

TITLE 18: TRANSPORTATION AND HIGHWAYS
CHAPTER 19: MOTOR VEHICLE PROCEDURES, LICENSES, PERMITS
PART 5: DRIVER'S LICENSE

18.19.5.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630.
[18.19.5.1 NMAC - Rp, 18.19.5.1 NMAC 3/14/2023]

18.19.5.2 SCOPE: Holders of and applicants for any type of New Mexico driver's license or permit; employers of individuals holding commercial driver's licenses; persons whose driving license or privilege to drive has been suspended or revoked; uninsured motorists.
[18.19.5.12 NMAC - Rp, 18.19.5.2 NMAC 3/14/2023]

18.19.5.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[18.19.5.3 NMAC - Rp, 18.19.5.3 NMAC 3/14/2023]

18.19.5.4 DURATION: Permanent.
[18.19.5.4 NMAC - Rp, 18.19.5.4 NMAC 3/14/2023]

18.19.5.5 EFFECTIVE DATE: March 14, 2023, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[18.19.5.5 NMAC - Rp, 18.19.5.5 NMAC 3/14/2023]

18.19.5.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Motor Vehicle Code, including compliance with regulations for the REAL ID Act of 2005, Title 6 C.F.R. Chapter 1, Section 37.
[18.19.5.6 NMAC - Rp, 18.19.5.6 NMAC 3/14/2023]

18.19.5.7 DEFINITIONS:

- A.** As used in regulations under the provisions of the New Mexico Commercial Driver's License Act:
- (1) "commercial driver's license"** means a license issued by a state or other jurisdiction which authorizes the holder to operate a commercial motor vehicle;
 - (2) "commercial motor vehicle"** means a motor vehicle of a type used in commerce:
 - (a)** if the vehicle has a gross vehicle weight rating of 26,001 or more pounds;
 - (b)** if the vehicle is designed to transport sixteen or more passengers, including the driver; or
 - (c)** if the vehicle is transporting hazardous materials and is required to be placarded pursuant to applicable law;
 - (3) "combination vehicle"** means a power or tractor unit with one or more semi-trailers, trailers or semi-trailers converted to trailers by means of a converter gear;
 - (4) "disqualified"** means a driver who has had the qualification to drive a commercial motor vehicle removed and whose New Mexico commercial driver's license is canceled; for purposes of this definition and Section 66-5-68 NMSA 1978, "canceled" shall mean that the commercial driver's license is in "revocation" as that term is defined in Subsection B of Section 66-5-1 NMSA 1978, and the driver is not eligible to apply for a commercial driver's license until the period of time for which the driver was disqualified has elapsed; and
 - (5) "resident"** means a person who intends to reside in New Mexico evidenced by registration to vote or other action acceptable to the motor vehicle division.
- B.** As used in Subsection C of Section 66-5-6 NMSA 1978, "healing arts practitioner" means a person licensed to practice in this state medicine, osteopathic medicine, oriental medicine, chiropractic, or similar medical services for human beings. The term also includes a person licensed to practice in this state as a certified nurse practitioner, clinical nurse specialist, physician assistant or osteopathic physician assistant.
- C.** As used in regulations under the provisions of the New Mexico Motor Vehicle Code:
- (1) "driver's license"** means any license, permit or driving authorization card issued by a state or other jurisdiction recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles and including a REAL ID-compliant driver's license and a standard driver's license;

(2) **“identification card”** means a document issued by the department or the motor vehicle administration of a state or other jurisdiction recognized under the laws of New Mexico that identifies the holder and including a REAL ID-compliant identification card and a standard identification card;

(3) **“license”** without modification means any license, permit or driving authorization card issued by a state or other jurisdiction under the laws of New Mexico pertaining to authorizing of persons to operate motor vehicles including a REAL ID-compliant driver’s license and a standard driver’s license;

(4) **“REAL ID-compliant driver’s license”** means a license or a class of license issued by a state or other jurisdiction pertaining to the authorizing of persons to operate motor vehicles and that meets federal requirements to be accepted by federal agencies for official federal purposes;

(5) **“REAL ID-compliant identification card”** means an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes;

(6) **“sex”** male, female or gender x;

(7) **“standard driver’s license”** means a license or a class of license issued by a state or other jurisdiction recognized by the law of New Mexico that authorizes the holder to operate motor vehicles and is not guaranteed to be accepted for official federal purposes;

(8) **“standard identification card”** means an identification card that is not guaranteed to be accepted for official federal purposes.

[18.19.5.7 NMAC - Rp, 18.19.5.7 NMAC 3/14/2023]

18.19.5.8 [RESERVED]

18.19.5.9 PRORATING OF DRIVER’S LICENSE FEES:

A. The fees imposed for the issuance of a driver’s license or commercial driver’s license may be prorated if the licensure period is shortened pursuant to Section 66-5-19 NMSA 1978. Fees shall be prorated on an annual basis. In no case shall the fee be less than the prorated fee for one full year.

B. A person whose license or identification card expires on or after July 1, 2020 may apply for a license or identification card acceptable for federal purposes upon submission of all required documents. The person shall receive a new license or identification card that contains the same expiration date as the one previously issued. The person shall receive credit for the period remaining on the license or identification card toward the cost of the new license or identification card.

[18.19.5.9 NMAC - Rp, 18.19.5.9 NMAC 3/14/2023]

18.19.5.10 DRIVER’S LICENSES - MEMBER OF A NATO FORCE:

A. For purposes of 18.19.5.10 NMAC:

(1) **“NATO signatory”** means a nation, other than the United States, that is a contracting party to the north Atlantic treaty;

(2) **“NATO force”** means any NATO signatory's military unit or force or civilian component thereof present in New Mexico in accordance with the north Atlantic treaty; and

(3) **“member of a NATO force”** means the military and civilian personnel of the NATO force and their dependents.

B. Pursuant to Article IV(a) of the north Atlantic treaty the department will accept as valid, without a written or driving test or fee, the driving permit or license or military driving permit issued by the NATO force or NATO signatory or any sub-division thereof to a member of a force.

C. Pursuant to Article IV(b) of the north Atlantic treaty, at the member's request the department shall issue, without a written or driving test or fee, a driver's permit or license to a member of a force who holds the driving permit or license or military driving permit issued by the NATO force or NATO signatory or any sub-division thereof.

[18.19.5.10 NMAC - Rp, 18.19.5.10 NMAC 3/14/2023]

18.19.5.11 CONTRACTING DRIVER’S KNOWLEDGE AND SKILL TESTS:

A. Under Subsection C of Section 66-5-14 NMSA 1978, the department is permitted to contract for certain testing of individuals applying for driver's licenses. Any contract entered into may provide that all or only some of the individuals applying for driver's licenses are to be tested by the contractor. Any contract entered into may be limited to testing at certain field offices or within certain political subdivisions or geographic areas.

B. Only the following persons are eligible to enter into contracts authorized under Subsection C of Section 66-5-14 NMSA 1978:

(1) public educational institutions; and
(2) commercial driving schools licensed by the department of transportation pursuant to the Driving School Licensing Act and regulations thereunder.

C. Any contract entered into will specify an expiration date, provided the department may terminate the contract prior to its expiration date.

[18.19.5.11 NMAC - Rp, 18.19.5.11 NMAC 3/14/2023]

18.19.5.12 REAL ID-COMPLIANT DRIVER'S LICENSES AND IDENTIFICATION CARDS FOR UNITED STATES CITIZENS, UNITED STATES NATIONALS OR PERMANENT RESIDENT ALIENS:

A. A United States citizen, United States national or permanent resident alien applying for a REAL ID compliant New Mexico driver's license or identification card, other than a commercial driver's license, must provide documentary proof of their identification number, identity, age, indication of sex, lawful status and New Mexico residency.

B. **Proof of identity and age:** To establish identity and age the applicant must present at least one of the following documents:

- (1) a valid, unexpired United States passport;
- (2) a valid, unexpired United States passport card;
- (3) a valid foreign passport with I-551 stamp;
- (4) an original or a certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place (state) of birth;
- (5) a consular report of birth abroad (CRBA) issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;
- (6) a valid, unexpired permanent resident card (form I-551) issued by the U.S. department of homeland security (DHS) or immigration and naturalization service (INS);
- (7) a certificate of naturalization issued by DHS, form N-550 or form N-570;
- (8) a certificate of citizenship, form N-560 or form N-561, issued by DHS;
- (9) a valid unexpired employment authorization document (EAD) issued by DHS, form I-766 or form I-688B, verified through the systematic alien verification for entitlement system (SAVE);
- (10) a foreign passport with unexpired U.S. visa affixed, accompanied by the approved I-94 form documenting the applicant's most recent admittance into the U.S., verified by SAVE;
- (11) REAL ID driver's license or ID card combined proof of legal presence if legal presence is temporary; or
- (12) other documents as allowed by an approved DHS exception process.

C. **Proof of Identification number:** Along with the proof of identity and age document listed above, an applicant must also present one the following documents, provided that the document bears the applicant's social security number:

- (1) a social security number (SSN) card;
- (2) a W-2 form;
- (3) a social security administration (SSA)-1099 form;
- (4) a non-SSA-1099 form; or
- (5) a pay stub with the applicant's name and social security number on it.

D. **Proof of New Mexico residency:** The applicant must present at least two of the following documents that include the individual's name and principal residence:

- (1) a current real property rental agreement or a purchase agreement;
- (2) a utility bill dates within 60 days of the application and that is not a cellular phone bill;
- (3) an insurance bill, card or binder dated within the past six months of the application;
- (4) a bank or credit card statement dated within 60 days of the application;
- (5) an employment pay stub containing applicant's name and address, dated within 60 days of the application;
- (6) a local property tax statement from the county assessor's office of the county where the property is located;
- (7) a documentation from an educational institution such as a transcript, report card or enrollment confirmation, dated within 60 days of the application;
- (8) original documentation from a city, county, state, tribal or federal government organization or community organization attesting to the applicant's New Mexico residency;

(9) a New Mexico medical or public assistance card with address on card, letter from issuing agency that came with the card, showing name and address, or profile print-out from issuing agency;

(10) documents indicating membership in a New Mexico religious organization provided applicant is less than 18 years of age;

(11) documents indicating membership in a New Mexico sports organization provided applicant is less than 18 years of age;

(12) if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico identification card, or two proofs of residency of the parent/guardian; or

(13) a document evidencing eligibility and proof that the applicant is currently receiving services from a non-profit organization qualified pursuant to Section 501 (c)(3) of the Federal Internal Revenue Code of 1986 provided the document displays the applicant's address.

