

RESOLUTION OF THE
NAABIK'ÍYÁTI' STANDING COMMITTEE OF THE

23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

AN ACTION

RELATING TO HEALTH, EDUCATION, AND HUMAN SERVICES AND NAABIK'ÍYÁTI'; SUPPORTING PROPOSED NEW RULES SUBMITTED BY THE NEW MEXICO DEPARTMENT OF PUBLIC SCHOOLS IN REGARDS TO THE GRADING OF PUBLIC SCHOOLS, RENEWAL PROCESS FOR CHARTER SCHOOLS, COMPUTER SCIENCE STANDARDS, MENTORSHIP AND LEADERSHIP PROGRAMS FOR TEACHERS AND BACKGROUND CHECKS

WHEREAS:

- A. The Health, Education, and Human Services Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 400 (A). The committee, among other responsibilities, reviews and recommends resolutions regarding certain matters, including health, education and social services. 2 N.N.C. § 401.
- B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 700 (A). The committee, among other responsibilities, coordinates all state programs, including education in public schools. 2 N.N.C. § 701(A)(4).
- C. There are a significant number of Navajo children attending public schools in the State of New Mexico, including schools located within the Navajo Nation.
- D. The New Mexico Public Education Department issued proposed rules on the grading of public schools (6.19.8.1 et seq.), proposed amendments to the application and renewal process for charter schools, proposed new rules on computer science standards (6.29.17.1 et seq.), proposed new rule on mentorship programs for teachers (6.60.10.1 et seq.), proposed new rule on the establishment of criteria for specific teacher leadership roles and opportunities (1.65.4.1 et seq.), and proposed new rules on educator background checks (6.60.8.1 et seq.). The rules proposed will improve educational services and programs currently provided all students attending public schools in New Mexico, including Navajo students. Proposed rules attached as **Exhibit "A"**.

NOW, THEREFORE BE IT RESOLVED THAT:

- A. The Navajo Nation supports proposed rules submitted by the New Mexico Public Education Department (attached as **Exhibit "A"**) on the grading of public schools, the application and renewal process for charter schools, computer science standards, mentorship programs for teachers, teacher leadership roles and background checks.
- B. The Navajo Nation respectfully requests the State of New Mexico to include cultural sensitivity training as part of the grading of the school. The Navajo Nation also respectfully requests the State of New Mexico to require charter schools with a Native American student population of at least 5% to consult with the appropriate tribe(s) based on the tribal demographic represented by the students.

CERTIFICATION

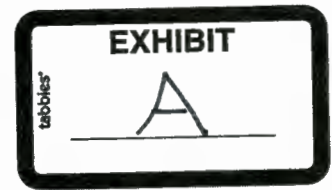
I, hereby, certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 15 in Favor, and 00 Opposed, on this 27th day of December 2018.



LoRenzo C. Bates, Chairman
Naabik'iyáti' Committee

Motioned: Honorable Nathaniel Brown
Second : Honorable Seth Damon

Chairman LoRenzo C. Bates not voting



6.19.8 NMAC, Grading of Public Schools

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY
PART 8 GRADING OF PUBLIC SCHOOLS

6.19.8.1 ISSUING AGENCY: Public Education Department, hereinafter the “department”.
[6.19.8.1 NMAC - Rp, 6.19.8.1 NMAC, 12/31/2018]

6.19.8.2 SCOPE: This rule shall apply to all public schools in New Mexico. If any part or application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.
[6.19.8.2 NMAC - Rp, 6.19.8.2 NMAC, 12/31/2018]

6.19.8.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, and the A-B-C-D-F School Rating Act 22-2E-1 to 22-2E-4, 22-2C-4, 22-2C-5, and 22-2C-11 NMSA 1978.
[6.19.8.3 NMAC - Rp, 6.19.8.3 NMAC, 12/31/2018]

6.19.8.4 DURATION: Permanent.
[6.19.8.4 NMAC - Rp, 6.19.8.4 NMAC, 12/31/2018]

6.19.8.5 EFFECTIVE DATE: December 31, 2018, unless a later date is cited at the end of a section.
[6.19.8.5 NMAC - Rp, 6.19.8.5 NMAC, 12/31/2018]

6.19.8.6 OBJECTIVE: The purpose of this rule is to implement the A-B-C-D-F Schools Rating Act (Sections 22-2E-1 to 22-2E-4 NMSA 1978) and the New Mexico state plan under the Every Student Succeeds Act approved by the United States department of education in compliance with Section 1111 of the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act to establish a consistent school accountability system for public schools. Additionally, this rule establishes criteria for rating public schools and provides options for students in failing schools. This rule provides for the identification of, and support for, struggling or failing schools and the prioritization of funding.
[6.19.8.6 NMAC - Rp, 6.19.8.6 NMAC, 12/31/2018]

6.19.8.7 DEFINITIONS:

A. “Chronic absenteeism” means an indicator equal to the percentage of students who missed ten percent or more of school days in which they were enrolled during the school year.

B. “College and career readiness” or “CCR” means an indicator calculated for all high schools statewide, consisting of the following:

- (1) the number of students who participated in CCR opportunities, as defined by the department, divided by the number of students in the four-year graduation cohort;
- (2) the number of students who were successful in CCR opportunities, as defined by the department, divided by the number students who participated; and
- (3) the number of students who are successful in institutions of higher education measured by at least one of the following:

- (a) remediation;
- (b) enrollment;
- (c) persistence; or
- (d) completion.

C. “English learner” or “EL” means a student whose first or heritage language is not English and who does not yet understand, speak, read, or write English at a level comparable to grade-level English proficient peers and native English speakers.

D. “English learner progress” means a growth-to-proficiency indicator of the acquisition of English language proficiency for EL students.

(1) Each EL has an annual English language growth-to-proficiency target that is based on the student’s grade level at identification as an EL and the student’s initial English language proficiency level on the department-approved English language proficiency assessment.

(2) English language growth-to-proficiency targets are a measure of the extent to which students should be gaining English language proficiency within five years as measured by the department-approved English language proficiency assessment.

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E. “Graduation growth” means an indicator equal to the annual increase in the four-year cohort graduation rate based on the three most recent years of data.

F. “Graduation rate” means an indicator equal to the percentage of students in a cohort who earned a New Mexico diploma of excellence within a specified number of years, with the cohort assigned based upon first-time entry into ninth grade.

(1) Four-year cohort graduation rate means the percentage of students in the four-year cohort who earned a New Mexico diploma of excellence within four years.

(2) Five-year cohort graduation rate means the percentage of students in the five-year cohort who earned a New Mexico diploma of excellence within five years.

(3) Six-year cohort graduation rate means the percentage of students in the six-year cohort who earned a New Mexico diploma of excellence within six years.

G. “Index score” means the score a school earns for each subgroup calculated using the same model as school grades using the indicators described in 6.19.8.8 NMAC that can be disaggregated by each of the following subgroups:

(1) economically disadvantaged students;

(2) students from major racial and ethnic groups;

(3) children with disabilities; and

(4) English learners.

H. “Local education agency” or “LEA” means a school district or a state-authorized charter school.

I. “Proficiency” means a student’s score of proficient or above as defined by the department on the New Mexico statewide assessment.

J. “Quartile” or “Q” means the student’s quartile status for school grading when calculating the following indicators:

(1) Q1 means the lowest-performing quartile of students, based on previous years’ performance on the statewide assessment;

(2) Q2 means the second-lowest-performing quartile of students, based on previous years’ performance on the statewide assessment;

(3) Q3 means the second-highest-performing quartile of students, based on previous years’ performance on the statewide assessment; and

(4) Q4 means the highest-performing quartile of students, based on previous years’ performance on the statewide assessment.

K. “School survey” means an indicator of student and family engagement, educator collaboration and engagement, and other critical components for quality schools as measured by a survey addressing the following domains:

(1) school climate;

(2) rigorous expectations;

(3) student-teacher relationships;

(4) belonging; and

(5) safety.

L. “Statewide assessment” means the collection of instruments administered annually that assess student academic performance and students’ progress toward meeting New Mexico content standards in kindergarten

M. “Student growth” means an indicator of the extent to which students are increasing their mastery of state content standards as measured by the New Mexico statewide assessment in kindergarten and grades one through 12.

N. “Student proficiency” means an indicator equal to the percentage of students who were proficient or above in the current reporting year.

O. “Student STEM readiness” means an indicator of student proficiency on the statewide assessment for science.

P. “Supplemental accountability model school” or “SAM school” means any public school in which, based on the fortieth day reporting, fifty percent or more of the student population is:

(1) age 19 or older; or

(2) non-gifted students who qualify for level C or level D special education.

[6.19.8.7 NMAC - Rp, 6.19.8.7 NMAC, 12/31/2018]

6.19.8.8 REQUIREMENTS:

PROPOSED INTEGRATED

A. Public schools shall earn a letter grade of either A, B, C, D, or F annually pursuant to Sections 22-2E-1 to 22-2E-4 NMSA 1978, A-B-C-D-F Schools Rating Act.

B. Elementary and middle schools shall earn grades based on the following indicators:

- (1) student proficiency in English language arts and mathematics, as determined by New Mexico's statewide assessment;
- (2) student STEM readiness;
- (3) student growth;
- (4) chronic absenteeism;
- (5) school survey; and
- (6) English learner progress.

C. High schools shall earn grades based on the following indicators:

- (1) student proficiency in English language arts and mathematics, as determined by New Mexico's statewide assessment;
- (2) student STEM readiness;
- (3) student growth;
- (4) chronic absenteeism;
- (5) school survey;
- (6) college and career readiness;
- (7) graduation rate; and
- (8) English learner progress.

D. The department shall annually publish disaggregated school grading data on its website.

E. Pursuant to Section 22-2E-4 NMSA 1978 and any applicable federal law, the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student in the same grade to any public school in the state not rated F or the right to have the student continue schooling by means of distance learning offered through the statewide or a local cyber academy. The school district or charter school in which the student was enrolled is responsible for the cost of distance learning. Enrollment policies shall align with the requirements outlined in Section 22-1-4 NMSA 1978 and applicable state charter law and shall prioritize the lowest achieving, low income students, as determined by the school district or charter school.

F. The transfer of any student pursuant to the A-B-C-D-F Schools Rating Act, Section 22-2E-2 NMSA 1978 shall be conducted pursuant to the open enrollment provisions of Section 22-1-4 NMSA 1978, provided that no school district or charter school shall adopt enrollment policies that exclude the enrollment of a student from a school rated F for two of the last four school years, and provided further that students seeking to enroll in a charter school must participate in that school's lottery unless the school has not exceeded its enrollment limit. The enrollment procedures set forth in Section 22-8B-4.1 NMSA 1978 shall apply. The sending school district, excluding state-authorized charter schools, shall be responsible for the transportation and transportation cost of a student who transfers to another school within the same district even if that school is outside of the student's attendance zone.

[6.19.8.8 NMAC - Rp, 6.19.8.8 NMAC, 12/31/2018]

6.19.8.9 DETERMINATION OF A SCHOOL'S GRADE:

A. Elementary and middle schools can earn up to a maximum of 100 points as follows:

- (1) 33 points for student proficiency in English language arts and mathematics as determined by New Mexico's statewide assessment;
- (2) five points for student STEM readiness;
- (3) 42 points for student growth, as calculated in the following manner:
 - (a) five points for Q4;
 - (b) 12 points for Q2 and Q3; and
 - (c) 25 points for Q1;
- (4) five points for chronic absenteeism;
- (5) five points for school survey; and
- (6) 10 points for English learner progress.

