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New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

Volume XXXV - Issue 6 - March 26, 2024

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The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos

Rey, Santa Fe, NM 87507.

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New Mexico Register

Volume XXXV, Issue 6

March 26, 2024

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Notices of Rulemaking and Proposed Rules

ECONOMIC DEVELOPMENT DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Hearing. The New Mexico Economic Development Department (EDD) hereby gives notice that it will conduct a virtual public hearing on Thursday, May 2, 2024, beginning at 9:00am. The purpose of the public hearing is to receive public commentary on the proposed rulemaking to amend 5.5.50 NMAC, Industrial Development Training Program, and to address any other proposed amendments suggested by interested parties during the public comment period. The Industrial Development Board will also receive public commentary on proposed policy amendment to the upskills training program, STEP-UP, under the Job Training Incentive Program.

The purpose of the public hearing is to receive public input on the proposed amendments to 5.5.50 NMAC, Industrial Development Training Program (Job Training Incentive Program) and address additional changes that may have been suggested by the Industrial Training Board or other interested parties during the public comment period.

Rule Change Information: The purpose of this proposed rule change is to consider the revision of policy related to job eligibility, trainee eligibility, and an additional incentive for companies that have a designated human resources representative responsible for developing and implementing an internship program.

Policy Change Information: The purpose of this public hearing is to also receive public input regarding proposed policy revision of the STEP-UP policy to eliminate the \$100,000 cap an individual company may be awarded in one fiscal year.

Statutory Authorization:

Section 21-19-7 NMSA 1978 grants the Industrial Training Board the authority to promulgate and enforce rule.

Public comment: Interested individuals are strongly encouraged to submit written comments regarding the proposed policy amendments relating to the Job Training Incentive Program to Patrick Gannon, JTIP Program Manager, at patrick.gannon@edd.nm.gov. Written comments must be received no later than 5:00 pm on Friday, April 26, 2024. EDD encourages the early submission of written comments. Individuals may also testify at the public hearing.

For instructions on how to attend this meeting, visit the Department’s website at: <https://edd.newmexico.gov/about-us/public-notice>.

The proposed policy amendments and current JTIP Policy Manual may be accessed through EDD’s website <https://edd.newmexico.gov/about-us/public-notice> beginning March 26, 2024 or from Patrick Gannon at the contact above.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact Patrick Gannon as soon as possible. The EDD requests at least ten days advance notice to provide requested special accommodations.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Office of Superintendent of Insurance (OSI or Superintendent) will hold a public hearing in person

and via video or telephone conference regarding the 13.4.2 NMAC- RESIDENT PRODUCERS AND OTHER RESIDENT LICENSES, 13.4.3 NMAC- NONRESIDENT AGENTS AND BROKERS, 13.4.4 NMAC- SURPLUS LINES BROKERS, 13.4.7 NMAC- CONTINUING EDUCATION REQUIREMENTS, and 13.4.8 NMAC - PUBLIC, STAFF, AND INDEPENDENT ADJUSTERS. **The hearing will commence on April 29, 2024, at 10:00 a.m. Mountain Time.**

PURPOSE OF THE PROPOSED

RULE: The purpose of this rulemaking is to implement Chapter 59A, Articles 11, 12, 12A, 12B, and 13 NMSA 1978, and any other articles within the Insurance Code that address licensing of insurance professionals and public, independent, and staff adjusters in this state. This rulemaking will involve amendments to, or repeal and replacement of, Parts 2, 3, 4, 7, and 8 of the insurance licensing rules (New Mexico Administrative Code, Title 13, Chapter 4).

STATUTORY AUTHORITY:

Chapter 59A, Articles 11, 12, 12A, 12B, and 13 NMSA 1978 and Section 59A-2-9 NMSA 1978

TO ATTEND THE HEARING IN

PERSON: Office of Superintendent of Insurance- 1120 Paseo de Peralta, (PERA Building) - 4th Floor Hearing Room Santa Fe, NM 87501

PLEASE NOTE: The entrance to the PERA Building is on the ground floor. All guests must sign in with the ground floor receptionist and then will be escorted to the 4th Floor Hearing Room. Please give yourself extra time to check in before 10:00 a.m.

