

**TITLE 6            PRIMARY AND SECONDARY EDUCATION**  
**CHAPTER 61      SCHOOL PERSONNEL - SPECIFIC LICENSURE REQUIREMENTS FOR**  
**INSTRUCTORS**  
**PART 9            CERTIFICATES OF ENDORSEMENT WAIVER**

**6.61.9.1            ISSUING AGENCY:** Public Education Department (PED)  
[6.61.9.1 NMAC - Rp, 6.61.9.1 NMAC, 10-31-07]

**6.61.9.2            SCOPE:** This rule governs the circumstances for the issuance and duration of endorsement waivers to those individuals who do not meet the requirements for endorsements as required for providing instructional services in certain areas.  
[6.61.9.2 NMAC - Rp, 6.61.9.2 NMAC, 10-31-07]

**6.61.9.3            STATUTORY AUTHORITY:** Sections 22-2-1, 22-2-2, and 22-10A-14, NMSA 1978  
[6.61.9.3 NMAC - Rp, 6.61.9.3 NMAC, 10-31-07]

**6.61.9.4            DURATION:** Permanent  
[6.61.9.4 NMAC - Rp, 6.61.9.4 NMAC, 10-31-07]

**6.61.9.5            EFFECTIVE DATE:** October 31, 2007, unless a later date is cited in the history note at the end of a section.  
[6.61.9.5 NMAC - Rp, 6.61.9.5 NMAC, 10-31-07]

**6.61.9.6            OBJECTIVE:** This rule establishes guidelines for local superintendents, charter schools, or governing authorities of state institutions that seek to employ individuals under the authority of endorsement waivers. It is the objective of the secretary to ensure that all public school and state institution teaching positions are filled with only individuals holding valid standard, alternative, substitute or intern licenses and proper endorsements.  
[6.61.9.6 NMAC - Rp, 6.61.9.6 NMAC, 10-31-07]

**6.61.9.7            DEFINITIONS:**

A. "Standard license" means a certificate or license issued by the secretary authorizing a person to teach, supervise an instructional program, counsel, provide special instructional services or administer in the public schools of the state and which are issued at five and nine year intervals.

B. "Emergency declaration" means the situation where a local superintendent, governing authority of a charter school or state institution, has declared that, due to circumstances beyond the control of the local superintendent, governing authority of a charter school or state institution, a vacancy or vacancies exist in a teaching position that requires the holding of a standard license for a position that must be filled immediately or as soon as practicable to avoid a deterioration of significant services.

C. "Endorsement waiver" means the situation where, for up to a school year, the secretary, through the professional licensure bureau ("PLB") of the PED, authorizes a local superintendent, a charter school or governing authority of a state institution to fill an existing licensed teaching position in a public school or state institution with an individual designated by the local superintendent, to receive an endorsement waiver.

D. "Certificate of assignment endorsement waiver" means the situation where, for up to a school year, the secretary authorizes a local superintendent, a charter school or governing authority of a state institution to fill an existing public school or state institution teaching vacancy with an individual holding a standard license who does not hold the specific endorsement required for that position.

E. "School year" means the total number of teaching days offered by public schools in a school district during a period of twelve consecutive months, but more specifically means the period of time, usually August through May of a year, in which a local school district is in session and has licensed teachers providing instructional services.

F. "Specific method, date and duration of recruitment" means the media used to recruit the filling of a vacancy, the name of the media used, and the date(s) and duration the recruitment for a specific vacant position was disseminated by the media.

G. "Documentation supporting recent recruiting effort" means a paper copy of any medium or method used to recently recruit the filling of a vacancy, including but not limited to a newspaper listing, a bulletin board listing, an e-mail, a fax, or a memorandum actually sent or posted.

H. "Recent recruitment effort" means within 12 months preceding the date the request for endorsement waiver is submitted with the PLB.

I. "Core academic subjects" means English, language arts, reading, mathematics, science, modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes or pueblos, the arts, including music and visual arts, and social studies, which includes civics, government, economics, history, and geography.

J. "Highly qualified", under this rule, means a teacher of the core academic subjects who has had no certification or licensure requirements waived on an emergency basis.

[6.61.9.7 NMAC - Rp, 6.61.9.7 NMAC, 10-31-07]

#### **6.61.9.8 TEACHER SHORTAGES:**

A. Local superintendents, charter schools or state institutions faced with teacher shortages conclude that the best option is to fill a classroom for a year with a licensed teacher not possessing the endorsement required for a given area.

B. The PLB shall, on behalf of the secretary, receive and evaluate all requests for endorsement waivers. At least annually but no later than June 30th of each school year, the director of professional licensure ("director") shall for the preceding school year compile and present to the secretary the numbers of endorsement waivers it issued and declined to issue.

