Rule Overview

Date: November 18, 2026
Prepared By: Crystal Tran
Rule Citation: 6.68.1—6.68.9 NMAC, School Personnel

Overview of Proposed Rules

Agency: Public Education Department (PED)
Rulemaking Action: Repeal and Replace (NMAC 6.68.1, 6.68.2, and 6.68.3), New Rule (NMAC 6.68.4, 6.68.5, 6.68.6, 6.68.7, 6.68.8, and 6.68.9)
Date of Notice: November 3, 2026
Public Comment Period: December 3 to December 4, 2026
Rule's Purpose: Rewrites Chapter 68 into a nine-part framework covering how PED receives complaints about educators, investigates complaints, and grants, denies, suspends, or revokes licenses. It also updates the ethics code and creates new conduct standards educators can be disciplined under.

Summary of NMAC 6.68.1—6.68.9, School Personnel: Complaints, Investigations, Discipline, and Hearing Procedures

The proposed NMAC 6.68.1 through 6.68.9 represent a restructuring of New Mexico's licensure policies and enforcement mechanisms on educator misconduct. The proposed revisions appear intended to streamline the licensure process, update, or create baseline definitions to align with current laws; clarify different stakeholders' responsibilities; address gaps in current hearing and post-hearing procedures; and bolster department oversight and monitoring on educator conduct. This report provides a summary of each section; its impact on applicants, current licensed school personnel, and administrators; and substantive technical issues throughout the proposed rules.

NMAC 6.68.1. Definitions and General Provisions. The proposed rule would replace the current placeholder provision and formalize both a framework on educator conduct and PED's internal legal and investigative operations for applications and licensure. Major proposed revisions appear aimed at modernizing enforcement terminology, close procedural loopholes, and establish objective standards for discipling educators.

NMAC 6.68.2. Administrative Complaints, Reports, and Investigations. This proposed rule would repeal the existing rule on procedures and consolidates and outline the reporting process for complaints, including any actions taken by superintendents and PED. The reporting process would include a timeline to necessitate a closing date for the complaint.

NMAC 6.68.3. Grants or Denials of License Applications. The proposed rule would replace the existing hearing procedures for licensure with a dedicated administrative process governing the issuance or denial of licenses held by licensed school instructors, administrators, and other school personnel enumerated in Section 22-10A-3(A) NMSA 1978. The proposed rule also revises two key procedures governing license renewal. The proposed rule also revises two key license renewal procedures. First, it eliminates the one-year post-expiration grace period for applying for continuing licensure, requiring educators with expired licenses to submit a new initial application and pay the associated fees. Second, for educators deemed to lack competency, it replaces school district conference requirements with a competency certification process administered by the superintendent.

The proposed rule would also maintain the current one-year validity period for all applications while also preserving the current hearing structure. This includes a Notice of Contemplated Action (NCA), a request for hearing within 20 days, an attorney hearing officer, discovery, a hearing report, a decision by the secretary within 90 days, and a 30-day appeal. The proposed rule adds a mandatory pre-hearing conference, longer post-hearing briefs, and grants PED the power to grant licenses subject to certain conditions. The proposed rule would also broaden the category of denials that do not have a right to a hearing attached to it, including "failure to meet licensure qualifications" and department microcredentials.

NMAC 6.68.4. Suspension, Revocation, or Other Disciplinary Action Regarding a Department Issued License. This proposed rule would establish the procedural roadmap governing disciplinary actions against active license holders. It details how the Professional Licensure Bureau initiates adverse actions via an NCA, formalizes pre-hearing discovery and deposition rights, outlines evidentiary standards for hearings before attorney hearing officers, and sets frameworks for final determinations by the secretary and district court appeals. Licensees must request a hearing within 20 days of the decision date or forfeit their right to challenge the action or appeal to district court.

NMAC 6.68.5. Unlicensed Educators and Equitable Relief. The proposed new rule would serve as a placeholder and is reserved for future rulemaking.