B. High schools can earn up to a maximum of 100 points as follows:

- (1) 25 points for student proficiency in English language arts and mathematics, as determined by New Mexico's statewide assessment;
- (2) five points for student STEM readiness;
- (3) 30 points for student growth, calculated in the following manner:

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- (a) five points for Q4
 - (b) 10 points for Q2 and Q3; and
 - (c) 15 points for Q1;
- (4) five points for chronic absenteeism;
- (5) five points for school survey;
- (6) 12 points for college and career readiness, with the greatest weight assigned to the percentage of successful students as outlined in Paragraph (2) of Subsection B of 6.19.8.7 NMAC.
- (7) 13 points for graduation rate, calculated in the following manner:
 - (a) six points for the four-year rate;
 - (b) two points for the five-year rate;
 - (c) one point for the six-year rate; and
 - (d) four points for growth in the four-year rate; and
- (8) five points for English learner progress.

C. All enrolled students in eligible grades and courses, as determined by the department, must be assessed with the appropriate state assessment, including the state-approved alternate assessment when applicable. The benchmark for participation in the statewide assessment is ninety-five percent of all eligible students. Schools that fail to meet the minimum of ninety-five percent in either English language arts or mathematics shall have their letter grade reduced by one letter.

[6.19.8.9 NMAC - Rp, 6.19.8.9 NMAC, 12/31/2018]

6.19.8.10 PRIORITIZATION OF RESOURCES:

A. As part of the annual budget approval process pursuant to Section 22-8-11 NMSA 1978, on or before July 1 of each year, the department shall ensure that a local school board or governing body of a charter school is prioritizing resources of public schools identified pursuant to 6.19.8.11 NMAC.

B. Expenditures for instruction, student support services, instructional support services, and compensation and benefits for school principals designated as the 1000, 2100, 2200, and 2400 functions, respectively, in fund 11000 of the department's chart of accounts for expenditures shall be reported by the department every two years and posted on the department website. Published reports shall include the school grade earned for the three most recent years.

[6.19.8.10 NMAC - Rp, 6.19.8.10 NMAC, 12/31/2018]

6.19.8.11 SCHOOL IDENTIFICATION AND INTERVENTIONS: The department shall identify schools for comprehensive support and improvement (CSI), targeted support and improvement (TSI), and more rigorous interventions (MRI).

A. **CSI identification.** A school shall be identified as a CSI school if the school:

- (1) is in the lowest performing five percent of Title I schools in New Mexico as identified by the overall score earned on the school grading report card as defined in 6.19.8.9 NMAC;
- (2) has a four-year graduation rate less than or equal to 66 and two-thirds percent for two of the past three years; or
- (3) is a Title I school that was previously identified for TSI due to low performing student subgroups that has not demonstrated sufficient improvement after three years in that status by meeting the exit criteria.

B. **CSI exit criteria.** CSI status has a three-year implementation timeline. An identified CSI school is expected to exit CSI status within three years of being identified. Exiting CSI status shall occur under the following conditions:

- (1) for schools identified for being among the bottom five percent of Title I schools:
 - (a) improving the school grading overall score so that it is above the same overall score used to identify the lowest-performing five percent of Title I schools as described in Paragraph (1) of Subsection A of 6.19.8.11 NMAC; or
 - (b) by earning a grade of "C" or better;
- (2) for high schools identified due to low graduation rates, the school must improve their four-year graduation rate to be above 66 and two-thirds percent; or
- (3) for Title I schools previously identified as TSI schools with low-performing subgroups, the school must improve the index scores of all low-performing subgroups so the index scores for all subgroups are above the same score used to identify schools with low-performing subgroups as described in Subsection C of 6.19.8.11 NMAC.

C. TSI identification. A school shall be identified as a TSI school if one or more subgroups have an index score at or below the performance of all students at any of the lowest-performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.

D. TSI exit criteria. Schools with one or more low-performing subgroups shall exit TSI status at any time when the school improves the index scores of all low-performing subgroups so the index scores for all subgroups are above the same score used to identify schools with low-performing subgroups as described in Subsection C of 6.19.8.11 NMAC.

E. MRI identification. A school shall be identified as an MRI school under one of the following conditions:

- (1) the school has been not exited CSI status in three years after identification; or
- (2) the school has earned four or more consecutive school grades of F.

F. MRI plans. Once identified as an MRI school, LEAs shall be required to identify and submit a plan falling under one of the following categories:

- (1) closure;
- (2) restart;
- (3) champion and provide choice: champion a range of choices in an open system that focuses on new approaches to learning, one that keeps individual students at the center of accessing options that best support their learning path. There shall be clear evidence that choice has been championed for the affected students; and
- (4) significantly restructure and redesign:
 - (a) The school shall change the vision and systems at a school by:
 - (i) extending instructional time;
 - (ii) significantly changing staffing to include only educators earning highly effective ratings and above; and
 - (iii) adopting state-selected curriculum approaches.
 - (b) The school may implement personalized learning models for all students.

(5) The department shall provide additional guidance on the categories outlined in Paragraphs (1) through (4) of Subsection F of 6.19.8.11 NMAC.

G. MRI plan approval. If the district refuses to identify a more rigorous intervention in which to participate, the department will select the intervention for the school. The department reserves the right to approve or deny any MRI plan chosen and developed by an LEA.

H. MRI exit criteria. An identified MRI school shall exit in compliance with its approved plan if:

- (1) the school has earned a "C" or better; or
- (2) the school has improved its school grading overall score such that it is above the same overall score used to identify the lowest-performing five percent of Title I schools as described in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.

[6.19.8.11 NMAC - Rp, 6.19.8.11 NMAC, 12/31/2018]

6.19.8.12 SUPPLEMENTAL ACCOUNTABILITY MODEL:

A. The department may supplement the calculation of an overall score and school grade as described in 6.19.8.9 NMAC only for supplemental accountability model schools in one or more of the following ways, as determined by the department.

(1) Include the rate of senior completion, which consists of students who are not members of the four-year graduation cohort, when calculating the number of points earned for the four-year cohort graduation rate described in Subparagraph (a) of Paragraph (7) of Subsection B of 6.19.8.9 NMAC;

(2) Include additional department-approved assessments when calculating the participation and success components of the college and career readiness indicator included in Paragraph (6) of Subsection B of 6.19.8.9 NMAC; or

(3) Realign the point distributions described in 6.19.8.9 NMAC as follows:

- (a) For elementary and middle schools:
 - (i) 25 points for student proficiency in English language arts and mathematics as determined by New Mexico's statewide assessment;
 - (ii) 15 points for Q2 and Q3; and
 - (iii) 30 points for Q1; or
- (b) For high schools:

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(i) 20 points for student proficiency in English language arts and mathematics as determined by New Mexico's statewide assessment; and

(ii) 15 points for Q2 and Q3.

B. Schools eligible for SAM school status remain subject to the assessment participation requirement described in Subsection C of 6.19.8.9 NMAC.
[6.19.8.12 NMAC - N, 12/31/2018]

HISTORY OF 6.19.8 NMAC: [RESERVED]

6.80.4 NMAC, Charter School Application and Appeal Requirements

PROPOSED AMENDMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 80 ALTERNATIVE EDUCATION - CHARTER SCHOOLS
PART 4 CHARTER SCHOOL APPLICATION AND APPEAL REQUIREMENTS

6.80.4.1 ISSUING AGENCY: Public Education Department
[6.80.4.1 NMAC - Rp, 6.80.4.1 NMAC, 6/29/2007]

6.80.4.2 SCOPE: This rule shall apply to applicants and operators of start-up charter schools and previously authorized conversion schools.
[6.80.4.2 NMAC - Rp, 6.80.4.2 NMAC, 6/29/2007]

6.80.4.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-8-1 through 22-8-47 and 22-8B-1 through 22-8B-17 NMSA 1978.
[6.80.4.3 NMAC - Rp, 6.80.4.3 NMAC, 6/29/2007]

6.80.4.4 DURATION: Permanent
[6.80.4.4 NMAC - Rp, 6.80.4.4 NMAC, 6/29/2007]

6.80.4.5 EFFECTIVE DATE: June 29, 2007, unless a later date is cited at the end of a section.
[6.80.4.5 NMAC - Rp, 6.80.4.5 NMAC, 6/29/2007]

6.80.4.6 OBJECTIVE: To establish the initial application and renewal process for charter schools, whether locally or state chartered, the appeal process of charter schools to the secretary of education and the secretary of education's review process.
[6.80.4.6 NMAC - Rp, 6.80.4.6 NMAC, 6/29/2007]

6.80.4.7 DEFINITIONS:

A. "Applicant" means one or more teachers, parents or community members or a public post-secondary educational institution or nonprofit organization who submits an initial or renewal application to a chartering authority.

B. "Authorizer" means either a local school board or the commission that permits the operation of a charter school.

C. "Charter school" means a conversion school or start-up school authorized by a chartering authority to operate as a public school.

D. "Chartering authority" means either a local school board or the commission that permits the operation of a charter school.

E. "Chief executive officer" means the person with duties similar to that of a superintendent as set forth in Section 22-5-14 NMSA 1978.

F. "Commission" means the public education commission.

G. "Conversion school" means an existing public school within a school district that was authorized by a local school board or the commission to become a charter school.

H. "Days" means, unless otherwise specified in a provision in this rule or applicable statute, business days when the period referenced is 10 days or less, and calendar days when the period referenced is 11 days or more. In computing the amount of days, exclude the day of the event that triggers the period, and include the last day of the period. If the last day is a day when the department is closed, the period continues to run until the end of the next business day that the department is not closed. Whenever a person or entity must act under this rule within a prescribed period after service of a notice or paper upon the person or entity, and the notice or paper is served by mail or courier service, three calendar days are added to the prescribed period.

[H] I. "Department" means the public education department.

[I] J. "Division" means the charter schools division of the department which maintains offices in both Santa Fe and Albuquerque.

[J] K. "Governing body" means the governing body of a charter school as set forth in the school's charter.

[K] L. "Head administrator" means the duly licensed school administrator who is the chief executive officer of the charter school.

[L] M. "Locally chartered charter school" means a charter school authorized by a local school board.

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[M] N. “MEM” means membership, which is the total enrollment of qualified students on the current roll of a class or school on a specified day.

[N] O. “New Mexico coalition for charter schools” means the non-profit membership organization representing charter schools in New Mexico.

[O] P. “New Mexico school boards association” means the organization consisting of the local public school boards and the governing bodies of charter schools in New Mexico.

[P] Q. “Organizer” means one or more persons or entities who seek to arrange, form or otherwise put together a charter school.

[Q] R. “Prospective applicant” means one or more teachers, parents or community members or a public post-secondary educational institution or nonprofit organization who submits a notice of intent to a chartering authority.

[R] S. “Secretary” means the New Mexico secretary of public education.

[S] T. “Start-up charter school” means a public school developed by one or more parents, teachers or community members who applied to and were authorized by a chartering authority to become a charter school.

[T] U. “Application for start-up charter school” means an application requesting the establishment of either a locally-chartered or state-chartered school.

