

# **POLICY SERVICES**

## **ADVISORY**

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### **Policy Advisory Discussion**

The following advisories are recommended for adoption by Policy Services to provide direction to staff on the implementation of recently adopted and revised New Mexico Administrative Code (NMAC) changes. The effective date for the NMAC changes indicated was 7/24/2018. Most of the recommendations are the result of the addition of 6.19.9 NMAC regarding early literacy remediation, interventions, and family engagement for K-3 students. Policy IKF, Graduation Requirements, is the only Policy change based on the revision of 6.19.7 NMAC, which establishes the way schools may implement the demonstration of competencies for high school graduation. **It is suggested that the documents 6.19.9 NMAC and 6.19.7 NMAC, found following the recommended policies, be read in their entirety before reviewing the recommended policies and regulations.**

6.19.9 NMAC is a refinement of 22-2C-6 NMSA, remediation programs; promotion policies; and restrictions. Essentially 6.19.9 NMAC inserts the additional requirement that an early literacy test be used multiple times for grades K - 3.

Instead of using the term academically proficient as in the statute, the Public Education Department (PED) has developed a new sub set by regulation, (NMAC) which is called grade level literacy for use with K -3 students. The language of the NMAC mimics the statutory requirements while adding notice, parent involvement, remediation steps, reporting, grade acceleration, and exemptions for grades K-3. The material has the appearance of being a subset of the original law while making additions that go beyond the scope of the original legislative enactment. These additions require that grade acceleration be offered, not a current requirement in statute, administrative and teaching duties be expanded by additional procedures to accommodate acceleration, and numerous reporting requirements be added.

**Policy Advisory No. 158 IKAB - Report Cards / Progress Reports.** A statement of the purpose of the progress report based on the benchmark assessment for literacy to be given to K-3 students is added to this policy. As read, the rule 6.19.9 NMAC intends that parent notification of the result of the assessment be used in the parent contact. It is unlikely that the midyear assessment would be available at the time of mid-year report cards, thus the inclusion of the statutory language for the notification and inclusion as a literacy progress report.

**Policy Advisory No. 159 IKACA - Parent Conferences.** Since a parent conference is required by 6.19.9 NMAC for K-3 students not proficient in literacy was added to the already required conference for those not academically proficient, a statement was added to the Parent Conference policy indicating the additional literacy proficiency requirement. If the student makes a passing score on literacy, that student could still fall under the academically insufficient guidelines. Regulation IKACA-R was also developed to present the specific requirements regarding the content of the written notice to parents and the conduct of the conference as well as the follow-up plans that are required in the new rule.

**Policy Advisory No. 160 IKE - Promotion and Retention of Students.** Another change to the language of the promotion and retention statute, 22-2C-6 NMSA is made by rule 6.19.9 NMAC. It provides that exemptions to retention other than the grade eight exemption or the parent waiver could be allowed under certain circumstances for K-3 students. This change is reflected in a bullet addition to the policy. Additionally, the change to the notice for a K-3 student who does not obtain grade level proficiency by the end of year benchmark assessment for literacy is noted by the addition of a paragraph adding the substitution of the retention option of the statute to the notice requirements.

**Policy Advisory No. 161 IKEB - Acceleration.** The new rule, 6.19.9 NMAC adds both whole grade and subject matter acceleration options for K-3 students, as well as suggesting that districts provide additional options. The K-3 addition of acceleration options is reflected in policy by an additional paragraph. Because the new rule includes specific directions on the minimum eligibility requirements, those directions were included in the addition of regulation IKEB-R. These changes will likely promote substantial additional teacher and administrative paperwork in the assignment of students to classes because of specific considerations required for acceleration eligibility.

**Policy Advisory No. 162 IKF - Graduation Requirements.** There has been considerable discussion over the past two years regarding graduation by use of Alternate Demonstration of Competency (ADC). Some districts have even developed policy on this issue. Districts should, by the imposition of the revised rule 6.19.7 NMAC, be informed that the PED has now assumed almost complete control of ADC. In part 8D of 6.19.7 NMAC the PED posits: "LEAs and school boards may offer all or some of the ADCs outlined in 6.19.7 NMAC with the exception of assessments required by the state. LEAs and school boards shall not provide options that are not outlined by the department." To clarify the new rule in policy IKF, policy services simply added the statement "in accordance with 6.19.7 NMAC" to the second bullet of the graduation requirements. Each district should look at their units required for graduation when making any change to this policy. Since this policy contains the minimum requirements for graduation, any district that has added requirements to the state minimum should give notice to Policy Services upon adoption as to the changes in the policy they have adopted. Those districts should not assume that the current language in their policy will automatically be brought over to the newly adopted policy.

One new twist on the graduation requirements, PED will: "In accordance with 6.19.7 NMAC, the department shall annually develop and publish a graduation manual for each graduating class starting with the class of 2022." Since that class enters this year as freshmen, the department intends to publish this manual. Be warned that the PED interpretation of some graduation requirements have been found to be inconsistent with the statutes. When the document comes out Policy Services will make a thorough review of the requirements. Also, once these requirements are published, no other requirements can be made by the State for the class of 2022 per state statute.

**Policy Advisory No. 163 JG - Assignment of Students to Classes and Grade Levels.** Policy JG is modified by changing the second paragraph to reflect the requirements of 6.19.9 NMAC relative to the allowance of parents to request acceleration. Because the new rule includes specific directions on the minimum eligibility requirements, these directions are included in the regulation JG-R. The changes will likely promote substantial additional teacher and administrative paperwork in the assignment of students to classes and grade levels because of specific considerations required for acceleration eligibility.

**Materials of a legal nature in support of this advisory may be found following the text of the policies.** If you have any questions or requests call Policy Services at (505) 469-0193 or E-mail Dr. Donn Williams, Policy Services Director at [nmsbapolicy@cox.net].

**This Material is written for information only and is not intended as legal advice. Please consult your attorney if legal explanations are needed.**

## **REPORT CARDS / PROGRESS REPORTS**

### **District Report Cards**

Each school district must distribute copies of the state-wide indicators, containing the descriptions and information required by code.

The School District Report Card may be used to make such a report.

### **Student Progress Reports**

It is essential that students' progress in school be fully communicated to their parents.

Each school will report students' progress to the students and to their parents or guardians as appropriate. The reports will be clear, concise, and accurate, and will provide a basis of understanding among teachers, parents, and students for the benefit of the individual students. The Superintendent will develop progress report forms or cards in accordance with this policy.

The following specific requirements are established:

- Parents will be informed regularly, and at least four (4) times a year, as to the progress their children are making in school.
- Parents will be alerted and conferred with as soon as possible when a student's performance or attitude becomes unsatisfactory or shows marked or sudden deterioration.
- Insofar as possible, distinctions will be made between a student's attitude and academic performance.
- At comparable levels, the school will strive for consistency in grading and reporting except as this is inappropriate for certain classes or certain students.
- When grades are given, school staff members will take particular care to explain to parents the meaning of marks and symbols as they apply to student achievement.
- When no grades are given but evaluation is made informally in terms of the student's own progress, such evaluation will be a realistic appraisal of the skills developed by the student.
- Reports of progress for students qualified for services under the Individuals with Disabilities Education Act (I.D.E.A.) shall be based on their progress in the general curriculum and shall address whether the progress is sufficient to enable the student to achieve the goals stated in the student's individualized education program (IEP) by the end of the school year.