E. Indication of Sex: An applicant must indicate their sex as either male, female or gender x.

F. Proof of lawful status: An applicant must present one of the documents listed in Paragraph (1) a valid unexpired US passport, Paragraph (2) a valid unexpired US passport card, Paragraph (4) an original or a certified copy of birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place (state) of birth, Paragraph (5) a consular report of birth abroad, Paragraph (6) a valid unexpired permanent resident card, or Paragraph (7) a certificate of naturalization of Subsection (B) of 18.19.5.12 NMAC.

G. Exceptions process: A process for persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity or age. Alternative documents to demonstrate lawful status will only be allowed to demonstrate U.S. citizenship. Circumstances deemed "beyond the person's control" include but are not limited to: an event occurred prior to the year official documents are available from the state or territory; natural disaster circumstances; customer provides proof from the issuing agency that documents were destroyed; or non-issuance of official records.

(1) Defined exception process #1: Certified letter of enrollment or of Indian blood & affidavit of birth. If the applicant is a member of a federally- recognized Indian nation, tribe or pueblo and does not have a birth certificate because they were not born in a hospital, the motor vehicle division will accept their certified letter of enrollment **or** valid identification card issued by a federally recognized Indian nation, tribe or pueblo and the applicant's birth registration notification issued by the U.S. census office for the applicant's federally- recognized Indian nation, tribe or pueblo so long as the letter contains the applicant's name and date of birth and the applicant provides a letter from the New Mexico department of health, bureau of vital statistics rejecting the applicant's request for a delayed birth registration. The combination of these documents provides proof of U.S. citizenship and identity.

(2) Defined exception process #2: Certified letter of enrollment or valid identification card issued by a federally recognized Indian Nation, tribe or pueblo as proof of age. If the applicant is a member of a federally- recognized Indian nation, tribe or pueblo and does not have a birth certificate to demonstrate proof of age, the applicant may use a certified letter of enrollment or valid photo-identification card issued by a federally- recognized Indian nation, tribe or pueblo as documentary proof of the applicant's age so long as the letter contains the applicant's name and date of birth and the applicant provides a letter from the New Mexico department of health, bureau of vital statistics rejecting the applicant's request for a delayed birth registration.

(3) Defined exception process #3: Baptismal certificate as proof of age. If the applicant was born before December 31, 1941, the applicant may use an original baptismal record or certified copy of a baptismal record as documentary proof of the applicant's age so long as the baptismal record contains the applicant's name and date of birth or date of baptism and the applicant provides a letter from the New Mexico department of health, bureau of vital records and health statistics rejecting the applicant's request for a delayed birth registration.

(4) Defined exception process #4: Military records as proof of age. If the applicant was born before December 31, 1941, the applicant may use a certified copy of military records as documentary proof of the applicant's age so long as the record contains the applicant's name and date of birth and the applicant provides a letter from the New Mexico department of health, bureau of vital records and health statistics rejecting the applicant's request for a delayed birth registration.

[18.19.5.12 NMAC - Rp, 18.19.5.12 NMAC 3/14/2023]

18.19.5.13 [RESERVED]

18.19.5.14 REAL ID-COMPLIANT DRIVER'S LICENSE AND IDENTIFICATION CARDS FOR LAWFUL UNITED STATES RESIDENTS:

A. A person who is legally in the United States but not a United States citizen, United States national or permanent resident alien may apply for a REAL ID compliant New Mexico driver's license, or identification card other than a commercial driver's license, and must provide documentary proof of their identification number, identity, age, indication of sex, lawful status and New Mexico residency.

B. Proof of identity and age: To establish identity and age, the applicant must present one of the following documents:

(1) an unexpired employment authorization document issued by U.S. department of homeland security (DHS), form I-766 or form I-688B, verified by the systematic alien verification for entitlements system (SAVE);

(2) an unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States, verified by SAVE. This document can be used to satisfy both the identity and age requirement, and proof of identification number requirement for a REAL ID compliant credential.

(3) REAL ID driver's license or identification card issued in compliance with the standards established by this part.

C. If the identity document submitted is a REAL ID driver's license or identification card as listed in Paragraph (3) of Subsection B of 18.19.5.14 NMAC, then to establish legal or lawful presence in the United States, the applicant must present one of the following documents issued by the U.S. federal government verified through SAVE:

(1) an unexpired immigrant or nonimmigrant visa status for admission into the United States;

(2) a pending or approved application for asylum in the United States;

(3) documentation of admission into the United States as a refugee;

(4) a pending or approved application for temporary protected status in the United States;

(5) documentation of approved deferred action status;

(6) a pending application for adjustment of status to legal permanent resident or conditional

resident;

(7) conditional permanent resident alien status; or

(8) other documents as DHS may designate by notice published in the federal register.

D. Proof of identification number: An applicant must also present documentary evidence of their identification number from one of the following documents:

(1) if, eligible for social security number, one the following documents, provided that the document bears the applicant's social security number:

(a) a social security number (SSN) card;

(b) a W-2 form;

(c) a SSA-1099 form;

(d) a non-SSA-1099 form;

(e) a pay stub with the applicant's name and social security number on it; or.

(2) an unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States, verified by SAVE. This document can be used to satisfy both the identity and age requirement, and identification number requirement for a Real ID compliant credential.

E. Indication of sex: an applicant must indicate their sex as either male, female or gender x.

F. Proof of New Mexico residency: The applicant must present at least two of the following documents that include the individual's name and principal residence:

(1) a current real property rental agreement or a purchase agreement;

(2) a utility bill dates within 60 days of the application and that is not a cellular phone bill;

(3) an insurance bill, card or binder dated within the past six months of the application;

(4) a bank or credit card statement dated within 60 days of the application;

(5) an employment pay stub containing applicant's name and address, dated within 60 days of the application;

(6) a local property tax statement from the county assessor's office of the county where the property is located;

(7) documentation from an educational institution such as a transcript, report card or enrollment confirmation, dated within 60 days of the application;

(8) original documentation from a city, county, state, tribal or federal government organization or community organization attesting to the applicant's New Mexico residency;

- (9) a New Mexico medical or public assistance card with address on card, letter from issuing agency that came with the card, showing name and address, or profile print-out from issuing agency;
 - (10) documents indicating membership in a New Mexico religious organization provided applicant is less than 18 years of age;
 - (11) documents indicating membership in a New Mexico sports organization provided applicant is less than 18 years of age;
 - (12) if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico identification card, or two proofs of residency of the parent/guardian; or
 - (13) a document evidencing eligibility and proof that the applicant is currently receiving services from a non-profit organization qualified pursuant to Section 501 (c)(3) of the Federal Internal Revenue Code of 1986 provided the document displays the applicant's address.
- [18.19.5.14 NMAC - Rp, 18.19.5.14 NMAC 3/14/2023]

18.19.5.15 STANDARD DRIVER'S LICENSE OR STANDARD IDENTIFICATION CARD THAT IS NOT ACCEPTABLE FOR FEDERAL PURPOSES:

A. Applicants for a New Mexico standard license or standard identification card that is not acceptable for federal purposes must provide documentary proof of their identity, indication of sex, age and New Mexico residency.

B. Proof of identity and age: To establish identity and age, applicants can use one of the following documents if it contains the applicant's name and date of birth, to provide documentary proof of their identity and age. If the document does not contain the applicant's name and date of birth, two of the following documents will be required:

- (1) an original or certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place of birth;
- (2) a consular report of birth abroad issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;
- (3) an unexpired employment authorization document issued by the U.S. department of homeland security, form I-766 or form I-688B, verified by SAVE;
- (4) an identification card issued by a foreign consulate, such as the consulate of Mexico in El Paso, Texas, or Albuquerque, New Mexico.
- (5) a certified letter of enrollment issued by a federally recognized Indian nation, tribe or pueblo;
- (6) a valid identification card issued by a federally recognized Indian nation, tribe or pueblo;
- (7) certified copy of foreign birth certificate issued by the applicant's place or birth, provided that if the document is not in English, a certified copy of the foreign birth with a notarized English translation;
- (8) affidavit of Indian birth;
- (9) a state issued driver's license, a driver's license issued by a territory of the United States, or by jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;
- (10) a state government-issued photo identification card, or a photo identification card issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;
- (11) a state government-issued photo learner's permit, or a photo learner's permit issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;
- (12) an American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;
- (13) a photo identification card issued by the United States military, United States coast guard or New Mexico national guard;
- (14) an identification document issued by the United States veterans administration, so long as it is accompanied by a United States veterans administration medical center identification card;
- (15) a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2);
- (16) a United States, state, or local government-issued photo ID, issued based on name, social security number and date of birth;
- (17) N560 certificate of citizenship if verified in SAVE;

- (18) N550 certificate of naturalization if verified in SAVE;
- (19) a valid permanent resident card issued by the United States government if verified in SAVE;
- (20) a valid I-551 resident alien card issued since 1997 if verified in SAVE;
- (21) a valid New Mexico license or identification card;
- (22) a court order for name change, gender change, adoption or divorce, as long as it includes the legal name, date of birth and court seal;
- (23) a New Mexico correction department photo identification card, or a photo identification card issued by the federal bureau of prisons, that includes the name, date of birth and documentation that the card has not expired within the past year;
- (24) a social security card;
- (25) military discharge/separation papers (DD 214);
- (26) selective service card;
- (27) an I-94 form presented without a passport if it contains the applicant's photo;
- (28) a military dependent identification card that includes the applicant's photo;
- (29) a medical insurance card or documentation of medical insurance coverage or eligibility containing an insurance identification number including a Medicaid or Medicare card;
- (30) a passport or passport card from the applicant's country of citizenship;
- (31) a passport or passport card from the United States if verified through systematic alien verification for entitlements system (SAVE);
- (32) individual tax identification number (ITIN);
- (33) a medical record less than one year old that is not from a visit to an emergency room or urgent care facility;
- (34) proof of eligibility for and receipt of public assistance benefits, including general assistance, temporary assistance for needy families and the supplemental nutrition assistance program with a copy of the state human services department eligibility profile page dated with the last year.

