review he or she shall abstain from any participation, discussion, action or communication with regard to the petition other than in his or her normal role as a petitioner.
[6.50.16.15 NMAC - Rp, 6.50.16.15 NMAC, 09/01/2014]

6.50.16.16 PROCEDURE FOR REVIEW OF A FINAL DECISION OF THE AUTHORITY: Final decisions of the authority, whether based upon a notice of appeal or the written findings of fact and disposition recommendations of a hearing officer, may be reviewed in the New Mexico district courts pursuant to the provisions of Rule 1-075 of the Rules of Civil Procedure for the district courts, governing issuance of writs of certiorari for constitutional review of agency decisions. It is important that an appellant wishing to seek district court review of a final decision of the authority immediately examine the most recent publication of Rule 1-075 to determine its requirements. Pursuant to Rule 1-075, a petition for writ of certiorari must be filed in the district court within 30 days after the date of the final decision of the authority.
[6.50.16.16 NMAC-Rp, 6.50.16.16 NMAC, 09/01/2014]

HISTORY of 6.50.16 NMAC:

History of Repealed Material:

6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations, filed 6/16/2000 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 17 USE OF SCHOOL FACILITIES BY PRIVATE PERSONS

6.50.17.1 ISSUING AGENCY:
New Mexico Public School Insurance Authority.
[6.50.17.1 NMAC - Rp, 6.50.17.1 NMAC, 09/01/2014]
[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.17.2 SCOPE: This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's risk related coverages.
[6.50.17.2 NMAC - Rp, 6.50.17.2 NMAC, 09/01/2014]

6.50.17.3 STATUTORY AUTHORITY: Subsection F of Section 22-29-7 NMSA 1978 directs the authority to establish a policy to be followed by participating members relating to the use of school facilities by private persons provided that the policy relates only to liability and risk issues. This policy shall not affect the rights and responsibilities of local school boards to determine how, when and by whom school district facilities are used. The policy shall be distributed to participating members and posted upon the authority's web site.
[6.50.17.3 NMAC - Rp, 6.50.17.3 NMAC, 09/01/2014]

6.50.17.4 DURATION:
Permanent.
[6.50.17.4 NMAC - Rp, 6.50.17.4 NMAC, 09/01/2014]

6.50.17.5 EFFECTIVE DATE:
September 1, 2014 unless a later date is cited at the end of a section.
[6.50.17.5 NMAC - Rp, 6.50.17.5 NMAC, 09/01/2014]

6.50.17.6 OBJECTIVE: To establish a policy to be followed by participating members relating to the use of school facilities by private persons. This policy relates only to liability and risk issues.
[6.50.17.6 NMAC - Rp, 6.50.17.6 NMAC, 09/01/2014]

6.50.17.7 DEFINITIONS:

[RESERVED]

6.50.17.8 POLICY ON USE OF SCHOOL FACILITIES BY PRIVATE PERSONS:

A. The representative of the requesting group shall contact the facilities manager or other designated school official of the desired site regarding the proposed usage within a time frame required by the site manager or official. The school or school district shall provide the requesting group with a site use agreement which sets forth the terms and conditions of use of the premises. Site use agreements shall at minimum include a copy of the school's safety rules or safety rules provided by the authority's risk management provider. The requesting group shall agree to follow the safety rules included with the site use agreement and also agree to follow the liability and risk related rules contained in Subsection G of 6.50.17.8 NMAC prior to use of the school facilities. The school facility use shall be conducted in compliance with all federal, state and municipal statutes, ordinances, rules and regulations including those with regard to discrimination. School facilities shall not be used for any unlawful purpose.

B. All groups shall also agree that the schools will not be liable for injury to the property of the group itself or participants in the group's activities resulting from their participation in the group's activities. Groups and their individual participants shall be required to give waivers of liability and releases for personal injury or property damage on forms provided by the school or the authority.

C. Liability insurance provided through the authority shall be excess over any valid and collectible insurance carried by any group permitted to use school facilities. Liability insurance provided by the authority for use of school facilities by private persons is limited to \$1,000,000 per occurrence. Schools or school districts shall not warrant the suitability of the facility or of the facility's contents for the uses intended by the requesting group.

D. Commercial groups shall provide a copy of a current business license. Commercial groups shall inform participants that the activity is not sponsored by the school whose facilities are being used.

E. All districts shall include within their site use agreement a statement clearly indicating that the approved activity sponsor must assure that activity participants, guests and spectators only access those site areas designated for the activity. District superintendents shall also designate in the site use agreement an

individual who shall verify that all the areas utilized were properly checked and secured upon departure from the facility.

F. Schools and school districts shall make their own arrangements regarding any payments required for use of the facilities, for reimbursement for special services such as setting up tables and chairs, use of school equipment such as projectors or video equipment or abnormal wear and tear on the facilities. All fees shall be made by check or money order and shall be made payable to the school or school board. It is inappropriate for users of school facilities to pay school employees directly for services in kind or in cash.

G. In addition to the safety rules included in the site use agreement, any user of school or school district facilities must agree to the following liability and risk related rules.

(1) The use of alcohol, illegal drugs and tobacco are prohibited on all school property at all times.

(2) Guns are not permitted on school property except for those in the possession of authorized law enforcement personnel.

(3) Users of the facility shall be responsible for providing security as required by the member school or school district for the type of function they have planned.