[6.61.9.8 NMAC - Rp, 6.61.9.8 NMAC, 10-31-07]

**6.61.9.9 EVALUATION OF AN ENDORSEMENT WAIVER REQUEST:** To achieve consistent results, the PLB shall evaluate requests for endorsement waiver as follows:

A. The PLB consultants will determine whether local superintendents, charter schools, or state institutions have included documentation to support any assertion that they have been unsuccessful in recruiting qualified applicants; for those districts that choose to submit a supporting certification, the consultants will determine if that certification attests to a specific method, date and duration of recruitment. Applications submitted either without supporting documentation or a certification attesting to a specific method, date and duration of recruitment will almost certainly result in a non-approval of the request.

B. The PLB consultants will identify the type of degree held by the applicant and whether the candidate for endorsement waiver, given that degree and coursework taken, could later reasonably be qualified to receive an endorsement in the area requested by the local school superintendents, charter schools, or state institutions. If the candidate's degree or college coursework are too far removed from the focus area of the endorsement waiver, the endorsement waiver request will almost certainly be not approved.

C. The PLB consultants will determine if the endorsement waiver candidate has a completed endorsement application packet, as determined by the PLB, on file with the PLB. If the PLB does not receive a completed endorsement application packet within 30 days of its receipt of the endorsement waiver request concerning that candidate, then the endorsement waiver request will be not approved.

D. Requests for endorsement waiver must be made with the knowledge and consent of the candidate. Any endorsement waiver request received without the unqualified written consent of the candidate for endorsement waiver will be not approved.

E. Completion of at least 9 college credit hours within a school year, including summers, is deemed to be a reasonable attempt to attain an endorsement waiver. Therefore, the PLB consultants will determine whether the local school plan contains a component requiring an endorsement waiver candidate to complete at least 9 college credit hours per year. Ultimately, the consultants shall evaluate endorsement waiver requests to determine if during the period of the endorsement waiver the candidate is reasonably capable of completing the coursework or passing the content test that would enable them to obtain the endorsement in the content area where the local superintendents, charter schools, or state institutions seeks to place the individual.

F. The PLB consultants will determine if a candidate for initial endorsement waiver has ever been issued an endorsement waiver. If such a candidate has held an endorsement waiver for more than three years, whether or not consecutive, further endorsement waiver will almost certainly be not approved.

G. The PLB consultants will determine if a candidate for initial endorsement waiver has ever been issued an endorsement waiver but failed to comply with any conditions established by the director. If such a candidate has previously failed to comply with conditions established by the director, including taking and passing required testing, further endorsement waiver will almost certainly be not approved.

H. The PLB consultants will notify the local school superintendents, of their approval or non-approval of the requested endorsement waiver for an individual. If the endorsement waiver is approved, the

notification will detail the conditions under which the endorsement waiver is approved. If the endorsement waiver is not approved, the notification will state reasons why it was not approved. The non-approval notification will also state the superintendent's, charter school's, or state institution's rights for requesting a review.

I. A request not made within 60 days of the beginning date of the endorsement waiver candidate's employment contract with the local school superintendent, charter school, or state institution will almost certainly be not approved unless good cause is shown why it was submitted beyond the 60-day deadline.  
[6.61.9.9 NMAC - Rp, 6.61.9.10 NMAC, 10-31-07]

**6.61.9.10 NON-APPROVAL OF INITIAL ENDORSEMENT WAIVER:** Upon non-approval by the PLB of initial or renewed endorsement waiver request, a superintendent or administrative designee, a charter school or a state institution may seek review of the non-approval. To obtain review, the following procedure shall be used:

A. A request for review must be in writing, must be addressed to the director of the PLB, and must be received by the director within thirty days of the local school district's receipt of PLB's non-approval of the request for an endorsement waiver. During this review period, an individual may not provide instructional services in the classroom for which an endorsement waiver is being sought unless that individual is a duly licensed substitute and is performing services as a substitute teacher pursuant to Section 22-10A-15, NMSA 1978 and 6.63.10 NMAC ("Certification for Substitute Teachers").

B. A request for review must contain not only a statement of reasons why an endorsement waiver should be issued or renewed, but must contain a written plan from the district, charter school or state institution that details the endorsement waiver candidate's progress if any toward completion of the college coursework, or taking/retaking the testing necessary to obtain the endorsement within the duration of the endorsement waiver if issued or renewed. The plan should address the candidate's progress to-date toward meeting the goals of completing college coursework, or taking/retaking necessary testing, and what steps will be taken to fulfill these goals.