**K through 3 Literacy**  
**Progress Report**

If a K through 3 student is not proficient in literacy, as determined by the middle of year benchmark assessment for literacy, the student's teacher shall notify the student's parent or legal guardian formally, in writing, and hold a parent-teacher conference.

*Adopted:* date of manual adoption

LEGAL REF.: 22-2C-6 NMSA (1978)  
6.19.9 NMAC

CROSS REF.: IKACA - Parent Conferences  
IKAB - Report Cards/Progress Reports

## PARENT CONFERENCES

A parent shall be notified no later than the end of the second grading period that the parent's child is not academically proficient, and a conference consisting of the parent and the teacher shall be held to discuss possible remediation programs available to assist the student in becoming academically proficient. For the student in K - 3 who is not proficient in literacy, the parents shall be notified formally, in writing following the middle of year benchmark assessment for literacy and a parent-teacher conference will be held. Specific academic deficiencies and remediation strategies shall be explained to the student's parent and a written intervention plan developed containing time lines, academic expectations and the measurements to be used to verify that a student has overcome academic deficiencies.

The Superintendent will establish procedures for such conferences. In addition to scheduled opportunities, parents shall have opportunities to arrange conferences with teachers at other times during the year.

*Adopted:* date of manual adoption

LEGAL REF.: 22-2C-6 NMSA (1978)  
6.19.9 NMAC

CROSS REF.: IKAB - Report Cards/Progress Reports  
IKE - Promotion and Retention of Students

**REGULATION****REGULATION****PARENT CONFERENCES****(Literacy Proficiency Notification and Conference)**

- Written notification shall include:
  - student performance on the benchmark assessment for literacy and ongoing progress monitoring;
  - specific interventions implemented to-date;
  - strategies for parents or legal guardians to implement at home; and
  - parent or legal guardian options including: (i) daily intervention; (ii) remediation; or (iii) alternative programs.
  
- During the parent-teacher conference, the teacher shall review:
  - the student's performance in comparison to grade-level literacy standards;
  - results that indicate the student is not proficient in literacy as determined by benchmark assessments for literacy;
  - goals for student growth that will lead to proficiency in literacy by the end of the academic year; and
  - whether or not the student is on track to be college and career ready as measured by the middle of the year benchmark assessment for literacy.

Following the middle of the year notification and parent conference, the student assistance team (SAT) shall develop an academic improvement plan for any student not proficient in literacy, as determined by the middle of year benchmark assessment for literacy. The academic improvement plan shall clearly outline progress monitoring activities, associated timelines, and delegation of responsibilities for those interventions to ensure student progress toward proficiency in literacy by the end of the year.

## PROMOTION AND RETENTION OF STUDENTS

### Regular Education

The District is dedicated to the continuous development of each student.

The Board shall approve School-District-developed remediation programs and academic improvement programs to provide special instructional assistance to students in grades one (1) through eight (8) who do not demonstrate academic proficiency. The cost of remediation programs and academic improvement programs shall be borne by the School District. Remediation programs and academic improvement programs shall be incorporated into the School District's educational plan for student success and filed with the department.

Remediation programs and academic improvement programs include tutoring, extended day or week programs, summer programs and other research-based interventions and models for student improvement.

Diagnosis of weaknesses identified by a student's academic achievement may serve as criteria in assessing the need for remedial programs or retention.

### Grades One through Eight

At the end of grades one (1) through seven (7), three (3) options are available, dependent on a student's academic proficiency:

- The student is academically proficient and shall enter the next higher grade;
- The student is not academically proficient and shall participate in the required level of remediation. Upon certification by the School District that the student is academically proficient, he shall enter the next higher grade; or
- The student is not academically proficient after completion of the prescribed remediation program and upon the recommendation of the teacher and school principal shall be:
  - Retained in the same grade for no more than one (1) school year with an academic improvement plan developed by the student assistance team in order to become academically proficient, at which time the student shall enter the next higher grade; or

- Promoted to the next grade if the parent refuses to allow the child to be retained. In this case, the parent shall sign a waiver indicating a desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. The academic improvement plan shall be developed by the student assistance team outlining timelines and monitoring activities to ensure progress toward overcoming those academic deficiencies. Students failing to become academically proficient at the end of that year as measured by grades, performance on School District assessments and other measures identified by the School District shall then be retained in the same grade for no more than one (1) year in order to have additional time to achieve academic proficiency; or
- If a K-3 student, an exemption from promotion may be allowed only for good cause or pursuant to the completion of a retention waiver letter provided by the District in accordance with 6.19.9.10 NMAC.

At the end of the eighth (8th) grade, a student who is not academically proficient shall be retained in the eighth (8th) grade for no more than one (1) school year to become academically proficient or if the student assistance team determines that retention of the student in the eighth (8th) grade will not assist the student to become academically proficient, the team shall design a high school graduation plan to meet the student's needs for entry into the work force or a post-secondary educational institution. If a student is retained in the eighth (8th) grade, the student assistance team shall develop a specific academic improvement plan that clearly delineates the student's academic deficiencies and prescribes a specific remediation plan to address those academic deficiencies.

A student who does not demonstrate academic proficiency for two (2) successive school years shall be referred to the student assistance team for placement in an alternative program designed by the School District. Alternative program plans shall be filed with the department.

### **Grades K - 3 Literacy Insufficiency**

If a student has not achieved grade-level literacy proficiency by the end of year benchmark assessment for literacy, the student's teacher shall notify the student's parent or legal guardian formally, in writing, as at the midyear but with the retention option pursuant to 22-2C-6 NMSA.

### **Grades Nine through Twelve**

The cost of summer and extended day remediation programs and academic improvement programs offered in grades nine (9) through twelve (12) shall be borne by the parent; however, where parents are determined to be indigent according to guidelines established by the department, the School District shall bear those costs.

## **Special Education**

Any student qualified as a special education eligible student who is unable to meet regular academic requirements for promotion must meet the requirements of an alternative curriculum derived from the regular curriculum, which will be developed by an individualized educational program (IEP) team on an individual basis. Students placed in special education will complete the course of study as prescribed in their individual promotion plans and implemented through their individual education programs. Course work will be presented at a level commensurate with the student's ability. The student's permanent file shall identify the courses completed through special education.

*Adopted:* date of manual adoption

LEGAL REF.: 22-2C-6 NMSA (1978)  
6.19.9 NMAC

CROSS REF: IHBC - Programs for At-Risk/Disadvantaged  
IKAB - Report Cards/Progress Reports  
IKACA - Parent Conferences

**ACCELERATION**

Acceleration includes whole-grade promotion. For a K - 3 student subject matter acceleration is also to be offered. Additional options may be included per 6.19.9.11 NMAC for K - 3 students.

When circumstances indicate that acceleration ~~in-grade placement~~ is in the best interest of the student, close cooperation between the parents and all school personnel involved is imperative. Each student will have individual consideration, and decisions will be made only after a careful study of facts relating to the student's growth and development. The student's academic achievement level and mental ability are important, but physical and social characteristics are also determining factors. A decision should be based on sufficient data collected over a period of time and motivated by a desire to place the student in the school program where the greatest success will result.

