

Proposed Rule Abstract

1. **Agency:** Public Education Department
2. **Rule Citation:** 6.63.17 NMAC, Licensure for Attendance Coaches Pre K-12
3. **Rulemaking Action:** New Rule
4. **Register Issue and Date of Notice of Proposed Rulemaking:** Volume 29, Issue 14, July 24, 2018
5. **Effective Date:** September 11, 2018
6. **Citation to Specific Legal Authority:** Sections 22-2-1, 22-2-2, 22-10A-17, and 22-10A-5 NMSA 1978
7. **Short Explanation of the Rule's Purpose:** Establish a new license for school staff who support attendance interventions for chronically absent prekindergarten through 12th grade students.
8. **Link to Full Text of the Rule:** https://webnew.ped.state.nm.us/wp-content/uploads/2018/07/6.63.17-NMAC_Proposed-Draft_7-23-18_jg-2.doc
9. **How Information on the Rule Can Be Obtained:** <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>, or from Jamie Gonzales at (505)-827-7889.
10. **Comment Period and Deadlines:** July 24, 2018 to August 27, 2018 at 5:00 p.m. Written comments may be submitted to Jamie Gonzales, Policy Division, New Mexico Public Education Department, Room 101, 300 Don Gaspar Avenue, Santa Fe, NM 87501, rule.feedback@state.nm.us, or by fax to (505) 827-6520.
11. **Rule Hearing:** August 27, 2018 from 9:00 a.m. to 11:00 a.m. at 300 Don Gaspar Avenue in Mabry Hall, Santa Fe, NM 87501
12. **Link to Permanent Agency Rulemaking Record:**
http://statenm.force.com/public/SSP_RuleHearingSearchPublic

Summary of Proposed Rule

The July 24, 2018 issue of the *New Mexico Register* contained the Public Education Department's (PED) proposed new rule, 6.63.17 NMAC, "Licensure for Attendance Coaches Pre K-12," that would establish new licenses for instructional support providers who support attendance interventions to improve overall school attendance for prekindergarten through 12th grade students during their academic careers. The rule would establish two levels of licensure and provide for continuing licensure at both levels. See **Attachment, Proposed New Rule, 6.63.17 NMAC, Licensure for Attendance Coaches Pre K-12.**

A substantially similar rule was proposed on May 29, 2018, but PED posted a Notice of Termination of that originally proposed rule with this new Notice of Proposed Rulemaking, effective July 24, 2018. Changes from the first version of the proposed rule focus on continuing licensure. The first version would have required licensed attendance coaches to complete PED-approved professional development training,

annually; failure to do so may have resulted in suspension of coaching licenses. The current proposal would allow for renewed or continuing licensure by the requirements for initial licensure.

Analysis

The proposed rule would establish two levels of licensure for “attendance coaches,” defined as individuals “whose primary role is to support students in prekindergarten through 12th grade to improve their overall school attendance during their academic career through prevention, tiered interventions, parent notification, and community partnerships.” Other defined terms include “non-remedial coursework,” and “prior professional experience.”

The proposed rule cites multiple sections of law as statutory authority for the rule. First, PED cites its general rulemaking authority and duties in Sections 22-2-1 and 22-2-2 NMSA 1978. The rule also cites Section 22-10A-5 NMSA 1978, which relates to background checks, as authority to require background checks of applicants for attendance coach licenses. Finally, the rule cites Section 22-10A-17 NMSA 1978 as authority for the licensing scheme proposed by the rule. Section 22-10A-5 NMSA 1978 directs PED to license instructional support providers. Currently, however, there is no statutory definition of “instructional support provider,” though PED defines support providers in Section 7 of 6.63.3 NMAC, “Licensure for Instructional Support Providers Pre K-12 Not Covered in Other Rules,” which defines the term as:

“anyone who provides services for a public school or state institution as an educational assistant, school counselor, school social worker, school nurse, speech-language pathologist, psychologist, physical therapist, physical therapy assistant, occupational therapist, marriage and family therapist, occupational therapy assistant, recreational therapist, signed language interpreter, educational [sic], alcohol and drug abuse counselor, substance abuse associate and other service providers who are employed to support the instructional program of a school district or charter school.”