[U] V. “Special education plan” means a comprehensive written design, scheme or method that includes specific details on how the charter school shall:

(1) utilize state and federal funds to provide children with disabilities a free and appropriate public education, in accordance with applicable law;

(2) provide educational services, related services and supplementary aids and services to children with disabilities in accordance with each child’s individualized education program; and

(3) address a continuum of alternative educational placements to meet the needs of students with disabilities, in accordance with applicable law.

[V] W. “State-chartered charter school” means a charter school authorized by the commission. [6.80.4.7 NMAC - Rp, 6.80.4.7 NMAC, 6/29/2007; A, 6/30/2008; A, 6/30/2009; A, 12/31/2018]

6.80.4.8 NOTICE OF INTENT TO ESTABLISH A CHARTER SCHOOL:

A. The organizers of a proposed charter school shall provide a signed written notification to the commission and the school district in which the charter school is to be located of the organizers’ intent to establish a charter school. The date for submitting a notice shall be no later than the second Tuesday of January of the year in which the prospective applicant plans to submit an application.

B. Written notification to the commission shall be made to the division at its Albuquerque office; written notification to a local school board shall be made to the superintendent of that district who shall provide copies of the notification to the local school board during a duly noticed board meeting.

C. If the second Tuesday of January falls on a legal holiday, the notification shall be timely if personally delivered on the first day following the legal holiday that the division or office of the pertinent superintendent is open for business. Notice will also be considered timely if it is postmarked four calendar days prior to the second Tuesday of January, regardless of the date on which it is received. Failure to provide timely notification may result in an application being rejected unless the organizers can demonstrate good cause why timely notification was not given.

[6.80.4.8 NMAC - N, 6/29/2007; A, 6/30/2008; A, 6/30/2009]

6.80.4.9 CONTENTS OF APPLICATION FOR START-UP CHARTER SCHOOL: A charter school application shall be a proposed agreement between the chartering authority and the charter school and shall include the following assurances, descriptions, outlines and plans.

A. The mission statement of the charter school. The mission statement must answer the following questions: “Who do you serve?”, “What do you seek to accomplish?”, “What methods will you use?”, and “How will we know if you are achieving your mission?”

B. The goals, objectives and student performance standards to be achieved by the charter school which address how the charter school will comply with the department’s required content standards, benchmarks, and performance standards, state accreditation, standardized testing and school report card in accordance with Sections 22-2C-1 et seq. NMSA 1978. The goals and objectives must be measurable and student-centered.

C. A description of the charter school’s educational program and curriculum that meets or exceeds the department’s educational standards and must be designed to enable each student to achieve those standards and addresses the following:

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- (1) documentation, research or rationale that supports a particular curricular approach;
 - (2) a description of the curriculum including scope and sequence and student performance standards;
 - (3) a timeline for alignment of the curriculum with the department's content standards, benchmarks and performance standards, if alignment has not been completed at the time the application is submitted;
 - (4) strategies and methods to be used in delivering the curriculum and how the curriculum will address students' needs and assist each student in reaching those standards;
 - (5) length of school day and school year;
 - (6) total number of grades the charter school proposes to provide, either immediately or in phases, class size and total projected student enrollment and, if the charter school will be located in a school district that has a total enrollment of not more than 1,300 students, a statement that the proposed charter school's proposed enrollment for all grades, in combination with any other charter school's enrollment for all grades, will neither equal nor exceed ten percent of the total MEM of that school district;
 - (7) proposed requirements for graduation, if applicable.
- D.** A description of the way a charter school's educational program will meet the individual needs of students, including those students determined to be at risk, and which will address the following:
- (1) suggested modifications to the proposed educational program to meet individual student needs, such as bilingual, limited English proficient, and special education;
 - (2) an outline of a special education plan, the final plan of which must be completed and submitted to the charter authorizer by the end of the planning year;
 - (3) how the charter school will provide access to other services including but not limited to counseling and health.
- E.** A description or outline of a plan the charter school considers adopting for evaluating student performance, the types of assessments that will be used to measure student progress toward achievement of the state's standards and the school's student performance standards, the timeline for achievement of the standards, and the procedures for taking corrective action in the event that student performance falls below the standards, and which description or outline addresses the following:
- (1) remediation for students not achieving standards, including a timeline for implementation of the remediation plan;
 - (2) assessments that might be considered in addition to the statewide mandated testing;
 - (3) documentation and reporting of student data.
- F.** Assurances that the charter school will be economically sound, including the submission of a proposed budget for the term of the charter and a description of the manner in which the annual audit of the financial and administrative operations of the charter school is to be conducted, and addresses the following:
- (1) a proposed budget for year one and the following four years based on the current unit value;
 - (2) a description of the administrative operations of the charter school.
- G.** An assurance that the fiscal management of the charter school will comply with all applicable federal and state laws, regulations and rules relative to fiscal procedures. In addition to this basic assurance, the applicant shall clearly state in its assurance that the following information will be provided to the chartering authority by the end of the planning year or within 10 days of receipt of any federal or state stimulus funds:
- (1) a detailed plan indicating how the charter school will manage its fiscal responsibilities;
 - (2) a description of its internal control procedures that the charter school will utilize to safeguard assets, segregate its payroll and other check disbursement duties, provide reliable financial information, promote operational efficiency, and ensure compliance with all applicable federal statutes and regulations and state statutes and rules relative to fiscal procedures.
- H.** The names of the members of the governing body and a description of the operation of the charter school, including:
- (1) the method of selecting the governing body;
 - (2) the qualifications and terms of members, the filling of vacancies, and the procedures for changing governing body membership;
 - (3) an assurance that the governing body will meet and conduct its meetings in accordance with the Open Meetings Act, Sections 10-15-1 et seq., NMSA 1978;
 - (4) the nature and extent of parental, professional educator and community involvement in the governance and the operation of the school;

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(5) an assurance that the charter school will adopt policies and procedures of the governing body, that address governance, relationship to staff, professional development, the role of the governing body in policy-making, personnel decisions, budgeting, and operation of the charter school, including how decisions will be made;

(6) for locally chartered charter schools, an assurance that it will amend its charter within one (1) year of approval to include procedures agreed upon with its chartering authority for the resolution of disputes between them;

(7) a description of how the charter school proposes to account to the chartering authority with respect to the charter school's compliance with applicable statutes, regulations, rules and charter provisions;

(8) an assurance by each governing body member that they have read the application and agree to its submission to the chartering authority.

I. An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment will be addressed with affected employees and their recognized representatives, if any, and which address the following:

(1) personnel policies and procedures that comply with all applicable federal statutes and regulations, the School Personnel Act, Sections 22-10-1 et seq., NMSA 1978, and the Charter Schools Act, Sections 22-8B-1 et seq. NMSA 1978 or, if personnel policies and procedures have not been developed at the time of the application, a statement that the policies and procedures developed will comply with applicable federal and state labor laws, regulations and rules implementing them;

(2) a description of the evaluation process for staff which shall include evaluation of teachers by a licensed school administrator;

(3) the discipline process for staff, that provides for due process and demonstrates an understanding of applicable state and federal laws, regulations and rules;

(4) an assurance that the governing body or head administrator will recognize and work with employee labor representatives, if any;

(5) a proposed salary schedule;

(6) proposed job descriptions of staff;

(7) a proposed pupil-teacher ratio.

J. The student discipline policy of the proposed charter school that complies with the department's rule on students' rights and responsibilities.

K. For charter schools, a proposed agreement between the charter school and the authorizer regarding their respective legal liability and applicable insurance coverage.

L. A description of how the charter school plans to meet the transportation and food service needs of its students. The description shall address whether the applicant intends to contract with a school district or other party for the provision of transportation and food services; the identity of the school district or that other party, if known, with whom the applicant proposes to contract; a description of the proposed terms of any contract; and for these services a description of the status of any preliminary negotiations with any school districts or other parties regarding the provision of transportation or food service.

M. A description of the waivers that the charter school is requesting from either the local school board or the department or both and the charter school's plan for addressing these waiver requests that:

(1) lists the specific policy by number and title for which waivers are requested from local school board policy;

(2) lists the specific waivers that are requested from the department's requirements, rules, and provisions of the Public School Code, Sections 22-1-1 et seq., NMSA 1978, pertaining to individual class load, teaching load, length of the school day, staffing patterns, subject areas, purchase of instructional material, evaluation standards for school personnel, school principal duties, driver education and graduation requirements.

N. A description of the facilities the charter school plans to use, taking phase-in and availability into account. The charter school shall provide a detailed description of its proposed capital outlay needs, including projected requests for capital outlay assistance for the charter school. Additionally, the charter school shall provide an assurance that:

(1) the facility it seeks to use is safe and suitable for use as a school;

(2) it will develop and maintain a plan for addressing code, accessibility requirements and any other health and safety requirements, if necessary;

(3) it will develop and maintain a plan for operation, maintenance and repair of a facility;

(4) it will produce a certificate of occupancy for use of the facility; and

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(5) prior to opening that the facility to be used meets all applicable federal and state health, safety and code requirements.

O. A description of the enrollment procedures to be used by the charter school that complies with Section 22-8B-4.1 NMSA, 1978 and Subsection D of 6.80.4.12 NMAC.

P. An explanation of how approval of the charter school would be in the best interest of students, school district and community where it intends to locate, and serves a purpose in that community. [6.80.4.9 NMAC - Rp, 6.80.4.8 NMAC, 6/29/2007; A, 6/30/2008]

6.80.4.10 TERM OF A CHARTER:

A. A charter may be approved for an initial term of six years, provided that the first year shall be used exclusively for planning and not for completing the application. The planning year shall be the fiscal year in which the charter is authorized, beginning on the July 1 date on which applications were due and ending on June 30, regardless of the number of months that may be available to a charter school for planning activities.

B. A charter may be renewed for successive periods of five years each unless a lesser period is agreed to in writing by the charter school and its authorizer. The five years of the charter will commence on July 1 of the fiscal year after the charter was approved by its authorizer and shall align with the dates of the fiscal year. [6.80.4.10 NMAC - N, 6/29/2007]

6.80.4.11 REQUIREMENTS DURING THE PLANNING YEAR:

A. For charter schools approved prior to July 1, 2010, prior to the end of its planning year, a newly authorized charter school shall demonstrate to the authorizer that its facilities meet the educational occupancy standards required by applicable New Mexico construction codes. For charters approved on or after July 1, 2015, prior to the end of its planning year, the charter school shall demonstrate to its authorizer that its facilities meet the relevant requirements for schools as set forth in Subsection C of Section 22-8B-4.2 NMSA 1978.

B. A charter school shall simultaneously notify the public school capital outlay council and its authorizer in writing of its readiness to demonstrate that its facilities meet the referenced educational occupancy standards.

C. The public school capital outlay council shall determine whether a charter school's facilities meet established educational occupancy standards, and if not, whether specific requirements are inappropriate or unreasonable for a charter school. If the public school capital outlay council determines that specific requirements of the referenced educational occupancy standards are inappropriate or unreasonable for a charter school, it may grant a variance. The public school capital outlay council shall provide written notification of its decision and the reasons thereto simultaneously to the charter school and its authorizer.

D. Prior to the end of its planning year, a state chartered charter school shall demonstrate that it has qualified as a board of finance and that it has satisfied any conditions imposed by the commission before commencing full operation for the remainder of its charter term.