(4) Users of swimming pool facilities must have a certified life guard on duty at all times.

(5) For events that involve animals, including dogs, all must be leashed, penned, caged or otherwise properly contained, constrained or under supervision and control at all times. Animals or pets not properly contained, constrained or under supervision and control at all times are prohibited.

(6) Open fires including candles, torches, and bonfires shall not be allowed except pursuant to prior approval and permit by the appropriate authorities.

(7) Building exits shall never be blocked for any reason.

(8) Parking shall be in designated areas only.

(9) Every effort shall be made to provide vehicle and pedestrian traffic management in order to insure safe and orderly movement of vehicles and people.

(10) All care shall be taken in the design, placement and construction of booths, displays, viewing stands, platforms, theater sets, temporary stages or any other structures to safeguard the safety of those building, using and disassembling such structures.

(11) Decorations shall be fire resistant whenever possible, cover no more than 20 percent of the wall area and never be placed within close proximity to

incendiary sources.

(12) Care shall be taken at all times to avoid the creation of tripping hazards or if unavoidable to warn participants of obstacles.

(13) No hazardous materials, including pyrotechnic devises, fireworks, explosives flammable materials or liquids, poisonous materials or plants, strong acids or caustics shall be brought onto the premises or used in any way while occupying the premises except with the approval prior to use by the fire marshal or other authority having jurisdiction.

(14) No amusement rides or attractions, including but not limited to, trampolines of any type, enclosed or air supported structures of any type, climbing walls, climbing ropes, bow and arrow shooting activity or equipment or devises related thereto shall be brought onto the premises or used in any way while occupying the premises except with the express permission of school authorities and on proof of insurance by the user of the facility of at least \$1,000,000 per occurrence naming the school or school district and the authority as additional insureds. All such activities shall be operated and overseen by persons experienced and, if possible, certified to do so.

(15) All users of school facilities shall give written notice to the school of any accident resulting in bodily injury or property damage to property of the school occurring on school premises or in any way connected with the use of the school premises within 24 hours of the accident. The notice shall include details of the time, place and circumstances of the accident and the names and addresses and phone numbers of any persons witnessing the accident.

(16) If playground equipment is to be used, the user of the facility shall provide at least one adult supervisor for every 15 children.

(17) The user of the facility shall provide the appropriate signage to inform participants of the safety rules. A list of emergency agencies and phone numbers shall also be posted.

(18) Access to school facilities by the users of the facility shall be limited to those areas specified in the site use agreement.

H. All users of school facilities shall agree to provide prompt and thorough clean-up and removal or storage of all special structures within no more than 24 hours after the end of the event, but in no case later than the beginning of the next school day or if school is out no later than prior to use of the area by school personnel. Users shall ensure that any furniture and equipment moved during the use of the

facilities is replaced.

[6.50.17.8 NMAC - Rp, 6.50.17.8 NMAC, 09/01/2014]

HISTORY of 6.50.17 NMAC:

History of Repealed Material:

6.50.17 NMAC, Use of School Facilities by Private Persons, filed 2/9/2010 - Repealed effective 09/01/2014.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 50 INSURANCE PART 18 USE OF VOLUNTEERS IN SCHOOLS AND SCHOOL DISTRICTS

6.50.18.1 ISSUING AGENCY:
New Mexico Public School Insurance Authority.

[6.50.18.1 NMAC - Rp, 6.50.18.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.18.2 SCOPE: This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's risk related coverages.
[6.50.18.2 NMAC - Rp, 6.50.18.2 NMAC, 09/01/2014]

6.50.18.3 STATUTORY AUTHORITY: Subsection E of Section 22-29-7 NMSA 1978 directs the authority to establish a policy to be followed by participating members relating to the use of volunteers, distribute the policy to participating members and post the policy upon the authority's web site.
[6.50.18.3 NMAC - Rp, 6.50.18.3 NMAC, 09/01/2014]

6.50.18.4 DURATION:
Permanent.
[6.50.18.4 NMAC - Rp, 6.50.18.4 NMAC, 09/01/2014]

6.50.18.5 EFFECTIVE DATE:
September 1, 2014 unless a later date is cited at the end of a section.
[6.50.18.5 NMAC - Rp, 6.50.18.5 NMAC, 09/01/2014]

6.50.18.6 OBJECTIVE: To establish a policy to be followed by participating members relating to the use of volunteers.

[6.50.18.6 NMAC - Rp, 6.50.18.6 NMAC, 09/01/2014]

6.50.18.7

DEFINITIONS:

A. "Regular volunteers"

means those persons, including relatives of students, who commit to serve on a regular basis at a school district, charter school or other educational entity without compensation.

B. "Spontaneous

volunteers" means those persons who agree to fill an urgent, temporary need for a school district, charter school or other educational entity without compensation and who are not pre-registered as a regular volunteer.

[6.50.18.7 NMAC - Rp, 6.50.18.7 NMAC, 09/01/2014]

6.50.18.8

POLICY FOR REGULAR VOLUNTEERS IN SCHOOLS AND SCHOOL DISTRICTS:

A. Participating member

schools and school districts make extensive use of regular volunteers for many of their programs. In seeking and accepting the voluntary services of qualified, interested individuals, the participating members recognize that they have basic responsibilities to the regular volunteers as well as to the students and to themselves.