C. Proof of New Mexico residence: A person must present at least two of the following documents that include the individual's name and principal residence:

- (1) a current real property agreement or a purchase agreement;
- (2) a utility bill dated within 60 days of the application and does not include a cell phone bill;
- (3) an insurance bill, card or binder dated within the past six months of the application;
- (4) a bank or credit card statement dated within 60 days of the application;
- (5) an employment pay stub containing applicant's name and address, dated within 60 days of the application;
- (6) a local property tax statement from the county assessor's office of the county where the property is located;
- (7) documentation from an education institution such as a transcript, report card or enrollment confirmation, dated within 60 days of the application;
- (8) original documentation from a city, county, state, tribal or federal government organization or community organization attesting to the applicant's New Mexico residency;
- (9) a New Mexico medical or public assistance card with address on card, letter from issuing agency that came with the card, showing name and address, or profile print-out from issuing agency;
- (10) documents indicating membership in a New Mexico religious organization provided applicant is less than 18 years of age;
- (11) documents indicating membership in a New Mexico sports organization provided applicant is less than 18 years of age;
- (12) if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico identification card, or two proofs of residency of the parent/guardian;
- (13) a document evidencing eligibility and proof that the applicant is currently receiving services from a non-profit organization qualified pursuant to Section 501 (c)(3) of the Federal Internal Revenue Code of 1986 provided the document displays the applicant's address.

D. Applicants for a standard driver's license or standard identification card not acceptable for federal purposes who are homeless or in temporary lodging and unable to provide two of the documents identified in Subsection C of 18.19.5.15 NMAC may provide an affidavit or a notarized letter from a representative of a New Mexico governmental entity, not-for-profit organization, assisted care facility/home, adult assisted living

facility/home, homeless shelter, transitional service provider, or group/half way house attesting to the address where the applicant resides or receives services *in lieu of* the documents required in Subsection C of 18.19.5.15 NMAC.

E. Indication of sex: an applicant must indicate their sex as either male, female or gender x.
[18.19.5.15 NMAC - Rp, 18.19.5.15 NMAC 3/14/2023]

18.19.5.16 through 18.19.5.29 [RESERVED]

18.19.5.30 DRIVER LICENSE CLASSIFICATIONS:

A. Driver's licenses, other than licenses issued under the New Mexico Commercial Driver's License Act, shall be issued under the following classifications:

Class Vehicles Licensee Authorized to Drive

D **Until October 1, 1996:** Other than any vehicle included in class C, any single vehicle less than 26,001 pounds gross vehicle weight, and such vehicles towing vehicles weighing:

(1) not more than 10,000 pounds gross vehicle weight, provided that the towing vehicle is of equal or greater weight than the vehicle being towed; or

(2) more than 10,000 pounds gross vehicle weight provided that either the towing vehicle is of equal or greater weight than the vehicle being towed or, if the towing vehicle is of lesser weight than the towed vehicle, the weight in the towed vehicle does not exceed the manufacturer's rated capacity and:

(a) the towing vehicle has either a class 4 or higher equalizing hitch or a fifth wheel;

(b) the vehicle being towed is a trailer; or

(c) the vehicle combination properly displays slow-moving insignia and moves at speeds of 25 mph or less.

On and after October 1, 1996: Other than any vehicle included in class C, any single vehicle less than 26,001 pounds gross vehicle weight, and such vehicles towing vehicles provided that:

(1) the towing vehicle is of equal or greater weight than the vehicle being towed; or

(2) if the towing vehicle is of lesser weight than the towed vehicle, the weight in the towed vehicle does not exceed the manufacturer's rated capacity and:

(a) the towing vehicle has either a class 4 or higher equalizing hitch or a fifth wheel;

(b) the vehicle being towed is a trailer; or

(c) the vehicle combination properly displays slow-moving insignia and moves at speeds of 25 mph or less.

In order to operate a motorcycle a driver must have a motorcycle endorsement.

E Any vehicle or combination of vehicles described in 18.19.5.112 NMAC (vehicle drivers excluded from the requirement to hold a commercial driver's license) and any class D vehicle. In order to operate a motorcycle a driver must have a motorcycle endorsement.

M Two- or three-wheeled motorcycles. This classification of license must have an endorsement of "Z", "Y" or "W" to be valid. This class of license is issued to drivers who drive only a motorcycle vehicle.

B. New Mexico driver's licenses classes 1 through 5 issued under the former classification system remain valid until expiration, replacement with a class A, B, C, D, E or M driver's license or revocation or cancellation under the provisions of the Motor Vehicle Code.

C. A class E license will be issued only to individuals who are exempt from the requirements of the New Mexico Commercial Driver's License Act.

[18.19.5.30 NMAC - Rp, 18.19.5.30 NMAC 3/14/2023]

18.19.5.31 DRIVER LICENSE ENDORSEMENTS: Driver's licenses, other than licenses issued under the New Mexico Commercial Driver's License Act, may be issued with one of the following endorsements:

Endorsement Authorizes Licensee to Operate

Z Any two- or three-wheeled motorcycle with an engine of less than 50 cubic centimeters piston displacement.

Y Any two- or three-wheeled motorcycle with an engine of at least 50 but less than 100 cubic centimeters piston displacement.

W Any two- or three-wheeled motorcycle with an engine of 100 or more cubic centimeters piston displacement.

[18.19.5.31 NMAC - Rp, 18.19.5.31 NMAC 3/14/2023]

18.19.5.32 DRIVER LICENSE RESTRICTIONS: Driver's licenses, other than licenses issued under the

New Mexico Commercial Driver's License Act, may be issued with one or more of the following restrictions:

Restriction Code Restriction

B Driver must wear corrective lenses while driving.

C Driver limited to vehicles equipped with suitable mechanical aids such as special brakes, hand controls or other adaptive devices.

D Driver must use prosthetic aids (other than corrective lenses) while driving, except as otherwise provided in Subsection C of 18.19.5.33 NMAC.

E Driver limited to vehicles with automatic transmissions.

F Driver limited to vehicles with outside mirrors.

G Driver limited to driving a vehicle during daylight hours only.

H Driver limited to driving a vehicle for employment reasons only.

I Limited - other.

[18.19.5.32 NMAC - Rp, 18.19.5.32 NMAC 3/14/2023]

18.19.5.33 RESTRICTED LICENSE - INTRASTATE COMMERCIAL DRIVING:

A. A restricted license in Class A, B or C may be issued to an applicant who does not meet the medical requirements for a license issued under the New Mexico Commercial Driver's License Act if the applicant applies for and is granted a waiver pursuant to 18.19.5.33 NMAC.

B. A restricted license pursuant to 18.19.5.33 NMAC authorizes a driver to operate a commercial motor vehicle only within New Mexico. Any restricted license issued pursuant to 18.19.5.33 NMAC will be issued for a reduced period of time.

C. Waivers may be granted only for one or more of the following diseases or conditions:

(1) diabetes mellitus or other metabolic disorders provided that:

(a) in the case of diabetes mellitus, the disease is stabilized with no episodes of ketosis or altered consciousness for one year and the medication and dosage has not changed within that year; and

(b) in the case of other metabolic disorders, the condition has stabilized under treatment with minimal symptoms which do not affect driving;

(2) cardiovascular disorders:

(a) general heart disease, provided that the condition is AHA Class I with no symptoms;

(b) arrhythmia, provided that the arrhythmia is stabilized with a pace maker for at least six months and the pace maker is certified for a minimum of one year beyond the six-month stability period;

(c) myocardial infarct or surgical treatment for myocardial infarct, provided that at least one year has elapsed since the incident and no symptoms have appeared; and

(d) hypertension, provided that the condition is controlled by medication;

(3) pulmonary disorders, provided that the applicant exhibits symptoms only with greater than ordinary activity and uses steroids no more than intermittently such that FVC and FEV₁ is greater than seventy percent of the predicted normal;

(4) neurologic disorders, provided that the degree of impairment does not prevent the applicant from controlling equipment, driving, walking, lifting or carrying light loads;

(5) epilepsy and other episodic disorders, provided that the applicant is free of any seizures or episodes for at least six months and either is not under medication or is taking medication without side effects;

(6) visual acuity limitations, provided that the condition is correctable to at least 20/40 in one eye with at least 70 degrees in the horizontal meridian; or

(7) loss of limb or appendage which occurred as a result of genetic disorder, birth defect, accident or surgical procedure, provided that a currently-licensed medical doctor attests that the impairment does not prevent the applicant from controlling equipment, walking, driving, or lifting or carrying light loads; the doctor's statement must specify whether or not prosthetic or other adaptive devices are required to allow the applicant to control equipment, walk, drive or lift or carry light loads; if prosthetic devices are not required, the waiver may also permit the applicant to operate commercial vehicles of the type applied for without use of prostheses.

D. The waiver and restricted license provided by 18.19.5.33 NMAC may be applied for by having a licensed medical doctor complete the appropriate medical form and mailing or delivering it, together with the application for the waiver, to the director, motor vehicle division.

E. The application for waiver will be referred to the medical review board for its recommendation of approval or disapproval. The director, motor vehicle division, shall decide whether to grant or deny the waiver, taking cognizance of the board's recommendation and any other relevant evidence.

F. Any applicant not satisfied with the decision of the director may request an informal hearing. The request and the conduct of the hearing will be as set forth in 18.19.5.56 NMAC.

G. By accepting issuance of a restricted commercial driver's license pursuant to 18.19.5.33 NMAC, the licensee agrees to notify, in accordance with Section 66-5-15.1 NMSA 1978, the motor vehicle division of any change in the licensee's physical or mental condition which would impair the licensee's ability to operate a commercial motor vehicle. Failure to so notify the motor vehicle division cancels the restricted commercial driver's license.

H. A waiver and the restricted commercial driver's license issued based upon the waiver may be granted for a period of no more than one year. The holder of a restricted commercial driver's license who so wishes may apply for another waiver and restricted commercial driver's license, to be valid for a period not to exceed one year following the expiration of the current waiver and restricted license, at any time within the three months immediately prior to the expiration of the current waiver and restricted license.

I. Any waiver granted pursuant to 18.19.5.33 NMAC and any restricted commercial driver's license issued on the basis of that waiver is canceled when any of the conditions under which the waiver was issued no longer exists. Upon occurrence of an event or condition which cancels the restricted commercial driver's license, the licensee must surrender the restricted commercial driver's license to the motor vehicle division and, if employed as a driver of commercial motor vehicles, notify the licensee's employer. A driver whose waiver has terminated may re-apply for a waiver when the conditions set forth in 18.19.5.33 NMAC are met.
[18.19.5.33 NMAC - Rp, 18.19.5.33 NMAC 3/14/2023]

18.19.5.34 SHORTENING OF LICENSURE PERIOD:

A. The division, whenever good cause appears, may issue a restricted license that has a shortened licensure period pursuant to Section 66-5-19 NMSA 1978. The licensure period for a restricted license may be shortened to a period of less than one year depending on the nature of the restriction.