The final decision to accelerate a student rests with the Superintendent. Parental involvement in all steps of the process is vital. Parental consent to the acceleration of a student should be in writing.

If parents do not approve of a decision regarding the acceleration of the student, they may appeal the decision to the Superintendent. Further appeal, if necessary, may be made to the Board.

*Adopted:* date of manual adoption

LEGAL REF.: 22-2C-6 NMSA (1978)  
6.19.9 NMAC

CROSS REF.: IKE - Promotion and Retention of Students

**REGULATION****REGULATION****ACCELERATION**

Each principal shall inform parents or legal guardians and K - 3 students of the options available at the school and the associated eligibility requirements for each option. If the parent or legal guardian selects one of these options, and the student meets the eligibility requirements established by the LEA, the student shall be provided the opportunity to participate in the acceleration option.

Eligibility requirements for K-3 acceleration to be included at a minimum are:

- the student's performance on a locally determined assessment;
- the student's performance as indicated on his or her individual student report;
- the student's grade point average;
- the student's attendance record;
- the student's conduct record;
- recommendations from one (1) or more of the student's teachers in core-curricula courses;
- recommendations from a certified school counselor or social worker, if one is assigned to the school in which the student is enrolled; and
- recommendations from the student's parent or legal guardian.

## GRADUATION REQUIREMENTS

### Regular Education

*Ninth grade class of 2009-2010 and after.* A minimum of twenty-four (24) units of credit aligned to the state academic content and performance standards as listed below are required for graduation for those beginning with the ninth (9th) grade class of 2009-2010. A student may receive a high school diploma of excellence after having demonstrated accomplishment of the standards or a portfolio of standards-based indicators in mathematics, reading and language arts, writing, social studies, and science adopted by the Secretary of Public Education. A student may also receive the Seal of Bilingual-Biliteracy on the diploma of excellence and have it noted on the school transcript by studying and attaining proficiency in a language other than English. If a student exits from the school system at the end of grade twelve (12) without having satisfied the above requirements, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five (5) years after a student exits from the school system, the student satisfies the requirements listed, the student may receive a high school diploma of excellence. Graduation requirements shall not be changed for a student entering the ninth grade from the requirements specified in law at the time the student enrolled in the ninth (9th) grade.

Graduation requirements may be met as follows:

- By successful completion of subject area course requirements.
- By mastery of the standards or a portfolio of standards-based indicators adopted by the Secretary of Public Education in accordance with 6.19.7 NMAC and other competency requirements for the subject as determined by the Board.
- By earning credits through correspondence courses that meet graduation requirements and/or by passing appropriate courses at the college or university level if the courses are determined to meet standards and criteria established by the Board.

Graduation requirements are:

For students entering as ninth graders in 2009-2010 at least one (1) unit of the following twenty-four (24) units must be earned in an advanced placement or honors program, a dual-credit course or distance learning course.

English (grammar, nonfiction writing and literature emphasis) .....	4.0 units
*Math (one [1] equal to algebra II or higher unless parents sign off and a financial literacy course may meet one of the required units) .....	4.0 units
*Science ( two [2] with a laboratory component ) .....	3.0 units
United States History and Geography, World History and Geography, and Government and Economics and one- half (1/2) unit of New Mexico History .....	3.5 units
Physical Education or marching band or Jr. ROTC or NMAA sanctioned interscholastic sports.....	1.0 unit
Career cluster course, workplace readiness or language.....	1.0 unit
**Electives including student service learning .....	<u>7.5 units</u>
<b>Total</b> .....	<u>24.0 units</u>

\*For students entering the ninth (9th) grade in the 2017-2018 school year and after, a course in computer science may satisfy either a unit of mathematics or science, but not both, if taken after competency is determined in the subject for which the unit is applied.

\*\*For students entering the eighth (8th) grade in the 2012-2013 school year and after, a course in health education is required prior to graduation.

A student shall develop and file an updated final next-step plan during the senior year and prior to graduation that conforms with the requirements for a student curriculum plan pursuant to 22-13-1.1 NMSA 1978. The plan shall explain any differences from previous interim next-step plans, shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent or guardian and the student's guidance counselor or other school official charged with coursework planning for the student. An individualized education program (IEP) filed with the principal that meets the applicable transition and procedural requirements of the federal Individuals with Disabilities in Education Act for qualified students shall satisfy the next-step requirements for that student.

Final examinations shall be administered to all students in all classes offered for credit.

Parents are to be notified in writing not later than the conclusion of the third (3rd) nine (9)-weeks grading period of their student's senior year if the student is at risk of not meeting all graduation requirements. Progress reports are to be provided to parents and students at each grading period.

A high school student required to transfer to an out-of-state school by the transfer of the student's parents, who are members of the New Mexico National Guard or the armed forces of the United States, may request that a diploma be issued by the New Mexico high school of transfer. The student must meet the guidelines and comply with the requirements of the New Mexico Statutes Annotated regarding military dependent transfers and their courses and grades must meet or exceed New Mexico's requirements for graduation as determined by the School District.

### **Special Education**

Listed above, under "Regular Education," are the requirements that must be completed before a student may receive a high school diploma or diploma of excellence. Completion of graduation requirements for special education students who do not meet the required units of credit shall be determined on a case-by-case basis in accordance with the special education course of study and the individualized education program of the student.

*Adopted:* date of manual adoption

LEGAL REF.: 22-13-1.1 NMSA (1978)  
22-13-1.4 NMSA (1978)  
6.19.7 NMAC  
6.29.1.9 NMAC

CROSS REF.: IGD - Curriculum Adoption  
IGE - Curriculum Guides and Course Outlines  
IHA - Basic Instructional Program  
IIE - Student Schedules and Course Loads  
IKA - Grading/Assessment Systems  
JFABC - Admission of Transfer Students  
JG - Assignment of Students to Classes

## ASSIGNMENT OF STUDENTS TO CLASSES AND GRADE LEVELS

Students who apply for admission to grades one (1) through twelve (12) on the basis of prior schooling outside the District will be placed initially at the grade levels they have reached elsewhere subject to determination of accomplishment of standards required for that placement.

Assignment of a student to classes (classroom or subjects) ~~shall be~~ are generally made based upon the student's grade-level assignment, completion of any prerequisites, achievement of any required standard, and any classroom limitations or class-size guidelines, in that order. Per 6.19.9 NMAC, a K-3 student whose parents have requested acceleration, will be given consideration for grade level and class based on guidelines in the accompanying regulation.

The Superintendent shall establish procedures for guiding the review and assignment of students to classes and grade levels.

*Adopted:* date of manual adoption

LEGAL REF.: 22-2C-6 NMSA (1978)  
6.19.9 NMAC

CROSS REF.: IKE - Promotion, Retention and Acceleration of Students  
IKEB - Acceleration  
IKF - Graduation Requirements  
JFABC - Admission of Transfer Students  
JFB - Open Enrollment

**REGULATION****REGULATION****ASSIGNMENT OF STUDENTS TO  
CLASSES AND GRADE LEVELS****Elementary School**

The principal will determine whether there should be any change in the grade-level placement of the student. In making such determination, the principal will be guided by teacher recommendations and consultation with the parent(s).