B. Each participating

member shall be responsible for organizing and managing its own regular volunteer program subject to the following rules. Participating member schools, school districts and other educational entities shall have in place policies clearly establishing how and by whom regular volunteers are appointed and the policies at minimum shall require:

(1) interviewing all prospective regular volunteers and doing a background check including, but not limited to any history of drug abuse or drug dealing, domestic violence, DUI offenses, and sex crimes;

(2) providing all regular volunteers with a job description, outlining specific duties, time commitment and qualifications for acceptance as a regular volunteer;

(3) providing appropriate training, supervision and evaluation of regular volunteers; and

(4) instructing all regular volunteers to understand that failure to obey the code of ethics and standards of professional conduct as provided in 6.60.9.8 NMAC and 6.60.9.9 NMAC concerning the obligations of school personnel is grounds for dismissal.

C. Regular volunteers shall

not be allowed to begin their service until after their duties are explained to them and they have accepted in writing the following

volunteer pledge. It is my duty:

(1) to deal justly and considerately with each student, school employee or other volunteer;

(2) to share the responsibility for improving educational opportunities for all;

(3) to stimulate students to think and learn, but at the same time protect them from harm;

(4) to respect the confidentiality of student records and information about students, their personal or family life;

(5) not to discriminate or to permit discrimination on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion or serious medical condition against any person while I am on duty as a volunteer;

(6) to avoid exploiting or unduly influencing a student into engaging in an illegal or immoral act or any other behavior that would subject the student to discipline for misconduct, whether or not the student actually engages in the behavior;

(7) to avoid giving gifts to any one student unless all students similarly situated receive or are offered gifts of equal value for the same reason;

(8) to avoid lending money to students;

(9) to avoid having inappropriate contact with any student, whether or not on school property, which includes all forms of sexual touching, sexual relations or romantic relations, any touching which is unwelcome by the student or inappropriate given the age, sex and maturity of the student;

(10) to avoid giving a ride to a student;

(11) not to engage in sexual harassment of students, other volunteers or school employees;

(12) not to engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off premises;

(13) not to possess or use tobacco, alcohol or illegal drugs while on school property or during school events off premises;

(14) to use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable law, policies and rules;

(15) to avoid any violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct when on school property or off campus at school functions;

(16) to refrain from using school information technology equipment, hardware, software or internet access for other than a school related purpose;

(17) to refrain from striking,

assaulting or restraining students unless necessary in the defense of self or others;

(18) to refrain from using inflammatory, derogatory or profane language while on school property or while attending school events off premises;

(19) to refrain from bringing or possessing firearms or other weapons on school property except with proper authorization;

(20) not to be under the influence of alcohol or illegal drugs on school property or at school events off premises; and

(21) to report, as appropriate under the circumstances, violations of this pledge by other regular volunteers or school employees.

D.

For the mutual protection of regular volunteers and the participating members, personnel administering regular volunteer programs shall provide a safe place to work and clear project organization or direction, establish and inform regular volunteers of emergency procedures, ensure that regular volunteers understand that their activities create participating member's liability, and that ethical standards apply to them as well as to regular school employees. Participating member personnel shall inform each regular volunteer in writing of the reserved right to dismiss unsatisfactory regular volunteers and of the established procedures for doing so.

E.

Spontaneous volunteers are not subject to these rules, but spontaneous volunteers must be supervised at all times by an employee or regular volunteer of the school district, charter school or other educational entity. [6.50.18.8 NMAC - Rp, 6.50.18.8 NMAC, 09/01/2014]

HISTORY of 6.50.18 NMAC:

History of Repealed Material:

6.50.18 NMAC, Use of Volunteers in Schools and School Districts, filed 2/9/2010 - Repealed effective 09/01/2014.

NEW MEXICO REGULATION AND LICENSING DEPARTMENT BOARD OF PHARMACY

This is an amendment to 16.19.4 NMAC, amending Sections 15 thru 18 and adding Section 19, effective 09-07-2014.

16.19.4.15 [INACTIVE STATUS:

~~A. A pharmacist not engaged or ceasing to be engaged in the practice of pharmacy for more than one year shall be issued an inactive status license upon proper application and payment of~~

fees.

B. Pursuant to Section 61-11-13.B, an inactive status pharmacist applying for an active status license, who has not been actively engaged in pharmacy for over one year, may be required to serve an internship training program and submit evidence of continuing education relating to the practice of pharmacy, as required by Section 61-11-6 and Section 61-11-13 and the Board regulations.] **EXPEDITED PHARMACIST LICENSURE BY RECIPROCITY FOR MILITARY AND SPOUSES LICENSED IN ANOTHER JURISDICTION:**

A. When a military service member, the spouse of a military service member, or a recent veteran submits an application for a pharmacist license and is a qualified applicant pursuant to 16.19.4 NMAC, the board shall expedite the processing of such application and issue the license as soon as practicable. The term "military service member" and "recent veteran" are defined in the Uniform Licensing Act NMSA 1978, Section 61-1-34(2013). Any qualified veteran applicant seeking expedited licensure pursuant to this section shall submit a copy of form DD214, certificate of release or discharge from active duty, with the application.