C. The director shall issue a decision on the request for review and forward it to the local school district, charter school, or state institution as soon as practicable. The decision of the director shall be final and not subject to review, reversal, clarification or reconsideration.

[6.61.9.10 NMAC - Rp, 6.61.9.11 NMAC, 10-31-07]

**6.61.9.11 RENEWAL OF AN ENDORSEMENT WAIVER:** Although an endorsement waiver is valid for one year and must be based on an emergency, it can be renewed if the teacher provides to the employer satisfactory evidence of continued progress toward meeting the requirements for the endorsement.

A. All requests for renewal of endorsement waiver shall be submitted by the local district's superintendent or designee, or a charter school or a state institution, on a form substantially similar to a form available from the PLB. No renewed endorsement waiver shall be issued to any individual who does not unqualifiedly consent to performing all or any instructional services by means of an endorsement waiver. Endorsement waiver renewal requests must be submitted together with documentary evidence that demonstrates the individual's compliance with all conditions imposed by the PLB for issuance of an endorsement waiver during the preceding school year. It shall be the sole responsibility of the local school charter school, or state institution to submit this documentary evidence to the PLB.

B. Provided that the holder of an endorsement waiver has complied with all conditions for the issuance of an endorsement waiver imposed during the preceding school year, there shall be no need for a local charter school, or state institution to reestablish the existence of an emergency.

C. Except for good reason shown, any individual who fails to complete and earn credit for their college coursework to obtain the requisite credentials or obtain the degree for the endorsement required in the area for which the local superintendent, charter school, or state institution seeks to place the individual, a renewal of their endorsement waiver, shall almost certainly be non-approved. Non-use of the endorsement waiver shall be deemed an invalid reason to renew an endorsement waiver.

D. Any endorsement waiver approved by the PLB shall be valid for only the current school year and may be renewed, provided however, that a candidate for renewal must have satisfied all conditions imposed by the PLB for the issuance of an endorsement waiver during the preceding school year.

[6.61.9.11 NMAC - Rp, 6.61.9.12 NMAC, 10-31-07]

**6.61.9.12 NON-APPROVAL OF AN ENDORSEMENT WAIVER:** The procedure for seeking a review of any non-approval of renewal of an endorsement waiver, shall be as follows:

A. A request for review must be in writing, must be addressed to the director the PLB, and must be received by the director within thirty days of the local school district's receipt of the PLB's non-approval of the

request for an endorsement renewal of an endorsement waiver. During this review period, an individual may not provide instructional services in the classroom for which an endorsement waiver is being sought unless that individual is a duly certified substitute and is performing services as a substitute teacher pursuant to 6.63.10 NMAC ("Licensure for Substitute Teachers") or Section 22-10A-15 NMSA 1978.

B. A request for review must contain a statement of reasons why the endorsement waiver should be renewed together with any documents not previously submitted that justify the individual's failure to satisfy all conditions imposed by the PLB for the issuance of an endorsement waiver during the preceding school year.

C. The director shall issue a decision on the request for review and forward it to the local school district, charter school, or state institution as soon as practicable. The decision of the director shall be final and not subject to review, reversal, clarification or reconsideration.

[6.61.9.12 NMAC - Rp, 6.61.9.13 NMAC, 10-31-07]

**6.61.9.13 RESTRICTIONS ON THE USE AND ISSUANCE OF AN ENDORSEMENT WAIVER:**

A. Consistent with Title I, Sec. 1119(a)(1) and Title IX, Sec. 9101(23)(A)(ii) of the No Child Left Behind Act, if a teacher was initially employed after the first day of school of the 2002-2003 school year and is not highly qualified, the teacher shall not be issued an endorsement waiver by the secretary in the core academic subjects, and local education agencies receiving funds under Title I of the Act shall not assign that teacher to teach the core academic subjects in a Title I targeted assistance program or schoolwide program.

B. Consistent with Title I, Sec. 1119(a)(2) and Title IX, Sec. 9101(23)(A)(ii) of the No Child Left Behind Act, which requires that all teachers of the core academic subjects be highly qualified by the end of the 2005-2006 school year, the secretary will not issue endorsement waivers to teachers who teach the core academic subjects after June 30, 2006.

C. Consistent with Subsection D of Section 22-10A-14 NMSA 1978, no teacher holding an endorsement waiver shall be assigned to a school that has not made adequately yearly progress for two consecutive years.

[6.61.9.13 NMAC - Rp, 6.61.9.17 NMAC, 10-31-07]

**HISTORY OF 6.61.9 NMAC:**

**History of Repealed Material:**

6.61.9 NMAC, Certificates of Waiver, filed 7-2-2001 - Repealed effective 10-31-07.