The rule would establish level one and two licenses for attendance coaches, both of which would be issued for one year. A level one attendance coach license would require the candidate to hold a high school diploma or equivalent; to complete and satisfy a fingerprint-based background check; and to possess two years of prior professional experience in at least one of a number of fields. Additionally, a level one license candidate will be required to either hold an associate’s degree that includes at least 15 hours of non-remedial degree coursework, or have completed 48 hours of academic credit that includes at least 15 hours of non-remedial coursework.

A level two license would require the candidate to possess a bachelor’s degree that includes at least 30 semester hours of non-remedial degree coursework, complete a fingerprint-based background check, and have at least three years of prior professional experience in one or more of the listed related fields. While there is no requirement that a level two license holder must have held a

The rule requires attendance coach license candidates to have prior professional experience in one of a number of related fields, which are corrections, counseling, criminal justice, education, guidance counseling, juvenile justice, law enforcement, psychology, public administration, social work, sociology, or other closely related fields, as determined by PED

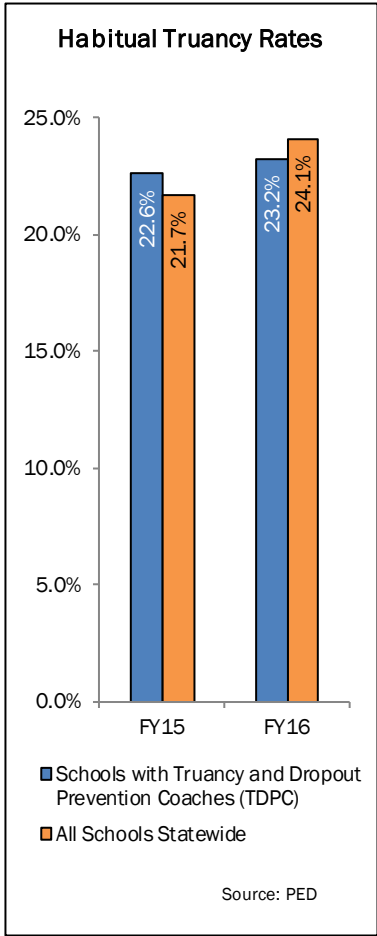
level one license first, a level one license holder may apply for a level two license at any time during the license period, if all level two requirements are fulfilled and the applicant provides certification from their superintendent or charter school administrator that all level one attendance coach duties have been satisfactorily completed. It is unclear why a level one attendance coach applying for a level two license would need to certify completion of level one duties, when a level two candidate who fulfills all the other requirements may apply for a level two license without having been a level one license holder previously.

The proposed rule provides for continuing licensure for both levels of attendance coach licenses. An attendance coach license may be continued or renewed by meeting the requirements for initial licensure. Since both levels of license last only one year, requirements would have to be met annually, including the requirement that licensees undergo a fingerprint-based background check according to Section 22-10A-5 NMSA 1978; Subsection D of that section notes, “An applicant for employment who has been initially licensed within twenty-four months of applying for employment with a local school board, regional education cooperative or a charter school shall not be required to submit to another background check if the department has copies of the applicant’s federal bureau of investigation records on file.” This subsection, when read with the proposed rule, suggests that attendance coaches would be required to submit to a fingerprint-based background check at least every two years.

Public Education Department’s Attendance Success Initiative

PED released a request for applications (RFA) for the 2018-2019 school year’s truancy and dropout prevention program, now called the Attendance Success Initiative, in April 2018. While this rule has not yet been adopted, PED specifically noted in the RFA that school districts must hire appropriately licensed individuals if awarded funds. In the absence of an adopted rule requiring licensure, the RFA’s requirement that awarded funds only be used to hire appropriately licensed persons could be satisfied by unlicensed individuals.

