

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 12 LOSS PREVENTION MANAGEMENT SYSTEM

6.50.12.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.12.1 NMAC - Rp, 6 50.12.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.12.2 SCOPE: This part applies to all school districts, charter schools, other educational entities and persons or entities authorized to participate in the authority's coverage on matters involving risk-related coverages.

[6.50.12.2 NMAC - Rp, 6 50.12.2 NMAC, 09/01/2014]

6.50.12.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.12.3 NMAC - Rp, 6 50.12.3 NMAC, 09/01/2014]

6.50.12.4 DURATION: Permanent.

[6.50.12.4 NMAC - Rp, 6 50.12.4 NMAC, 09/01/2014]

6.50.12.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.12.5 NMAC - Rp, 6 50.12.5 NMAC, 09/01/2014]

6.50.12.6 OBJECTIVE: The objective of this part is to establish a loss control and a loss prevention management system for the purpose of reducing claims and costs.

[6.50.12.6 NMAC - Rp, 6 50.12.6 NMAC, 09/01/2014]

6.50.12.7 DEFINITIONS: [RESERVED]

6.50.12.8 LOSS PREVENTION PROGRAM:

A. The loss prevention program is hereby created to provide a mechanism for the identification and abatement of hazards relating to all lines of coverage provided by the authority.

B. The loss prevention program is a service provided to the member school districts, charter schools and other educational entities in order to protect the insurance fund and its members from claims that could otherwise be prevented. The authority, through the program, provides recommendations for compliance to the members. It is the responsibility of the members to implement the recommendations for abatement.

C. All visits or inspections shall be performed by the loss prevention representative (LPR).

D. The LPR shall conduct evaluations of members. These evaluations shall include, but are not limited to:

- (1) physical inspection of any or all of the members' structures, facilities, vehicles or equipment;
- (2) review of the members' policies and procedures;
- (3) observation of the members' scholastic and non-scholastic activities and operations; and
- (4) interviews with members' administration, teachers, maintenance and other support personnel.

E. Within 25 working days following the LPR's completion of the onsite evaluation of a member, the LPR shall submit recommendations to the member for corrective action to eliminate the hazards or exposures observed.

F. Members shall have 20 working days from receipt of the LPR's report to reply to the LPR outlining their timetable for the implementation of recommendations, except for critical or imminent hazards as explained in Subsections G and H, below. If the hazard is not critical or imminent, upon request by the member, the LPR may grant additional time up to no more than 60 working days from receipt of the LPR's report for the member to reply.

G. Critical hazards are those hazards which have an above average potential for immediate occurrence, but are not immediately life threatening.

(1) The members shall have 10 working days from the receipt of the LPR's report to provide an implementation schedule of recommendations identified by the LPR as representing critical hazards.

(2) The LPR shall make a request to the loss prevention review board (LPRB) that any operation involving the critical hazard be suspended if:

- (a) the member fails to submit a report within 10 working days;
- (b) the member refuses to provide a report within 10 working days; or
- (c) the member does not satisfactorily fix the hazard within the time provided in the

implementation schedule agreed upon or ordered.

H. Imminent hazards are those hazards which require suspension of activities or operations so as to avoid the threat of an occurrence which could reasonably be expected to cause death or serious physical harm before the danger can be eliminated through the recommended abatement.

(1) The LPR shall convey any recommendation involving an imminent hazard immediately to the highest available member official.

(2) The LPR shall require that any operations involving an imminent hazard be suspended pending implementation of the applicable recommendations.

(3) A notification of the imminent hazard, its accompanying recommendations, and any other verbal request made by the LPR to the member shall be conveyed in writing to the executive director, LPRB, and the member within 72 hours.

(4) The member shall have 72 hours from the receipt of the notice of an imminent hazard to respond to the LPR's recommendation and set forth a plan satisfactory to the LPR to immediately abate the imminent hazard.

(5) The LPR shall make a presentation to the chairperson of the LPRB and the executive director of the authority recommending that insurance coverage provided to the specific operation of the member be suspended if the member refuses or fails to submit a report within 72 hours regarding the immediate implementation of the LPR's recommendation for abatement of the imminent hazard.

(6) The executive director and the chairman of the LPRB shall consider the recommendation of the LPR and determine if the insurance coverage should be suspended pending a hearing before the LPRB under 6.50.12.11 NMAC.

I. The LPR shall physically re-inspect the hazard or exposure to ensure adequate abatement compliance.

J. The LPR shall provide loss prevention resource materials and activities where needed. These materials and activities shall include, but are not limited to:

(1) assisting members in the development of a member safety program when size and particular member activities warrant.

