

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY – ASSESSMENT AND ACCOUNTABILITY
PART 9 EARLY LITERACY REMEDIATION, INTERVENTIONS, AND FAMILY
ENGAGEMENT

6.19.9.1 ISSUING AGENCY: Public Education Department, herein after the department.
[6.19.9.1 NMAC - N, 7/24/2018]

6.19.9.2 SCOPE: All public schools, state education institutions, and educational programs conducted in state institutions, other than the New Mexico military institute. If any part of application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.
[6.19.9.2 NMAC - N, 7/24/2018]

6.19.9.3 STATUTORY AUTHORITY: This regulation is adopted pursuant to Sections 22-2C-1 to 13, specifically Section 22-2C-6, Subsection E of Section 22-1-1.2, Subsection D of Section 22-2-2, and Subsection B of Section 22-13-1 NMSA 1978.
[6.19.9.3 NMAC - N, 7/24/2018]

6.19.9.4 DURATION: Permanent.
[6.19.9.4 NMAC - N, 7/24/2018]

6.19.9.5 EFFECTIVE DATE: July 24, 2018, unless a later date is cited at the end of a section.
[6.19.9.5 NMAC - N, 7/24/2018]

6.19.9.6 OBJECTIVE: This rule establishes the conditions for improving literacy outcomes for students by outlining interventions, providing mechanisms for notifying and engaging families and teachers, and notifying parents or legal guardians of all available options to improve student progress in literacy.
[6.19.9.6 NMAC - N, 7/24/2018]

6.19.9.7 DEFINITIONS:

- A. “Academic improvement plan”** means a written document developed by the student assistance team that describes the specific content standards required for a certain grade level that a student has not achieved and that prescribes specific remediation programs such as summer school, extended day or week school and tutoring.
- B. “Benchmark assessment for literacy”** means a common, districtwide assessment for student literacy that diagnoses and regularly measures the acquisition of reading skills, including phonemic awareness, letter knowledge, alphabetic decoding, vocabulary, spelling, comprehension and fluency to be given at the beginning of the year, middle of the year, and end of the year.
- C. “English language learner”** means a student whose first or heritage language is not English and who is unable to read, write, speak, or understand English at a level comparable to grade-level English proficient peers and native English speakers.
- D. “Individual student report”** means the report that indicates a student’s performance on the required state assessment using scale scores, performance levels, and performance indicators.
- E. “Intervention”** means the intensive, targeted instruction of individual students or small groups of students, as determined by student performance on the benchmark assessment for literacy, and included as part of the academic improvement plan.
- F. “Local education agency or “LEA”** means a school district or state-chartered charter school.
- G. “Remediation”** means tutoring, extended school day or school week programs, summer programs, and other evidence-based interventions and proven models for student improvement.
- H. “Student assistance team” or “SAT”** means a group consisting of a student’s:
 - (1) teacher;
 - (2) school counselor;
 - (3) school administrator; and

- (4) parent or legal guardian.

[6.19.9.7 NMAC - N, 7/24/2018]

6.19.9.8 GENERAL REQUIREMENTS FOR INTERVENTION, NOTIFICATION, AND REPORTING:

A. For kindergarten and grades one through three, the benchmark assessment for literacy shall be administered at the beginning of year, middle of year, and end of year. Student progress shall be carefully monitored throughout the academic year and shall be clearly communicated to parents or legal guardians through parent notification letters. For English language learners, the assessment shall be grade-level appropriate and in the student's first language, if appropriate, and approved by the department.

B. Academic improvement plans shall be developed for students in need of early literacy intervention, as determined by performance on the benchmark assessment for literacy. School administrators shall ensure that academic improvement plans align with department guidance and evidence-based best practices. The department may request to review academic improvement plans at any time.

C. The determination of a student's literacy strengths and weaknesses, as measured by the benchmark assessment for literacy, shall serve as one of the criteria for offering parents or legal guardians the option for their student to receive an additional year of instruction in the same grade level. The benchmark assessment for literacy results shall also direct the use of daily intervention, remediation, or alternative programming.