It is unclear what would result if a school district or school hired a person who is unlicensed to act as an attendance coach, particularly if a school’s or school district’s own operational funds, rather than an award from the RFA process, are used to pay an attendance coach’s salary. The precise language of the rule, “persons seeking licensure as . . . attendance coach pursuant to the provision of this rule shall meet . . . requirements,” seems to indicate that a person hired as an attendance coach who was not actively seeking licensure already would not be required to obtain a license under this proposed rule. Further, while the rule would require persons “whose primary role is to support students in prekindergarten through 12th grade to improve their overall school attendance” to be licensed, no separate provision is made for an employee whose duties include but are not primarily related to attendance support, although many such persons may hold another kind of instructional support provider license, such as one for social work.



PED has indicated that the rise in truancy rates at some local school districts and schools employing attendance coaches may be due to proper data collection and better reporting of truancy rates resulting from the coaches’ work.

All licenses will be for the period of July 1 of the year of issuance to June 30 of the year of expiration one year later, and license holders will be required to pay a \$35 application fee. It is unclear if attendance coaches would be required to pay this fee only upon initial application, or if it must be paid annually, as their licenses are continued or renewed. The language proposing to require coaches renew or continue licenses by fulfilling the requirements of initial licensure refers only to the sections of rule detailing level 1 and level 2 license requirements, Sections 6.63.17.8 and 6.63.17.9 NMAC, respectively. The requirement to pay the application fee is found in Section 6.63.17.10 NMAC.

Background

In 2016, PED initiated a program to support truancy and dropout prevention by establishing a cohort of coaches to be placed in schools to work with students, families, schools, and school districts to reduce chronic absenteeism and habitual truancy, and decrease the dropout rate through comprehensive community and school-based strategies to overcome barriers to school attendance. Between FY15 and the program's inception in FY16, overall habitual truancy rates for all Truancy and Dropout Prevention Coach (TDPC) school sites increased slightly, from 22.6 percent to 23.2 percent, but slightly less than the increase for all schools statewide, from 21.7 percent to 24.1 percent. Funding for the program is competitive, and provides participating school districts and schools support in addressing issues of chronic absenteeism, habitual truancy, and dropping out at the school, student, and family levels. In FY16, PED allocated \$3 million to support the TDPC program and pay the salaries of coaches at 42 school sites. The General Appropriation Act of 2018 allocated \$4 million for truancy and dropout prevention.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 63 SCHOOL PERSONNEL - LICENSURE REQUIREMENTS FOR ANCILLARY AND
SUPPORT PERSONNEL
PART 17 LICENSURE FOR ATTENDANCE COACHES PRE K-12

6.63.17.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.63.17.1 NMAC – N, 9/11/2018]

6.63.17.2 SCOPE: Chapter 63, Part 17 governs all persons seeking licensure as attendance coaches for students in grades Pre K through 12.
[6.63.17.2 NMAC – N, 9/11/2018]

6.63.17.3 STATUTORY AUTHORITY: Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978, 22-10A-17 NMSA 1978, and 22-10A-5 NMSA 1978.
[6.63.17.3 NMAC – N, 9/11/2018]

6.63.17.4 DURATION: Permanent
[6.63.17.4 NMAC – N, 9/11/2018]

6.63.17.5 EFFECTIVE DATE: September 11, 2018, unless a later date is cited in the history note at the end of a section.
[6.63.17.5 NMAC – N, 9/11/2018]

6.63.17.6 OBJECTIVE: This rule establishes two levels of licensure for attendance coaches and governs the licensure requirements for persons seeking level 1 and level 2 attendance coach licensure.
[6.63.17.6 NMAC – N, 9/11/2018]

6.63.17.7 DEFINITIONS:

A. "Attendance coach" means an individual whose primary role is to support students in grades Pre K through 12 to improve their overall school attendance during their academic career through prevention, tiered interventions, parent notification, and community partnerships.

