

TITLE 18: TRANSPORTATION AND HIGHWAYS
CHAPTER 18: MOTOR VEHICLE ADMINISTRATION
PART 4: PARENTAL RESPONSIBILITY ACT COMPLIANCE

18.18.4.1 **ISSUING AGENCY:** Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[18.18.4.1 NMAC - N, 6/30/03]

18.18.4.2 **SCOPE:** This Part applies to all persons subject to the Motor Vehicle Code.
[18.18.4.2 NMAC - N, 6/30/03]

18.18.4.3 **STATUTORY AUTHORITY:** The Taxation and Revenue Department, Motor Vehicle Division, adopts this Rule pursuant to the Parental Responsibility Act, Section 40-5A-1 et seq., NMSA 1978, Section 9-11-6.2, NMSA 1978, and Sections 66-2-16(E) and 66-2-17, NMSA 1978.
[18.18.4.3 NMAC - N, 6/30/03]

18.18.4.4 **DURATION:** Permanent.
[18.18.4.4 NMAC - N, 6/30/03]

18.18.4.5 **EFFECTIVE DATE:** 6/30/03, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[18.18.4.5 NMAC - N, 6/30/03]

18.18.4.6 **OBJECTIVE:** The objective of this Part is to interpret, exemplify, implement and enforce the provisions of the Motor Vehicle Code and Parental Responsibility Act.
[18.18.4.6 NMAC - N, 6/30/03]

18.18.4.7 **DEFINITIONS:** The terms defined in Section 18.18.4.7 NMAC apply throughout Title 18, Chapter 18, Part 4.

- A. “HSD” means the state of New Mexico human services department;
- B. “MVD” means the motor vehicle division of the state of New Mexico taxation and revenue department;
- C. “certificate of compliance” means a certified statement from HSD stating that a licensee is in compliance with a judgment and order for support or in compliance with a subpoena or warrant relating to paternity or child support proceedings;
- D. “notice of intent to suspend driver’s license and right to a hearing” means a written statement that MVD intends to suspend or not renew a driver’s license, the basis for the proposed suspension, and the process afforded a licensee by MVD or HSD; and
- E. “license” means an individual driver’s license or a commercial driver’s license.
- F. All other terms in Title 18, Chapter 18, Part 4 shall have the same meaning as they have in the Parental Responsibility Act or the Motor Vehicle Code, except that the term “board” shall mean the MVD or its designate.

[18.18.4.7 NMAC - N, 6/30/03]

18.18.4.8 **MVD ACTION:** If a licensee is not in compliance with a valid judgment and order for support or is not in compliance with a subpoena or a warrant relating to paternity or child support proceedings, MVD shall:

- A. deny the renewal of a license;
- B. suspend the license; or
- C. deny any application for a license.

[18.18.4.8 NMAC - N, 6/30/03]

18.18.4.9 **CERTIFIED LIST:** Upon receipt of an HSD-certified list of obligors not in compliance, MVD shall match the certified list against the current list of MVD licensees. If a listed MVD licensee appears on the HSD-certified list of obligors not in compliance, then MVD shall mail to a licensee or licensees a notice of proposed non-renewal or suspension. By the end of the month in which the certified list is received, MVD shall report to HSD

the names of MVD licensees who are on HSD's certified list of obligors and any action MVD has taken in connection with such licensees.

[18.18.4.9 NMAC - N, 6/30/03]

18.18.4.10 **NOTICE:** Prior to taking any action specified in Section 18.18.4.8 NMAC, MVD or HSD shall mail to the licensee a written notice stating that MVD has grounds to take MVD action, and that MVD shall suspend or deny a license or renewal unless the licensee:

A. files a timely written request for hearing protesting the proposed suspension or denial within thirty (30) days from the date the notice is mailed; or

B. provides MVD, within thirty (30) days from the date the notice is mailed, with a certificate of compliance from HSD.

[18.18.4.10 NMAC - N, 6/30/03]

18.18.4.11 **HEARINGS:** The licensee may request a hearing by filing a written request for hearing protesting the proposed non-renewal or suspension of the license. In the request for hearing, the licensee shall provide the licensee's name; any one of either the social security number, the individual tax identification number (ITIN), or the acceptable substitute for a social security number or ITIN; the action in dispute; the grounds for protest, and the affirmative action requested.

