

This is an emergency amendment to 6.12.14 NMAC, Sections 7 and 8, effective 3/24/2021.

6.12.14.7 DEFINITIONS:

A. [~~"Formative assessment" means measures of academic achievement during the learning process.~~] "Alternate work" means a temporary change to the location, conditions, duties, schedules, reduction in number of contacts with students and other staff and individuals, etc., due to public health emergency-necessitated circumstances. Alternate work does not automatically mean working from home.

B. **"Full reentry operating category"** means the instructional model that permits all students to return to in-person learning for the full school week, with continued use of preventative measures including COVID-Safe Practices and other practices in department guidance.

C. **"High-risk staff"** means a person employed by a school or school district who is 65 years of age or older or has one or more of the following conditions that places the person at an increased risk of severe illness from the virus that causes COVID-19:

- (1) cancer;
- (2) chronic kidney disease;
- (3) chronic obstructive pulmonary disease;
- (4) down syndrome;
- (5) heart conditions such as heart failure, coronary artery disease or cardiomyopathies;
- (6) immunocompromised state (weakened immune system) from solid organ transplant;
- (7) severe obesity (body mass index greater than 40 kg/m²);
- (8) pregnancy;
- (9) sickle cell disease;
- (10) type 2 diabetes mellitus;

D. **"Hybrid operating category"** means the instructional model wherein schools assign a combination of some in-person learning days and some remote learning days, while limiting the number of students who may be in the school building at any given time by the number that can be accommodated while adhering to at least six feet of social distancing and other criteria provided in guidance documents, including limitations on the percentage of students eligible to be on school premises at one time.

E. **"Remote operating category"** means the instructional model that requires all students to engage in remote learning, with limited possible exceptions, as defined in department guidance, of students with disabilities and students in grades pre-kindergarten through grade three to engage in in-person learning. Schools should take all practical measures to provide each student with a digital device and to provide support for in-home internet connectivity.

[6.12.14.7 NMAC – N/E, 12/3/2021, A/E, 1/29/2021, A/E, 2/11/2021, A/E, 3/24/2021]

6.12.14.8 REQUIREMENTS FOR SCHOOLS:

A. All public schools and local school districts shall:

- (1) follow all public health orders and executive orders and department guidance for the operation of schools and school premises, including school transportation; testing programs detailed in department guidance;
- (2) participate in surveillance testing programs detailed in department guidance;
- (3) adhere to social distancing requirements;
- (4) require all persons on school premises, and in school vehicles, to wear face coverings per department guidance and current statewide public health orders;
- (5) cooperate immediately and fully with department officials, environment department officials, fire marshals, state police and other officials conducting site visits and investigating COVID-safe practices; and
- (6) to the extent possible, implement practices to promote social emotional learning, support high quality teaching and learning, and effectively communicate with tribal communities and families.

B. **COVID-19 safe practices.** All local school districts and public schools shall maintain communication with department of health officials shall report all confirmed cases of COVID-19 in students, staff, contractors and volunteers to the department and the environment department as appropriate; and shall perform all COVID-19 safe practices described or referenced in department guidance, such as:

- (1) working with school administrators, school nurses, and other healthcare providers to identify an isolation room or area to separate anyone who exhibits COVID-like symptoms;
- (2) closing off and limiting access to areas potentially affected by COVID-19 exposure and, if possible, wait 24 hours before cleaning and disinfecting;
- (3) requiring school nurses and other healthcare providers to use centers for disease control and prevention (CDC) recommended standard precautions when caring for sick people, including:
 - (a) engaging in frequent hand hygiene;
 - (b) using personal protective equipment when there is an expectation of possible exposure to infectious material;
 - (c) following respiratory hygiene and coughing etiquette;
 - (d) ensuring appropriate patient placement in quarantine or isolation;
 - (e) ensuring the proper handling and disinfection of patient care equipment and instruments;
 - (f) ensuring the careful handling of textiles and laundry;
 - (g) following safe injection practices; and
 - (h) ensuring healthcare provider safety, including proper handling and disposal of needles and other sharps.
- (4) requiring school nurses and other healthcare providers to use CDC recommended transmission-based precautions when caring for sick people, including:
 - (a) establishing procedures for safely transporting anyone who is sick home or to a healthcare facility;
 - (b) closing for 24 hours parts of school buildings if used by a COVID-19 infected person then clean and disinfect before re-opening affected areas;
 - (c) advising sick staff members and children not to return until they have met New Mexico department of health criteria to discontinue home isolation; and
 - (d) informing those who have had close contact with a person diagnosed with COVID-19 to stay home and follow New Mexico department of health guidance.