Assignment of a student to classes shall be the responsibility of the principal. after consideration of the student's grade-level assignment, completion of any prerequisites, the student's achievement, and any classroom limitations or class-size guidelines. Upon a parent or guardian's request for acceleration of a K-3 student, the following should be considered:

- the student's performance on a locally determined assessment;
- the student's performance as indicated on his or her individual student report;
- the student's grade point average;
- the student's attendance record;
- the student's conduct record;
- recommendations from one (1) or more of the student's teachers in core-curricula courses;
- recommendations from a certified school counselor or social worker, if one is assigned to the school in which the student is enrolled; and
- recommendations from the student's parent or legal guardian.

**High School**

The principal shall establish the number of credits needed for a student to be placed at a particular grade level. The determination of grade level will be made based upon progress toward graduation requirements normally expected of a student to graduate in a four (4)-year period. Students will be assigned to grade levels based upon the credits earned and accepted by the District.

The principal of the high school will prepare a list of prerequisites for classes offered in the high school, specifically stating grade level and credit or achievement required before a pupil can take a specific class or subject. Also included shall be a statement of priority for assignment to a class or subject - with classroom limits based upon number of sections offered or scheduled - and/or the class-size guidelines. The list developed will be submitted to the Superintendent for approval. All subjects offered in the high school will be included in the list.

The principal of the high school ~~will designate~~ may delegate responsibility for determining the grade level and specific classes or subject assignment of a student. The assignments shall be made consistent with policy, regulations, and approved school guidelines.

# RELEVANT STUTUES, RULES AND CITATIONS

New Mexico Register / Volume XXIX, Issue 14 / July 24, 2018

## TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY PART 7 DEMONSTRATION OF COMPETENCY FOR HIGH SCHOOL GRADUATION

**6.19.7.1 ISSUING AGENCY:** Public Education Department, herein after the department.  
[6.19.7.1 NMAC - Rp, 6.19.7.1 NMAC, 7/24/2018]

**6.19.7.2 SCOPE:** This rule shall apply to public schools, state educational institutions, and state agencies enrolling high school students except for institutions of higher education and the New Mexico military institute. The rule shall apply beginning with the graduating class of 2022. 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.  
[6.19.7.2 NMAC – Rp, 6.19.7.2 NMAC, 7/24/2018]

**6.19.7.3 STATUTORY AUTHORITY:** Sections 22-2-1, 22-2-2, 22-2C-4.1, and 22-13-1.1 NMSA 1978.  
[6.19.7.3 NMAC – Rp, 6.19.7.3 NMAC, 7/24/2018]

**6.19.7.4 DURATION:** Permanent.  
[6.19.7.4 NMAC - Rp, 6.19.7.4 NMAC, 7/24/2018]

**6.19.7.5 EFFECTIVE DATE:** July 24, 2018, unless a later date is cited at the end of a section.  
[6.19.7.5 NMAC - Rp, 6.19.7.5 NMAC, 7/24/2018]

**6.19.7.6 OBJECTIVE:** The objective of this rule is to establish pathways for demonstrating competency in mathematics, reading, writing, science, and social studies for high school graduation. This rule defines eligibility requirements, establishes appropriate assessment options, and outlines requirements for standards-based portfolios. [6.19.7.6 NMAC - Rp, 6.19.7.6 NMAC, 7/24/2018]

### **6.19.7.7 DEFINITIONS:**

**A. “Alternative assessment”** means a department-approved assessment such as a college placement assessment, end-of-course exam, or diagnostic assessment used to demonstrate competency for high school graduation. Assessments shall be published in the department’s graduation manual and include only nationally and statewide-normed standardized assessments.

**B. “Alternative demonstration of competency” or “ADC”** means a department-approved, alternative option used to demonstrate competency in mathematics, reading, writing, science, or social studies for high school graduation, specifically an end of course exam, alternative assessment, or competency-based alternative as defined in Subsections A, E, and H of 6.19.7.7 NMAC.

**C. “Artifacts”** means independently-created student work that demonstrates competency in the core content areas. Artifacts may include work from as early as grade 10.

**D. “College placement assessment”** means a department-approved assessment measuring the readiness of a high school student for success in higher education. College placement assessments shall include nationally-normed standardized assessments used for college admissions, international baccalaureate assessments, or advanced placement exams. Assessments shall be published in the department’s graduation manual.

E. **“Competency-based alternative”** means department-approved options such as industry-recognized credentials or certificates, programs of study, dual enrollment credits, or standards-based portfolios used to demonstrate competency of state standards for high school graduation.

F. **“Core content areas”** means mathematics, reading, writing, science, and social studies.

G. **“Diagnostic assessment”** means a department-approved assessment that measures the accurate placement of students in postsecondary courses.

H. **“End-of-course exam” or “EOC”** means the department-approved exam administered to assess student content knowledge upon completion of a course.

I. **“Local Education Agency” or “LEA”** means a local school district or state-chartered charter school.

J. **“Primary demonstration of competency”** means the primary assessment adopted by the state to serve as the first and preferred indicator of student competency in each core content area.

K. **“Program of study”** means a progressive continuum of courses that may be offered across grades nine through 12 to provide technical training, training to prepare for employment, and training to prepare for entry into postsecondary education.

L. **“Standards-based portfolio”** means the collection of artifacts that demonstrate a student’s mastery of state standards in writing, science, or social studies.

M. **“Workforce readiness assessment”** means a department-approved assessment developed for the purpose of measuring the readiness of a high school student for success in a career. Workforce readiness assessments may include department-approved standardized assessments or industry-recognized certifications or credentials.

[6.19.7.7 NMAC - Rp, 6.19.7.7 NMAC, 7/24/2018]

#### **6.19.7.8 GENERAL REQUIREMENTS FOR DEMONSTRATIONS OF COMPETENCY:**

A. In accordance with 6.19.7 NMAC, the department shall annually develop and publish a graduation manual for each graduating class starting with the class of 2022. The manual shall be published on the department’s website or available upon request. The graduation manual shall include information on graduation requirements, primary demonstrations of competency, alternative assessments, and competency-based alternatives.

B. Students may demonstrate competency in each of the core content areas through the primary demonstration of competency, alternative assessments, or competency-based alternatives as outlined in Sections 10 through 14 of 6.19.7 NMAC.

(1) **Standards-based portfolio.** Portfolios may be used as a demonstration of competency in writing, science, or social studies. Portfolio artifacts may include student work from as early as grade 10.

(2) **Insufficient indicators.** Alternative demonstrations of competency of state standards for high school graduation shall not include the following:

(a) artifacts which are not the product of the student's independent work;

- (b) collaborations in which an individual student's contributions cannot be distinguished;
- (c) teacher or employer recommendations;
- (d) artifacts that are not related to content areas required for graduation;
- (e) letters of acceptance from higher education institutions;
- (f) assessments not included in the graduation manual; or
- (g) assessments developed by LEAs, schools, or individual teachers.

**C.** LEAs shall offer the opportunity to make an additional attempt on the primary demonstration of competency to any student who does not demonstrate competency on their first attempt.