B. A license issued pursuant to this section shall not be renewed automatically, and shall be renewed only if the licensee satisfies all requirements for the issuance and renewal of a license pursuant to the Pharmacy Act, including Section 61-11-13 NMSA 1978 and 16.19.4.14 NMAC. [08-27-90; 16.19.4.15 NMAC - Rn, 16 NMAC 19.4.15, 03-30-02; Repealed, 12-15-02; 16.19.4.15 NMAC - Rn, 16.19.4.16 NMAC, 12-15-02; Repealed, 09-07-14; 16.19.4.15 NMAC - N, 09-07-14]

[16.19.4.15] 16.19.4.16

INACTIVE STATUS: **A.** A pharmacist not engaged or ceasing to be engaged in the practice of pharmacy for more than one year shall be issued an inactive status license upon proper application and payment of fees.

B. Pursuant to Section 61-11-13.B, an inactive status pharmacist applying for an active status license, who has not been actively engaged in pharmacy for over one year, may be required to serve an internship training program and submit evidence of continuing education relating to the practice of pharmacy, as required by Section 61-11-6 and Section 61-11-13 and the Board regulations. [08-27-90; 16.19.4.15 NMAC - Rn, 16 NMAC 19.4.15, 03-30-02; Repealed, 12-15-02; 16.19.4.15 NMAC - Rn, 16.19.4.16 NMAC, 12-15-02; 16.19.4.16 NMAC - Rn, 16.19.4.15 NMAC, 09-07-14]

[16.19.4.16] 16.19.4.17

RESPONSIBILITIES OF PHARMACIST AND PHARMACIST INTERN:

A. The following responsibilities require the use of professional judgement and therefore shall be performed only by a pharmacist or pharmacist intern:

- (1) receipt of all new verbal prescription orders and reduction to writing;
- (2) initial identification, evaluation and interpretation of the prescription order and any necessary clinical clarification prior to dispensing;
- (3) professional consultation with a patient or his agent regarding a prescription;
- (4) evaluation of available clinical data in patient medication record system;
- (5) oral communication with the patient or patient's agent of information, as defined in this section under patient counseling, in order to improve therapy by ensuring proper use of drugs and devices;
- (6) professional consultation with the prescriber, the prescriber's agent, or any other health care professional or authorized agent regarding a patient and any medical information pertaining to the prescription;
- (7) drug regimen review, as defined in 61-11-2L;
- (8) professional consultation, without dispensing, will require that the patient be provided with the identification of the pharmacist or pharmacy intern providing the service.

B. Only a pharmacist shall perform the following duties:

- (1) final check on all aspects of the completed prescription including sterile products and cytotoxic preparations, and assumption of the responsibility for the filled prescription, including, but not limited to, appropriateness of dose, accuracy of drug, strength, labeling, verification of ingredients and proper container;
- (2) evaluation of pharmaceuticals for formulary selection within the facility;
- (3) supervision of all supportive personnel activities including preparation, mixing, assembling, packaging, labeling and storage of medications;
- (4) ensure that supportive personnel have been properly trained for the duties they may perform;
- (5) any verbal communication with a patient or patient's representative regarding a change in drug therapy or performing therapeutic interchanges (i.e. drugs with similar effects in specific therapeutic categories); this does not apply to substitution of generic equivalents;
- (6) any other duty required of a pharmacist by any federal or state law.

C. Patient records.

- (1) A reasonable effort must be

made to obtain, record and maintain at least the following information:

(a) name, address, telephone number, date of birth (or age) and gender of the patient;

(b) individual medical history, if significant, including disease state or states, known allergies and drug reactions and a comprehensive list of medications and relevant devices; and

(c) pharmacist's comments relevant to the individuals drug therapy.

(2) Such information contained in the patient record should be considered by the pharmacist or pharmacist intern in the exercise of their professional judgement concerning both the offer to counsel and the content of counseling.

D. Prospective drug review.

(1) Prior to dispensing any prescription, a pharmacist shall review the patient profile for the purpose of identifying:

- (a) clinical abuse/misuse;
- (b) therapeutic duplication;
- (c) drug-disease contraindications;
- (d) drug-drug interactions;
- (e) incorrect drug dosage;
- (f) incorrect duration of drug treatment;
- (g) drug-allergy interactions;
- (h) appropriate medication indication.

(2) Upon recognizing any of the above, a pharmacist, using professional judgment, shall take appropriate steps to avoid or resolve the potential problem. These steps may include requesting and reviewing a controlled substance prescription monitoring report or another states' reports if applicable and available, and consulting with the prescriber and counseling the patient. The pharmacist shall document steps taken to resolve the potential problem.

E. Prescription monitoring report for opiate prescriptions. When presented with an opiate prescription for a patient, obtaining and reviewing a prescription monitoring report for that patient can be an important tool that assists the pharmacist in identifying issues or problems that put his or her patient at risk of prescription drug abuse or diversion. A pharmacist shall use professional judgment based on prevailing standards of practice in determining whether to obtain and review a prescription monitoring report before dispensing an opiate prescription to that patient, and shall document his or her action regarding such reports.

(1) A pharmacist shall request and review a prescription monitoring report covering at least a one year time period and another states' report, where applicable and available if;

(a) a pharmacist becomes aware of a person currently exhibiting potential abuse or misuse of opiates (i.e. over-utilization, early refills, multiple prescribers, appears overly sedated or intoxicated upon presenting a prescription for an opiate or an unfamiliar patient requesting an opiate by specific name, street name, color, or identifying marks, or paying cash when the patient has prescription insurance);

(b) a pharmacist receives an opiate prescription requesting the dispensing of opiates from a prescription issued by a prescriber with whom the pharmacist is unfamiliar (e.i. prescriber is located out-of-state or prescriber is outside the usual pharmacy geographic prescriber care area);

(c) providing opiates for a patient that is receiving chronic pain management prescriptions.

