

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 20 PUBLIC SCHOOL FINANCE - BUDGETING AND ACCOUNTING
PART 3 PROCEDURES FOR THE PAYMENT OF SETTLEMENT AGREEMENTS

6.20.3.1 ISSUING AGENCY: Public Education Department
[01-15-99; 07-30-99; 6.20.3.1 NMAC - Rn, 6 NMAC 2.2.4.1, 12-29-00; A, 3-15-07]

6.20.3.2 SCOPE: This rule applies to local school boards and governing bodies of charter schools.
[01-15-99; 6.20.3.2 NMAC - Rn, 6 NMAC 2.2.4.2, 12-29-00; A, 3-15-07]

6.20.3.3 STATUTORY AUTHORITY: This rule is adopted pursuant to Sections 22-2-1, 22-2-2, 22-8-11, 22-8-13, and 22-8-42 NMSA 1978.
[01-15-99; 6.20.3.3 NMAC - Rn, 6 NMAC 2.2.4.3, 12-29-00; A, 3-15-07]

6.20.3.4 DURATION: Permanent
[01-15-99; 6.20.3.4 NMAC - Rn, 6 NMAC 2.2.4.4, 12-29-00]

6.20.3.5 EFFECTIVE DATE: January 15, 1999, unless a later date is cited at the end of a section.
[01-15-99; 6.20.3.5 NMAC - Rn, 6 NMAC 2.2.4.5, 12-29-00]

6.20.3.6 OBJECTIVE: This rule establishes procedures to be followed if a local school board or governing body of a charter school intends to use public funds to pay a settlement to an administrator whose contract has been terminated prior to the end of the term of the contract.
[01-15-99; 6.20.3.6 NMAC - Rn, 6 NMAC 2.2.4.6, 12-29-00; A, 3-15-07]

6.20.3.7 DEFINITIONS:

- A. "Administrator" means an individual licensed in education administration and employed in an administrative capacity, including but not limited to superintendents, assistant superintendents, principals, and assistant principals.
 - B. "Department" means the public education department (PED).
 - C. "Local school board" means the governing body of a school district or charter school.
 - D. "Secretary" means the secretary of public education.
 - E. "Superintendent" means the superintendent of schools of the local school district.
- [01-15-99; 6.20.3.7 NMAC - Rn, 6 NMAC 2.2.4.7, 12-29-00; A, 3-15-07]

6.20.3.8 REQUIREMENTS:

- A. The following procedures will be adhered to if a local board or charter school intends to use public funds to make payment pursuant to a settlement agreement entered into with an administrator as a result of a contract termination.
 - (1) As soon as it becomes apparent that a local board or charter school intends to take such action, the board or the superintendent will immediately notify the secretary of such an intention in writing.
 - (2) No amount of money from the school district or charter school's budget will be allowed to be paid pursuant to any settlement agreement which does not have the prior written approval of the secretary or his/her designee. Any request for approval by the secretary must be accompanied by a detailed statement outlining:
 - (a) the dispute between the local board and the administrator;
 - (b) a description of the negotiations leading to the settlement agreement;
 - (c) a detailed accounting of the damages which have been or may be incurred, including any setoff due to the administrator's mitigation of any damages;
 - (d) a copy of all pleadings to be filed with the court relative to the dispute; and
 - (e) a copy of the administrator's current employment contract.
- B. In addition, the approval of a court of competent jurisdiction will be required, and a copy of the court approved settlement agreement shall be submitted to the secretary.
- C. No settlement agreement may provide for, nor may any local school board permit, the payment of any funds until the secretary has issued written approval of the settlement. This prohibition does not include compensation or benefits that the administrator has earned and is otherwise entitled by applicable rule, policy or employment agreement.

[01-15-99; 6.20.3.8 NMAC - Rn, 6 NMAC 2.2.4.8, 12-29-00; A, 3-15-07]

6.20.3.9 UNAUTHORIZED PAYMENTS TO ADMINISTRATORS:

A. A settlement with and subsequent payment to an administrator made prior to obtaining written approval of the secretary shall be considered an unauthorized payment.

B. An unauthorized payment may be considered mismanagement and may constitute grounds for suspension of the local school board from acting as a board of finance.

C. An unauthorized payment may constitute a violation of the anti-donation clause of the New Mexico constitution and may be reported to the attorney general or state auditor, or be subject to further civil or criminal referrals or other sanctions.

[6.20.3.9 NMAC - N, 3-15-07]

HISTORY OF 6.20.3 NMAC:

PRE-NMAC FILING HISTORY: The material in this regulation was derived from that previously filed with the State Records Center and Archives under: State Board of Education Regulation No. 90-3, Procedures for the Payment of Settlement Agreements Involving Termination of an Administrator's Contract Prior to the End of the Term of the Contract, filed July 3, 1990.