**D.** LEAs and school boards may offer all or some of the ADCs outlined in 6.19.7 NMAC with the exception of assessments required by the state. LEAs and school boards shall not provide options that are not outlined by the department.

**E.** If at the end of grade twelve a student has not demonstrated competency of state standards in the core content areas, the student shall be issued a certificate indicating course credits earned and grade level completed. Students issued a certificate may provide alternative demonstrations of competency within five years of exiting a public school or state educational institution in order to satisfy competency in required core content areas and earn a New Mexico diploma of excellence.

**F.** Students with an IEP that provides for individualized graduation indicators shall adhere to the expectations for either the modified or ability option outlined in the graduation manual. Students shall attempt the assessments defined in their IEP as the primary demonstration of competency before leveraging an ADC. Individualized passing scores on primary and alternative assessments, as well as appropriate modifications to the competency-based alternatives, shall be determined by the IEP team. Individualized passing scores may be subject to department review. Students following the requirements for the modified or ability option who meet the competency requirements established in their IEP on the primary demonstration of competency, an alternative assessment, or a competency-based alternative shall earn a New Mexico diploma of excellence.

**G.** Schools shall ensure that all grade 11 students participate in the readiness assessment system pursuant to 22-2C-4.1 NMSA 1978. Students shall select and participate in one or more of the following as defined by the department at no cost to the student:

- (1) a college placement assessment;
- (2) a workforce readiness assessment; or
- (3) an alternative demonstration of competency.

[6.19.7.8 NMAC - Rp, 6.19.7.8 NMAC, 7/24/2018]

**6.19.7.9 DATA REPORTING AND GRADUATION RATES:**

**A. Data reporting.** LEAs shall provide data documenting the use of ADCs on a timeline and in a format that is in alignment with end of year data reporting requirements. LEAs shall report the percentage of students having graduated under the following categories, disaggregated by the federally required subgroups of students:

- (1) recipients of the New Mexico diploma of excellence who did not utilize an ADC; and
- (2) recipients of the New Mexico diploma of excellence who utilized at least one ADC to demonstrate competency for high school graduation, disaggregated by the type of ADC used and the core content area.

**B. Department audits.** The department may conduct annual, randomized audits at the school and LEA level to monitor the implementation of 6.19.7 NMAC. LEAs shall cooperate with department audits. Audits may include review and analysis of any of the following:

- (1) standards-based portfolios;
- (2) scoring of completed standards-based portfolios;
- (3) student records indicating graduation pathways; or
- (4) other information or materials deemed necessary by the department.

**C. Recordkeeping.** Electronic records of alternative demonstrations of competency shall be kept by LEAs for no fewer than five years and in accordance with federal and state requirements. [6.19.7.9 NMAC - Rp, 6.19.7.9 NMAC, 7/24/2018]

#### **6.19.7.10 DEMONSTRATION OF COMPETENCY IN MATHEMATICS:**

**A. Primary demonstration of competency in mathematics.** Students shall attempt to demonstrate competency in mathematics using the primary demonstration of competency in one or more of the following: algebra II, geometry, or integrated mathematics II or III.

**B. Alternative assessments in mathematics.** A student who does not demonstrate competency on the primary demonstration of competency may leverage an alternative assessment.

(1) If a student has made one attempt on the primary demonstration of competency in mathematics, the student shall be eligible to use any of the following assessments to demonstrate competency:

- (a) EOC in algebra II, geometry, pre-calculus, or integrated mathematics II or III; or
- (b) alternative assessments in mathematics as defined in the graduation manual.

(2) Passing scores to qualify for demonstration of competency using an alternative assessment shall be determined by the department and provided in the graduation manual.

**C. Competency-based alternatives in mathematics.** A student who does not demonstrate competency after making at least one attempt on the primary demonstration of competency in mathematics may leverage a competency-based alternative.

(1) Students leveraging competency-based alternatives shall accomplish at least one of the following in addition to completing one of the competency-based alternatives outlined in Paragraph (2) of Subsection C of 6.19.7.10 NMAC:

- (a) earn a grade of at least 3.0 on a 4.0 scale in the coursework required for graduation in algebra II, geometry, or integrated mathematics II or III;

- (b) meet the performance level of “approaches expectations” on the primary demonstration of competency for algebra II, geometry, integrated mathematics II or III;
  - (c) enroll in and pass no fewer than four courses over the duration of grade 12, including a course in algebra II, geometry, or integrated mathematics II or III;
  - (d) earn an offer letter from a branch of the United States military for full-time enlistment;
  - (e) earn acceptance into an apprenticeship; or
  - (f) complete a department-approved internship for credit.
- (2) A competency-based alternative in mathematics shall be one of the following:
- (a) attainment of a department-approved, industry-recognized certificate or credential in an area that incorporates skills in mathematics, as determined by the department;
  - (b) completion of a program of study with courses that integrate state standards for mathematics, as determined by the department, with a minimum grade point average of 3.0 on a 4.0 scale; or
  - (c) attainment of at least one dual enrollment credit with a minimum grade of 3.0 on a 4.0 scale in a mathematics course approved by the department. [6.19.7.10 NMAC - Rp, 6.19.7.10 NMAC, 7/24/2018]

**6.19.7.11 DEMONSTRATION OF COMPETENCY IN READING:**

**A. Primary demonstration of competency in reading.** Students shall attempt to demonstrate competency in reading using the primary demonstration of competency in grade eleven English language arts.

**B. Alternative assessments in reading.** A student who does not demonstrate competency in reading on the primary demonstration of competency may leverage an alternative assessment.

(1) If a student has made one attempt on the primary demonstration of competency in reading, the student shall be eligible to use any of the following assessments to demonstrate competency:

- (a) EOC in grade 11 or 12 reading; or
- (b) alternative assessments in reading as defined in the graduation manual.

(2) Passing scores to qualify for demonstration of competency using an alternative assessment shall be determined by the department and provided in the graduation manual.

**C. Competency-based alternatives in reading.** A student who does not demonstrate competency in reading after making at least one attempt on the primary demonstration of competency in reading may leverage a competency-based alternative.

(1) Students leveraging competency-based alternatives shall accomplish at least one of the following in addition to completing one of the competency-based alternatives outlined in Paragraph (2) of Subsection C of 6.19.7.11 NMAC:

- (a) earn a grade of at least 3.0 or higher on a 4.0 scale in the coursework required for graduation in grade eleven or twelve English language arts;

- (b) meet the performance level of “approaches expectations” on the primary demonstration of competency for grade eleven English language arts;
- (c) enroll in and pass no fewer than four courses over the duration of grade twelve including a course in grade twelve English language arts;
- (d) earn an offer letter from a branch of the United States military for full-time enlistment;
- (e) earn acceptance into an apprenticeship; or
- (f) complete a department-approved internship for credit.

(2) A competency-based alternative in reading shall be one of the following:

- (a) attainment of a department-approved, industry-recognized certificate or credential in an area that incorporates skills in grade 11 or 12 reading, as determined by the department;
- (b) completion of a program of study with courses that integrate state standards for reading, as determined by the department, with a minimum grade point average of 3.0 on a 4.0 scale; or
- (c) attainment of at least one dual enrollment credit with a minimum grade of 3.0 on a 4.0 scale in an English language arts course approved by the department. [6.19.7.11 NMAC - Rp, 6.19.7.11 NMAC, 7/24/2018]

**6.19.7.12 DEMONSTRATION OF COMPETENCY IN WRITING:**

**A. Primary demonstration of competency in writing.** Students shall attempt to demonstrate competency in writing using the primary demonstration of competency in grade 11 English language arts.