B. Example: Y, who has been issued a New Mexico driver's license, has had a seizure and has informed the motor vehicle division. In order to remain validly licensed in New Mexico, Y must first submit to the division a statement from a licensed physician or licensed osteopathic physician, on the appropriate medical form supplied by the division, attesting that Y has been free of any seizures or episodes for at least six months and either is not under medication or is taking medication without side effects.
[18.19.5.34 NMAC - Rp, 18.19.5.34 NMAC 3/14/2023]

18.19.5.35 through 18.19.5.49 [RESERVED]

18.19.5.50 POINT SYSTEM - PURPOSE - DEFINITIONS:

A. Section 66-5-30 NMSA 1978 authorizes the department to suspend the driver's license of an individual who has been convicted of violations of the traffic laws with such frequency as to show disrespect for those laws or has been found to be an habitually reckless or negligent driver of a motor vehicle. To provide a reasonable, objective and fair method by which the department may determine whether an individual shows disrespect for the traffic laws of this state through frequency of conviction for violations or is habitually reckless or negligent and to promote the public safety by removing such drivers from the roads, the department establishes a "point system" with 18.19.5.50 through 18.19.5.56 NMAC. This point system continues the point system in effect prior to July 1, 1992.

B. For the purposes of 18.19.5.50 through 18.19.5.56 NMAC, "conviction" means an adjudication of guilt including a finding of guilty by a court, a plea of guilty entered by the court, a plea of *nolo contendere* accepted by the court, a plea of guilty pursuant to a penalty assessment misdemeanor (Sections 66-8-116 through 66-8-119 NMSA 1978 or the forfeiture of bail or other collateral deposited to secure the violator's appearance in court; "conviction" also includes a conviction for a traffic violation in any other state, territory or possession of the United States, the District of Columbia and any province of the Dominion of Canada so long as the conviction in that jurisdiction is for a violation of a traffic law for which points would be assessed if the conviction were for a violation of the traffic laws of this state. "Conviction" does not include the imposition of sentence.

C. For the purposes of 18.19.5.50 through 18.19.5.56 NMAC, "driver" means an individual who operates a motor vehicle upon the traffic-ways of this state whether or not that individual holds a valid driver's license issued either by this state under the provisions of the Motor Vehicle Code or by another jurisdiction under the laws of that jurisdiction.

D. For the purposes of 18.19.5.50 through 18.19.5.56 NMAC, "traffic-way" means a public highway or any other place, such as a parking lot, which is open for driving of motor vehicles by members of the general

public and which is subject to the traffic control regulation of the state or a political subdivision of the state.
[18.19.5.50 NMAC - Rp, 18.19.5.50 NMAC 3/14/2023]

18.19.5.51 POINT SYSTEM - ASSESSMENT AND EXPUNGING OF POINTS FOR VIOLATIONS OF TRAFFIC LAWS:

A. Violations for which points shall be assessed are either violations pursuant to the traffic laws of this state or violations of the traffic laws of other jurisdictions for which points would be assessed if the violation had occurred in New Mexico. Points shall be assessed by the department in accordance with the schedule in 18.19.5.52 NMAC following conviction for any scheduled traffic law violation or the equivalent violation in the other jurisdiction if the violation occurred in another jurisdiction. Notification of a conviction of a traffic violation subject to the assessment of points shall be forwarded to the department by the convicting court. Points shall be assessed regardless of whether the violation occurred on a state, county or municipal road or on another traffic-way. The department shall keep a record of points assessed for a period of one year from the date the violation occurred.

B. Points assessed to a driver will be expunged by the department automatically at the end of the twelfth month following the month in which the violation for which the points were assessed occurred.
[18.19.5.51 NMAC - Rp, 18.19.5.51 NMAC 3/14/2023]

18.19.5.52 POINT SYSTEM - SCHEDULE OF POINTS FOR VIOLATIONS:

A. Points to be assessed for conviction of violations on or after October 1, 1996 of provisions of the Motor Vehicle Code are scheduled in Subsections B through G below.

B. Eight (8) points for violation of the following section:

- 66-7-301 Speeding 26 or more mph over the posted speed limit on any traffic-way if the limit is 15, 30 or 75 mph
- 66-7-301 Speeding 26 or more mph over the posted speed limit on any traffic-way if the limit is other than 15, 30 or 75 mph and the speed was at least 76 mph

C. Six (6) points for violations of the following sections:

- 66-7-347 Passing school bus taking on or discharging passengers or displaying warning not to pass
- 66-8-113 Reckless driving
- 66-8-115 Contest racing on public traffic-way

D. Five (5) points for violation of the following section:

- 66-7-301 Speeding 16 to 25 mph over the posted speed limit on any traffic-way if the limit is 15, 30 or 75 mph
- 66-7-301 Speeding 16 to 25 mph over the posted speed limit on any traffic-way if the limit is other than 15, 30 or 75 mph and the speed was at least 76 mph

E. Four (4) points for violations of the following section:

- 66-7-332 Failure to yield right of way to an authorized emergency vehicle

F. Three (3) points for violations of the following sections:

(1) CARELESSNESS

- 66-8-114 Careless Driving

(2) FAILURE TO YIELD/OBEY TRAFFIC CONTROL DEVICES

- 66-7-104 Failure to obey traffic instructions stated on traffic sign or shown by traffic control device
- 66-7-328 Failure to yield right of way in a manner required at unsigned intersection
- 66-7-329 Vehicles turning left at intersection
- 66-7-330 Failure to yield right of way at yield sign, after stop sign or when emerging from private traffic-way
- 66-7-331 Failure to yield right of way at yield sign, after stop sign or when emerging from private traffic-way
- 66-7-341 Failure to obey traffic instructions stated on traffic sign or shown by traffic control device
- 66-7-342 Failure to obey traffic instructions stated on traffic sign or shown by traffic control device
- 66-7-343 Certain vehicles must stop at railroad grade crossings

- 66-7-346 Failure to yield right of way at yield sign, after stop sign or when emerging from private traffic-way
- (3) FOLLOWING/BACKING
 - 66-7-318 Following too closely
 - 66-7-354 Improper backing
- (4) TURNING MOVEMENTS/LANE POSITION
 - 66-7-322 Making improper turn
 - 66-7-323 Making improper turn
- (5) PASSING/LEFT OF CENTER
 - 66-7-308 Failure to drive on right side of roadway when required
 - 66-7-309 Passing vehicles proceeding in opposite directions
 - 66-7-310 Improper overtaking or passing of a vehicle
 - 66-7-311 Improper overtaking or passing of a vehicle
 - 66-7-312 Passing with insufficient distance allowed for other vehicles or with inadequate visibility
- 66-7-313 Driving to the left of center of roadway when prohibited
- 66-7-315 Passing where prohibited by posted signs or pavement markings
- (6) SPEEDING
 - 66-7-301 Speeding 6 to 15 mph over the posted speed limit on any traffic-way if the limit is 15, 30 or 75 mph
 - 66-7-301 Speeding 6 to 15 mph over the posted speed limit on any traffic-way if the limit is other than 15, 30 or 75 mph and the speed is at least 76 mph
- G. Two (2) points for violations of the following sections:
 - 66-3-801 Operating with any defective equipment resulting in inability to control vehicle movement properly
 - 66-3-840 Operating with defective brakes
 - 66-3-901 Operating with any defective equipment resulting in inability to control vehicle movement properly
 - 66-7-325 Failure to signal intention to change vehicle direction or to reduce speed suddenly
 - 66-7-326 Giving wrong signal
 - 66-7-357 Overloading vehicle with passengers or cargo
 - 66-7-369 Failure to restrain child passenger properly
 - 66-7-372 Failure to use seatbelt properly

[18.19.5.52 NMAC - Rp, 18.19.5.52 NMAC 3/14/2023]

18.19.5.53 POINT SYSTEM - WARNING AT 6 POINTS: Upon the accumulation by the driver of at least six points, the department may warn the driver of the possibility of suspension of the driver's license.

[18.19.5.53 NMAC - Rp, 18.19.5.53 NMAC 3/14/2023]

18.19.5.54 POINT SYSTEM - SUSPENSION OF DRIVER'S LICENSE AT 7 TO 10 POINTS: If a driver has been assessed from seven to ten points for violations occurring within a period of one year and the department receives a recommendation from a municipal or magistrate judge that the driver's license be suspended for a period not to exceed three months, the department shall automatically suspend the license for the period recommended by the municipal or magistrate judge up to a period of three months. If the judge does not specify the recommended length of the period of suspension, the department will presume that the recommendation is for a period of three months. The department shall notify the driver of the fact of the suspension of the driver's license and of the beginning and ending dates of the suspension.

[18.19.5.54 NMAC - Rp, 18.19.5.54 NMAC 3/14/2023]

18.19.5.55 POINT SYSTEM - SUSPENSION AT 12 POINTS: Upon the assessment of points to a driver which causes the total points accumulated by that driver to equal or exceed twelve points for violations occurring within a period of twelve consecutive months, the department shall suspend the driver's license for a period of twelve months. The department shall notify the driver of the fact of the suspension of the driver's license under 18.19.5.55 NMAC, the beginning date of the suspension and the driver's right to a hearing under the provisions of Subsection B of Section 66-5-30 NMSA 1978. The driver shall surrender the driver's license to the department

immediately upon receiving notice of the suspension unless the driver requests a hearing under the provisions of Subsection B of Section 66-5-30 NMSA 1978, in which case the license shall be surrendered immediately upon a final decision adverse to the driver.

[18.19.5.55 NMAC - Rp, 18.19.5.55 NMAC 3/14/2023]

18.19.5.56 POINT SYSTEM - HEARINGS:

A. Any hearing conducted pursuant to Subsection B of Section 66-5-30 NMSA 1978 shall be conducted before the director of the motor vehicle division or a person designated by the director. The officer conducting the hearing may postpone or continue the hearing on the officer's own motion or upon application from the driver for good cause shown.

B. At the beginning of the hearing, the officer conducting the hearing shall inform the driver of the driver's right to representation. In such hearings, the technical rules of evidence shall not apply but, in ruling on the admissibility of evidence, the officer conducting the hearing may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt. The rules of civil procedure for the district courts shall not apply but the hearing shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the officer conducting the hearing shall hear arguments, entertain and dispose of motions, require written expositions of the case as circumstances justify and render a decision in accordance with the law and the evidence presented and admitted.

C. The officer conducting the hearing shall make and preserve a complete record of the proceedings. The officer conducting the hearing may announce the decision at the conclusion of the hearing or may take the matter under advisement but shall, in either case, within 20 days inform the driver in writing of the decision and, if the decision is unfavorable to the driver, of the driver's right to and requirements for review of the matter by the courts.