E. Prior to the end of its planning year, the state-chartered charter schools shall apply to the commission for authorization to commence full operations. If the commission refuses to issue the authorization to commence full operation, it shall provide its reasons in writing which shall be limited to the reasons set forth in Subsection D of 6.80.4.11 NMAC.

[6.80.4.11 NMAC - N, 6/29/2007; A, 6/30/2008; A, 6/30/2009]

6.80.4.12 INITIAL REQUIREMENTS AND REVIEW PROCESS FOR START-UP SCHOOLS:

A. Local school boards may approve the establishment of charter schools to be located in their respective districts. The commission may approve the establishment of a charter school to be located anywhere in the state.

B. An applicant shall apply to only one chartering authority at a time. An applicant whose application has been denied by a chartering authority or approved with amendments unacceptable to the applicant may file the same application the following fiscal year with a different chartering authority.

C. Applications for start-up schools shall be submitted between June 1 and July 1 to be eligible for consideration for the following fiscal year. If July 1 falls on a Saturday or a Sunday, the deadline for filing applications shall be extended to the close of business of the very next Monday, even in the case of a school district closed for summer break. Applications will also be considered timely if they are postmarked four calendar days prior to July 1, regardless of the date on which they are received. Failure to submit a timely application shall result in an application being rejected by the authorizer, unless the parties agree to waive the filing deadline in accordance

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with Section 22-8B-6 NMSA 1978. Any such waiver shall be in writing and signed by persons authorized to take such action by the applicant and the chartering authority.

D. Enrollment in a start-up charter school shall be guided by the following.

(1) A charter applicant must enroll students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available.

(2) A charter applicant shall advertise its enrollment process using newspapers, bulletin boards and other methods designed to disseminate its availability to seek student enrollment and to ensure that there is equal opportunity for all parents and students to learn about the school and apply.

(3) A charter school shall not charge tuition or have admission requirements, except as otherwise provided in the Public School Code, Sections 22-1-1 et seq., NMSA 1978.

(4) In subsequent years of its operation, a charter school will give enrollment preference to previously properly admitted students who remain in attendance and siblings of students already admitted to or attending the school.

E. Any revision or amendment to the terms of the charter contract may be made only with the written approval of the authorizer.

F. A charter school shall be a nonsectarian, nonreligious, and non-home-based public school that operates within the geographic boundaries of a public school district.

G. A charter school shall comply with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Part B of the Individuals with Disabilities Education Act.

H. A charter school shall comply with the same federal and state audit requirements as do other public schools in the state.

I. A charter school shall meet all applicable federal, state, and local health and safety requirements.

J. A charter school shall operate in accordance with and under authority of state law.

K. A charter school shall provide equitable access to, and participation in, its federally assisted program for students, teachers, and other program beneficiaries with special needs.

L. A charter school shall have an admissions process that does not discriminate against anyone on the basis of race, gender, national origin, color, disability, or age.

M. A charter school's head administrator or governing body shall not employ or approve the employment in any capacity of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister or sister-in-law of a member of the governing body or the head administrator. The governing body may waive the nepotism rule for family members of a head administrator.

N. Applications to the commission for establishment of a state chartered charter school shall be made to the division at its Albuquerque office. Applications to a local school board for establishment of a locally chartered charter school shall be made to the superintendent of that district.

O. An application for a start-up school may be made by one or more teachers, parents, community members, by a public post-secondary educational institution or a nonprofit organization.

P. The chartering authority shall be responsible for reviewing all applications for charter schools. Prior to the submission of the applications, the division shall provide at least three technical assistance workshops for prospective applicants on preparing a start-up application. The chartering authority shall not charge application fees.

Q. A review coordinator shall be used by the chartering authority to assist prospective applicants in the preparation of proposed charters. The assistant secretary for the division shall designate a review coordinator in the division for the commission. The superintendent shall appoint a review coordinator for the local school board, unless the superintendent of a school district performs this duty. Prior to the deadline for submission of applications established by the chartering authority, the review coordinator or superintendent and any prospective applicants shall confer in an attempt to identify:

(1) any concerns regarding noncompliance with requirements of the Charter Schools Act (Sections 22-8B-1 et seq., NMSA 1978), this rule or other applicable state or federal laws or regulations which would arise from the establishment or operation of the proposed charter school;

(2) any licensure, curriculum, or other educational concerns which would arise from the establishment or operation of the proposed charter school;

(3) any interests of the students, the school district or the community which would be adversely affected by the establishment or operation of the proposed charter school and describe the apparent adverse effects.

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R. Prospective applicants are to direct any request for technical assistance and information through the authorizer's designated review coordinator. The review coordinator or superintendent shall ensure that the appropriate staff members respond to requests from prospective applicants for information on school operations, policies or practices which prospective applicants regard as necessary to enable them to present an approvable application. Prospective applicants may request information using the Inspection of Public Records Act (Chapter 14, Article 2 NMSA 1978). A review coordinator may require that requests for information not made pursuant to the Inspection of Public Records Act be in a format or directed to a specific person or office in the school district or department. Prospective applicants should not contact school district or department employees directly to obtain information.

S. Prior to the public meeting at which the decision is made, the chartering authority shall hold at least one public hearing to obtain information and community input to assist it in its decision whether to grant a charter school application. At any such hearing, which shall be duly noticed and held pursuant to the Open Meetings Act (Chapter 10, Article 15 NMSA 1978) and the requirements contained in the Laws 2009 Chapter 12, members of the chartering authority may ask questions of the charter applicant and that applicant shall have an opportunity, subject to reasonable time limitations, to respond to any questions or concerns raised by any members of the chartering authority, and present to the chartering authority information that clarifies and verifies the information in the application that the applicant believes will assist the chartering authority in making its decision. Community input may include written or oral comments in favor of or in opposition to the application by the applicant, members of the local community and other interested individuals. Community input shall be provided within a time limit established by the chartering authority.

T. A charter applicant shall respond to requests for information that the chartering authority regards as necessary to verify and clarify issues identified in the charter application; each shall communicate in good faith in an attempt to verify and clarify issues identified in the charter application.

U. No earlier than three days after the public hearing to obtain information and community input, the chartering authority shall rule on the application in a public meeting. The public meeting at which the decision is made shall be held by September 1. The charter applicant and the chartering authority may, however, jointly waive the September 1 deadline provided they do so in a signed written statement. If not ruled upon by September 1, or the stipulated deadline, the charter application will be automatically reviewed by the secretary pursuant to the applicable provisions of Section 22-8B-7 NMSA 1978 and 6.80.4.14 NMAC.

V. A chartering authority may approve, approve with conditions or deny an application. A chartering authority may deny an application where:

- (1) the application is incomplete or inadequate;
- (2) the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act (Chapter 22, Article 8B NMSA 1978);
- (3) the proposed head administrator or other administrative or fiscal persons were involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal member was discharged from a public school for fiscal mismanagement;
- (4) the public school capital outlay council has determined that the facilities do not meet the standards required in Section 22-8B-4.2 NMSA 1978;
- (5) for a proposed state-chartered charter school, it does not request the governing body to be designated as a board of finance, or the governing body does not qualify as a board of finance; or
- (6) the application is otherwise contrary to the best interests of the charter school's projected students, the local community or the school district in whose geographic boundaries the applicant seeks to operate.

W. If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or imposition of conditions in writing within 14 days of the meeting. The written decision must be based upon the vote that was taken at the public meeting and reflect the stated reasons for the vote of the chartering authority to deny a charter school application or approve the application with conditions. If the chartering authority grants a charter, it shall deliver the approved charter to the applicant. The time within which to file notice of appeal shall commence upon receipt of the written denial. The chartering authority shall maintain a copy of the charter for its files.

X. If the approved charter contains a waiver request for release from department rules or the Public School Code the applicant must follow the procedures on requesting waivers from the department. The department shall notify the authorizer and the charter school whether the request is granted or denied and, if denied, the reasons thereto.

Y. If the authorizer denies a charter school application or imposes conditions for approval that are unacceptable to the charter applicant, the applicant may appeal the decision to the secretary pursuant to Section 22-8B-7 NMSA 1978 and Section 6.80.4.14 NMAC.
[6.80.4.12 NMAC - Rp, 6.80.4.9 NMAC, 6/29/2007; A, 6/30/2008; A, 6/30/2009]

6.80.4.13 CHARTER SCHOOL RENEWAL PROCESS AND RENEWAL APPLICATIONS:

A. The governing body of a charter school seeking to renew its charter shall file its renewal application with a chartering authority no earlier than 270 days prior to the date the charter expires. Commencing with any charters that are due to expire at any time after January 1, 2008, all applications for renewal shall be submitted no later than October 1 of the fiscal year prior to the expiration of the school's charter. The chartering authority shall rule in a public meeting on the renewal application no later than January 1 of the fiscal year in which the charter expires.

B. The governing body may submit its charter renewal application to either the commission or to the local school board of the district in which the charter school is located, but may not submit the renewal application to both authorizers simultaneously.

C. The application shall contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, student performance standards, state minimum educational standards and other terms of the initial approved charter application, including the accountability requirements set forth in the Assessment and Accountability Act (Section 22-2C-1 et seq., NMSA, 1978);

(2) a financial statement that discloses the costs of administration, instruction and other spending categories for the charter school that is understandable to the general public, that will allow comparison of costs to other schools or comparable organizations and that is in a format required by the department;

(3) any changes to the original charter the governing board is requesting and any amendment to the initial charter, which were previously approved;

(4) a certified petition in support of the charter school renewing its charter status signed by not less than 65 percent of the employees in the charter school;

(5) a certified petition in support of the charter school renewing its charter status signed by at least 75 percent of the households whose children are enrolled in the charter school as identified in the school's 120-day report of the fiscal year prior to the expiration of the charter;

(6) a description of the charter school facilities and assurances that the facilities are in compliance with the requirements of Section 22-8B-4.2 NMSA 1978; and

(7) a statement of the term of the renewal requested, if less than five years; if a charter school renewal application does not include a statement of the term of the renewal, it will be assumed that renewal is sought for a term of five years.

D. A chartering authority may refuse to renew a charter if it determines that:

(1) the charter school committed a material violation of any of the conditions, standards or procedures set forth in the charter contract;

(2) the charter school failed to meet or make substantial progress toward achievement of the department's minimum educational standards or student performance standards, ~~[identified in the charter application];~~ Failure to meet or make substantial progress toward achievement of the department's minimum educational standards or student performance standards shall be defined by the following criteria:

(a) charter school earns a tier 4 rating as outlined in the charter school performance framework in the charter contract for the most recent two consecutive years or for three of the last four years; or

(b) charter school earns an F rating pursuant to Section 22-2E-1 NMSA 1978 for the most recent two consecutive years or any combination of D ratings or F ratings over the last three years;

(3) the charter school failed to meet generally accepted standards of fiscal management;

(4) the charter school violated any provision of law from which the charter school was not specifically exempted; or

(5) the public school capital outlay council has determined that the facilities do not meet the standards required in Section 22-8B-4.2 NMSA 1978.