(2) After obtaining an initial prescription monitoring report on a patient, a pharmacist shall use professional judgment base on prevailing standards of practice, in deciding the frequency of requesting and reviewing further prescription monitoring reports and other states' reports for that patient. The pharmacist shall document the review of these reports.

(3) In the event a report is not immediately available, the pharmacist shall use professional judgment in determining whether it is appropriate and in the patient's best interest to dispense the prescription prior to receiving a report.

(4) A prescription for an opiate written for a patient in a long term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness is exempt from Subsection D of 16.19.29.8 NMAC. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner. The pharmacist shall document whether the patient is "terminally ill" or an "LTCF patient".

F. Counseling.

(1) Upon receipt of a new prescription drug order and following a review of the patient's record, a pharmacist or pharmacist intern shall personally offer to counsel on matters which will enhance or optimize drug therapy with each patient or the patient's agent. Upon receipt of a refill prescription drug order a pharmacy technician may query the patient or patient's agent regarding counseling by the pharmacist or pharmacist intern concerning drug therapy. Such counseling shall be in person, whenever practicable, or by telephone, and shall include appropriate elements of patient counseling which may include, in their professional judgement, one or more of the following:

(a) the name and description of

the drug;

(b) the dosage form, dosage, route of administration, and duration of drug therapy;

(c) intended use of the drug and expected action;

(d) special directions and precautions for preparation, administration and use by the patient;

(e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance and the action required if they occur;

(f) techniques for self-monitoring drug therapy;

(g) proper storage;

(h) prescriptions refill information;

(i) action to be taken in the event of a missed dose;

(j) the need to check with the pharmacist or practitioner before taking other medication; and

(k) pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) [REPEALED]

(3) Alternative forms of patient information may be used to supplement patient counseling when appropriate. Examples include, but not limited to, written information leaflets, pictogram labels and video programs.

(4) Patient counseling, as described above and defined in this regulation shall not be required for inpatients of a hospital or institution where other licensed health care professionals are authorized to administer the drug(s).

(5) A pharmacist shall in no way attempt to circumvent or willfully discourage a patient or patient's agent from receiving counseling. However, a pharmacist shall not be required to counsel a patient or patients's agent when the patient or patients's agent refuses such consultation.

(6) When the patient or agent is not present when the prescription is dispensed, including but not limited to a prescription that was shipped by the mail, the pharmacist shall ensure that the patient receives written notice of available counseling. Such notice shall include days and hours of availability, and: (1) of his or her right to request counseling; and (2) a toll-free telephone number in which the patient or patient's agent may obtain oral counseling from a pharmacist who has ready access to the patient's record. For pharmacies delivering more than 50% of their prescriptions by mail or other common carrier, the hours of availability shall be a minimum of 60 hours per week and not less than 6 days per week. The facility must

have sufficient toll-free phone lines and personnel to provide counseling within 15 minutes.

(7) In every pharmacy there shall be prominently posted in a place conspicuous to and readable by prescription drug consumers a notice concerning available counseling.

G. [REPEALED]

H. Regulatory assessment.

Profiles, either electronic or hard copy, shall be available for inspection, and shall provide the capability of storing the described historical information. The profiles must demonstrate that an effort is being made to fulfill the requirements by the completion of the detail required. A patient record shall be maintained for a period of not less than three (3) years from the date of the last entry in the profile record.

[08-27-90; 16.19.4.16 NMAC - Rn, 16 NMAC 19.4.16, 03-30-02; 16.19.4.16 NMAC - Rn, 16.19.4.17 NMAC, 12-15-02; A, 02-01-04; A, 11-30-04; A, 01-15-05; A, 01-31-07; A, 08-31-12; A, 10-25-12; 16.19.4.17 NMAC - Rn, 16.19.4.16 NMAC, 09-07-14]

[16.19.4.17] 16.19.4.18

PHARMACIST CLINICIAN:

A. Purpose: The purpose of these regulations is to implement the Pharmacist Prescriptive Authority Act, Sections 61-11B-1 through 61-11B-3 NMSA 1978 by providing minimum standards, terms and conditions for the certification, registration, practice, and supervision of pharmacist clinicians. These regulations are adopted pursuant to Section 61-11B-3 of the Pharmacist Prescriptive Authority Act.

B. Initial certification and registrants.

(1) The board may certify and register a pharmacist as a pharmacist clinician upon completion of an application for certification and satisfaction of the requirements set forth in these regulations.

(2) A pharmacist who applies for certification and registration as a pharmacist clinician shall complete application forms as required by the board and shall pay a fee. The fee shall be set by the board to defray the cost of processing the application, which fee is not returnable.

(3) To obtain initial certification and registration as a pharmacist clinician, she/he must submit the following:

(a) proof of completion of sixty (60) hour board approved physical assessment course, followed by a 150 hour, 300 patient contact preceptorship supervised by a physician or other practitioner with prescriptive authority, with hours counted only during direct patient interactions;

(b) the applicant will submit a log of patient encounters as part of the

application;

(c) patient encounters must be initiated and completed within 2 years of the application;

(d) a pharmacist clinician requesting a controlled substance registration to prescribe controlled substance in Schedule II or Schedule III shall be trained in responsible opioid prescribing practices. Educational programs shall include an understanding of the pharmacology and risks of controlled substances, a basic awareness of the problems of abuse, addiction, and diversion, and awareness of the state and federal regulations of the prescribing of controlled substances.