TO ATTEND THE HEARING

BY ELECTRONIC VIDEO CONFERENCE VIA MS TEAMS MEETING:

Click here to join the meeting [_____](#) Meeting ID: 242 599 001 140 Passcode: zSR5jm

TO ATTEND VIA TELEPHONE:
+1 505-312-4308, ID: 659 500 40#

PUBLIC COMMENT: The Superintendent designates Clifford M. Rees as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested parties in-person or electronically. Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download from the OSI eDocket or by requesting a copy by emailing: OSI-ProducerLicensingRulemaking@state.nm.us. Any copies of the Notice of Proposed Rulemaking, proposed rules, and any updates concerning the hearing date, time, or location will be available by visiting the OSI website at: <https://www.osi.state.nm.us/pages/bureaus/legal/resources/laws-rules> or on the Sunshine Portal at: https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic (Select "Office of Superintendent of Insurance" from the "Agency" drop down menu)

Written comments will be accepted through 4:00 p.m. on Monday, April 29, 2024. Responses to written comments or oral comments will be accepted through 4:00 p.m. on Thursday, May 9, 2024. All comments shall be filed electronically through the OSI eDocket or sent via U. S. mail to:

**OSI Records and Docketing
NM Office of Superintendent of
Insurance
P.O. Box 1689, Santa Fe, NM 87504-1689**

Written comments must be received by OSI and stamped as accepted between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review and consider all timely submitted written comments and written responses. For help submitting a filing, please contact osi-docketfiling@state.nm.us. The docket number below must be

indicated on all written comments submitted to the OSI:

**Docket No. 2024-0008
IN THE MATTER OF CHANGES
TO TITLE 13, CHAPTER
4 NMAC, LICENSING OF
INSURANCE PROFESSIONALS**

SPECIAL NEEDS: Any person with a disability requiring special assistance to participate in the hearing should contact Andrea Padilla at (505) 531-7171 no later than ten (10) business days prior to the hearing.

**SUPERINTENDENT OF
INSURANCE, OFFICE OF**

**NOTICE OF PROPOSED
RULEMAKING**

NOTICE IS HEREBY GIVEN that the Office of Superintendent of Insurance (OSI or Superintendent) will hold a public hearing in person, via video conference, and telephone conference regarding 13.14.5.10 NMAC – STANDARD EXCEPTIONS IN SCHEDULE B; 13.14.5.12 NMAC – STANDARD EXCEPTIONS; 13.14.7.8 – LOAN POLICIES; 13.14.17.12, FORM 3 – TRANSACTION REPORT; 13.14.18.8 NMAC – PROMULGATED FORMS; AND 13.14.18.9 NMAC – ALTERATION OF FORMS PROHIBITED; EXCEPTIONS; AND LETTERS OF INTERPRETATION OR WAIVER THAT CHANGE THE TERMS, PROHIBITED, to meet the obligation of the State Rule Act, Subsection E of Section 14-4-5.6 to finalize emergency rules amendments effective on January 24, 2024, within 180 days of the effective date. **This hearing will commence on Tuesday, April 30, 2024, at 10:00 a.m.**

PURPOSE OF THE PROPOSED RULE: The purpose of emergency rules 13.14.5.10, 13.14.5.12, 13.14.7.8, 13.14.17.12, 13.14.18.8 and 13.14.18.9 NMAC was to make immediate amendments and clarifications to the New Mexico

title insurance rules, forms, and endorsements in accordance with the New Mexico Title Insurance Law, Chapter 59A, Article 30, NMSA 1978. "No title insurer or title insurance agent shall use any form of the title insurance policy other than the uniform forms promulgated by the Superintendent under the New Mexico Title Insurance Law." Section 59A-30-5 NMSA 1978 (1985). This rulemaking will make permanent the emergency rules effective on January 24, 2024, and will make corrections to the text of Paragraph (3) of Subsection A of 13.14.5.10 NMAC to remove language not properly deleted in the emergency rule draft.

STATUTORY AUTHORITY:
Sections 59A-2-9 and 59A-30-5 NMSA 1978.