D. For kindergarten and grades one through three, LEAs shall track and report student literacy data and information in accordance with department requirements. Student performance shall be measured by the benchmark assessment for literacy, as defined in 6.19.9.7 NMAC. The department may issue additional guidance or provide additional tools to facilitate the collection and reporting of literacy data and information.

(1) LEAs shall report the following data to the department by March 1 of each year:

(a) number of students not proficient in literacy, as determined by the middle of year benchmark assessment for literacy;

(b) number of student assistance teams convened for students not proficient in literacy; and

(c) number of parent notification letters sent regarding individual students not proficient in literacy, as determined by the middle of year benchmark assessment for literacy, pursuant to 6.19.9.9 NMAC.

(2) LEAs shall report the following data to the department by June 1 of each year:

(a) number of students not proficient in literacy, as determined by the end of year benchmark assessment for literacy; and

(b) number of retention waiver letters signed by parents or legal guardians of students not proficient in literacy, as determined by the end of year benchmark assessment for literacy.

(3) LEAs shall report the following data to the department by August 1 of each year:

(a) number of students retained as a result of not being proficient in literacy, as determined by the end of year benchmark assessment for literacy pursuant to 6.19.9.9 NMAC;

(b) number of students not proficient in literacy, as determined by the end of year benchmark assessment for literacy, promoted to the next grade;

(c) number of students at performance level one in English language arts, according to his or her grade three individual student report for the state assessment;

(d) explanation of final determinations of student retention and promotion for which student performance on the end of year benchmark assessment for literacy was not the deciding factor;

(e) copy of the LEA's retention waiver letter template;

(f) copies of all parent notification letters sent to parents or legal guardians regarding individual students not proficient in literacy, as determined by the middle of year benchmark assessment for literacy, pursuant to 6.19.9.9 NMAC; and

(g) copies of all retention waiver letters signed by parents or legal guardians for individual students not proficient in literacy, as determined by the end of year benchmark assessment for literacy.

[6.19.9.8 NMAC - N, 7/24/2018]

6.19.9.9 PARENT OR LEGAL GUARDIAN NOTIFICATION AND ENGAGEMENT:

A. If a student is not proficient in literacy, as determined by the middle of year benchmark assessment for literacy, the student's teacher shall notify the student's parent or legal guardian formally, in writing, and hold a parent-teacher conference.

- (1) Written notification shall include:
 - (a) student performance on the benchmark assessment for literacy and ongoing progress monitoring;
 - (b) specific interventions implemented to-date;
 - (c) strategies for parents or legal guardians to implement at home; and
 - (d) parent or legal guardian options including:
 - (i) daily intervention;
 - (ii) remediation; or
 - (iii) alternative programs.
- (2) During the parent-teacher conference, the teacher shall review:
 - (a) the student's performance in comparison to grade-level literacy standards;
 - (b) results that indicate the student is not proficient in literacy as determined by benchmark assessments for literacy;
 - (c) goals for student growth that will lead to proficiency in literacy by the end of the academic year; and
 - (d) whether or not the student is on track to be college and career ready as measured by the middle of the year benchmark assessment for literacy.

B. Following the middle of the year notification and parent conference, the SAT shall develop an academic improvement plan for any student not proficient in literacy, as determined by the middle of year benchmark assessment for literacy. The academic improvement plan shall clearly outline progress monitoring activities, associated timelines, and delegation of responsibilities for those interventions to ensure student progress toward proficiency in literacy by the end of the year.

C. If a student has not achieved grade-level literacy proficiency by the end of year benchmark assessment for literacy, the student's teacher shall notify the student's parent or legal guardian formally, in writing.

- (1) Written notification shall include:
 - (a) student performance on the benchmark assessment for literacy;
 - (b) specific interventions implemented to-date;
 - (c) strategies for parents or legal guardians to implement at home; and
 - (d) a retention option pursuant to Section 22-2C-6 NMSA 1978.
- (2) Retention shall ensure that a student receives an additional year of instruction in the same grade with an amended academic improvement plan. If a student's parent or legal guardian decides not to retain the student, the parent or legal guardian shall sign a retention waiver expressing their desire for the student to be promoted to the next higher grade with an academic improvement plan designed to address specific deficiencies, including those in early literacy. A retention waiver shall only prevent the student's retention for one school year. If the student fails to reach academic proficiency, as determined by the benchmark assessment for literacy and other measures, the school shall retain the student the following year.