E. ~~[If the chartering authority refuses to approve a charter school renewal application or approves the renewal application with conditions, it shall state its reasons for the non-renewal or imposition of conditions in writing within 14 days of the meeting; provided that if the chartering authority grants renewal of a charter, it shall deliver the approved charter to the applicant and a copy to the chartering authority. The chartering authority shall keep a copy of the charter for its files.]~~ If the chartering authority refuses to approve a charter school renewal

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application or approves the renewal application with conditions, it shall state its reasons for the non-renewal or imposition of conditions in writing within 14 days of the public meeting at which the vote was taken. The written decision must restate the motion that was voted on in the public meeting and must restate the reasons that were voted on in the public meeting during which the vote was taken.

F. If the chartering authority grants renewal of a charter, it shall deliver the approved charter to the applicant and a copy to the chartering authority.

[F] G. If the approved charter contains a waiver request for release from department rules or the Public School Code, the department shall notify the authorizer and the charter school whether the request is granted or denied and, if denied, the reasons thereto.

[G] H. If the authorizer refuses to approve a charter school renewal application or imposes conditions for renewal that are unacceptable to the charter applicant, the applicant may appeal the decision to the secretary pursuant to Sections 22-8B-7 NMSA 1978 and 6.80.4.14 NMAC.

[H] I. The provisions of this section shall apply to conversion schools.
[6.80.4.13 NMAC - Rp, 6.80.4.8 NMAC, 6/29/2007; A, 6/30/2008; A, 6/30/2009; A, 12/31/2018]

6.80.4.14 APPEALS TO THE SECRETARY:

A. Right of appeal. A charter applicant may appeal to the secretary from any chartering authority decision denying a charter school application, revoking or refusing to renew a previously approved charter, or imposing conditions for approval or renewal that are unacceptable to the applicant. Appeals from suspension of governing bodies and head administrators by the secretary shall be governed by the procedures set forth in 6.30.6 NMAC ("Suspension of Authority of a Local School Board, Superintendent or Principal").

B. Notice of appeal.

(1) Filing and service of notice. A charter applicant or governing body of a charter school that wishes to appeal a decision of a chartering authority concerning the denial, nonrenewal or revocation of a charter, or the imposition of conditions for approval or renewal that are unacceptable to the charter school or charter school applicant shall file and serve a written notice of appeal within 30 days after service of the chartering authority's decision. One original plus four copies of the notice of appeal together with any supporting documents shall be filed with the secretary at the department's main office in Santa Fe. No notice of appeal, including exhibits and other related documents, shall be filed using compact disks, floppy disks or email; instead, paper documents must be filed with the department.

(2) Grounds of appeal. The notice shall include a [brief] statement of the reasons why the appellant contends the chartering authority's decision was in error with reference to the standards set forth in Subsection B of Section 22-8B-7 NMSA 1978 that the authorizer acted arbitrarily or capriciously, rendered a decision not supported by substantial evidence, or did not act in accordance with law. The appellant shall limit the grounds of its appeal to the authorizer's written reasons for denial, nonrenewal, revocation or imposition of conditions.

(3) Required attachments. The appellant shall attach to each copy of the notice of appeal:

(a) a copy of the chartering authority's written decision, together with a copy of the authorizer's minutes or draft minutes of the meeting if available; and

(b) a copy of the charter or proposed charter in question.

C. Filing and service of other documents. An original document shall be filed with the secretary at the department's main office in Santa Fe. Each party shall simultaneously serve a copy of all documents filed with the secretary including any attachments upon the other party at that party's address of record on appeal. A party may file documents other than a notice of appeal and required documents referenced at Paragraph (5) of Subsection D of 6.80.4.14 NMAC below, by email to the secretary provided that the email includes any attachments, as well as the sender's name and mailing address. Filings with the secretary shall reflect by certification of the sender that a copy of all documents being submitted is simultaneously being served on the other party, the method of service, and the address where filed. Filing or service by mail is not complete until the documents are received.

D. Pre-hearing procedures.

(1) Within 10 days after receipt of the notice of appeal, the secretary shall inform the parties by letter of the date, time and location for the appeal hearing.

(2) Except for brief inquiries about scheduling, logistics, procedure or similar questions that do not address the merits of the case, neither party shall communicate with or encourage others to communicate with any employee of the department about a pending appeal unless the other party is simultaneously served with a copy of any written communication or has an opportunity to participate in any conversation by meeting or conference call. Nor shall any employee of the department initiate such prohibited communications. The secretary must

disqualify himself or herself from hearing an appeal if the secretary determines, after learning of a prohibited communication, that the secretary is unable to render an unbiased decision. Appellants will be provided a point of contact in the letter referenced in Paragraph (1) of Subsection D of 6.80.4.14 NMAC.

~~[(3) The deadlines in 6.80.4.14 NMAC may be extended by the secretary for good cause. Good cause may include, but shall not be limited to, an agreement between the parties or a well-reasoned request from either party based upon hardship, a scheduling conflict or an event beyond the control of the requester.]~~

~~[(4)] (3)~~ All submissions to the secretary on appeal shall focus on the factual and legal correctness of the chartering authority's decision in light of the grounds upon which a chartering authority may deny an application set forth in Subsection K of Section 22-8B-6 NMSA 1978 or the grounds for non-renewal or revocation as set forth in Subsection F of Section 22-8-12 NMSA 1978, and the standards for affirmance or reversal that the chartering authority's decision was arbitrary, capricious, not supported by substantial evidence or otherwise not in accordance with the law.

~~[(5) Within 10 days after filing the notice of appeal, the appellant shall file one original and four copies with the secretary and serve upon the chartering authority one copy of:~~

~~(a) the appellant's arguments for reversal of the chartering authority's decision, clearly labeled accordingly;~~

~~(b) the chartering authority's written decision that the appellant is appealing;~~

~~(c) the charter or proposed charter in question, of which only two (2) copies need to be filed; and~~

~~(d) any other materials related to the issues raised by the appellant which the appellant wishes to have considered in support of its appeal.~~

~~(6) Within 10 days after receiving the appellant's submissions, the chartering authority shall file one original and four copies with the secretary and serve upon the appellant one copy of:~~

~~(a) the chartering authority's response to the appellant's arguments; and~~

~~(b) any other materials the chartering authority wishes to have considered in support of its decision.]~~

(4) Within 15 days of the mailing date of the appellant's notice of appeal and reasons to the chartering authority, the chartering authority shall file one original and four copies with the secretary and serve upon the appellant one copy of the chartering authority's response to the appellant's arguments.

~~[(7) If requested by the secretary, the division and other department staff as appropriate shall review each party's submissions and prepare a report for the secretary which]~~

(5) The division shall review each party's submissions and prepare a report for the secretary which:

(a) analyzes and outlines the parties' contentions on appeal with reference to the standards of Subsection K of Section 22-8B-6 and Subsections B and E of Section 22-8B-7 NMSA 1978;

(b) sets forth the staff's recommendations for the secretary to affirm or reverse the chartering authority's decision, with or without reasonable conditions or changes to the charter, and the reasons for those recommendations.

~~[(8)] (6)~~ At least five days before the hearing date, the division shall deliver its report and recommendations to the secretary and shall simultaneously serve a copy upon each party.

~~[(9)] (7)~~ While an appeal is pending, the parties are strongly encouraged to continue discussions and negotiations in an effort to resolve the matter by agreement and reestablish productive working relations. An appellant may withdraw an appeal at any time before the secretary reaches a final decision. If an appeal is withdrawn, the secretary shall approve an appropriate order of dismissal. The secretary's decision and order may incorporate the terms of any agreement reached by the parties. An appeal which has been withdrawn may not be refiled.

E. Secretary hearing and decision.

~~[(1) Unless an extension for good cause has been granted pursuant to Paragraph (4) of Subsection D of 6.80.4.14 NMAC within 60 days after receipt of the notice of appeal, the secretary, after a public hearing that may be held in Santa Fe or in the school district where the proposed charter school has applied for a charter, shall review the decision of the chartering authority and make written findings.]~~

(1) Within 60 days after receipt of the notice of appeal, the secretary, after a public hearing that may be held in Santa Fe or in the school district where the proposed charter school has applied for a charter, shall review the decision of the chartering authority and make written findings.

(2) Participants at the hearing before the secretary shall be the designated representatives of the appellant, the chartering authority and the division and other department staff as appropriate.

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(3) The time allotment for a hearing shall be three hours. Both parties shall be allowed up to 30 minutes for their presentations. Department staff shall be allowed 20 minutes for their presentation. The appellant may reserve part of its 30 minutes for rebuttal if desired. The order of presentations will be department staff, appellant, chartering authority and rebuttal by the appellant if time has been reserved. The parties may present remarks from whomever they wish in their 30 minutes but must include any comments they wish to make on the staff recommendations within their allotted time. Presentations, questions or discussions that exceed these limits may be ruled out of order by the secretary. The secretary may ask questions of the staff, the parties or the secretary's counsel at any time and may take up to one hour after the staff's and the parties' presentations for further questions, discussion and its decision. Unless stricken during the hearing for good cause or withdrawn, the parties can assume that the department staff and the secretary have reviewed their written submissions, which shall be deemed evidentiary submissions subject to be given increased or diminished weight based upon the oral presentations.

(4) All presentations and discussion before the secretary shall focus on the factual and legal correctness of the chartering authority's decision in light of the standards and grounds set forth in Subsection K of Section 22-8B-6, Subsections B, C or E of Section 22-8B-7 and Subsection F of Section 22-8B-12 NMSA 1978.

(5) The secretary may reverse the decision of the chartering authority, with or without the imposition of reasonable conditions, if the secretary finds that the chartering authority:

- (a) acted arbitrarily or capriciously;
- (b) rendered a decision not supported by substantial evidence; or
- (c) did not act in accordance with the law.

(6) The secretary shall reverse a decision of the chartering authority denying an application, refusing to renew an application or revoking a charter if the secretary finds that the decision was based upon a determination by the public school capital outlay council that the facilities of the proposed or exiting charter school did not meet the standards required by Section 22-8B-4.2 NMSA 1978 and that the decision was:

- (a) arbitrary or capricious;
- (b) not supported by substantial evidence; or
- (c) otherwise not in accordance with the law.

(7) The department shall promptly serve a formal notice of the secretary's decision upon the parties to the appeal.

(8) A person aggrieved by a final decision of the secretary may appeal the decision to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

F. The provisions of this section shall apply to conversion schools.
[6.80.4.14 NMAC - Rp, 6.80.4.10 NMAC, 6/29/2007; A, 6/30/2008; A, 10/15/2013; A, 12/31/2018]

6.80.4.15 REVIEW ON THE SECRETARY'S OWN MOTION:

A. The secretary, on the secretary's own motion, may review a chartering authority's decision to grant a charter.

B. Within 10 days after the secretary moves to review, the secretary shall issue an appropriate order establishing procedures for the chartering authority and the charter applicant to submit information and arguments for review by the secretary and division staff.

C. Within 60 days after the secretary moves to review, the secretary, at a public hearing that may be held in Santa Fe or in the district in which the proposed charter school applied for a charter, shall review the decision of the chartering authority and determine whether the decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would violate any standard in Subsection C of Section 22-8B-7 NMSA 1978.

D. If the secretary determines that the charter would violate any standard in Subsection C of Section 22-8B-7 NMSA 1978, the secretary shall reverse the chartering authority's decision and remand the decision to the chartering authority with instructions to deny the charter application, suspend or revoke the charter.

E. The timelines in 6.80.4.15 NMAC may be extended by the secretary for good cause. Good cause may include but shall not be limited to an agreement between the parties, a reasonable request from either party or reasonable consideration of the secretary's previously established meeting schedule.