NMAC 6.86.6. Disqualifying Convictions. The proposed rule expands on current NMAC 6.68.2 provisions that consider criminal convictions involving moral turpitude in the application process. Instead, the proposed rule would maintain and clarify PED's current ability to take adverse action against one's application or licensure based solely on a criminal conviction. The new rule would provide specific state and federal crimes that may serve as a "disqualifying criminal conviction" that would warrant denial, suspension, or revocation, including any felony or misdemeanor that occurred on school grounds and involved other students.

NMAC 6.68.7. Code of Ethics for Educators. The proposed new rule would bring current provisions in NMAC 6.60.9.8 to Chapter 68 and update the code of ethics for educators centered on five principles: (1) responsibility to the profession; (2) professional competence; (3) responsibility to the school community; (4) responsibility to students; and (5) ethical technology use. Additionally, the proposed rule would outline appropriate boundaries between teachers and students.

NMAC 6.68.8. Standards of Professional Conduct. The proposed new rule would move the current standards of professional conduct, currently codified at NMAC 6.60.9.9, under Chapter 68 as a new section, and lists specific prohibited conduct where a violation can lead to adverse action by the department. It would remove PED discretion from enforcing the proposed standards, making department action mandatory. The proposed rule would also clarify boundaries in teacher-student interactions, including situations when a teacher could provide transportation to a student; a relationship between a teacher and a former student as consenting adults; educator drug use on or off campus; and an educator engaging in bullying or cyberbullying towards a student.

NMAC 6.68.9. Declaratory Rulings. This proposed rule would set the procedures for licensed educators and applicants seeking and applying for administrative and department-issued declaratory rulings. In particular, any licensee whose licensure rights may be affected by a departmental action can request a declaratory ruling from PED regarding a particular set of facts. A declaratory ruling is typically a binding legal judgment that simply clarifies what the rule means when there is a real and active legal disagreement.

Impact

Clear definitions and stronger oversight of educator misconduct. The proposed rules affect all licensed school personnel, applicants, local school boards, charter school leadership, and Public Education Department (PED) staff. NMAC 6.68.1 establishes operational definitions for application types ("initial," "continuing," "complete," and "incomplete"). For educators, it would introduce structured oversight categories for misconduct, including detailed definitions of "grooming," "sexual conduct," "ethical misconduct," "bullying," "cyberbullying," and child abuse and neglect (drawn directly from the Children's Code). For PED personnel, it would formalize the roles of investigative and prosecutorial staff within the Division of Educator Quality and the Professional Licensure Bureau. By providing transparent evidentiary standards, the proposed could give greater structural clarity during investigations.

The proposed rule also provides stricter procedural safeguards, such as extending the prohibition on ex parte communications to the Secretary of Public Education during active investigations. An ex parte communication is any communication with a decisionmaker about a pending matter that takes place outside the presence of, or without notice to, the other party or parties involved. Such communications are prohibited in adjudicative proceedings to protect fairness and the appearance of impartiality, because a decisionmaker should base a decision only on the evidence and arguments presented through the formal process, where each side has an opportunity to respond. Because the Secretary issues the final decision in licensure discipline matters, extending the prohibition to the Secretary means the Secretary may not privately discuss the merits of an active investigation with investigators, prosecutors, complainants, or licensees outside that formal process.

Increased mandatory reporting duties and whistleblower protections. One of the most significant changes the proposed rules could bring is the expanded set of educator reporting duties under NMAC 6.68.2, all to be fulfilled on a complaint form prescribed by PED. Misconduct implicating an educator's honesty or fitness would be reported to the department within 30 days, whereas misconduct harming a child, or amounting to "ethical misconduct," would be reported to the department immediately. Educators would also be required to report student drug and alcohol use, student-on-student assault, and bullying and cyberbullying to the superintendent. Superintendents would have stricter obligations to report educator misconduct and to produce all records and information for PED's investigations. At the same time, educators and school administrators could receive greater protection from the potential consequences of mandatory reporting, including retaliation, which could promote more reporting to the department. NMAC 6.68.2 would void any agreement that prevents an educator from performing mandatory reporting duties and would establish that traditional employment law defenses, such as pending grievances or reversed personnel actions, cannot excuse a failure to report. School administrators who retaliate against whistleblowers would be subject to disciplinary action.