B. "Department" means the New Mexico public education department.

C. "Non-remedial degree coursework" means college-level coursework that counts toward a student's degree and that is not focused on remediation for those students who have failed to demonstrate competency in one or more core content areas.

D. "Prior professional experience" means full-time work experience or part-time work experience in a relevant field.

[6.63.17.7 NMAC – N, 9/11/2018]

6.63.17.8 LEVEL 1 REQUIREMENTS:

A. Persons seeking licensure as a level 1 attendance coach pursuant to the provisions of this rule shall meet the following requirements:

- (1)** possess a high school diploma or equivalency;
- (2)** complete and satisfy background check procedures and requirements in accordance with

Section 22-10A-5 NMSA 1978; and

- (3)** possess at least two years of prior professional experience in one or more of the

following areas:

- (a)** corrections;
- (b)** counseling;
- (c)** criminal justice;
- (d)** education;
- (e)** guidance counseling;
- (f)** juvenile justice;
- (g)** law enforcement;
- (h)** psychology;

- (i) public administration;
- (j) social work;
- (k) sociology; or
- (l) other closely related fields, as determined by the department.

B. In addition to satisfying the requirements of Subsection A of 6.63.17.8 NMAC, a person who seeks a level 1 attendance coach license shall meet one of the following requirements:

- (1) hold an associate's degree from a nationally or regionally accredited college or university that includes at least 15 semester hours in non-remedial degree coursework; or
- (2) have completed 48 semester hours of academic credit awarded by a nationally or regionally accredited college or university that includes at least 15 semester hours in non-remedial coursework.

C. Persons holding a level 1 license may apply for a higher level of licensure at any time during the licensure period provided:

- (1) all requirements for the higher level of licensure are satisfied; and
 - (2) the applicant provides certification from the superintendent or charter school administrator that the attendance coach has satisfactorily completed attendance coach duties on a form developed by the department.
- [6.63.17.8 NMAC – N, 9/11/2018]

6.63.17.9 LEVEL 2 REQUIREMENTS: Persons seeking a level 2 attendance coach license pursuant to the provisions of this rule shall meet the following requirements:

A. hold a bachelor's degree from a nationally or regionally accredited college or university that includes at least 30 semester hours in non-remedial degree coursework;

B. complete and satisfy background check procedures and requirements in accordance with Section 22-10A-5 NMSA 1978; and

C. possess at least three years of prior professional experience in one or more of the following areas:

- (1) corrections;
- (2) counseling;
- (3) criminal justice;
- (4) education;
- (5) guidance counseling;
- (6) juvenile justice;
- (7) law enforcement;
- (8) psychology;
- (9) public administration;
- (10) social work;
- (11) sociology; or
- (12) other closely related fields, as determined by the department.

[6.63.17.9 NMAC – N, 9/11/2018]

6.63.17.10 IMPLEMENTATION:

A. Holders of the attendance coach license, Pre K through 12 may not use this license to provide instruction in any other subject matter or discipline, unless they hold a valid department license authorizing them to provide such instructional services.

B. Level 1 licenses shall be issued for a period of one year and may be continued or renewed by meeting requirements outlined in 6.63.17.8 NMAC.

C. Level 2 licenses shall be issued for a period of one year and may be continued or renewed by meeting requirements outlined in 6.63.17.9 NMAC.

D. All attendance coach Pre K through 12 licenses shall commence on July 1st of the year of issuance and expire June 30th of the year of their expiration. No licenses issued pursuant to this rule shall be effective retroactively to any time before the effective date of this regulation.

E. Applicants for attendance coach licensure shall pay an application fee of \$35.

[6.63.17.11 NMAC – N, 9/11/2018]

HISTORY of 6.63.17 NMAC: [RESERVED]

PRE-NMAC HISTORY:[RESERVED]

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