**B. Alternative assessments in writing.** A student who does not demonstrate competency in writing on the primary demonstration of competency may leverage an alternative assessment.

(1) If a student has made one attempt on the primary demonstration of competency in writing, the student shall be eligible to use any of the following assessments to demonstrate competency:

- (a) EOC in grade 11 or 12 writing; or
- (b) alternative assessments in writing as defined in the graduation manual.

(2) Passing scores to qualify for demonstration of competency using an alternative assessment shall be determined by the department and provided in the graduation manual.

**C. Competency-based alternatives in writing.** A student who does not demonstrate competency in writing after making at least one attempt on the primary demonstration of competency in writing may leverage a competency-based alternative.

(1) Students leveraging competency-based alternatives shall accomplish at least one of the following in addition to completing one of the competency-based alternatives outlined in Paragraph (2) of Subsection C of 6.19.7.12 NMAC:

- (a) earn a grade point average of at least 3.0 on a 4.0 scale in the coursework required for graduation in grade 11 or 12 English language arts;
- (b) meet the performance level of “approaches expectations” on the primary demonstration of competency for grade 11 English language arts;
- (c) enroll in and pass no fewer than four courses over the duration of grade 12 including a course in grade 12 English language arts;
- (d) earn an offer letter from a branch of the United States military for full-time enlistment;
- (e) earn acceptance into an apprenticeship; or
- (f) complete a department-approved internship for credit.

(2) A competency-based alternative in writing shall be one of the following:

- (a) attainment of a department-approved, industry-recognized certificate or credential in an area that incorporates skills in grade 11 or 12 writing, as determined by the department;
- (b) completion of a program of study with courses that integrate state standards for writing, as determined by the department, with a minimum grade point average of 3.0 on a 4.0 scale;
- (c) attainment of at least one dual enrollment credit with a minimum grade of 3.0 on a 4.0 scale in an English language arts course approved by the department; or
- (d) completion of a standards-based portfolio demonstrating mastery of grade eleven or twelve state writing standards.

(3) A student leveraging a standards-based portfolio to demonstrate competency in writing shall provide artifacts that demonstrate the student’s ability to apply the knowledge and skills articulated in grade 11 or 12 writing state standards. Portfolio artifacts shall demonstrate the student’s ability to produce clear and coherent writing in which the development, organization, and style are appropriate to the task, purpose, and audience. [6.19.7.12 NMAC - N, 7/24/2018]

**6.19.7.13 DEMONSTRATION OF COMPETENCY IN SCIENCE:**

**A. Primary demonstration of competency in science.** Students shall attempt to demonstrate competency in science using the primary demonstration of competency in grade 11 science.

**B. Alternative assessments in science.** A student who does not demonstrate competency in science on the primary demonstration of competency in grade 11 science may leverage an alternative assessment.

(1) If a student has made one attempt on the primary demonstration of competency in science, the student shall be eligible to use any of the following assessments to demonstrate competency:

- (a) EOC in high school level science; or
- (b) alternative assessments in science as defined by the graduation manual.

(3) Passing scores to qualify for demonstration of competency using an alternative assessment shall be determined by the department and provided in the graduation manual.

**C. Competency-based alternatives in science.** A student who does not demonstrate competency in science after making at least one attempt on the primary demonstration of competency in science may leverage a competency-based alternative.

(1) Students leveraging competency-based alternatives shall accomplish at least one of the following in addition to completing one of the competency-based alternatives outlined in Paragraph (2) of Subsection C of 6.19.7.13 NMAC:

- (a) earn a grade of at least 3.0 on a 4.0 scale in the coursework required for graduation in high school science;
- (b) meet the performance level of “approaches expectations” on the primary demonstration of competency in grade 11 science;
- (c) enroll in and pass no fewer than four courses over the duration of grade 12 including a course in high school science;
- (d) earn an offer letter from a branch of the United States military for full-time enlistment;
- (e) earn acceptance into an apprenticeship; or
- (f) complete a department-approved internship for credit.

- (2) A competency-based alternative in science shall be one of the following:
- (a) attainment of a department-approved, industry-recognized certificate or credential in an area that incorporates skills in science, as determined by the department;
  - (b) completion of a program of study with courses that integrate state standards for science, as determined by the department, with a minimum grade point average of 3.0 on a 4.0 scale;
  - (c) attainment of at least one dual enrollment credit with a minimum grade of 3.0 on a 4.0 scale in a science course approved by the department; or
  - (d) completion of a standards-based portfolio demonstrating mastery of state standards for high school science.
- (3) A student leveraging a standards-based portfolio to demonstrate competency in science shall provide artifacts that demonstrate the student's ability to apply the knowledge and skills articulated in the state standards for high school science.  
[6.19.7.13 NMAC - N, 7/24/2018]

**6.19.7.14 DEMONSTRATION OF COMPETENCY IN SOCIAL STUDIES:**

**A. Primary demonstration of competency in social studies.** Students shall attempt to demonstrate competency in social studies using the primary demonstration of competency in one or more of the following: New Mexico history, U.S. history and geography, world history and geography, U.S. government, or economics.

**B. Alternative assessments in social studies.** A student who does not demonstrate competency in social studies on the primary demonstration of competency may leverage an alternative assessment.

(1) If a student has made one attempt on the primary demonstration of competency in social studies, the student shall be eligible to use an alternative assessment in social studies, as defined in the graduation manual.

(2) Passing scores to qualify for demonstration of competency using an alternative assessment shall be determined by the department and provided in the graduation manual.

**C. Competency-based alternatives in social studies.** A student who does not demonstrate competency in social studies after making at least one attempt on the primary demonstration of competency in social studies may leverage a competency-based alternative.

(1) Students leveraging competency-based alternatives shall accomplish at least one of the following in addition to completing one of the competency-based alternatives outlined in Paragraph (2) of Subsection C of 6.19.7.14 NMAC:

(a) earn a grade of at least 3.0 on a 4.0 scale in the coursework required for graduation in New Mexico history, U.S. history and geography, world history and geography, U.S. government, or economics;

(b) meet the performance level of "approaches expectations" on the primary demonstration of competency in New Mexico history, U.S. history and geography, world history and geography, U.S. government, or economics;

(d) enroll in and pass no fewer than four courses over the duration of grade 12 including a course in New Mexico history, U.S. history and geography, world history and geography, U.S. government, or economics;

(d) earn an offer letter from a branch of the United States military for full-time enlistment;

- (e) earn acceptance into an apprenticeship; or
- (f) complete a department-approved internship for credit.

(2) A competency-based alternative in social studies shall be one of the following:

- (a) attainment of a department-approved, industry-recognized certificate or credential in an area that incorporates skills in social studies, as determined by the department;
- (b) completion of a program of study with courses that integrate state standards for social studies, as determined by the department, with a minimum grade point average of 3.0 on a 4.0 scale;
- (c) attainment of at least one dual enrollment credit with a minimum grade of 3.0 on a 4.0 scale in a social studies course approved by the department; or
- (d) completion of a standards-based portfolio demonstrating mastery in U.S. government or economics.