Updated pathways for licensure applications. The proposed rules update the application process for both current license holders seeking to continue their licensure and prospective applicants seeking an initial license. NMAC 6.68.1 would establish uniform definitions for application types ("initial," "continuing," "complete," and "incomplete"), which determine which requirements and procedures apply to an applicant and whether an application has been properly submitted. NMAC 6.68.3 would then set out the process for granting or denying applications.

- **Prospective applicants (initial licensure).** Prospective applicants would be subject to the same filing deadlines and to the one-year validity period for applications, which the rule retains. An application would also need to be "complete" to be processed, so missing materials could delay or jeopardize the outcome. The rule also changes what applicants may expect at the decision stage. PED could grant a license subject to conditions rather than only approving or denying it outright. Certain denials would carry no right to a hearing, including denials for "failure to meet licensure qualifications" and denials involving department microcredentials. The practical effect is that an applicant who does not meet the stated qualifications could be denied without any opportunity to contest the decision at a hearing.
- **Current license holders (continuing licensure).** Educators renewing a license face stricter deadlines and fewer procedural protections. First, the rule eliminates the one-year grace period after a license expires; anyone who misses their renewal deadline must start over with a brand-new initial application and pay initial fees. Second, the rule removes the current requirement under NMAC 6.68.2.11 that school districts give struggling educators two formal meetings and a 90-school-day improvement window before reporting that they failed to meet competency standards. Instead, renewal would now depend directly on whether the superintendent certifies the educator's competency.

Clear due process pathway for applicants. Where an application is denied or granted only with conditions, and a hearing is available, the proposed rule would provide a clear process for contesting the decision. Under the proposed NMAC 6.68.3, the applicant would receive a Notice of Contemplated Action (NCA) and must request a hearing within 20 days. The matter would then proceed with discovery and a new mandatory pre-hearing conference; a hearing before an attorney hearing officer; post-hearing briefs; a hearing report; a decision by the secretary within 90 days; and a 30-day window to appeal.

Because the 20-day hearing request deadline is strict, an applicant who does not respond in time would risk losing the right to contest the decision. For PED, the rule separates application processing under NMAC 6.68.3 from disciplinary action against current license holders under NMAC 6.68.4. This could create a more streamlined and predictable licensing pathway for applicants since their applications would no longer be handled through the disciplinary track.

Clear due process pathway for current license holders. Proposed NMAC 6.68.4 would detail the step-by-step procedure by which the Professional Licensure Bureau should issue an NCA, formalize pre-hearing discovery and deposition rights, outline evidentiary standards for hearings before PED's licensed attorney hearing officers, and sets the framework for the Secretary's final decision and any appeal to the district court. The proposed rule would gain clear statutory protections and structured defense protocols, while PED would have a clear procedural pathway to investigate, suspend, revoke, or otherwise restrict license for cause.

Broadening "disqualifying convictions." Although the broadening of potential "disqualifying convictions" would directly impact current educators and school administrators, the proposed rule would have the most impact on prospective applicants. As it stands, the proposed NMAC 6.68.6 does not mention how PED would weigh the criminal conviction, such as considering rehabilitation, elapsed time, the age of the individual at the time of the offense, the severity of the offense, record expunction, or any other individual context. This could discourage otherwise eligible applicants from seeking licensure by raising the barrier of entry for those with prior records.