TO ATTEND THE HEARING IN

PERSON: Office of Superintendent of Insurance - 1120 Paseo de Peralta, (PERA Building), 4th Floor Hearing Room, Santa Fe, NM 87501

PLEASE NOTE: The entrance to the PERA Building is on the ground floor. All guests must sign in with the ground floor receptionist and then will be escorted to the 4th Floor Hearing Room. Please give yourself extra time to check in before 10:00 a.m.

**TO ATTEND THE HEARING
BY ELECTRONIC VIDEO
CONFERENCE VIA MS TEAMS
MEETING:**

Click here to join the meeting
- Meeting ID: 219 828 484 263
Passcode: SGxZW3

TO ATTEND VIA TELEPHONE:

+1 505-312-4308 Phone Conference
ID: 605 454 708#

PUBLIC COMMENT: The Superintendent designates Richard L. Blumenfeld as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested parties in-person or electronically. Copies of the Notice of Proposed Rulemaking and proposed rules are available by electronic download from the OSI eDocket

or by requesting a copy by calling Mickey VanCuren at (505) 827-4536. Any copies of the Notice of Proposed Rulemaking, proposed rules, and any updates concerning the hearing date, time, or location will be available by visiting the OSI website at: <https://www.osi.state.nm.us/pages/bureaus/legal/resources/laws-rules> or on the Sunshine Portal at: https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic (Select “Office of Superintendent of Insurance” from the “Agency” drop down menu.)

Written comments will be accepted through 4:00 p.m. on Tuesday, April 30, 2024. Responses to written comments or oral comments will be accepted through 4:00 p.m. on Tuesday, May 7, 2024. All comments shall be filed electronically through the OSI eDocket or sent via U. S. mail to:

**OSI Records and Docketing
NM Office of Superintendent of
Insurance
P.O. Box 1689, Santa Fe, NM
87504-1689**

Written comments must be received by OSI and stamped as accepted between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review and consider all timely submitted written comments and written responses. For help submitting a filing, please contact osi-docketfiling@state.nm.us. The docket number below must be indicated on all written comments submitted to the OSI:

**Docket No. 2024-0006
IN THE MATTER OF
EMERGENCY RULES
EFFECTIVE ON JANUARY 24,
2024 IN TITLE 13, CHAPTER 14,
PARTS 5, 7, 17, and 18 NMAC OF
THE TITLE INSURANCE RULES**

SPECIAL NEEDS: Any person with a disability requiring special assistance to participate in the hearing

should contact Andrea Padilla at (505) 531-7171 no later than ten (10) business days prior to the hearing.

End of Notices of Rulemaking and Proposed Rules

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Adopted Rules

Effective Date and Validity of Rule Filings

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

GAME AND FISH DEPARTMENT

The State Game Commission is approving a repeal of its rule 19.36.3 NMAC – Hunter Education Rule, filed 1/1/2021 and replaced with 19.36.3 NMAC - Hunter Education Rule, adopted 3/8/2024 and effective 4/1/2024.

GAME AND FISH DEPARTMENT

**TITLE 19 NATURAL
RESOURCES AND WILDLIFE
CHAPTER 36 WILDLIFE
EDUCATION AND TRAINING
PART 3 HUNTER
EDUCATION**

19.36.3.1 ISSUING
AGENCY: New Mexico department of game and fish.
[19.36.3.1 NMAC – Rp, 19.36.3.1 NMAC, 4/1/2024]

19.36.3.2 SCOPE: Hunters under the age of eighteen years.
[19.36.3.2 NMAC – Rp, 19.36.3.2 NMAC, 4/1/2024]

19.36.3.3 STATUTORY
AUTHORITY: Sections 17-2-33 through 17-2-35 NMSA 1978 create the Hunter Training Act and give the department of game and fish the authority to promulgate rules to implement the provisions of the act.
[19.36.3.3 NMAC – Rp, 19.36.3.3 NMAC, 4/1/2024]

19.36.3.4 DURATION: April 1, 2024 through December 31, 2028.
[19.36.3.4 NMAC – Rp, 19.36.3.4 NMAC, 4/1/2024]

19.36.3.5 EFFECTIVE
DATE: April 1, 2024, unless a later date is cited at the end of a section.
[19.36.3.5 NMAC – Rp, 19.36.3.5 NMAC, 4/1/2024]