D. Failure of the driver to appear without good cause at the hearing is grounds for an adverse decision.

[18.19.5.56NMAC - Rp, 18.19.5.56 NMAC 3/14/2023]

18.19.5.57 REINSTATEMENT OF SUSPENDED LICENSE - CONDITIONS: The department shall not reinstate a driver's license to any person whose license has been suspended under the provisions of 18.19.5.55 NMAC unless the conditions specified in 18.19.5.57 NMAC are met.

A. That person presents proof satisfactory to the department showing successful completion in a timely manner by that person of an approved driver improvement course. The course must be approved by the traffic safety bureau of the state highway and transportation department. Completion of the course must have occurred within 90 days immediately preceding the application for reinstatement of the license.

B. The driver must also successfully complete the written driver's examination and the vision examination which are administered by the department prior to the reinstatement of the driver's license.

[18.19.5.57 NMAC - Rp, 18.19.5.57 NMAC 3/14/2023]

18.19.5.58 through 18.19.5.69 [RESERVED]

18.19.5.70 LIMITED DRIVER'S LICENSE - PURPOSE - CRITERIA:

A. The director of the motor vehicle division may grant a limited driver's license so that an individual whose driving privileges have been suspended or revoked may obtain or continue to hold employment or to attend school, except in the instances specifically enumerated in Subsection A of Section 66-5-35 NMSA 1978.

B. A limited driver's license is the granting of a privilege to operate a motor vehicle upon the highways of this state but only during certain hours of the day. Unless evidence demonstrates that the limitation is unreasonable for a particular applicant, the general privilege is limited to days in which the applicant works or attends school. Each day the applicant works or attends school, the applicant's driving is limited to a period starting one hour before the applicant's time of beginning work or attending school and terminating one hour after the applicant's time of ending work or attending school. Limited licenses will not be issued for commercial driver's licenses. Limited licenses are available only for class D, E and M licenses.

C. With respect to driver's licenses suspended or revoked on or after July 1, 1999, all of the following criteria must be met by an applicant for a limited license.

(1) The suspension or revocation of the applicant's general driver's license must not have been a result of:

(a) a revocation for the fourth or subsequent time pursuant to Subsection C of

Section 66-8-111 NMSA 1978 or any revocation pursuant to Subsection B of Section 66-8-111 NMSA 1978;

- (b)** a conviction for committing great bodily harm by vehicle or great bodily injury by vehicle;
- (c)** a court order resulting from a finding of delinquency, pursuant to the Children's Code;
- (d)** a failure to appear in court or to pay a penalty assessment; or
- (e)** non-payment of a judgment or default in payment under a settlement agreement resulting from a motor vehicle accident.

(2) The applicant must be self-employed, gainfully employed by another or enrolled in school.

(a) If the applicant is or will be employed by another person, that current or prospective employer must certify in writing the applicant's employment and the certification must include:

- (i)** a description of the days and hours during which the applicant is working or will work each week;
- (ii)** a brief description of the applicant's work duties;
- (iii)** the specific duties of the applicant which require the operation of a motor vehicle on the job; and

(iv) a brief explanation of how, if at all, the lack of a driver's license would adversely affect the applicant's ability to hold or secure gainful employment with the employer.

(b) If self-employed, the applicant must certify in writing the self-employment and the certification must include:

- (i)** a description of the days and hours during which the applicant works each week;
- (ii)** a brief description of the applicant's business or professional activity;
- (iii)** the number, if any, of the applicant's employees; and
- (iv)** a brief explanation of why the employees, if any, could not perform all of the motor vehicle operations required by the applicant's business or professional activity.

(c) For the purposes of 18.19.5.70 NMAC, "school" includes any school, institute, college or university, whether public or private, offering courses of instruction to the public. If the applicant is attending school, the school must certify in writing the applicant's attendance and the certification must include:

- (i)** a description of the days and hours the applicant is required to attend;
- (ii)** a brief description of the program or course(s) the applicant is taking, the expected date of completion and whether the applicant is meeting program requirements; and
- (iii)** a brief explanation of how, if at all, the lack of a driver's license would adversely affect the applicant's ability to complete the course of instruction.

(3) The applicant must meet the requirements of the Mandatory Financial Responsibility Act. If the applicant meets the requirements through automobile insurance, the automobile insurance policy must identify the applicant as the insured and must be maintained for the term of any limited driver's license or permit granted.

(4) The applicant must take and pass any examination required for the class of license applied for.

(5) The applicant must agree to notify the motor vehicle division of any change in the applicant's circumstances affecting the limited license, including change in employment or enrollment, change in employment or enrollment status, a failure to meet the requirements of the Mandatory Financial Responsibility Act or any other circumstance required by the director. In addition, an applicant who is required to have an ignition interlock on each vehicle the applicant drives must also agree to inform the motor vehicle division whenever the applicant is permitted to drive additional vehicles.

(6) The applicant pays any required fee for the limited license.

(7) Applicants whose driver's license was revoked for a first, second or third time pursuant to Subsection C of Section 66-8-111 NMSA 1978 of the Implied Consent Act or was revoked as a result of a second or third conviction for driving under the influence of intoxicating liquor or drugs may not be granted a limited license until at least thirty days after the date of revocation. Such applicants must furnish documentation of:

(a) enrollment in an approved DWI school: proof that the applicant enrolled in an approved DWI school subsequent to the applicant's latest conviction for violation of the Implied Consent Act and completed the course prior to application for a limited license meets this requirement; and

(b) enrollment in an approved alcohol screening program: proof that the applicant enrolled in an alcohol screening program subsequent to the applicant's latest conviction for violation of the Implied

Consent Act and completed the program prior to application for a limited license meets this requirement.

(8) An applicant whose driver's license was revoked pursuant to Paragraph (3) of Subsection C of Section 66-8-111 NMSA 1978 of the Implied Consent Act shall provide proof that an ignition interlock is installed and operated according to the rules of the traffic safety bureau on every vehicle the applicant is to operate. The applicant must provide a list of vehicles to be operated by the applicant and proof that an approved and functioning ignition interlock is installed on each listed vehicle.

(9) An applicant whose driver's license was revoked as a result of a second or third conviction of driving under the influence of intoxicating liquor or drugs shall provide a copy of his judgment and sentence, which must attest that the applicant shall provide proof that each motor vehicle to be operated by the applicant is equipped with an ignition interlock of a type approved by the traffic safety bureau, and shall provide proof that an ignition interlock is installed and operated according to the rules of the traffic safety bureau on every vehicle the applicant is to operate. The applicant must provide a list of vehicles to be operated by the applicant and proof that an approved and functioning ignition interlock is installed on each listed vehicle.

D. Failure at any time during the period for which the limited license is granted to meet a requirement specified in 18.19.5.72 NMAC that is to be met during the entire period for which the limited license is granted is cause for revocation of the limited license.

[18.19.5.70 NMAC - Rp, 18.19.5.70 NMAC 3/14/2023]

18.19.5.71 LIMITED DRIVER'S LICENSE - APPLICATION - HEARING:

A. Applications for a limited driver's license are to be submitted to the director of the motor vehicle division for consideration. Upon receipt of the application, the director will determine whether the applicant is eligible to apply for a limited license, based on the reason for the suspension or revocation of the applicant's driving privileges and the requirements of 18.19.5.70 NMAC, and either grant or deny the application. If the application is denied, the department shall schedule a hearing in the applicant's county of residence, unless the applicant and the department agree to hold the hearing at another place.

B. [RESERVED]

C. [RESERVED]

D. [RESERVED]

E. [RESERVED]

F. The hearing will be conducted by a hearing officer designated by the department. During the hearing, the technical rules of evidence will not apply but the hearing shall be conducted in a manner which allows the applicant ample opportunity to present arguments and evidence in support of the request for a limited driver's license. The applicant's driver history will be part of the evidence introduced and considered.

G. At the conclusion of the hearing, the designated hearing officer shall review the evidence presented and either grant or deny the application for a limited driver's license. A written order shall be entered embodying the decision.

H. Any limited driver's license shall be in standard form approved by the director whether it is issued for employment or school attendance. It is also subject to the condition that the licensee must inform the motor vehicle division immediately of any change in the licensee's circumstances affecting the issuance of the license, including any change in employment, employment status or enrollment status.

I. The application and related documentation shall be retained by the department as part of the applicant's driver history.

J. A limited license issued under Section 66-5-35 NMSA 1978 may be suspended or revoked as any other driver's license or for any violation of the conditions to which the limited license is subject.

[18.19.5.71 NMAC - Rp, 18.19.5.71 NMAC 3/14/2023]

18.19.5.72 APPROVED DWI SCHOOL AND APPROVED ALCOHOL SCREENING PROGRAM:

A. An approved DWI school is any DWI school approved by the traffic safety bureau of the state highway and transportation department.

B. An approved alcohol screening program is any alcohol screening program certified by the traffic safety bureau of the state highway and transportation department as having been approved by any court, as provided for in Section 66-8-102(H) NMSA 1978.

[18.19.5.72 NMAC - Rp, 18.19.5.72 NMAC 3/14/2023]

18.19.5.73 through 18.19.5.99 [RESERVED]

18.19.5.100 COMMERCIAL DRIVER'S LICENSE - THIRD PARTY SKILLS TESTING:

A. The department may enter into contracts with public agencies or private entities to administer the skills tests required by Section 66-5-60 NMSA 1978. Any such contract shall specify the area of the state for which the contractor is to provide the testing service, the frequency of the test offerings, the community locations where testing will be offered and a time schedule when testing will be conducted in each location. The contractor shall be fully responsible for all equipment and the state of New Mexico shall have no liability for such equipment owned, rented or otherwise used by the contractor.

B. The contractor is authorized to charge a fee, as determined in the contract with the department, for the administration of each skill test.

[18.19.5.100 NMAC - Rp, 18.19.5.100 NMAC 3/14/2023]

18.19.5.101 COMMERCIAL DRIVER'S LICENSE - NOTIFICATION BY DRIVER:

A. Any driver who holds a class A, B or C driver's license issued by the department and who is convicted of a violation of a state law or local ordinance relating to motor vehicle traffic control, other than parking violations, shall notify the motor vehicle division by sending a letter, postmarked within thirty days of conviction, setting out the following:

- (1) name of licensee;
- (2) licensee's New Mexico driver's license number;
- (3) date of violation;
- (4) date of conviction;
- (5) offense for which convicted;
- (6) state in which violation occurred;
- (7) court in which convicted; and
- (8) whether or not a fine was paid.