(4) The board shall register each pharmacist certified as a pharmacist clinician.

(5) Upon certification and registration by the board, the name and address of the pharmacist clinician, (name of the supervising physician if applicable), and other pertinent information shall be enrolled by the board on a roster of pharmacist clinicians.

C. Biennial renewal of registration.

(1) Renewal applications shall be submitted prior to the license expiration.

(2) Applications for renewal must include:

(a) after January 1, 2013, documentation of continuing education hours, including proof of completion of 2.0 CEU twenty (20) contact hours of live CPE or continuing medical education (CME) approved by (ACPE) or AACME (live programs provided by other continuing education providers may be submitted for review and approval to the board), beyond the required hours in 16.19.4.10 NMAC (as amended), as required by the board; and;

(b) effective January 1, 2015, a pharmacist clinician with a controlled substance registration to prescribe controlled substances listed in Schedule II or Schedule III shall complete a minimum of 0.2 CEU (2 contact hours) per renewal period in the subject area of responsible opioid prescribing practices, and;

(c) a current protocol of collaborative practice signed by the supervising physician (if prescriptive authority is sought); and

(d) a copy of the pharmacist clinicians registration with the supervising physicians board (if prescriptive authority is sought); and

(e) other additional information as requested by the board.

D. Prescriptive authority, guidelines or protocol.

(1) Only a registered pharmacist clinician with current protocols, registered with the New Mexico medical board or the

New Mexico board of osteopathic medical examiners, may exercise prescriptive authority.

(2) A pharmacist clinician seeking to exercise prescriptive authority shall submit an application to the board. The application must include the supervising physicians' name and current medical license, protocol of collaborative practice and other information requested by the board. A pharmacist may submit the application with the initial application for certification or as a separate application after becoming certified and registered as a pharmacist clinician.

(3) The protocol will be established and approved by the supervising physician as set forth in these regulations and will be kept on file at each practice site of the pharmacist clinician and with the board.

(4) The protocol must include:

(a) name of the physician(s) authorized to prescribe dangerous drugs and name of the pharmacist clinician;

(b) statement of the types of prescriptive authority decisions the pharmacist clinician is authorized to make, including, but not limited to:

(i) types of diseases, dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case;

(ii) ordering lab tests and other tests appropriate for monitoring of drug therapy;

(iii) procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(c) activities to be followed by the pharmacist clinician while exercising prescriptive authority, including documentation of feedback to the authorizing physician concerning specific decisions made; documentation may be made on the prescriptive record, patient profile, patient medical chart or in a separate log book;

(d) description of appropriate mechanisms for consulting with the supervising physician, including a quality assurance program for review of medical services provided by the pharmacist clinician, (this quality assurance program will be available for board review); and

(e) description of the scope of practice of the pharmacist clinician.

(5) Pharmacist clinicians shall not prescribe dangerous drugs including controlled substances for self-treatment or treatment of immediate family members, except under emergency situations. This will not apply to pharmacist administered vaccinations. Pharmacist clinicians shall not write a recommendation for the use of

medical cannabis.

E. Scope of practice.

(1) A pharmacist clinician shall perform only those services that are delineated in the protocol and are within the scope of practice of the supervising physician and/or alternate supervising physician(s).

(2) A pharmacist clinician may practice in a health care institution within the policies of that institution.

(3) A pharmacist clinician may prescribe controlled substances provided that the pharmacist clinician:

(a) has obtained a New Mexico controlled substances registration and a drug enforcement agency registration, and

(b) prescribes controlled substances within the parameters of written guidelines or protocols established under these regulations and Section 3, A. of the Pharmacist Prescriptive Authority Act.

(4) The board may, in its discretion after investigation and evaluation, place limitations on the tasks a pharmacist clinician may perform under the authority and direction of a supervising physician and/or alternate supervising physician(s).

F. Collaborative professional relationship between pharmacist clinicians and supervising physician(s).

(1) The direction and supervision of pharmacist clinicians may be rendered by approved supervising physician/designated alternate supervising physician(s).

(2) This direction may be done by written protocol or by oral consultation. It is the responsibility of the supervising physician to assure that the appropriate directions are given and understood.

(3) The pharmacist clinician must have prompt access to consultation with the physician for advice and direction.

(4) Upon any change in supervising physician between registration renewals, a pharmacist clinician shall submit to the board, within ten (10) working days, the new supervising physician's name, current medical license, and protocol; notification to and completion of requirements for the supervising physicians' board shall be completed per that boards requirements. This notice requirement does not apply to an alternate supervising physician who is designated to cover during the absence of the supervising physician.

G. Complaints and appeals.

(1) The chair of the board will appoint two (2) members of the board, and the president of the supervising physician respective board will appoint (2) members of the respective board to the oversight committee; the oversight committee will review complaints concerning the pharmacist clinician practice; the oversight committee will make a report that may

include non-binding recommendations to both the board and respective board(s) regarding disciplinary action. Each board can accept or reject the recommendations.