19.36.3.6 OBJECTIVE:
Regulation designed to carry the provisions of the Hunter Training Act.
[19.36.3.6 NMAC – Rp, 19.36.3.6 NMAC, 4/1/2024]

19.36.3.7 DEFINITIONS:
[RESERVED]
[19.36.3.7 NMAC – Rp, 19.36.3.7 NMAC, 4/1/2024]

19.36.3.8 HUNTER
TRAINING COURSE
REQUIRED: It shall be unlawful for any person under the age of eighteen years to purchase or apply for any type of firearm hunting license unless that person has first successfully completed the New Mexico hunter training course or a hunter training course of another state which is approved by the New Mexico department of game and fish. Effective April 1, 2025, an approved hunter training course of another state may only be utilized by persons age nine (9) years and older.
[19.36.3.8 NMAC – Rp, 19.36.3.8 NMAC, 4/1/2024]

19.36.3.9 TYPES OF
COURSES:

A. A person under the age of eighteen years who satisfies the requirements of either of the following training courses shall be issued a certificate following successful completion of a hunter training course:

(1) Completion of an approved hunter training course comprised of class work and firearms proficiency training and testing; or

(2) completion of an approved hunter training course comprised of a written lesson and testing and current registration in the department’s mentored-youth program.

B. Registration in the department’s mentored-youth program is limited to first-time youth hunters, 8 to 17 years of age, for a period of two consecutive license years and a person shall register in the program only once.

C. Mentored-youth program hunters may hunt with a firearm only after successful completion of the written lesson and testing portion of the course and while supervised by a licensed and mentor certified or hunter education certified parent, guardian or another licensed adult with consent of the parent or guardian who is within unaided voice and sight distance.

(1) Mentors shall possess a mentor certification number obtained after completion of a hunter training course comprised of a written lesson and testing and current registration in the department’s mentored-youth program; or

(2) shall possess a hunter education certification number obtained through a New Mexico hunter training course or a hunter training course of another state which is approved by the New Mexico department of game and fish.

D. Mentored-youth program hunters shall be limited by age to hunt as follows:

(1) Mentored-youth under the age of ten years shall be limited to hunting small-game; or

(2) mentored-youth ten to seventeen years of age shall be limited to hunting small-game, turkey, deer, pronghorn antelope and javelina.

[19.36.3.9 NMAC – Rp, 19.36.3.9 NMAC, 4/1/2024]

19.36.3.10 PENALTY: Any person violating the provisions of 19.36.3.8 NMAC is guilty of a petty misdemeanor and will be subject to penalties provided in Section 31-19-1, New Mexico Statutes Annotated, 1978 Compilation. [19.36.3.10 NMAC – Rp, 19.36.3.10 NMAC, 4/1/2024]

19.36.3.11 REVOCATION OF HUNTER TRAINING CARD:

A. Hunter training certification will be revoked in accordance with 19.31.2 NMAC.

B. Hunter training certification may also be revoked for negligent use of a firearm. [19.36.3.11 NMAC – Rp, 19.36.3.11 NMAC, 4/1/2024]

19.36.3.12 LIVE-FIRING COURSES:

A. Live-firing courses may be taught in conjunction with hunter education classes, in accordance with policies and procedures developed by the agency and distributed to certified instructors.

B. Live-firing courses may be taught only by hunter education instructors certified in live-firing instruction. [19.36.3.12 NMAC – Rp, 19.36.3.12 NMAC, 4/1/2024]

HISTORY OF 19.36.3 NMAC:

History of repealed materials: 19.36.3 NMAC, Hunter Education, 12/2/2014 – Repealed effective 1/1/2021.

19.36.3 NMAC, Hunter Education, 1/1/2021 – Repealed effective 4/1/2024.

GAME AND FISH DEPARTMENT

This is an amendment of 19.31.3 NMAC, Section 11, effective 4/1/2023.

19.31.3.11 RESTRICTIONS/ REQUIREMENTS:

A. One license per big game species per year: It shall be unlawful for anyone to hold more

than one permit or license for any one big game species during the current license year unless otherwise allowed by rule.