(3) A student leveraging a standards-based portfolio to demonstrate competency in social studies shall provide artifacts that demonstrate the student's ability to apply the knowledge and skills articulated in the state standards for U.S. government or economics.  
[6.19.7.14 NMAC - N, 7/24/2018]

**6.19.7.15 STANDARDS-BASED PORTFOLIO:** Standards-based portfolio projects may be developed by LEAs.

- A. Completion and scoring shall be based on the following:
  - (1) state standards for specific core content areas; and
  - (2) department-approved scoring rubrics.

B. Under the guidance of the school administrator, standards-based portfolios shall be submitted to a local review team no later 30 days prior to the graduation date.

C. LEAs and charters shall establish a local review team to score portfolios. Local review teams shall complete annual, department-approved rubric training. Required trainings shall be completed prior to the review of any portfolios.

(1) The review team shall include, at a minimum:

- (a) a highly effective or exemplary high school teacher as measured by the NMTEACH evaluation system as defined in 6.69.8 NMAC;
- (b) a district level employee or school administrator;
- (c) tribal leadership or a designee, if needed, as determined through tribal consultation; and
- (d) the student's IEP case manager, if applicable.

(2) The review team may include:

- (a) a representative from a partnering postsecondary institution;
- (b) a member of the business community; or
- (c) a member of the local school board or governing body. [6.19.7.15 NMAC - N, 7/24/2018]

**HISTORY OF 6.19.7 NMAC:**

6.19.7 NMAC - High School Readiness Assessment System for Career and College, filed 1/30/2009 was repealed and replaced by 6.19.7 NMAC - Demonstration of Competency for High School Graduation, effective 7/24/2018.

**TITLE 6 PRIMARY AND SECONDARY EDUCATION**  
**CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY – ASSESSMENT AND ACCOUNTABILITY**  
**PART 9 EARLY LITERACY REMEDIATION, INTERVENTIONS, AND FAMILY ENGAGEMENT**

**6.19.9.1 ISSUING AGENCY:** Public Education Department, herein after the department.  
[6.19.9.1 NMAC - N, 7/24/2018]

**6.19.9.2 SCOPE:** All public schools, state education institutions, and educational programs conducted in state institutions, other than the New Mexico military institute. If any part of application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected. [6.19.9.2 NMAC - N, 7/24/2018]

**6.19.9.3 STATUTORY AUTHORITY:** This regulation is adopted pursuant to Sections 22-2C-1 to 13, specifically Section 22-2C-6, Subsection E of Section 22-1-1.2, Subsection D of Section 22-2-2, and Subsection B of Section 22-13-1 NMSA 1978.  
[6.19.9.3 NMAC - N, 7/24/2018]

**6.19.9.4 DURATION:** Permanent.  
[6.19.9.4 NMAC - N, 7/24/2018]

**6.19.9.5 EFFECTIVE DATE:** July 24, 2018, unless a later date is cited at the end of a section.  
[6.19.9.5 NMAC - N, 7/24/2018]

**6.19.9.6 OBJECTIVE:** This rule establishes the conditions for improving literacy outcomes for students by outlining interventions, providing mechanisms for notifying and engaging families and teachers, and notifying parents or legal guardians of all available options to improve student progress in literacy. [6.19.9.6 NMAC - N, 7/24/2018]

**6.19.9.7 DEFINITIONS:**

**A. “Academic improvement plan”** means a written document developed by the student assistance team that describes the specific content standards required for a certain grade level that a student has not achieved and that prescribes specific remediation programs such as summer school, extended day or week school and tutoring.

**B. “Benchmark assessment for literacy”** means a common, districtwide assessment for student literacy that diagnoses and regularly measures the acquisition of reading skills, including phonemic awareness, letter knowledge, alphabetic decoding, vocabulary, spelling, comprehension and fluency to be given at the beginning of the year, middle of the year, and end of the year.

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

**D. “Individual student report”** means the report that indicates a student’s performance on the required state assessment using scale scores, performance levels, and performance indicators.

**E. “Intervention”** means the intensive, targeted instruction of individual students or small groups of students, as determined by student performance on the benchmark assessment for literacy, and included as part of the academic improvement plan.

**F. “Local education agency or “LEA”** means a school district or state-chartered charter school.

**G. “Remediation”** means tutoring, extended school day or school week programs, summer programs, and other evidence-based interventions and proven models for student improvement.

**H. “Student assistance team” or “SAT”** means a group consisting of a student’s:

- (1) teacher;
- (2) school counselor;
- (3) school administrator; and

(4) parent or legal guardian.

[6.19.9.7 NMAC - N, 7/24/2018]

### **6.19.9.8 GENERAL REQUIREMENTS FOR INTERVENTION, NOTIFICATION, AND REPORTING:**

A. For kindergarten and grades one through three, the benchmark assessment for literacy shall be administered at the beginning of year, middle of year, and end of year. Student progress shall be carefully monitored throughout the academic year and shall be clearly communicated to parents or legal guardians through parent notification letters. For English language learners, the assessment shall be grade-level appropriate and in the student’s first language, if appropriate, and approved by the department.

B. Academic improvement plans shall be developed for students in need of early literacy intervention, as determined by performance on the benchmark assessment for literacy. School administrators shall ensure that academic improvement plans align with department guidance and evidence-based best practices. The department may request to review academic improvement plans at any time.

C. The determination of a student’s literacy strengths and weaknesses, as measured by the benchmark assessment for literacy, shall serve as one of the criteria for offering parents or legal guardians the option for their student to receive an additional year of instruction in the same grade level. The benchmark assessment for literacy results shall also direct the use of daily intervention, remediation, or alternative programming.

D. For kindergarten and grades one through three, LEAs shall track and report student literacy data and information in accordance with department requirements. Student performance shall be measured by the benchmark assessment for literacy, as defined in 6.19.9.7 NMAC. The department may issue additional guidance or provide additional tools to facilitate the collection and reporting of literacy data and information.

(1) LEAs shall report the following data to the department by March 1 of each year:

- (a) number of students not proficient in literacy, as determined by the middle of year benchmark assessment for literacy;
- (b) number of student assistance teams convened for students not proficient in literacy; and
- (c) number of parent notification letters sent regarding individual students not proficient in literacy, as determined by the middle of year benchmark assessment for literacy, pursuant to 6.19.9.9 NMAC.

(2) LEAs shall report the following data to the department by June 1 of each year:

- (a) number of students not proficient in literacy, as determined by the end of year benchmark assessment for literacy; and
- (b) number of retention waiver letters signed by parents or legal guardians of students not proficient in literacy, as determined by the end of year benchmark assessment for literacy.