(2) Any applicant for certification or any pharmacist clinician may appeal a decision of the board in accordance with the provisions of the Uniform Licensing Act, Sections 61-1-1 to 61-1-33 NMSA 1978. [03-14-98; 16.19.4.17 NMAC - Rn, 16 NMAC 19.4.17, 03-30-02; 16.19.4.17 NMAC - Rn, 16.19.4.18 NMAC, 12-15-02; A, 09-30-03; A, 01-31-07; A, 05-14-10; A, 08-16-10; A, 10-25-12; A, 03-23-13; A, 06-29-13; A, 08-12-13; 16.19.4.18 NMAC - Rn, 16.19.4.17 NMAC, 09-07-14]

~~[16.19.4.18]~~ **16.19.4.19** [Reserved]
[03-14-98; 16.19.4.18 NMAC - Rn, 16 NMAC 19.4.18, 03-30-02; Reserved, 12-15-02; 16.19.4.19 NMAC - Rn, 16.19.4.18 NMAC, 09-07-14]

NEW MEXICO REGULATION AND LICENSING DEPARTMENT BOARD OF PHARMACY

This is an amendment to 16.19.20 NMAC, Section 68, effective 09-07-2014.

16.19.20.68 SCHEDULE IV: Shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section:

A. DEPRESSANTS:

Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its' salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Alfaxalone
- ~~[(4)]~~ (2) Alprazolam
- ~~[(2)]~~ (3) Barbitol
- ~~[(3)]~~ (4) Chloral Betaine
- ~~[(4)]~~ (5) Chloral Hydrate
- ~~[(5)]~~ (6) Chlordiazepoxide
- ~~[(6)]~~ (7) Clobazam
- ~~[(7)]~~ (8) Clonazepam
- ~~[(8)]~~ (9) Clorazepate
- ~~[(9)]~~ (10) Clotiazepam
- ~~[(10)]~~ (11) Diazepam
- ~~[(11)]~~ (12) Estazolam
- ~~[(12)]~~ (13) Ethchlorvynol
- ~~[(13)]~~ (14) Ethinamate
- ~~[(14)]~~ (15) Flurazepam
- ~~[(15)]~~ (16) Halazepam
- ~~[(16)]~~ (17) Lorazepam
- ~~[(17)]~~ (18) Mebutamate
- ~~[(18)]~~ (19) Meprobamate
- ~~[(19)]~~ (20) Methohexital

- ~~[(20)]~~ (21) Methylphenobarbital
- ~~[(21)]~~ (22) Midazolam
- ~~[(22)]~~ (23) Oxazepam
- ~~[(23)]~~ (24) Paraldehyde
- ~~[(24)]~~ (25) Petrichloral
- ~~[(25)]~~ (26) Phenobarbital
- ~~[(26)]~~ (27) Prazepam
- ~~[(27)]~~ (28) Quazepam
- ~~[(28)]~~ (29) Temazepam
- ~~[(29)]~~ (30) Triazolam
- ~~[(30)]~~ (31) Zopiclone

B. FENFLURAMINE:

Any material, compound, mixture or preparation which contains any quantity of the following substance, including its' salts, isomers (whether optical position, or geometric) and its' salts, or such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine

C. STIMULANTS:

Unless specifically exempt or unless listed in another schedule any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its' salts, isomers (whether optical position, or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion
- (2) Phentermine
- (3) Pemoline (including organometallic complexes and chelates thereon)
- (4) Pipradrol
- (5) SPA ((-)-1-dimethyl amino-1,2-diphenylmethane)
- (6) Mazindol
- (7) Cathine
- (8) Fencamfamin
- (9) Fenproporex
- (10) Mefenorex
- (11) Modafinil
- (12) Sibutramine

D. OTHER

SUBSTANCES: Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its' salts:

- (1) Dextropropoxyphene(Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane)
- (2) Pentazocine
- (3) Carisoprodol
- (4) Nalbuphine Hydrochloride
- (5) Butorphanol Tartrate
- (6) Dezocine
- (7) Dichloralphenazone
- (8) Zaleplon
- (9) Zolpidem
- (10) Tramadol

E. NARCOTIC DRUG:

Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof: Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

F. EXEMPTION OF

CHLORAL: When packaged in a sealed, oxygen-free environment, under nitrogen pressure, safeguarded against exposure to the air. Chloral when existing under the above conditions is a substance which is not intended for general administration to a human being or another animal, and contains no narcotic controlled substances and is packaged in such a form that the package quantity does not present any significant potential for abuse. All persons who engage in industrial activities with respect to such chloral are subject to registration; but shall be exempt from Section 30-31-16 through 19 of the New Mexico Controlled Substances Act and 16.19.20.19 NMAC through 16.19.20.52 NMAC of the board of pharmacy regulations.

G. EXEMPT

COMPOUNDS: Librax and Menrium are preparations which contain chlordiazepoxide, a depressant listed in Schedule IV, 16.19.20.68.A.5 NMAC and other ingredients in such combinations, quantity, preparation or concentration as to vitiate the potential for abuse of chlordiazepoxide, and are hereby exempt preparations.

- (1) Librax
- (2) Menrium, 5-2
- (3) Menrium, 4-5
- (4) Menrium, 10-4

[16.19.20.68 NMAC - Rp 16 NMAC 19.20.28(3), 07-15-02; A, 06-30-05; A, 05-14-10; A, 03-07-11; A, 08-31-12; A, 09-07-14]

NEW MEXICO REGULATION AND LICENSING DEPARTMENT BOARD OF PHARMACY

This is an amendment to 16.19.36 NMAC, addition of new Section 15, effective 09-07-2014.