F. A person aggrieved by a final decision of the secretary may appeal the decision to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

G. The secretary shall promptly serve a copy of the decision on the parties to the proceeding.
[6.80.4.15 NMAC - Rp, 6.80.4.11 NMAC, 6/29/2007; A, 6/30/2008; A, 10/15/2013]

6.80.4.16 QUALIFICATION FOR BOARD OF FINANCE DESIGNATION:

A. Within 90 days of approval of its charter application, the governing body of a state-chartered charter school shall file a separate application with the commission seeking approval as a board of finance. This deadline may be extended by the commission for good cause shown.

B. The application shall include:

(1) an affidavit or affidavits, signed by the personnel who will be given the responsibility of keeping the financial records of the charter school, describing the training completed, professional licensure held and degrees earned by them;

(2) a statement signed by every member of the governing body that the governing body agrees to consult with the department on any matter not covered by the manual of accounting and budgeting before taking any action relating to funds held as a board of finance;

(3) a copy of a certificate of insurance that indicates that the person who will be entrusted with handling the funds of the charter school is adequately bonded;

(4) a signed affidavit from each governing body member declaring that the member is not a governing body member of any other charter school and that the member was not a governing body member of another charter school that was suspended or failed to receive or maintain their board of finance designation.

C. Within 30 days of filing of the application to qualify as a board of finance, the commission shall issue a decision approving or denying the application. A copy of the decision will be provided to the governing body and the commission.

[6.80.4.16 NMAC - N, 6/29/2007; A, 6/30/2008]

6.80.4.17 NEW MEXICO SCHOOL FOR THE ARTS:

A. Upon approval by the commission, a state chartered charter school may operate as the New Mexico school for the arts ("the school"), which shall be a statewide residential charter school for grades nine through 12 offering intensive preprofessional instruction in the performing and visual arts combined with a strong academic program that leads to a New Mexico diploma of excellence.

B. An application to the commission for approval of a charter shall contain assurances of compliance together with a plan for how the school will accomplish the following requirements contained in the New Mexico School for the Arts Act, being Laws 2008, Chapter 15, Sections 1 to 9:

(1) paying for all expenses associated with outreach activities and for room and board costs for students unable to pay all or part of the cost of room and board from a foundation or other private funding sources;

(2) working with a foundation or soliciting other private funding sources to obtain gifts, grants and donations to ensure that the school has adequate revenue to make the payments described in Paragraph (1) of Subsection B of 6.80.4.17 NMAC;

(3) not using money received from the state other than charter school stimulus funds to make the payments described in Paragraph (1) of Subsection B of 6.80.4.17 NMAC;

(4) admitting an equal number of students from each of the state's congressional districts, to the greatest extent possible and without jeopardizing admissions standards;

(5) conducting its admissions process in a way that provides equal opportunity regardless of a student's prior exposure to artistic training and to the student's ability to pay for room and board; and

(6) conducting admissions criteria-free outreach activities throughout the state each year that acquaint potential students with the programs at the school, to include programs specifically for middle school students and workshops for teachers.

C. By July 1 after the first year the school has provided preprofessional instruction in the performing and visual arts and by July 1 every year thereafter, the school shall submit a report simultaneously to the division and the commission containing:

(1) non-personally identifiable demographic information about both applicants and students admitted to the school delineated by counties, congressional districts, socioeconomic status, gender and ethnicity; and

(2) the number of students who requested financial assistance for room and board, the total amount of financial assistance provided, and the amounts distributed delineated by the source of gifts, grants and donations received by the school.

D. During the planning year the school shall develop a sliding-fee scale subject to the following considerations:

PROPOSED AMENDMENT

(1) the purpose of the sliding-fee scale is to defray all or part of the costs of room and board for students whose parents or guardians are financially unable to pay these fees;

(2) in determining ability to pay, the school may use a variety of methods including but not limited to:

(a) self disclosures in a financial aid application developed by the school;
(b) poverty thresholds as maintained by the United States census bureau;
(c) poverty guidelines as maintained by the United States department of health and human services;

(d) whether the public school that the student applicant most recently came from was a recipient of funds under Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended;

(e) whether the student applicant for enrollment was eligible to receive free or reduced price school meals at the public school previously attended; and

(f) the amount or percentage of assistance an enrolled student received for room and board the prior school year from the school;

(3) the school shall submit its sliding-fee scale to the commission for initial approval during the planning year and may request changes at subsequent commission meetings for good cause shown.

E. It shall be the responsibility of the school to obtain adequate funding from private sources to pay annual outreach costs and to defray all or part of room and board fees for students financially unable to pay. No state funds except for charter school stimulus funds received and used during the planning year may be used for these purposes. Private funding sources available to the school shall include the use of a foundation or the soliciting and receipt of gifts, grants and donations. Failure to secure adequate funding for these purposes shall constitute grounds for denial or revocation of a charter.

F. Except for provisions of this rule related to admission of students by lottery, admission on a first-come first-serve basis, the ability to charge for residential fees, admissions criteria and location of the school anywhere in the state, all other provisions of this rule related to state-chartered charter schools shall apply to the school.

[6.80.4.17 NMAC - N, 6/30/2008]

6.80.4.18 DISTANCE LEARNING:

A. A charter school offering or seeking to offer distance learning courses to students shall comply with 6.30.8 NMAC.

B. Any charter school offering or seeking to offer distance learning courses in New Mexico pursuant to the Charter Schools Act, Chapter 22, Article 8B NMSA 1978 must be physically located in the state of New Mexico.

[6.80.4.18 NMAC - N, 6/30/2008]

6.80.4.19 LOTTERY WHEN CHARTER SCHOOL CAP IS EXCEEDED:

A. For purposes of compliance with Section 22-8B-11 NMSA 1978, the first five year period shall be deemed to have ended in 2003 and the successive five-year periods begin in 2003.

B. If by October first the chartering authorities have authorized more charter schools than permitted by Section 22-8B-11 NMSA 1978, the department shall notify all chartering authorities with newly authorized charter schools that those charter schools may not be established for operations until a lottery is held.

C. Within 45 days after determining that the cap for charter schools has been exceeded, the department shall conduct a lottery at a publicly noticed meeting to determine the available slots for charter schools. The department shall randomly draw the names of charter schools from the available pool of all charter schools that were authorized by October first. The schools whose names were drawn shall be given the available charter school slots until the maximum numbers of slots have been selected. The charter schools that are selected shall be approved for operation in the first fiscal year after the lottery. The charter schools whose names were not drawn shall be approved for operation in the second fiscal year after the lottery.

D. A charter school that was approved for operation in the second fiscal year after participation in a lottery shall not be subject to a second lottery in the event that in the second fiscal year more charter schools are authorized than permitted by Section 22-8B-11 NMSA 1978.

E. Any charter school authorized after October first in a year in which the department conducts a lottery pursuant to this rule, shall be approved for operation no earlier than the second fiscal year after the school was authorized.

[6.80.4.19 NMAC - Rn, 6.80.4.17 NMAC, 6/30/2008; 6.80.4.19 NMAC - N, 6/30/2009]

PROPOSED AMENDMENT

6.80.4.20 [RESERVED]

[6.80.4.20 NMAC - Rp, 6.80.4.20 NMAC, 07/25/2017]

6.80.4.21 SEVERABILITY: Any part of this rule found by adjudication before a competent tribunal to be contrary to law shall be stricken without affect to the remainder.

[6.80.4.21 NMAC - Rn, 6.80.4.19 NMAC, 6/30/2009]

HISTORY OF 6.80.4 NMAC:

Material in this part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives:

6.80.4 NMAC, Charter School Application and Appeal Requirements, 12/3/2001

History of Repealed Material:

6.80.4 NMAC, Charter School Application and Appeal Requirements - Repealed, 6/29/2007

6.80.4.20 NMAC, Governing Body Training - Repealed, Repealed, 7/25/2017

6.29.17 NMAC, New Mexico Computer Science Standards

PROPOSED NEW RULE

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 29 STANDARDS FOR EXCELLENCE
PART 17 NEW MEXICO COMPUTER SCIENCE STANDARDS

6.29.17.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.29.2.1 NMAC - N, 7/1/2019]

6.29.17.2 SCOPE: All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.
[6.29.2.2 NMAC - N, 7/1/2019]

6.29.17.3 STATUTORY AUTHORITY:

A. Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

B. Section 22-2-2 NMSA 1978 directs the department to set graduation expectations.

C. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.
[6.29.2.3 NMAC - N, 7/1/2019]

6.29.17.4 DURATION: Permanent.
[6.29.2.4 NMAC - N, 7/1/2019]

6.29.17.5 EFFECTIVE DATE: July 1, 2019, unless a later date is cited at the end of a section.
[6.29.2.5 NMAC - N, 7/1/2019]

6.29.17.6 OBJECTIVE: The department-approved New Mexico computer science standards represent the required knowledge and skills in this field. These standards are mandatory for any courses in kindergarten through grade 12 in which computer science content is being taught.
[6.29.2.6 NMAC - N, 7/1/2019]

6.29.17.7 DEFINITIONS: [RESERVED]
[6.29.2.7 NMAC - N, 7/1/2019]

6.29.17.8 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS:
All public schools, state supported educational institutions and educational programs conducted in state institutions, other than the New Mexico military institute, are bound by the New Mexico computer science standards. These standards are available at www.ped.state.nm.us. The k-12 computer science standards published by the computer science teachers association and the association for computing machinery, inc. and any amendments made thereto are incorporated in this rule by reference.
[6.29.2.8 NMAC - N, 7/1/2019]

History of 6.29.17 NMAC: [RESERVED]

6.60.10 NMAC, Mentorship Programs for Teachers

PROPOSED INTEGRATED

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 60 SCHOOL PERSONNEL - GENERAL PROVISIONS PART 10 MENTORSHIP PROGRAMS FOR TEACHERS

6.60.10.1 ISSUING AGENCY: Public Education Department, herein after the “department”.
[6.60.10.1 NMAC - Rp, 6.60.10.1 NMAC, 7/1/2019]

6.60.10.2 SCOPE: Applies to all New Mexico public school districts, charter schools, or state educational institutions. First-year teachers shall successfully complete a minimum one-year teacher mentorship program provided by the public school district, charter school or state educational institution. If any part or application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.
[6.60.10.2 NMAC - Rp, 6.60.10.2 NMAC, 7/1/2019]

6.60.10.3 STATUTORY AUTHORITY: Sections 22-2-1 and 22-10A-9 NMSA 1978.
[6.60.10.3 NMAC - Rp, 6.60.10.3 NMAC, 7/1/2019]

6.60.10.4 DURATION: Permanent.
[6.60.10.4 NMAC - Rp, 6.60.10.4 NMAC, 7/1/2019]

6.60.10.5 EFFECTIVE DATE: July 1, 2019, unless a later date is cited at the end of a section.
[6.60.10.5 NMAC - Rp, 6.60.10.5 NMAC, 7/1/2019]

6.60.10.6 OBJECTIVE: To establish requirements for teacher mentorship programs that improve teacher practice, achievement of their students, and overall performance of their school.
[6.60.10.6 NMAC - Rp, 6.60.10.6 NMAC, 7/1/2019]

6.60.10.7 DEFINITIONS:

A. “First-year teacher” means a teacher in their first year of teaching in a New Mexico public school as a teacher of record, holding a level 1 or alternative New Mexico teaching license. Public school districts and charters may, at their discretion, extend this definition to include teachers in their first year as teacher of record in their school who may have had prior teaching experience in another school.