(3) LEAs shall report the following data to the department by August 1 of each year:

- (a) number of students retained as a result of not being proficient in literacy, as determined by the end of year benchmark assessment for literacy pursuant to 6.19.9.9 NMAC;

- (b) number of students not proficient in literacy, as determined by the end of year benchmark assessment for literacy, promoted to the next grade;
- (c) number of students at performance level one in English language arts, according to his or her grade three individual student report for the state assessment;
- (d) explanation of final determinations of student retention and promotion for which student performance on the end of year benchmark assessment for literacy was not the deciding factor;
- (e) copy of the LEA's retention waiver letter template;
- (f) copies of all parent notification letters sent to parents or legal guardians regarding individual students not proficient in literacy, as determined by the middle of year benchmark assessment for literacy, pursuant to 6.19.9.9 NMAC; and
- (g) copies of all retention waiver letters signed by parents or legal guardians for individual students not proficient in literacy, as determined by the end of year benchmark assessment for literacy. [6.19.9.8 NMAC - N, 7/24/2018]

**6.19.9.9 PARENT OR LEGAL GUARDIAN NOTIFICATION AND ENGAGEMENT:**

**A.** If a student is not proficient in literacy, as determined by the middle of year benchmark assessment for literacy, the student's teacher shall notify the student's parent or legal guardian formally, in writing, and hold a parent-teacher conference.

**(1)** Written notification shall include:

- (a) student performance on the benchmark assessment for literacy and ongoing progress monitoring;
- (b) specific interventions implemented to-date;
- (c) strategies for parents or legal guardians to implement at home; and
- (d) parent or legal guardian options including:
  - (i) daily intervention;
  - (ii) remediation; or
  - (iii) alternative programs.

**(2)** During the parent-teacher conference, the teacher shall review:

- (a) the student's performance in comparison to grade-level literacy standards;
- (b) results that indicate the student is not proficient in literacy as determined by benchmark assessments for literacy;
- (c) goals for student growth that will lead to proficiency in literacy by the end of the academic year; and
- (d) whether or not the student is on track to be college and career ready as measured by the middle of the year benchmark assessment for literacy.

**B.** Following the middle of the year notification and parent conference, the SAT shall develop an academic improvement plan for any student not proficient in literacy, as determined by the middle of year benchmark assessment for literacy. The academic improvement plan shall clearly outline progress monitoring activities, associated timelines, and delegation of responsibilities for those interventions to ensure student progress toward proficiency in literacy by the end of the year.

**C.** If a student has not achieved grade-level literacy proficiency by the end of year benchmark assessment for literacy, the student's teacher shall notify the student's parent or legal guardian formally, in writing.

- (1) Written notification shall include:
  - (a) student performance on the benchmark assessment for literacy;
  - (b) specific interventions implemented to-date;
  - (c) strategies for parents or legal guardians to implement at home; and
  - (d) a retention option pursuant to Section 22-2C-6 NMSA 1978.
- (2) Retention shall ensure that a student receives an additional year of

instruction in the same

grade with an amended academic improvement plan. If a student's parent or legal guardian decides not to retain the student, the parent or legal guardian shall sign a retention waiver expressing their desire for the student to be promoted to the next higher grade with an academic improvement plan designed to address specific deficiencies, including those in early literacy. A retention waiver shall only prevent the student's retention for one school year. If the student fails to reach academic proficiency, as determined by the benchmark assessment for literacy and other measures, the school shall retain the student the following year.

**D.** Parents and legal guardians shall be notified of their students' results on required state assessments and provided with their individual student reports no later than 30 days following receipt by LEAs. [6.19.9.9 NMAC - N, 7/24/2018]

**6.19.9.10 EXEMPTIONS:** Schools may only exempt students from retention for good cause or pursuant to the completion of a retention waiver letter provided by the LEA. A student who is promoted with an exemption shall continue to receive interventions prescribed in his or her academic improvement plan until proficiency in literacy has been met as determined by a benchmark assessment for literacy.

**A.** Good cause exemptions shall be limited to the following:

- (1) students with disabilities whose individualized education programs (IEPs) indicate that participation in the benchmark assessment for literacy is not appropriate, pursuant to Subsection I of Section 22-2C6 NMSA 1978, or other applicable state laws and regulations;
- (2) students with disabilities who:
  - (a) participate in the benchmark assessment for literacy;
  - (b) have IEPs or section 504 plans that reflect that they have received literacy intervention for more than two years;
  - (c) have not reach proficiency in literacy; and
  - (d) were previously retained in kindergarten or grades one, two, or three.
- (3) students who have been previously retained in their current grade; or
- (4) students identified as English language learners who have had fewer than three years of instruction in schools in the United States.

**B.** Documentation to support any request for exemption shall be collected and submitted by the student's teacher(s) or case manager to the school principal indicating why promotion is appropriate. Documentation shall include:

- (1) the reason for exemption pursuant to Subsection A of 6.19.9.10 NMAC; and
- (2) an existing academic improvement plan or IEP.

**C.** The school principal shall review and discuss the recommendation with the SAT and determine whether or not the student qualifies for the requested exemption. If the school principal determines that, based on the provided documentation, the student qualifies for the requested exemption, the school principal shall make such a recommendation in writing to the superintendent or charter school administrator. The superintendent or charter school administrator shall accept or reject the school principal's recommendation in writing.

**6.19.9.11 ACCELERATION OPTIONS:** Academically challenging curriculum options that provide accelerated instruction shall be made available to public school students in kindergarten and grades one through three who have not already been identified as gifted.

**A.** At a minimum, each school shall offer the following options:

- (1) whole-grade promotion; and
- (2) subject-matter acceleration.

**B.** Additional options may include the following:

- (1) enriched science, technology, engineering, and mathematics;
- (2) enrichment programs;
- (3) flexible grouping;
- (4) advanced academic courses;
- (5) combined classes;
- (6) self-paced instruction;
- (7) curriculum compacting;
- (8) advanced-content instruction; and
- (9) online instruction in personalized, higher grade

level content. [6.19.9.11 NMAC - N, 7/24/2018]

**6.19.9.12 ELIGIBILITY AND PROCEDURAL REQUIREMENTS FOR ACCELERATION:**

**A.** LEAs shall establish student eligibility requirements and procedural requirements for any whole-grade promotion or subject-matter acceleration. Student eligibility requirements and procedural requirements established by the LEA shall be included in the LEA's comprehensive student progression plan.

**B.** School principals shall establish a process by which parents or legal guardians may request student participation in acceleration options offered at their school.

(1) Each principal shall inform parents or legal guardians and students of the options available at the school and the associated eligibility requirements for each option.

(2) If the parent or legal guardian selects one of these options, and the student meets the eligibility requirements established by the LEA, the student shall be provided the opportunity to participate in the acceleration option.

**C.** When establishing student eligibility requirements for acceleration, principals and LEAs shall consider, at a minimum:

(1) the student's performance on a locally determined assessment;

(2) the student's performance as indicated on his or her individual student report;

(3) the student's grade point average;

(4) the student's attendance record;

(5) the student's conduct record;

(6) recommendations from one or more of the student's teachers in core-curricula courses;

(7) recommendations from a certified school counselor or social worker, if one is assigned to the school in which the student is enrolled; and

(8) recommendations from the student's parent or legal guardian. [6.19.9.12 NMAC - N, 7/24/2018]

**HISTORY OF 6.19.9 NMAC: [RESERVED]**

**NEW MEXICO SCHOOL BOARDS ASSOCIATION**