16.19.36.15 QUALITY ASSURANCE OF COMPOUNDED STERILE PREPARATIONS:

A. There shall be a documented, ongoing performance improvement control program that monitors personnel performance, equipment, and facilities:

(1) all aspects of sterile product preparation, storage, and distribution, including details such as the choice of cleaning materials and disinfectants and monitoring of equipment accuracy shall be addressed in policy and procedures;

(2) if bulk compounding of compounded sterile preparations is performed using non-sterile chemicals, appropriate end product testing must be documented prior to the release of the product from quarantine; the test must include appropriate tests for particulate matter and pyrogens;

(3) there shall be documentation of quality assurance audits at regular, planned intervals, including infection control and sterile technique audits; a plan for corrective action of problems identified by quality assurance audits shall be developed which includes procedures for documentation of identified problems and action taken; a periodic evaluation as stated in the policy and procedures of the effectiveness of the quality assurance activities shall be completed and documented;

(4) the label of each sterile compounded product shall contain:

(a) patient name;

(b) if batch filling, lot or control number;

(c) solution, ingredient names, amounts;

(d) expiration date and time, when applicable;

(e) route of administration;

(f) directions for use including infusion rates, specific times scheduled, when appropriate and applicable;

(g) name or initials of person preparing the product and, if prepared by supportive personnel, the name or identifying initials and the name or initials of the pharmacist that completed the final check;

(h) when appropriate, ancillary instructions such as storage instructions or cautionary systems, including hazardous material warning labels and containment bags; and

(i) device instructions when needed.

B. There shall be a mechanism for tracking and retrieving products which have been recalled. When batch preparation of sterile products is being performed, a worksheet (log) must be maintained for each batch. This worksheet shall consist of formula, components, compounding directions or procedures, a sample label and evaluation and testing requirements, if applicable, and shall be used to document the following:

(1) all solutions and ingredients and their corresponding amounts,

concentrations and volumes;

(2) component manufacturer and lot number;

(3) lot or control number assigned to batch;

(4) date of preparation;

(5) expiration date of batch prepared products;

(6) identity of personnel in preparation and pharmacist responsible for final check;

(7) comparison of actual yield to anticipated yield, when appropriate.
[16.19.36.15 NMAC - N, 09-07-14]

End of Adopted Rules Section

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Other Material Related to Administrative Law

NEW MEXICO HIGHER EDUCATION DEPARTMENT

NEW MEXICO HIGHER EDUCATION DEPARTMENT

The Higher Education Department ("Department") hereby gives notice that the Department has submitted a rule promulgation which contains errors. An Emergency Amendment to 5.7.20 NMAC shall be filed and, pursuant to Section 14-4-5 NMSA 1978, shall go into effect immediately upon filing. The amended rule shall be published in the New Mexico Register (Issue Number 16 Published August 29, 2014). Changes will be made to the following rule:

5.7.20 NMAC Legislative Lottery
Scholarship Program
(Emergency Rule Amendment)

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department will receive public comment for the New Mexico State Plan for Low Income Home Energy Assistance Program (LIHEAP) and file the Plan with the Federal Department of Health and Human Services, Administration for Children and Families (ACF). The hearing will be held at 9:00 am on August 29, 2014. The hearing will be held at the Income Support Division, Law Library, 2009 S. Pacheco St., Santa Fe, NM.

The Department proposes the New Mexico LIHEAP State Plan covering the period of October 1, 2014 to September 30, 2015. All comments will receive consideration for the New Mexico LIHEAP State Plan.

The proposed LIHEAP State Plan is available on the Human Services Department website at: <http://www.hsd.state.nm.us/isd/ISDRegisters.html>. Individuals wishing to testify or requesting a copy of the proposed State Plan should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, New Mexico, 87505-2348, or by calling 505-827-7258.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD

public hearing, program, or service, please contact the New Mexico Human Services Department toll free at 1-800-432-6217, in Santa Fe at 827-9454, or through the New Mexico Relay system, toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 4:00 pm on August 29, 2014. Please send comments to:

JoAnn Lapington
Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to: JoAnn.Lapington@state.nm.us.

End of Other Related Material Section

Submittal Deadlines and Publication Dates 2014

Volume XXV	Submittal Deadline	Publication Date
Issue Number 17	September 2	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26

New Mexico Register Submittal Deadlines and Publication Dates Volume XXVI, Issues 1-24 2015

Volume XXVI	Submittal Deadline	Publication Date
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Issue Number 4	February 16	February 27
Issue Number 5	March 2	March 16
Issue Number 6	March 17	March 31
Issue Number 7	April 1	April 16
Issue Number 8	April 17	April 30
Issue Number 9	May 1	May 14
Issue Number 10	May 15	May 29
Issue Number 11	June 1	June 16
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Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 30
Issue Number 15	July 31	August 14
Issue Number 16	August 17	August 28
Issue Number 17	August 31	September 15
Issue Number 18	September 16	September 29
Issue Number 19	September 30	October 15
Issue Number 20	October 16	October 29
Issue Number 21	October 30	November 16
Issue Number 22	November 17	November 30
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

The New Mexico Register is available free online at <http://www.nmcpr.state.nm.us/nmregister>.
For further information, call 505-476-7907.