B. Improper license and permit: Any person who attempts to capture or shoot, hunts, kills, injures or takes, in any manner any big-game, small game or fur-bearing animal, turkey or game fish other than in accordance with the specified hunt code or dates, legal sporting arm, bag limit allowance or area designated on a license or permit issued by the department to that person is deemed to be hunting, fishing or trapping without a proper license as required by Section 17-3-1 NMSA 1978 unless otherwise exempted by a valid commission rule.

C. Transfer of permits or licenses: The director may grant the transfer of a hunting license or permit once it has been determined that prior to the hunt start date, a licensee or their official representative provides written, verifiable information indicating the licensee has died, sustained an injury or life-threatening illness, or has been subject to deployment by the United States military that prohibits the licensee from hunting. Transfer requests must be submitted in writing prior to the hunt start date. When a transfer of a license results in a higher license fee due to differences between the original licensee and the new licensee (age, residency, etc.), the difference shall be paid prior to issuance of a license or permit.

D. Refunds: The director may grant the refund of a hunting license once it has been determined that a licensee or their official representative provides written, verifiable information indicating the licensee has died, sustained an injury or life-threatening illness, or has been subject to deployment by the United States military that prohibits the licensee from hunting. Refund requests must be submitted in writing prior to the hunt start date.

E. Donation of permits or licenses: Upon written request from a licensee or their official

representative, the director may grant the donation of a hunting license for transfer to a youth 17 years of age or younger, a New Mexico resident veteran of the United States military as approved by the New Mexico department of veterans' services, or a "first responder" who is a resident of the state of New Mexico as defined by Subsection B of Section 12-10D-2 NMSA 1978 who has been qualified through an approved nonprofit organization that promotes hunting, fishing and trapping activities. The donor of the license shall not be eligible for a refund of license or application fees. When a transfer of a license results in a higher license fee due to differences between the original licensee and the new licensee (age, residency, etc.), the difference shall be paid prior to issuance of a license or permit. The state game commission must approve any nonprofit organizations prior to their participation in receiving, identifying or submitting recipients for donated licenses or permits. In order to be an approved nonprofit organization, the organization must demonstrate to the state game commission their history and ability to promote hunting, fishing, and trapping activities. A once-in-a-lifetime licensee may be reinstated as eligible to participate in future drawings for the same species and hunt type if the licensee donated his or her license to an individual qualified by an approved nonprofit organization. Donation of a once-in-a-lifetime license will not prohibit the donor from applying for and receiving another license for the same species and restrictions in the future.

F. More than one application: It shall be unlawful to submit more than one application per species for any license or permit issued through a special drawing, unless otherwise permitted by regulation.

G. Handicapped fishing or handicapped game hunting license qualifications: To hold a handicapped fishing or handicapped game hunting license, the individual must be a resident of New Mexico and must attest to having

a severe physical or developmental disability that substantially limits one or more major life activities. Reasonable accommodation may be made, relating to these licenses, upon request.

H. Mobility-impaired (MI) deer, elk, oryx, or pronghorn license qualifications: To hold a mobility impaired deer, elk, oryx, or pronghorn license, a person must submit verifiable documentation on the proper department form that is attested to by a certified medical physician that the individual has a permanent mobility restriction which limits their activity to a walker, wheelchair, or crutches; or one or more permanent disabilities or conditions which substantially limit the individual's ability to walk; and then obtain department approval for MI hunt eligibility. Every person qualified as MI shall have their card/eligibility expire 48 months from the issuance date, and must resubmit their application and obtain department approval as required above prior to being eligible to apply for any MI hunt.

I. Youth-only hunts: Only applicants who are 17 years of age or younger on the opening day of the hunt are eligible to apply for or participate in any youth-only hunt, including federal youth waterfowl hunt days. Applicants must have a valid hunter education certificate number, or mentor youth number for appropriate species.

J. Required information: An individual making license application shall supply the department on the appropriate form with all required personal information including, but not limited to name, address, date-of-birth, last four digits of his/her social security number prior to an application form being processed or a license being awarded.