B. “Director” means the director of the educator quality division for the public education department.

C. “Designated mentor” means a level 2 or level 3 teacher who has earned an effectiveness rating of highly effective or exemplary as determined by the state’s educator effectiveness evaluation system, NMTEACH, as outlined in 6.69.8 NMAC, for the previous two consecutive reports, or who is assigned by the department in situations where no qualifying mentor is available.

D. “Teaching license” means a department license issued in any of the following:

- (1) birth - pre-K;
- (2) pre-K - grade 3;
- (3) grades K- 8;
- (4) grades 5 - 9;
- (5) grades 7-12;
- (6) special education grades pre K-12;
- (7) licensure for pre K-12 in specialty areas;
- (8) blindness and visual impairment birth - grade 12;
- (9) secondary vocational-technical education; or
- (10) deaf and hard of hearing.

[6.60.10.7 NMAC - Rp, 6.60.10.7 NMAC, 7/1/2019]

6.60.10.8 REQUIREMENTS FOR TEACHER MENTORSHIP PROGRAMS: All mentorship programs must receive initial approval from the director prior to the first year of implementation and each year thereafter. To receive approval, public school districts, charter schools, or state educational institutions shall submit a proposed teacher mentorship program that aligns with and supports the public school district’s, charter school’s, or state educational institution’s long range plan for student success. Teacher mentorship programs shall align with all competencies outlined in the state’s educator effectiveness evaluation system, NMTEACH, in accordance with

PROPOSED INTEGRATED

6.69.8 NMAC, and all other competencies outlined in department regulation and guidance. The proposal shall describe how this mandatory teacher mentorship program for first-year teachers addresses the following.

A. Individual support for first-year teachers from designated mentors shall be aligned to all competencies outlined in the NMTEACH system and also include, at a minimum:

- (1) instructional material development in alignment with department-approved standards;
- (2) culturally and linguistically responsive, as defined by the department, lesson planning and lesson design appropriate for all diverse learners, including English learners and students with disabilities;
- (3) development and administration of formative and benchmark student academic assessments;
- (4) individual instructional conferences with students;
- (5) individual conferences with parents and families, specifically to discuss student achievement, assessment scores, and college and career and readiness; and
- (6) classroom observation protocol.

B. Structured and evidence-based training activities for designated mentors, which shall include the following, at a minimum:

- (1) identifying and addressing the needs of first-year teachers;
- (2) developing mentorship relationships;
- (3) evaluating mentees using observation domains outlined in NMTEACH; and
- (4) documenting teacher growth aligned with the NMTEACH system and rubrics.

C. Structured process for selection of designated mentors shall include:

- (1) selection criteria and process; and
- (2) criteria of evaluation the efficacy of the mentor.

D. Compensation provided to designated mentors, as determined by the relevant public school district, charter school, or state educational institution. Pursuant to Section 22-10A-4 NMSA 1978, a level 3-A license is the highest level of teaching licensure for those teachers who choose to advance as instructional leaders in the teaching profession and undertake greater responsibilities such as curriculum development, peer intervention and mentoring.

E. Mentor quality, specifically guaranteeing that all designated mentors will be a level 2 or level 3 teacher who has earned an effectiveness rating of highly effective or exemplary as determined by the state's educator effectiveness evaluation system, NMTEACH, as outlined in 6.69.8 NMAC, for the previous two consecutive reports, or who is assigned by the department in situations where no qualifying mentor is available.

F. Requirements to complete a mentorship program.

G. Programming that is at least one year in length and includes provisions whereby support for an additional one or two years may be provided to teachers who do not successfully complete the first-year teacher mentorship program and continue to be employed in the public school district, charter school, or state educational institution.

[6.60.10.8 NMAC - Rp, 6.60.10.8 NMAC, 7/1/2019]

6.60.10.9 COMPLETION OF TEACHER MENTORSHIP PROGRAM: All first-year teachers shall successfully complete a minimum of a one-year teacher mentorship program to be eligible for a level 2 license. Successful completion of the program shall be determined by the public school district, charter school, or state educational institution.

[6.60.10.9 NMAC - Rp, 6.60.10.9 NMAC, 7/1/2019]

6.60.10.10 ANNUAL PROGRAM REPORTING:

A. Mentorship programs shall be reviewed by the department annually for effectiveness. For the purposes of such review, each district shall maintain teacher evaluation data through NMTEACH and administer a department-issued teacher mentorship program survey for first-year teachers. These data shall be provided to the department in a report submitted annually by November 15 of the following school year. The annual report shall include the following, at a minimum, by school or institution:

- (1) assessment of proficiency in the areas of practice detailed in the approved teacher mentorship proposal, pursuant to Subsection A of 6.60.10.8 NMAC;
- (2) a current analysis each first-year teacher's performance as demonstrated by NMTEACH; and
- (3) results from the department-issued teacher mentorship program survey for first-year teachers.

PROPOSED INTEGRATED

B. The department shall compile and analyze the data submitted by public school districts, charter schools and state educational institutions and report annually to the appropriate interim legislative committee. Nothing may inhibit the department's discretion to share program evaluation results as it determines to be beneficial, within the bounds of applicable state and federal laws and regulations.
[6.60.10.10 NMAC - Rp, 6.60.10.10 NMAC, 7/1/2019]

HISTORY OF 6.60.10 NMAC: [RESERVED]

6.65.4 NMAC, Teacher Leader Development Framework

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 65 SCHOOL PERSONNEL - EDUCATOR PREPARATION
PART 4 TEACHER LEADER DEVELOPMENT FRAMEWORK

6.65.4.1 ISSUING AGENCY: Public Education Department, herein after the department.
[6.65.4.1 NMAC - N, 12/31/2018]

6.65.4.2 SCOPE: The New Mexico teacher leader development framework establishes statewide standards for teacher leader development opportunities for licensed staff in New Mexico public schools.
[6.65.4.2 NMAC - N, 12/31/2018]

6.65.4.3 STATUTORY AUTHORITY: Subsection C of Section 22-1-1.2 and Paragraph (1) of Subsection B of Section 22-1-1.2 NMSA 1978.
[6.65.4.3 NMAC - N, 12/31/2018]

6.65.4.4 DURATION: Permanent.
[6.65.4.4 NMAC - N, 12/31/2018]

6.65.4.5 EFFECTIVE DATE: December 31, 2018, unless a later date is cited at the end of a section.
[6.65.4.5 NMAC - N, 12/31/2018]

6.65.4.6 OBJECTIVE: The objective of this rule is to establish criteria for specific teacher leadership roles and opportunities provided by the department.
[6.65.4.6 NMAC - N, 12/31/2018]

6.65.4.7 DEFINITIONS:

- A. "Department policymakers"** means any senior level department officials who have a direct impact on policy development or policy implementation.
- B. "Regionally diverse"** means representative of every region across the state of New Mexico.
- C. "School liaison"** means a licensed, employed school staff person, not to include school administration, who serves as their school's representative to facilitate communication between the school and the department.
- D. "Secretary"** means the secretary of education for the New Mexico public education department.
- E. "Secretary's teacher advisory"** means a group of licensed, employed teachers who earn a rating of highly effective or exemplary on the state's educator effectiveness evaluation system, NMTEACH, and who meet with the secretary regularly to provide feedback on education issues.
- F. "Teacher ambassador"** means licensed teacher, currently employed by a school or district, who learns about key policy areas as defined by the federal Every Student Succeeds Act (ESSA), develops a statewide community of support, and creates resources to equip teachers with accurate information.
- G. "Teacher liaison"** means a classroom teacher hired by the department to implement the teacher leader development framework as outlined in 6.65.4 NMAC and to maintain direct communication between the department and regionally diverse teachers, providing them with resources and a platform for communication.
[6.65.4.7 NMAC - N, 12/31/2018]

6.65.4.8 REQUIREMENTS FOR TEACHER LEADER DEVELOPMENT FRAMEWORK:

- A. School liaisons program.** The department shall make every effort to have one school liaison in every public school in the state. The school liaison program is a regional model designed to develop a set of teachers who will:
 - (1) serve as their school's liaison to disseminate information regarding key policy areas as defined by the federal ESSA.
 - (2) provide feedback to department policymakers and the secretary;
 - (3) develop skills to support colleagues' growth and development; and
 - (4) gain access to department resources and tools.
- B. Teacher ambassadors program.** Beginning December 31, 2018, the current teacher ambassadors shall maintain their position as teacher ambassadors for a minimum of two years. The department shall make every effort to begin each year with 55 teacher ambassadors.

PROPOSED NEW RULE

(1) Teachers ambassadors are required to complete specific deliverables outlined by the department.

(2) The department shall provide teacher ambassadors with a stipend.

C. Secretary's teacher advisory. Beginning December 31, 2018, the current secretary's teacher advisory members shall maintain their position for a minimum of two years. The department shall make every effort to begin each year with 50 members of the secretary's teacher advisory. The secretary's teacher advisory shall collaborate and engage with the secretary to advise on key policy areas as defined in the federal ESSA. The department shall work to ensure representation among the secretary's teacher advisory members that reflects the diverse geography and cultures of New Mexico.

[6.65.4.8 NMAC - N, 12/31/2018]

6.65.4.9 REQUIREMENTS FOR TEACHER LEADER DEVELOPMENT ENGAGEMENT:

A. School liaisons. School liaisons must participate in virtual and regional in-person meetings provided and facilitated by the department.

(1) The purpose of the virtual and regional in-person meetings is to:

(a) collaborate with educators across the region;

(b) learn about key policy areas as defined by ESSA;

(c) build instructional content and leadership skills through professional learning

opportunities;

(d) network with other teachers; and

(e) develop a community of support.

(2) Virtual meetings facilitated by the department shall occur, at a minimum, once every month. Virtual meetings shall be scheduled to ensure that teacher liaisons will not miss instructional time with students.

(3) Regional meetings shall occur, at a minimum, two times per year. Regional meetings shall be scheduled to ensure that teacher liaisons will not miss instructional time with students or need to stay overnight.

(4) Virtual and regional meetings shall provide teacher liaisons with resources and information regarding education policy and practice.

B. Teacher ambassadors.

(1) Teacher ambassadors shall participate in three in-person meetings annually hosted by the department.

(2) The in-person meetings shall provide opportunities to learn about and discuss education policy and practice.

C. Secretary's teacher advisory.

(1) The secretary's teacher advisory shall meet with the secretary at least once quarterly for a full day.

(2) The secretary's teacher advisory shall participate in monthly calls facilitated by the secretary and teacher liaisons.

D. Annual teacher summit. An annual teacher summit shall be organized by the department. The teacher liaisons shall be responsible for disseminating communication regarding the event and planning logistics. The department shall collaborate with school liaisons, teacher ambassadors, and the secretary's teacher advisory to ensure that the teacher summit:

(1) brings together teachers from across the state to learn, collaborate, and celebrate with their peers;

(2) provides training that covers multiple areas of education policy and practice and is led by teachers.

[6.65.4.9 NMAC - N, 12/31/2018]

6.65.4.10 TECHNICAL ASSISTANCE:

A. The teacher liaison's main function shall be to communicate directly with teachers.

(1) The teacher liaison shall provide the secretary with support regarding all communication with teachers.