B. The letter must be sent to driver services bureau, motor vehicle division, P. O. Box 1028, Santa Fe, N.M. 87504-1028.

[18.19.5.101 NMAC - Rp, 18.19.5.101 NMAC 3/14/2023]

18.19.5.102 COMMERCIAL DRIVER'S LICENSE - DISQUALIFICATION FOR VIOLATION OF OUT-OF-SERVICE ORDER: As used in Section 66-5-71 NMSA 1978, "first violation" means the first violation within the ten-year period ending on the date of the driver's conviction of violating an out-of-service order.

[18.19.5.102 NMAC - Rp, 18.19.5.102 NMAC 3/14/2023]

18.19.5.103 COMMERCIAL DRIVER'S LICENSE - DISQUALIFICATION PURSUANT TO PARENTAL RESPONSIBILITY ACT - GENERAL - REINSTATEMENT SURCHARGE:

A. The terms "suspension" or "revocation" as used in the Parental Responsibility Act (Laws 1995, Chapter 25) are equivalent to "disqualification" as that term is used in the New Mexico Commercial Driver's License Act.

B. A disqualification pursuant to the Parental Responsibility Act will be entered by the human services department. In accordance with Section 66-5-30 NMSA 1978, the taxation and revenue department will issue a notice to the driver. The driver may request a hearing on the disqualification in accordance with 18.19.5.104 NMAC.

C. Unless reinstatement is required as a result of a hearing, a disqualification pursuant to the Parental Responsibility Act will continue until:

- (1) the human services department issues a written certificate of compliance to the driver;
- (2) the driver presents the certificate of compliance to the motor vehicle division; and;
- (3) the driver pays motor vehicle division both the reinstatement fee required by Section 66-5-33.1 NMSA 1978 and the reinstatement surcharge.

D. Under the authority granted by Section 40-5A-12 NMSA 1978, a reinstatement surcharge of twenty-five dollars (\$25.00) is imposed on reinstatement of a commercial driver's license that had been disqualified pursuant to the Parental Responsibility Act. The surcharge is to cover the costs of implementing and administering the Parental Responsibility Act.

E. This regulation is applicable to disqualifications by the human services department under the Parental Responsibility Act on or after August 1, 1995.

[18.19.5.103 NMAC - Rp, 18.19.5.103 NMAC 3/14/2023]

18.19.5.104 [RESERVED]
[18.19.5.104 NMAC - Rp, 18.19.5.104 NMAC 3/14/2023]

18.19.5.105 [RESERVED]
[18.19.5.105 NMAC - Rp, 18.19.5.105 NMAC 3/14/2023]

18.19.5.106 COMMERCIAL DRIVER'S LICENSE - REDUCTION OF LIFETIME DISQUALIFICATION - GUIDELINES:

A. A driver who has been disqualified for life under Subsection C of Section 66-5-68 NMSA 1978 may apply to the department to have the disqualification period reduced to a period of not less than ten years after meeting the following guidelines and submitting a letter requesting a review of the disqualification when that driver:

(1) Received a lifetime disqualification resulting from two convictions for driving under the influence of alcohol, or two convictions for driving under the influence of a controlled substance, or a combination of one conviction for driving under the influence of alcohol and one conviction for driving under the influence of a controlled substance. The driver may apply to the department for a review of a lifetime disqualification from driving a commercial motor vehicle when the driver has:

(a) Successfully completed a (licensed) alcohol rehabilitation program if the disqualification is a result of two convictions for driving under the influence of alcohol; or

(b) Successfully completed a (certified) drug rehabilitation program if the disqualification is a result of two convictions for driving under the influence of a controlled substance; or

(c) Successfully completed a (licensed) program in alcohol rehabilitation and a separate (certified) program in drug rehabilitation if the disqualification is a result of one conviction for driving under the influence of alcohol and one conviction for driving under the influence of a controlled substance.

(2) Provides information, satisfactory to the department, that the driver has not abused the use of alcohol or a controlled substance for a period of at least five consecutive years immediately prior to the application for review.

(3) Has held a valid class D license for at least five consecutive years immediately prior to the date of the application for review, and during that time the driver's record has no convictions for moving violations and no convictions for any offense relating to the use of alcohol or any controlled substance.

B. Lifetime disqualifications which were imposed because of convictions resulting from:

(1) Leaving the scene of an accident involving a commercial vehicle; or

(2) Using a commercial motor vehicle in the commission of a felony; or

(3) A combination of A and B above, may apply to the department for a review of a lifetime disqualification from driving a commercial motor vehicle when the driver has held a valid class D license for at least five consecutive years immediately prior to the date of the application for review and during that time the driver's record contains no convictions for moving violations.

C. A lifetime disqualification may be reduced to not less than 10 years when a driver meets the minimum qualifications set out in the guidelines and submits a letter of request to the director of the motor vehicle division along with any substantiating material. If the director is satisfied with the information submitted, the director may reduce the lifetime disqualification to a period of time which, when added to the period of time that has elapsed since the date of the disqualification, will be not less than 10 years.

[18.19.5.106 NMAC - Rp, 18.19.5.106 NMAC 3/14/2023]

18.19.5.107 COMMERCIAL DRIVER'S LICENSE - REDUCTION OF LIFETIME DISQUALIFICATION - REQUEST FOR HEARING - CONDUCT OF HEARING:

A. Any driver who has requested a review of a lifetime disqualification, who is not satisfied with the decision of the director of the motor vehicle division may request an informal hearing. Requests for an informal hearing must be in writing and must be received by the motor vehicle division or postmarked within ten days after receipt of the notification of the director's decision. Requests for an informal hearing received after this time will not be honored.

B. The time and place of hearing shall be established by the motor vehicle division and notice of such informal hearing shall be given to the requestor by certified mail.

C. The director may designate a hearing officer to conduct the hearing and issue a decision on behalf of the motor vehicle division.

D. The director or hearing officer shall have the duty to conduct a fair and impartial hearing, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain good order and

decorum.

E. Failure of the driver to appear at a scheduled hearing will result in forfeiture of the opportunity for a review and the determination of the director shall be conclusive.

F. The director or hearing officer shall provide the requestor with a written decision which shall be sent by certified mail not more than 10 days after the close of the informal hearing.

[18.19.5.107 NMAC - Rp, 18.19.5.107 NMAC 3/14/2023]

18.19.5.108 COMMERCIAL DRIVER'S LICENSE - NO "EMPLOYMENT ONLY" COMMERCIAL DRIVER'S LICENSES: During any period in which an individual's commercial driver's license is suspended or revoked, if the individual is eligible for a limited driving privilege under Section 66-5-35 NMSA 1978, the limited driving privilege shall apply only to a Class D, E or M license. The limited driving privilege available under Section 66-5-35 NMSA 1978 does not apply to commercial driver's licenses.

[18.19.5.108 NMAC - Rp, 18.19.5.108 NMAC 3/14/2023]

18.19.5.109 COMMERCIAL DRIVER'S LICENSE - CONSEQUENCES OF SECOND DISQUALIFICATION FOR LIFE: A driver whose lifetime disqualification has been reduced to a period of not less than ten years under the provisions of this section and regulations thereunder who is again convicted of a violation resulting in a disqualification for life is not eligible to apply to the department for reduction of the disqualification period resulting from the second conviction. Any application for reduction of the subsequent disqualification for life made by such a driver will be disapproved and the department will not grant a hearing with respect to that disapproval.

[18.19.5.109 NMAC - Rp, 18.19.5.109 NMAC 3/14/2023]

18.19.5.110 CANCELLATION OF COMMERCIAL DRIVER'S LICENSE FOR FALSE INFORMATION: Within ten days of discovery of the falsification, the department shall cancel the commercial driver's license of a driver who falsified any material information on any application or certification required to obtain that license. The driver is disqualified from applying for another commercial driver's license for sixty days following the date of cancellation.

[18.19.5.110 NMAC - Rp, 18.19.5.110 NMAC 3/14/2023]

18.19.5.111 COMMERCIAL DRIVER'S LICENSE - COMMERCIAL DRIVER'S LICENSE TESTING:

A. A New Mexico commercial driver's license shall not be issued to any person who has not successfully completed the knowledge and skills tests specified by 18.19.5.111 NMAC. The knowledge tests for New Mexico are in two forms, form A and form B, for each of seven areas of knowledge: general knowledge, air brakes, combination vehicles, passenger transport, tank vehicles, doubles/triples and hazardous materials (HAZMAT). If a driver fails to pass a knowledge test, either form A or B, the alternate form shall be administered the next time the driver takes the test. Passing grades for each separate test shall be eighty percent or higher. Any driver who does not achieve a score of eighty percent or higher on any knowledge or skill test may retake a test on that subject after one week or more has intervened since the date last tested. The director, motor vehicle division, however, may waive the time limit when the driver demonstrates that the one week wait would cause undue hardship.

B. A school bus endorsement shall not be issued to any person who has not successfully completed a knowledge test and a skills test in both a passenger commercial motor vehicle and a school bus.

C. The skills tests for New Mexico shall be composed of the three parts set forth in Subsections D through F of 18.19.5.111 NMAC.