C. Small group instruction. School districts and schools are permitted to provide small group instruction pursuant to department guidance regardless of whether the school district or school is in the remote learning, hybrid learning, or full reentry operational model.

D. Continuation of Remote Learning. When in-person learning is available through a hybrid operational model or full reentry operational model, school districts and schools shall continue to offer remote learning to students who choose remote learning.

E. Transportation. School districts and schools shall follow department guidance, which requires students to sit in spaced and assigned seating while being transported to and from schools, limits the number of students who may be seated together on a bus seat, and sets forth detailed requirements and suggestions for COVID-19 safe practices for the transportation of students.

F. Student movement and gathering. School districts and schools in the hybrid or full reentry operating category shall keep students' and student groups' movements and gatherings safe pursuant to current department guidance, which presently includes:

- (1) limiting mixing among different student groups to the greatest extent practicable;
- (2) for class changes and other transitions throughout the day:
 - (a) designating flow paths in hallways to keep students separated and minimize the congregation of students;
 - (b) planning staggered class changes to decrease the number of students in the hallways at one time;
 - (c) having the same group of students stay with the same staff in elementary school;
- and
- (3) for student gatherings:
 - (a) avoiding large group gatherings, and abiding by the maximum number of people allowed to congregate as defined by current public health orders;
 - (b) prohibiting the congregation of students in parking lots and common areas;
 - (c) staggering the schedules for group gatherings such as recess or meals;
 - (d) identifying and utilizing large spaces, such as gymnasiums, auditoriums, and outdoor spaces as weather permits for social distancing; and

(e) following the New Mexico activities association’s guidelines for extracurricular activities and similar congregate events.

G. Staffing. All school districts and schools shall follow public health orders, executive orders and department guidance as updated from time to time and shall:

(1) train staff in local and state rules regarding health and safety procedures, such as appropriate use of personal protective equipment and procedures for when school personnel or students exhibit symptoms of COVID-19; and

(2) establish processes, aligned with school district or charter school human resource departments to process formal requests ~~[from COVID-19 high risk staff to work remotely]~~ for reasonable accommodations under the Americans with Disabilities Act (ADA) and leave under the Family Medical Leave Act (FMLA). Professional development, other trainings and staff meetings conducted in-person on school premises require staff to remain socially distanced at a distance of six feet or more apart from each other and adhere to all other COVID-Safe Practices; otherwise, professional development, other trainings and staff meetings must be conducted remotely. [~~and~~

~~(3) — adhere to department guidance stating that work that may be performed remotely should be performed remotely. For certain work that may only be performed on school premises, schools and districts may require staff to physically report to school premises. Examples of work that must be performed physically on school premises include in person instruction; food service preparation; transportation, work done to clean, maintain, supervise, and sanitize school premises, property, materials, and supplies; and any other work that cannot physically be performed off site. For work that need not be performed on school premises, such as most professional development, staff meetings and team planning, and fully remote instruction, staff’s presence on school premises shall not be required. However, if the school district or school deems it to be safe, then staff whose work need not be physically performed on school premises may choose to work on the school premises.]~~

H. Tribal sovereignty. School districts and schools shall honor tribal sovereignty and abide by applicable tribal public health orders, tribal executive orders and tribal council resolutions.

[6.12.14.8 NMAC – N/E, 12/3/2020, A/E, 1/29/2021, A/E, 2/11/2021, A/E, 3/24/2021]