A. The request for hearing must be filed within thirty (30) days from the date the notice is mailed. The request may be mailed to Parental Responsibility Hearings, P.O. Box 630, Santa Fe, New Mexico 87504-0630 or by delivering the request in person to the Legal Services Bureau, Joseph M. Montoya Building, 1100 S. St. Francis Drive, Suite 1100, Santa Fe, New Mexico.

B. The secretary of the New Mexico taxation and revenue department or the secretary's delegate shall appoint a hearing officer who shall set the matter for hearing within ninety (90) days from the date of the request. MVD or HSD will notify the licensee of the hearing ten (10) days prior to the date of the hearing. The notice shall be mailed to the address listed on the request for hearing or, if no return address is listed, then to the licensee's last known address as shown on MVD records.

C. The hearing officer shall make and preserve a record of the proceedings.

D. A licensee may appear at a hearing on the licensee's own behalf or be represented by an attorney.

E. All hearings will be conducted telephonically. The hearing officer may at the hearing officer's discretion specify an in-person hearing.

F. Hearings shall be closed to the public except upon request of the licensee and may be postponed or continued at the discretion of the hearing officer.

G. In all hearings before the hearing officer, the technical rules of evidence shall not apply, but in ruling on the admissibility of evidence, the hearing officer may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

H. In hearings before the hearing officer, 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 fairly presented. To this end, the hearing officer shall hear arguments, permit discovery, entertain and dispose of motions, or require written expositions of the case as the circumstances justify, and shall render a decision according to the law and the evidence presented and admitted.

I. The hearing officer, within thirty (30) days of the hearing, shall issue a decision granting or denying the relief requested or granting such part thereof as seems appropriate and shall inform the licensee of the licensee's right to and the requirements for perfection of, an appeal to the district court and of the consequences of a failure to appeal.

[18.18.4.11 NMAC - N, 6/30/03]

18.18.4.12 **ISSUES:** The issues to be decided at the hearing are limited to whether:

A. the licensee is in compliance with a judgment and order for support;

B. the licensee is in compliance with a subpoena or warrants relating to paternity or child support proceedings; or

C. the licensee is the person whose name appears on the certified list sent to MVD from HSD.

[18.18.4.12 NMAC - N, 6/30/03]

18.18.4.13 **EVIDENCE AND PROOF:**

A. In any hearing under Title 18, Chapter 18, Part 4, relevant evidence shall be limited to the following:

(1) a valid certificate of compliance, if one has been issued between the date of the notice and the hearing date;

(2) evidence of compliance with a judgment or order of support, subpoena or warrant relating to paternity or child support proceedings to rebut the absence of a certificate of compliance in cases in which the licensee has cured any non-compliance with a judgment or order of support, subpoena or warrant after the notice date but before the date of hearing, and

(3) evidence that the licensee is not the same person as the person whose name appears on the certified list of obligors sent to MVD by HSD.

B. In lieu of a hearing, a licensee may present a valid certificate of compliance to any MVD field office and pay all applicable fees and have the license reinstated.

[18.18.4.13 NMAC - N, 6/30/03]

18.18.4.14 **ORDER:** An order entered under Title 18, Chapter 18, Part 4 solely because the licensee is not in compliance with the judgment and order for support or not in compliance with a subpoena or a warrant relating to paternity or child support proceedings, the order shall provide that the license is to be reinstated upon presentation of a subsequent certificate of compliance to MVD and payment of applicable fees. MVD may order additional reasonable conditions necessary to compel compliance with MVD requirements for reapplication or reinstatement of lapsed licenses.

[18.18.4.14 NMAC - N, 6/30/03]

18.18.4.15 **APPEALS:** All appeals shall be filed in accordance with Section 39-1-1.1 NMSA 1978 and Rule 1-074 of the Rules of Civil Procedure for the district courts.

[18.18.4.15 NMAC - N, 6/30/03]

18.18.4.16 **FEES:** MVD shall charge a twenty-five dollar (\$25.00) fee to defray the cost of conducting the hearing.

[18.18.4.16 NMAC - N, 6/30/03]

History of 18.18.4 NMAC: [RESERVED]