D. The pre-trip test which shall consist of at least the following parts:

(1) Tractor-trailer addressing the following elements:

- (a)** Engine compartment
- (b)** Engine start
- (c)** Front of vehicle
- (d)** Left or right side of vehicle
- (e)** Coupling system
- (f)** Rear of vehicle

(2) Straight truck:

- (a)** Engine compartment

- (b) Engine start
 - (c) Front of vehicle
 - (d) Left or right side of vehicle
 - (e) Rear of vehicle
 - (3) School bus, coach bus, transit bus:
 - (a) Engine compartment
 - (b) Engine start
 - (c) Front of vehicle
 - (d) Right side of vehicle
 - (e) Passenger compartment
 - (f) Rear of vehicle
- E. The basic skills tests which shall consist of one of the following forms:
 - (1) Form 1 addressing at least the following:
 - (a) Alley dock
 - (b) Straight line backing
 - (c) Sight side parallel park
 - (d) Conventional parallel park
 - (2) Form 2 addressing at least the following:
 - (a) Right turn
 - (b) Alley dock
 - (c) Conventional parallel park
 - (d) Backing serpentine
 - (3) Form 3 addressing at least the following:
 - (a) Alley dock
 - (b) Straight line backing
 - (c) Conventional parallel park
 - (d) Backing serpentine
- F. The road test shall consist of the following maneuvers:
 - (1) Four left turns
 - (2) Four right turns
 - (3) One stop intersection
 - (4) One through intersection
 - (5) Urban straight section
 - (6) Expressway section or rural section if no expressway available
 - (7) One drive down grade and one simulated drive down grade
 - (8) One drive up grade
 - (9) Stop on downgrade or stop on upgrade
 - (10) One underpass or one bridge (tractor-trailer only)
 - (11) One curve (left or right)
 - (12) Railroad crossing:
 - (a) For non-bus and non-HAZMAT: One railroad crossing or one extra through intersection
 - (b) For bus or HAZMAT: One railroad crossing or one simulated railroad crossing.
- G. The skills test required by 18.19.5.111 NMAC shall be deemed to have been met by a driver who has been qualified and employed as a commercial driver for two or more years at the time of application for a class A, B, or C license, and who has not been convicted of a point assessment violation nor had an accident with fault while driving a commercial vehicle within the last three years.
[18.19.5.111 NMAC - Rp, 18.19.5.111 NMAC 3/14/2023]

18.19.5.112 COMMERCIAL DRIVER'S LICENSE - VEHICLE DRIVERS EXCLUDED FROM THE REQUIREMENT TO HOLD A COMMERCIAL DRIVER'S LICENSE: For purposes of licensing drivers of commercial vehicles and issuing commercial drivers licenses, the driver of one of the following vehicles is not required to have a commercial drivers license to operate such a vehicle upon the public roads and highways in New Mexico:

- A. Recreational vehicles - a vehicle licensed as a recreational vehicle under the provisions of Section 66-1-4 NMSA 1978 and used as a recreational vehicle;

- B.** Farm and ranch vehicles - vehicles that meet the following criteria:
 - (1) controlled and operated by a farmer or rancher or an employee of a farmer or rancher;
 - (2) used to transport agricultural products, agricultural machinery or agricultural supplies to or from a farm or ranch;
 - (3) used within 150 miles of the persons farm or ranch;
 - (4) not used in the operations of a common or contract motor carrier or otherwise used “for hire”;
 - C.** Firefighting vehicles - vehicles manufactured for and equipped to fight fires and equipped with audible and visual signals and operated by a person who is a member of a volunteer or paid fire organization; or
 - D.** Military vehicles - all vehicles owned or operated by the department of defense and operated by non-civilian operators.
- [18.19.5.112 NMAC - Rp, 18.19.5.112 NMAC 3/14/2023]

18.19.5.113 COMMERCIAL DRIVER'S LICENSE - CLASSIFICATIONS OF COMMERCIAL DRIVER'S LICENSES:

- A.** Commercial driver's licenses shall be issued under the following classifications:

<u>Class</u>	<u>Vehicles Licensee Authorized to Operate</u>
A	Any combination of vehicles with a gross combined vehicle weight rating of 26,001 or more pounds provided the gross vehicle weight rating of the vehicle(s) being towed is in excess of 10,000 pounds, and all lesser classes (B, C and D) of vehicles except motorcycles. In order to drive a motorcycle a driver must have a motorcycle endorsement.
B	Any single vehicle with a gross vehicle weight rating of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating, and all lesser classes (C and D) of vehicles except motorcycles. In order to drive a motorcycle a driver must have a motorcycle endorsement.
C	Any single vehicle less than 26,001 pounds gross vehicle weight rating, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating, and all lesser classes (D) of vehicles except motorcycles. In order to drive a motorcycle a driver must have a motorcycle endorsement. This “C” classification applies only to vehicles placarded for hazardous materials or designed to transport 16 or more passengers, including the driver.
 - B.** New Mexico's driver's licenses classes 6 through 10 issued under the former classification system are no longer valid.
- [18.19.5.113 NMAC - Rp, 18.19.5.113 NMAC 3/14/2023]

18.19.5.114 COMMERCIAL DRIVER'S LICENSE - ENDORSEMENTS TO COMMERCIAL DRIVER'S LICENSES:

- A.** Commercial driver's licenses may have one or more of the following endorsements:

<u>Endorsement</u>	<u>Authorizes Licensee to Operate</u>
T	Combination vehicles with double trailers.
N	A tank vehicle intended for hauling liquids in bulk.
P	Any vehicle designed to transport 16 or more passengers, including the driver.
H	Any vehicle used to transport hazardous materials.
X	Any tank vehicle used to transport placarded amounts of hazardous material.

This is a combination of endorsements “N” and “H”.

S	A school bus.
Z	Any two- or three-wheeled motorcycle with an engine of less than 50 cubic centimeters piston displacement.
Y	Any two- or three-wheeled motorcycle with an engine of at least 50 but less than 100 cubic centimeters piston displacement.
W	Any two- or three-wheeled motorcycle with an engine of 100 or more cubic centimeters piston displacement.
O	Other - Reserved for future use.
 - B.** In Subsection D of Section 66-5-65 NMSA 1978, Paragraphs (1) and (3) through (7) specify endorsements.
- [18.19.5.114 NMAC - Rp, 18.19.5.114 NMAC 3/14/2023]

18.19.5.115 COMMERCIAL DRIVER'S LICENSE - RESTRICTIONS TO COMMERCIAL DRIVER'S

LICENSES:

A. Commercial driver's licenses may have one or more of the following restrictions place upon the license:

<u>Restriction Code</u>	<u>Restriction</u>
B	Driver must wear corrective lenses while driving.
C	Driver limited to vehicles equipped with suitable mechanical aids such as special brakes, hand controls or other adaptive devices.
D	Driver must use prosthetic aids (other than glasses) while driving.
E	Driver limited to vehicles with automatic transmissions.
K	Driver limited to driving a commercial vehicle in intrastate commerce only.
L	Driver limited to driving commercial vehicles which do not have air brakes.
M	Driver not authorized to drive a Class A bus.
N	Driver not authorized to drive a Class A or Class B bus.
O	Driver not authorized to drive a Class A tractor trailer combination vehicle.
R	Driver limited to operating a school bus.
S	Driver authorized to operate only a commercial motor vehicle owned by a governmental entity, and only as a government employee.
T	Driver authorized only to operate a Class B or Class C bus.

B. Paragraph (2) of Subsection D of Section 66-5-65 NMSA 1978 specifies a restriction. [18.19.5.115 NMAC - Rp, 18.19.5.115 NMAC 3/14/2023]

18.19.5.116 COMMERCIAL DRIVER'S LICENSE - SPECIAL REQUIREMENTS FOR COMMERCIAL DRIVER'S LICENSE:

A. Applicants for a commercial driver's license must be 21 years of age or older, and shall have a valid class D license in their possession.

B. Drivers at least 18 but not over 21 years of age may apply for a commercial driver's license with restriction "K" on the license, which restricts its use to driving in intrastate commerce only. An applicant for the intrastate commercial driver's license must have a valid class D license in his or her possession. Applicants for a hazardous material endorsement must be 21 years of age to transport placarded amounts of hazardous material in intrastate commerce. [18.19.5.116 NMAC - Rp, 18.19.5.116 NMAC 3/14/2023]

18.19.5.117 COMMERCIAL DRIVER'S LICENSE - RECIPROCITY

A. Commercial Driver's License – Reciprocity with Canada: Pursuant to agreements entered into by the United States, reciprocity is also extended to any person who holds a commercial driver's license issued by the national government of Canada or any of the provinces of Canada if the license is not suspended, revoked or canceled and if the person is not disqualified from driving a commercial motor vehicle or subject to an out-of-service order.

B. Commercial Driver's License – Mexican Driver's Licenses: A Mexican national issued a licencia federal de conductor by the secretariat of communication and transport of the United Mexican States may operate a commercial vehicle in New Mexico. [18.19.5.117 NMAC - Rp, 18.19.5.117 NMAC 3/14/2023]

18.19.5.118 INSTRUCTION PERMIT - PURPOSE - CRITERIA:

A. For purposes of 18.19.5.118 NMAC:
(1) "alternative test" means a test provided by the PED or approved by the PED pursuant to its rules and procedures and administered in a public school, non-public school or by a home school operator to measure a student's proficiency in reading and math in the eighth grade;
(2) "IDEA" means the Individuals with Disabilities Education Improvement Act of 2004 [20 U.S. Code Sec. 1400 et seq.], which is a comprehensive federal law that addresses specially designed instruction, at no cost to the parent, to meet the unique needs of a child with disabilities;

(3) “**IEP**” means an individualized education program, which is a written statement designed to meet the unique educational needs of a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR Sections 300.320 through 300.324;

(4) “**minor**” means a person under the age of eighteen (18) years, but at least fifteen (15) years old;

(5) “**nearing an academic proficiency score in reading and math in the eighth grade**” means attaining a minimum score in reading and math during a student’s eighth grade as established by the laws, rules or procedures of the PED on the New Mexico standards based assessment;

(6) “**New Mexico standards based assessment**” means a system for testing students in various grades for their proficiency in the subject areas of mathematics, reading and language arts, writing, science and social studies; pursuant to the Assessment and Accountability Act 22-2C-1 to 22-2C-11 NMSA 1978 and procedures of the PED, assessments on various subject areas that include science, mathematics and reading are administered annually to students in different grades;

(7) “**ninety percent school attendance**” means one of several indicators used pursuant to the Assessment and Accountability Act 22-2C-1 to 22-2C-11 NMSA 1978 and procedures of the PED to measure public school improvement, but would not include excused absences;

(8) “**PED**” means the public education department;

(9) “**Section 504**” means Section 504 of the Rehabilitation Act of 1973 29 U.S. Code Section 794 and its implementing regulations, which provide that “no otherwise qualified individual with a disability shall, solely by reason of her or his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance; and

(10) “**Section 504 plan**” means the accommodation plan required if the individual has a mental or physical impairment that substantially limits one or more of the person’s major life activities, including learning, but is not already receiving special education services under the eligibility requirements of the IDEA.

B. The director may issue an instruction permit to a minor under the provisions of Subsection D of Section 66-5-8 NMSA 1978. In order to motivate minors to attend school and succeed in their studies, beginning with applications submitted to the director on or after September 1, 2011, a minor applying for an instruction permit shall provide evidence of ninety percent school attendance during their ninth grade year and at least nearing an academic proficiency score in reading and math in the eighth grade on the New Mexico standards based assessment or on an alternative test.

C. A minor applying for an instruction permit must provide the following:

(1) satisfactory proof of identity number, identity and residency as set forth in 18.19.5.12 NMAC;

(2) proof of attendance in or completion of a driver education course that includes a DWI prevention and education program approved by the bureau or offered by a public school;

(3) a school compliance verification form approved by the director that shall include parental consent for the release of certain educational information to the director; the school compliance verification form shall be certified by a school official and signed by a parent to indicate consent to release the minor’s student information to the director; the form shall certify that the applicant has:

(a) achieved ninety percent school attendance, not including excused absences, during the ninth grade year or portion of the ninth grade year prior to applying for the instructional permit; and

(b) demonstrated at least nearing an academic proficiency score in reading and math in the eighth grade on the New Mexico standards based assessment or on an alternative test.