K. Military-only hunts: Applicants must be full time active military and proof of military status must be received by the department prior to applying for any military only hunt.

L. Veteran oryx hunts: Only New Mexico resident

veterans who served a minimum of 90 days active duty service in the U.S. Military, or six continuous years in the National Guard or Military Reserve Component, or who were commissioned officers of the U.S. Public Health or National Oceanic and Atmospheric Administration are eligible to apply for Veteran oryx licenses. Applicants must have been honorably discharged from the U.S. military, and must provide a valid DD-214 prior to applying for any Veteran oryx hunt.

M. NMDGF customer identification number: It shall be unlawful for an applicant to use another person's NMDGF customer identification number or to provide false information to obtain a NMDGF customer identification number.

N. Application fee: Prior to the drawing, all applicants for special hunt drawings for public draw licenses shall pay the applicable species license fees including depredation damage stamp, the required game hunting license fee and the non-refundable draw application fee as defined by 19.30.9.9 NMAC. Disabled American veterans certified as holders of lifetime general hunting and fishing licenses are exempt from paying the application fee when applying for deer hunt drawings.

O. License, permit and stamp requirements: A game hunting or game hunting and fishing license is required to hunt any small game species, and an annual game hunting or game hunting and fishing license is required to apply for or purchase any big-game or turkey license (exception: disabled veteran card holders). A habitat management and access validation is required in conjunction with any hunting, fishing, or trapping license (exceptions: persons under age 18, free fishing license holders over age 70, and disabled veteran card holders). A habitat stamp is required in conjunction with any hunting, fishing, or trapping license on forest service or bureau of land management (BLM) properties (exceptions: anglers and trappers under age 12, free fishing license

holders over age 70, and disabled veteran card holders). Migratory bird hunters must possess a Harvest Information Program (HIP) number. Waterfowl hunters must also possess a federal duck stamp. Nonresidents must have a nongame hunting license or any valid hunting license to hunt unprotected or nongame species. Draw permits must be accompanied by the appropriate hunting license(s) and stamp(s). Additional permits may be required for specific hunting and fishing activities pursuant to 19.31.6.9 NMAC, 19.31.5.8 NMAC and 19.31.4.13 NMAC.

P. Penalty assessments: When a person is issued a penalty assessment citation for fishing without a license, hunting small game without a license, or failing to possess an applicable habitat management and access validation, habitat stamp or second rod validation; the citation will serve as a license for that specific activity for 15 calendar days. The person must remit the prescribed penalty amount indicated on the face of the citation within 30 days of the date of citation issuance.

Q. Foster family fishing license: To qualify for a free fishing license pursuant to Subsection A of 32A-3A-12 NMSA 1978, proof of eligibility must be provided to the department in person. Proof of eligibility includes documentation of New Mexico residency and status as a foster parent; a child in the custody of a foster parent, the children, youth and family department (CYFD) or tribal custody; or a young adult enrolled in the fostering connections program.

[19.31.3.11 NMAC – Rp, 19.31.3.11 NMAC, 1/1/2023; A, 4/1/2024]

PUBLIC EDUCATION DEPARTMENT

The New Mexico Public Education Department is repealing 6.10.5 NMAC School Calendar Requirements, filed 12/31/1998, and replacing it with 6.10.5 NMAC,

School Instructional Time Requirements, to be adopted 03/14/2024 and effective 7/1/2024.

At a public hearing held on 12/18/2023, the New Mexico Public Education Department agreed to repeal 6.30.12 NMAC, K-5 Plus Schools, filed 6/9/2020 and effective 7/1/2024.

At a public hearing held on 12/18/2023, the New Mexico Public Education Department agreed to repeal 6.30.16 NMAC, Extended Learning Time Program, filed 5/5/2020 and effective 7/1/2024.

At a public hearing held on 12/18/2023, the Public Education Department agreed to repeal 6.81.2 NMAC, Requirements for Nonpublic Schools and for Public Education Department Accreditation, filed 12/31/98 and effective 7/1/2024.