(2) providing sources for the procurement of safety related literature, materials or services.
[6.50.12.8 NMAC - Rp, 6 50.12.8 NMAC, 09/01/2014]

6.50.12.9 LOSS PREVENTION REVIEW BOARD:

A. The LPRB is hereby created to provide a mechanism for the review of loss prevention activities within the authority's jurisdiction. The LPRB is appointed by the board and, except as provided in Subsection B of this section, its membership shall be made up of the risk advisory committee.

B. In the event an LPRB is appointed in place of the risk advisory committee, it shall consist of five members, four of whom are appointed by the president of the authority board with the board's advice and consent. The risk advisory committee chairman shall be the fifth member of the LPRB and shall serve as the LPRB chairman.

C. The LPRB shall meet as required and as scheduled from time to time.

D. Special meetings may be called by the LPRB chairman, if he determines the need for a special meeting is justified, upon the request of any LPRB or authority board member, any chief executive officer of any member, or the LPR.

E. Notice of special meetings of the LPRB shall be sent to all LPRB members, the individual requesting the special meeting, and the LPR.

F. The notice required in Subsection E above shall indicate the date, time and place of the special meeting. It shall also clearly set forth the purpose for which the meeting is being called, said purpose being the only matter the LPRB may consider and act upon at the special meeting.

[6.50.12.9 NMAC - Rp, 6 50.12.9 NMAC, 09/01/2014]

6.50.12.10 LOSS PREVENTION REVIEW BOARD DUTIES:

A. The LPRB shall consider and act upon:

- (1) requests by the LPR that a member be required to implement a specific recommendation;
- (2) requests by a member that a recommendation by the LPR be vacated;

(3) any other matter with regard to the enforcement of the authority's loss prevention management system not specifically covered in this part.

B. The LPRB shall recommend to the authority board claims management and claims adjusting procedures as they relate to abatement recommendations. Such procedures shall address documentation and management of claims files.

[6.50.12.10 NMAC - Rp, 6 50.12.10 NMAC, 09/01/2014]

6.50.12.11 LOSS PREVENTION REVIEW BOARD PROCEEDINGS: When considering a request as specified above, the LPRB chairman shall:

A. provide notification to all LPRB members, the LPR, and the affected member;

B. conduct the meeting allowing the LPR and the member representative the opportunity to present arguments and justifications for their respective requests, and permit members of the LPRB to ask questions of either party;

C. issue the decision of the LPRB within five days and:

(1) if the decision of the LPRB is in agreement with the member, the LPR's recommendation shall be vacated;

(2) if the decision of the LPRB is in agreement with the LPR, the recommendation shall be affirmed and the member directed to implement the recommendation;

(3) if the affirmed recommendation is not implemented as specified by the member, the LPR shall refer the matter to the authority board for action.

[6.50.12.11 NMAC - Rp, 6 50.12.11 NMAC, 09/01/2014]

6.50.12.12 ENFORCEMENT: The responsibility for enforcement of LPRB decisions shall be vested in the authority board which may act as it sees fit to protect the integrity of the authority. These actions may include, but are not limited to issuing a notice of no coverage to the participating member. This notice shall state the specific circumstances for which coverage shall not be in effect, the reason for issuing the notice that no coverage is in effect and the date and time of inception of the no coverage notice. The notice of no coverage shall not affect any other area of coverage for the member. It shall only affect those specific circumstances stated in the notice of no coverage. Upon verification by the LPR to the authority board in writing that a hazard giving rise to a notice of no coverage has been abated, the authority board shall cancel the notice of no coverage.

[6.50.12.12 NMAC - Rp, 6 50.12.12 NMAC, 09/01/2014]

6.50.12.13 PROCEDURE FOR APPEAL OF AGENCY DECISIONS UNDER THIS PART: An aggrieved member may appeal any final determination of the authority under this part by following the procedures specified in 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations. Review of any final decision or order of the authority under this part can only be sought as provided by 6.50.16 NMAC, by statute or by rules promulgated by the supreme court for appeal of state agency decisions.

[6.50.12.13 NMAC - Rp, 6 50.12.13 NMAC, 09/01/2014]

HISTORY of 6.50.12 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMPSIA 86-2, Definitions, filed 10-31-86;

NMPSIA 88-2, Definitions, filed 11-04-88;

NMPSIA Rule 93-1, Definitions, filed 03-22-93;

NMPSIA 93-15, Loss Prevention Management System, filed 03-22-93.

History of the Repealed Material:

6.50.12 NMAC, Loss Prevention Management System, filed 6/27/2000 - Repealed effective 09/01/2014.