D. The school compliance verification form shall permit children with disabilities as described in the IDEA and in federal and state regulations and children for whom Section 504 plans are in place to obtain certifications that consider the effect if any of their disabilities in meeting ninety percent school attendance during the ninth grade year or portion of the ninth grade year or demonstrating at least nearing an academic proficiency score in reading and math in the eighth grade. Any such certification must be based on a written IEP or Section 504 team recommendation contained in the IEP or Section 504 plan of a child with a disability. In making the recommendation to the person or official who enters the certification on the school compliance verification form where a child with a disability fails to satisfy the attendance or proficiency requirements discussed in this rule, the IEP or Section 504 team shall, pursuant to rules and procedures of the PED, consider whether a child’s disability affected their ability to satisfy either or both the attendance or proficiency requirements.

E. In lieu of a school compliance verification form, an applicant may provide:

(1) proof of graduation from a high school; or

(2) proof of having received a general educational development certificate.

F. A minor enrolled in non-public school or in a home school shall submit satisfactory proof of identity number, identity and residency as set forth in 18.19.5.12 NMAC, proof of attendance, and proof of ninety percent school attendance and at least nearing an academic proficiency score in reading and math in the eighth grade New Mexico standards based assessment or on an alternative test, as established by the laws, rules or procedures of the PED. This evidence shall be submitted on a form approved by the director that shall include parental consent for the release of certain educational information to the director.

G. Failure to demonstrate ninety percent school attendance will result in the minor being ineligible to be issued an instruction permit until six months from the date of application, unless an administrator of a non-public school or operator of a home school certify to their non-maintenance of attendance records.

H. Failure to demonstrate nearing an academic proficiency score in reading and math in the eighth grade New Mexico standards based assessment or on an alternative test will result in the minor being ineligible to be issued an instruction permit until six months from the date of application.

I. Failure to demonstrate both ninety percent school attendance and nearing an academic proficiency score in reading and math in the eighth grade New Mexico standards based assessment or on an alternative test will result in the minor being ineligible to be issued an instruction permit until one year from the date of application, unless an administrator of a non-public school or operator of a home school certify to their non-maintenance of attendance records.

[18.19.5.118 NMAC - Rp, 18.19.5.118 NMAC 3/14/2023]

HISTORY OF 18.19.5 NMAC:

Pre-NMAC History: Certain material in this part was derived that previously filed with the Commission of Public Records - State Records Center and Archives:

MVD 70-4, (Regulation No. 70-1), In the Matter of Fixing Fees for the Purchase of Abstracts of Records of the Department of Motor Vehicles and Text of Motor Vehicle Code, filed 7/1/1970.

MVD 70-6, (Regulation No. 70-3), 64-13-40, Persons Not to be Licensed; 64-13-60, Authority of Division to Suspend or Revoke License; In the Matter of the Establishment of a Point System for Violations of Motor Vehicle and Traffic Laws so as to Provide a Fair and Workable Method to Effectuate the Authority Conferred Upon the DMV to Suspend a Driving License by Section 64-13-60 NMSA 1953 Compilation and Inherent in Section 64-13-40(1) Thereof, filed 9/2/1970.

MVD 70-27, (Regulation No. 70-3A), 64-13-40, Persons Not to be Licensed; 64-13-60, Authority of Division to Suspend or Revoke License; In the Matter of the Establishment of a Point System for Violations of Motor Vehicle and Traffic Laws so as to Provide a Fair and Workable Method to Effectuate the Authority Conferred Upon the DMV to Suspend a Driving License by Section 64-13-60 NMSA 1953 Compilation and Inherent in Section 64-13-40(1) Thereof and Amending Regulation No. 70-3, Adopted 8/28/1970, filed 11/25/1970.

MVD 72-2, (Regulation No. 72-2), 64-13-40, Persons Not to be Licensed; 64-13-60, Authority of Division to Suspend or Revoke License; In the Matter of the Establishment of a Point System for Violations of Motor Vehicle and Traffic Laws so as to Provide a Fair and Workable Method to Effectuate the Authority Conferred Upon the DMV to Suspend a Driving License by Section 64-13-60 NMSA 1953 Compilation and Inherent in Section 64-13-40(1) Thereof and Amending Regulation No. 70-3A, Adopted 11/20/70, filed 7/20/1972.

MVD 73-1, (Regulation No. 73-1), 64-13-40, Persons Not to be Licensed; 64-13-60, Authority of Division to Suspend or Revoke License; In the Matter of the Establishment of a Point System for Violations of Motor Vehicle and Traffic Laws so as to Provide a Fair and Workable Method to Effectuate the Authority Conferred Upon the DMV to Suspend a Driving License by Section 64-13-60 NMSA 1953 Compilation and Inherent in Section 64-13-40(1) Thereof and Amending Regulation No. 72-2, Adopted 7/20/1972, filed 4/10/1973.

MVD 73-5, (Regulation No. 73-3), 64-13-40, Persons Not to be Licensed; 64-13-60, Authority of Division to Suspend or Revoke License; In the Matter of the Establishment of a Point System for Violations of Motor Vehicle and Traffic Laws so as to Provide a Fair and Workable Method to Effectuate the Authority Conferred Upon the DMV to Suspend a Driving License by Section 64-13-60 NMSA 1953 Compilation and Inherent in Section 64-13-40(1) Thereof and Replacing Regulation No. 73-1, Adopted 4/10/73, filed 11/7/1973.

MVD 75-1, (Regulation No. 75-1), 64-13-40, Persons Not to be Licensed; 64-13-60, Authority of Division to Suspend or Revoke License; In the Matter of the Establishment of a Point System for Violations of Motor Vehicle and Traffic Laws so as to Provide a Fair and Workable Method to Effectuate the Authority Conferred Upon the DMV to Suspend a Driving License by Section 64-13-60 NMSA 1953 Compilation and Inherent in Section 64-13-40(1) Thereof and Replacing Regulation No. 73-3, Adopted 10/15/1973, filed 3/14/1975.

TRD Regulations MVC 5-30:1/8, Regulations Pertaining to the Motor Vehicle Code, Section 66-5-5 NMSA 1978, filed 9/1/1988.

MVD 70-16, (Regulation No. 70-13), In the Matter of Chauffeur's License as Required Under Sections 64-2-4 and 64-13-41 NMSA 1953, filed 9/2/1970.

MVD 78-3, New Mexico Uniform Traffic Ordinance 1978, filed 11/6/1978.

MVD 78-4, (Regulation No. 78-1) 1.00 Authorization: 66-5-7, Driver's License - Classification - Examinations; 66-5-8, Instruction Permits and Temporary Licenses; 66-5-9, Application for License or Instruction Permit; and 66-5-14; Examination of Applicants. 2.00 Classification of Licenses and Permits. 3.00 Waiver of Road Test and Certification Program, filed 12/28/1978.

MVD 79-1, (Regulation No. 79-1) 1.00 Authorization: 66-5-7, Driver's License - Classification - Examinations; 66-5-8, Instruction Permits and Temporary Licenses; 66-5-9, Application for License or Instruction Permit; and 66-5-14; Examination of Applicants. 2.00 Classification of Licenses and Permits. 3.00 Waiver of Road Test and Certification Program, filed 1/3/1979.

Transportation Rule No. 83-2-MVD, Classification of Driver Licenses and Permits, filed 12/9/1983.

Transportation Rule No. 84-2-MVD, Limited Driver's License, filed 12/9/1983.

TRD MVC 5-32:1, Regulations Pertaining to the Motor Vehicle Code, Section 66-5-32 NMSA 1978 (Reinstatement of Suspended License - Conditions), filed 4/7/1989.

TRD MVC 5-7: 1&2, Regulations Pertaining to the Motor Vehicle Code, Section 66-5-7 NMSA 1978, Driver's License - Classification; Examinations, filed 2/28/1990.

TRD MVC 5-19:1, Regulation Pertaining to the Motor Vehicle Code, Section 66-5-19 NMSA 1978, Restricted Licenses, filed 2/28/1990.

TRD MVC 5-54:1, Regulations Pertaining to the Motor Vehicle Code, Section 66-5-54 NMSA 1978, Definitions, filed 2/28/1990.

TRD MVC 5-57:1, Regulation Pertaining to the New Mexico Commercial Driver's License Act, Section 66-5-57 NMSA 1978, Notification by Driver to the Division, filed 2/28/1990.

TRD MVC 5-60:1&2, Regulations Pertaining to the New Mexico Commercial Driver's License Act, Section 66-5-60 NMSA 1978, Commercial Driver's License - Qualifications - Standards, filed 2/28/1990.

TRD MVC 5-65:1-5, Regulations Pertaining to the New Mexico Commercial Driver's License Act, Section 66-5-65 NMSA 1978, Classifications - Endorsements - Restrictions, filed 2/28/1990.

TRD MVC 5-68:1-4, Regulations Pertaining to the New Mexico Commercial Driver's License Act, Section 66-5-68 NMSA 1978, Disqualifications - Cancellations, filed 2/28/1990.

TRD MVC 5-70:1&2, Regulation Pertaining to the New Mexico Commercial Driver's License Act, Section 66-5-70 NMSA 1978, Reciprocity, filed 2/28/1990.

TRD MVC 5-35:1&2, Regulation Pertaining to the Motor Vehicle Code, Section 66-5-35 NMSA 1978, Limited Driver's License - Purpose, Criteria, Application, Hearing, filed 7/20/1990.

TRD MVC 5-19:2, Regulation Pertaining to the Motor Vehicle Code, Section 66-5-19 NMSA 1978, MVC 5-19:2 - Restricted License Intrastate Commercial Driving, filed 3/16/1992.

TRD MVC 5-93, Regulations Pertaining to the Motor Vehicle Code, Article 5, Chapter 66 NMSA 1978, filed 8/20/1993.

History of Repealed Material:

MVD 78-3, New Mexico Uniform Traffic Ordinance 1978, filed 11/6/1978 - Repealed 5/31/2000.

18.19.5 NMAC, Motor Vehicle Procedures, Licenses, Permits, filed 8/31/2000 - Repealed effective 3/14/2023.

Other:

18.19.5 NMAC, Motor Vehicle Procedures, Licenses, Permits, filed 8/31/2000 - Replaced 18.19.5 NMAC, Motor Vehicle Procedures, Licenses, Permits, effective 3/14/2023.