PUBLIC EDUCATION DEPARTMENT

**TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 10 PUBLIC SCHOOL ADMINISTRATION - PROCEDURAL REQUIREMENTS
PART 5 SCHOOL INSTRUCTIONAL TIME REQUIREMENTS**

6.10.5.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.10.5.1 NMAC – Rp, 6.10.5.1 NMAC, 7/1/2024]

6.10.5.2 SCOPE: This rule applies to school districts and charter schools.
[6.10.5.2 NMAC – Rp, 6.10.5.2 NMAC, 7/1/2024]

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

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

6.10.5.4 DURATION: Permanent.
[6.10.5.4 NMAC – Rp, 6.10.5.4 NMAC, 7/1/2024]

6.10.5.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[6.10.5.5 NMAC – Rp, 6.10.5.5 NMAC, 7/1/2024]

6.10.5.6 OBJECTIVE: This rule establishes criteria for determining the length of a school year and day, instructional hours for students, and professional work hours for teachers; and for establishing a school calendar for the school year.
[6.10.5.6 NMAC – Rp, 6.10.5.6 NMAC, 7/1/2024]

6.10.5.7 DEFINITIONS:

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

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

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

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

(1) a school program set forth in Sections 22-13-1 and 22-13-1.1 NMSA 1978;

(2) enrichment programs that focus on problem solving and cognitive skills development;

(3) content that provides technical knowledge, skills, and competency-based applied learning;

(4) research- or evidence-based social, emotional, or academic interventions; and

(5) instruction that occurs at the same time breakfast is served or consumed in accordance with the breakfast after the bell program or federal requirements.

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

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

G. “Local board” means a board of education of a school district or a governing body of a charter school.

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

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

(1) home visiting or parent-teacher conferences;

(2) educator training or professional development; and

(3) mentorship, coaching, and collaboration between school employees.

J. “Public schools” means school districts and charter schools.

K. “Remote instruction” means instructional time when students are engaged with the

curriculum through an online platform while not physically at the school site.

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

M. “Secretary” means the secretary of the public education department.

N. “Synchronous remote instruction” means remote instruction when students are receiving instruction by teachers on an online platform in real time. [6.10.5.7 NMAC – Rp, 6.10.5.7 NMAC, 7/1/2024]

6.10.5.8 REQUIREMENTS:

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

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

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

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

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

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

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

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

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

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

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

I. Due to hardship, the secretary may waive, on a case-by-case basis, for a current school year, the length of instructional days and the number of instructional days with students provided that that school year is adjusted to ensure that the students receive a minimum of 1,140 instructional hours per school year. Hardships shall include but not be limited to:

(1) severe acts of nature;

(2) natural disasters that affect a community after which rescue, repair, and grieving are critical to the community’s recovery;

(3) community or statewide health emergencies, where warnings about pandemics or epidemics have been issued by the department of health or the department;

(4) the passing or prolonged illness of key school staff; or

(5) violent or other disruptive acts committed on school property that necessitate a lockdown or necessitate total or partial closure of a school.

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

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

6.10.5.9 K-12 PLUS PROGRAM:

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

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

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

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

C. The number of K-12 plus program units for four-

day calendars is determined by multiplying the membership in each eligible school by:

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

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

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

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

HISTORY OF 6.10.5 NMAC:

Pre-NMAC History: The material in this regulation was derived from that previously filed with the State Records Center and Archives under State Board of Education Regulation 93-24, Variable School Calendar Application, Review and Reporting Process, filed March 3, 1994; and State Board of Education Regulation 92-3, Variable School Calendar Application, Review and Reporting Process, filed April 3, 1992.

Other History of 6.10.5 NMAC:

6.10.5 NMAC – School Calendar Requirements, filed 12/31/1998 was repealed and replaced by 6.10.5 NMAC – School Instructional Time Requirements, effective 7/1/2024.

End of Adopted Rules

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Submittal Deadlines and Publication Dates

Volume XXXV, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 16
Issue 2	January 18	January 30
Issue 3	February 1	February 13
Issue 4	February 15	February 27
Issue 5	February 29	March 12
Issue 6	March 14	March 26
Issue 7	March 28	April 9
Issue 8	April 11	April 23
Issue 9	April 25	May 7
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Issue 23	November 26	December 10
Issue 24	December 12	December 23

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