D. Parents and legal guardians shall be notified of their students' results on required state assessments and provided with their individual student reports no later than 30 days following receipt by LEAs.

[6.19.9.9 NMAC - N, 7/24/2018]

6.19.9.10 EXEMPTIONS: Schools may only exempt students from retention for good cause or pursuant to the completion of a retention waiver letter provided by the LEA. A student who is promoted with an exemption shall continue to receive interventions prescribed in his or her academic improvement plan until proficiency in literacy has been met as determined by a benchmark assessment for literacy.

- A.** Good cause exemptions shall be limited to the following:
 - (1) students with disabilities whose individualized education programs (IEPs) indicate that participation in the benchmark assessment for literacy is not appropriate, pursuant to Subsection I of Section 22-2C-6 NMSA 1978, or other applicable state laws and regulations;
 - (2) students with disabilities who:
 - (a) participate in the benchmark assessment for literacy;
 - (b) have IEPs or section 504 plans that reflect that they have received literacy intervention for more than two years;
 - (c) have not reach proficiency in literacy; and
 - (d) were previously retained in kindergarten or grades one, two, or three.
 - (3) students who have been previously retained in their current grade; or

(4) students identified as English language learners who have had fewer than three years of instruction in schools in the United States.

B. Documentation to support any request for exemption shall be collected and submitted by the student's teacher(s) or case manager to the school principal indicating why promotion is appropriate. Documentation shall include:

- (1) the reason for exemption pursuant to Subsection A of 6.19.9.10 NMAC; and
- (2) an existing academic improvement plan or IEP.

C. The school principal shall review and discuss the recommendation with the SAT and determine whether or not the student qualifies for the requested exemption. If the school principal determines that, based on the provided documentation, the student qualifies for the requested exemption, the school principal shall make such a recommendation in writing to the superintendent or charter school administrator. The superintendent or charter school administrator shall accept or reject the school principal's recommendation in writing.
[6.19.9.10 NMAC - N, 7/24/2018]

6.19.9.11 ACCELERATION OPTIONS: Academically challenging curriculum options that provide accelerated instruction shall be made available to public school students in kindergarten and grades one through three who have not already been identified as gifted.

A. At a minimum, each school shall offer the following options:

- (1) whole-grade promotion; and
- (2) subject-matter acceleration.

B. Additional options may include the following:

- (1) enriched science, technology, engineering, and mathematics;
- (2) enrichment programs;
- (3) flexible grouping;
- (4) advanced academic courses;
- (5) combined classes;
- (6) self-paced instruction;
- (7) curriculum compacting;
- (8) advanced-content instruction; and
- (9) online instruction in personalized, higher grade level content.

[6.19.9.11 NMAC - N, 7/24/2018]

6.19.9.12 ELIGIBILITY AND PROCEDURAL REQUIREMENTS FOR ACCELERATION:

A. LEAs shall establish student eligibility requirements and procedural requirements for any whole-grade promotion or subject-matter acceleration. Student eligibility requirements and procedural requirements established by the LEA shall be included in the LEA's comprehensive student progression plan.

B. School principals shall establish a process by which parents or legal guardians may request student participation in acceleration options offered at their school.

(1) Each principal shall inform parents or legal guardians and students of the options available at the school and the associated eligibility requirements for each option.

(2) If the parent or legal guardian selects one of these options, and the student meets the eligibility requirements established by the LEA, the student shall be provided the opportunity to participate in the acceleration option.

C. When establishing student eligibility requirements for acceleration, principals and LEAs shall consider, at a minimum:

- (1) the student's performance on a locally determined assessment;
- (2) the student's performance as indicated on his or her individual student report;
- (3) the student's grade point average;
- (4) the student's attendance record;
- (5) the student's conduct record;
- (6) recommendations from one or more of the student's teachers in core-curricula courses;
- (7) recommendations from a certified school counselor or social worker, if one is assigned to the school in which the student is enrolled; and
- (8) recommendations from the student's parent or legal guardian.

[6.19.9.12 NMAC - N, 7/24/2018]

HISTORY OF 6.19.9 NMAC: [RESERVED]