(2) The teacher liaison shall meet with the secretary on a monthly basis, at a minimum, to review key policy areas as defined by ESSA and to plan teacher engagement.

PROPOSED NEW RULE

(3) The teacher liaison shall provide direct communication between the department and teachers statewide on a daily basis.

(4) The teacher liaison shall provide a process for regular communication that shall include:
6.65.4.8 NMAC;

- (a) sharing announcements with each of the three teacher leader groups outlined in
- (b) receiving and answering teacher leader questions on various platforms;
- (c) connecting teacher leaders with department directors and department policymakers for engagement opportunities and sharing of resources;
- (d) developing, coordinating, and facilitating content for virtual and in-person trainings to all teacher leader groups outlined in Sections 8 and 9 of 6.65.4NMAC;
- (e) providing quarterly emails to all New Mexico teachers that include updates from the department; and
- (f) developing and executing content for teacher videos and profiles to be published on the department website.

History of 6.65.4 NMAC: [RESERVED]

6.60.8 NMAC, Background Checks for Educator Licensure

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 60 SCHOOL PERSONNEL - GENERAL PROVISIONS
PART 8 BACKGROUND CHECKS FOR EDUCATOR LICENSURE

6.60.8.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.60.8.1 NMAC – Rp, 6.60.7.1 NMAC, 01/15/2019]

6.60.8.2 SCOPE: This rule applies to all applicants for initial teaching licensure, initial instructional support provider licensure, alternative licensure, initial substitute certification, applicants offered employment who have not completed a background check in over 24 months, volunteers, dual credit instructors, and currently employed, licensed individuals who have not previously had a background check.
[6.60.8.2 NMAC – Rp, 6.60.7.2 NMAC, 01/15/2019]

6.60.8.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, 22-8-44, 22-10A-5, 22-10A-7, 22-10A-12, 22-10A-12.1, and 28-2-1 through 28-2-6 NMSA 1978.
[6.60.8.3 NMAC – Rp, 6.60.8.3 NMAC, 01/15/2019]

6.60.8.4 DURATION: Permanent
[6.60.8.4 NMAC – Rp, 6.60.8.4 NMAC, 01/15/2019]

6.60.8.5 EFFECTIVE DATE: January 15, 2019, unless a later date is cited in the history note at the end of a section.
[6.60.8.5 NMAC – Rp, 6.60.8.5 NMAC, 01/15/2019]

6.60.8.6 OBJECTIVE: This rule establishes the provisions of the department's educator background check program required by Section 22-8-44 NMSA 1978.
[6.60.8.6 NMAC – Rp, 6.60.8.6 NMAC, 01/15/2019]

6.60.8.7 DEFINITIONS:

A. "Background check" means a criminal history report produced by the federal bureau of investigation (FBI) or the New Mexico department of public safety (DPS). Reports produced by DPS shall be valid only if created and produced after a check or review of FBI criminal history files.

B. "Criminal history record" means convictions of felonies or misdemeanors of moral turpitude, or other information contained within the records of the federal bureau of investigation (FBI), New Mexico department of public safety (DPS), and other criminal history information disclosed pursuant to the character and fitness sections of the educator licensure application process.

C. "Currently employed, licensed individuals" means a licensed individual who is employed by a school district or charter school who has not previously had a background check.

D. "Dual credit instructor" means an individual that teaches academic or career technical postsecondary courses to public school students for credit at both the higher education institution and the public school.

E. "Applicant for initial licensure" means an applicant for department licensure or certification including applicants for initial teaching licensure, applicants for initial instructional support provider licensure, applicants for alternative licensure, and applicants for initial substitute certification.

F. "New employment applicant" means an applicant for new employment with a different school district, charter school, or regional education cooperative including applicants for positions requiring a license issued by the department, contractors afforded unsupervised access to students, and employees of contractors who are afforded unsupervised access to students. A new employment applicant shall not include unlicensed applicants, contractors, or employees of contractors who are not afforded unsupervised access to students.

G. "Volunteer" means an individual who volunteers with any public school who will be afforded unsupervised access to students.

[6.60.8.7 NMAC – Rp, 6.60.8.7 NMAC, 01/15/2019]

6.60.8.8 REQUIREMENTS:

A. All background checks for licensure by the department shall be obtained through the department or through a vendor designated or approved by the department, including currently employed, licensed individuals

and applicants for initial licensure. All other background checks, including those for new employment applicants, volunteers, and dual credit instructors may be obtained through the school district, charter school, or regional education cooperative or through the department.

(1) Local school boards, charter school governing bodies, and regional education cooperatives shall adopt policies and regulations addressing background check requirements.

(2) Background check policies and regulations shall meet, at a minimum, the requirements of 6.60.8 NMAC and all relevant state and federal law.

B. Applicant for initial licensure. All applicants for initial licensure shall be required to obtain a current and valid background check from the department or a vendor designated by the department.

(1) Applicants for initial licensure shall submit two fingerprint cards or their electronic equivalent to the department or a vendor designated by the department.

(a) Out-of-state applicants for initial licensure shall be fingerprinted using fingerprint cards supplied by the department. Applicants for initial licensure shall submit two completed fingerprint cards to the department either prior to or within five business days of submitting a licensure application.

(b) In-state applicants for initial licensure shall be fingerprinted using the electronic fingerprinting system with the department-approved fingerprint processing vendor either prior to or within five business days of submitting a licensure application. Fingerprints submitted without the correct department code shall not be accepted.

(2) Applicants for initial licensure shall pay all fees required by the department or the department-approved fingerprint processing vendor.

(3) Applicants for initial licensure shall be given the opportunity to disclose and explain a criminal history record, including evidence of rehabilitation. Any disclosure of criminal history shall require a signed, detailed explanation.

(a) The department may choose to request further information from the applicant for initial licensure including court documentation, proof of restitution, or evidence of rehabilitation.

(b) Applicants for initial licensure shall provide a timely response to department requests for further information including court documentation, proof of restitution, or evidence of rehabilitation.

(4) Licensure applications submitted by applicants for initial licensure that do not meet the requirements of Paragraphs (1) through (3) of Subsection B of 6.60.8.8 NMAC shall be considered to be missing background information and shall therefore be considered incomplete and not properly made. Incomplete or not properly made applications shall neither be accepted nor denied.

C. New employment applicants. New employment applicants offered employment or a contract with a school district, charter school, or regional education cooperative who do not have copies of FBI records on file with the department or who have not completed a background check in over 24 months, shall provide two fingerprint cards or their electronic equivalent to the school district, regional education cooperative, or charter school.

D. Volunteer. Volunteers who will have unsupervised access to students who do not have copies of FBI records on file with the department or who have not completed a background check in over 24 months, shall provide two fingerprint cards or their electronic equivalent to the school district, regional education cooperative, or charter school.

E. Dual credit instructor. For public schools that offer dual credit courses, the school district, charter school, or regional education cooperative shall ensure that any individual with unsupervised access to public school students shall have a background check prior to being granted unsupervised access to students. Background checks shall be retained by the school district, charter school, or regional education cooperative and shall be available to the department upon request.

F. Currently employed, licensed individual. All currently employed, licensed individuals who have not previously had a background check shall be required to obtain a current and valid background check from the department or a vendor designated by the department.

(1) Currently employed, licensed individuals shall submit two fingerprint cards or their electronic equivalent to the department or a vendor designated by the department. Currently employed, licensed individuals shall be fingerprinted using the electronic fingerprinting system with the department-approved fingerprint processing vendor either prior to or within five business days of submitting a licensure application. Fingerprints submitted without the correct department code shall not be accepted.

(2) Currently employed, licensed individuals shall pay all fees required by the department or the department-approved fingerprint processing vendor.

(3) Currently employed, licensed individuals shall be given the opportunity to disclose and

explain a criminal history record, including evidence of rehabilitation. Any disclosure of criminal history shall require a signed, detailed explanation.

(a) The department may choose to request further information from the currently employed, licensed individuals including court documentation, proof of restitution, or evidence of rehabilitation.

(b) Currently employed, licensed individuals shall provide a timely response to department requests for further information including court documentation, proof of restitution, or evidence of rehabilitation.

[6.60.8.8 NMAC – Rp, 6.60.8.8 NMAC, 01/15/2019]

6.60.8.9 SHARING OF BACKGROUND CHECK INFORMATION:

A. A local superintendent, charter school administrator, or director of a regional education cooperative, or their designees, at any time, may request documentation of an applicant employee, an employee, contractor, or contractor employee's criminal history record.

B. The department may disseminate to a requesting local superintendent, charter school administrator, or director of a regional education cooperative, or their designees, criminal history records that were generated and issued within 24 months of the date of dissemination. Any criminal history record shall be released or disseminated pursuant to FBI and DPS guidelines.

C. A local superintendent, charter school administrator, or director of a regional education cooperative shall, within 30 days, report to the department any known conviction of a felony or misdemeanor involving moral turpitude of a licensed applicant employee, licensed employee contractor, or licensed contractor employee that results in any type of employment or disciplinary action against the licensed individual. Pursuant to 22-10A-5 NMSA 1978, any failure to comply with the reporting requirements outlined in this section may result in a decision from the secretary to suspend, revoke or refuse to renew the license of a local superintendent, charter school administrator or regional education cooperative director.

[6.60.8.9 NMAC – Rp, 6.60.8.9 NMAC, 01/15/2019]

HISTORY OF 6.60.8 NMAC: [RESERVED]



PED Policy Presentation

November 26, 2018

NM Public Education Department Rulemaking Process

- 1.** Change to federal law, state statute (NMSA), or policy priority as determined by the Secretary
- ↓
- 2.** PED identifies an opportunity to add clarity around implementation or accountability to rule (NMAC)
- ↓
- 3.** PED chooses to: (1) adopt a new rule (2) amend an existing rule (3) repeal a rule or (4) repeal and replace a rule
- ↓
- 4.** PED holds stakeholder engagement and develops proposed draft
- ↓
- 5.** Public notice and draft are released
- ↓
- 6.** Minimum 30 day comment period held on rule
- ↓
- 7.** Public Hearing is held a minimum of 31 days from the notice
- ↓
- 8.** PED considers public comment
- ↓
- 9.** PED adopts rule
- ↓
- 10.** PED files rule

Rule.notification@state.nm.us (rule proposals)

Rule.feedback@state.nm.us (written comment)

<https://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/> (draft rule + information)

<http://164.64.110.134/nmac/title06> (New Mexico Administrative Code)

<http://public.nmcompcomm.us/nmnxtadmin/nmpublic.aspx> (New Mexico statute)

NAVAJO NATION

RCS# 1170

12/27/2018

Naa'bik'iyati Committee

03:31:11 PM

Amd# to Amd#

PASSED

MOT Brown

Legislation 0391-18 Supporting

SEC Damon

proposed new rules submitted
by New Mexico Department....

Yea : 15

Nay : 0

Excused : 0

Not Voting : 9

Yea : 15

Begay, K
Bennett
Chee
Damon

Daniels
Filfred
Hale
Jack

Kieyoomia
Shepherd
Smith
Tso

Tsosie
Yazzie
Yellowhair

Nay : 0

Excused : 0

Not Voting : 9

Bates
Begay, NM
BeGaye, N

Brown
Crotty

Perry
Pete

Phelps
Slim