Minimum professional standards of conduct. This proposed rule impacts all current license holders by establishing minimum conduct standards to protect student safety, maintain academic integrity, and prevent professional misconduct. Educators would be subject to heightened scrutiny on teacher-student boundaries, including a broadened definition of "grooming" and requiring a 24-month post-enrollment ban on romantic or sexual relationships with former students. Educators would also be prohibited from engaging in corporal punishment, searching students' persons or property unless there is reasonable suspicion, and illegal drug use on and off campus. Educators would also be subject to heightened academic scrutiny, prohibiting altering, awarding unwarranted grades, or violating grading policies without support documentation, maintaining professional development, and continuing education, and prohibiting plagiarism. Violations would allow the department to take "adverse action," including license suspension, revocation, or other kinds of formal reprimand.

Updated instructions on processing declaratory rulings. The new proposed rule would grant PED the ability to refuse a declaratory ruling in the event of certain relevant pending proceedings, or when there is a genuine issue of material fact. Licensed educators, in turn, would be able to reduce the risk of unintentional noncompliance or subsequent disciplinary proceedings due to ambiguous state rules, licensure conditions, or statutory requirements.

Technical Issues

NMAC 6.68.1. Definitions and Provisions. NMAC 6.68.1.7 Subsection A defines "administratively close" ambiguously, characterizing it both as a temporary pause ("suspension of all active proceedings") and as a final disposition ("no further proceedings are contemplated or pending"). In addition, it is unclear whether closed administrative matters can be reopened. The proposed rule should clarify the finality of "closing" an administrative matter.

NMAC 6.68.4. Suspension, Revocation, or Other Disciplinary Action Regarding a Department Issued License. NMAC 6.68.4.8 Subsection B sets out service requirements for the commencement of proceedings but also refers to "notice or decision." Service of a decision is separately governed by the proposed rule NMAC 6.68.4.13 Subsection E, which creates uncertainty over which service standard applies.

NMAC 6.68.6. Disqualifying Convictions. The proposed rule's list of disqualifying criminal convictions includes offenses whose connection to educator licensure is not apparent. The Uniform Licensing Act, Section 61-1-36 NMSA 1978, also limits a disqualifying criminal conviction to one that is "job-related for the position in question" and "consistent with business necessity." Section 22-10A-4 NMSA 1978 and NMAC 6.68.7.8 both describe an educator's primary responsibilities as educating the children of this state and improving the profession's practices and ethical conduct. Measured against that standard, the relationship is clear for the most serious offenses, such as homicide, kidnapping, and sexual offenses. For many other listed offenses, it is unclear how the crime relates to the educator's position or to business necessity. Examples include the state crimes in § 30-18-1 (Cruelty to Animals), § 30-18-3 (Unlawful Branding), § 30-18-12 (Injury to Livestock), and § 30-19-3 (Commercial Gambling), and the federal crimes in § 41 (Hunting, Fishing, Trapping; Disturbance or Injury to Wildlife Refuges) and § 1855 (Timber Afire).

PED could revise NMAC 6.68.6 in one of two ways, or both. First, it could narrow the list of disqualifying convictions to offenses with a demonstrable connection to educator duties and student safety, removing offenses such as those listed above that lack an apparent job-related connection. Second, it could add language requiring PED, before denying, suspending, or revoking a license based on a conviction, to make written findings that the offense is job-related and consistent with business necessity and to consider factors such as rehabilitation, time elapsed since the offense, the individual's age at the time, and the seriousness of the offense. Either of these changes would better align the rule with Section 61-1-36 NMSA 1978 and reduce the risk that otherwise eligible applicants are disqualified by offenses unrelated to the profession.

NMAC 6.68.7. Code of Ethics for Educators. NMAC 6.68.8.9 Subsection A(7)(C) sets a flat 24-month post-enrollment prohibition on an educator having a relationship with a former student, while NMAC 6.68.7 Subsection C(1)(h) asks educators only to consider the "ramifications" of entering into an adult relationship with a former student. The two parts send conflicting signals about whether such a relationship is prohibited or merely discouraged and thus should be made consistent.

NMAC 6.68.8. Standards of Professional Conduct. Several provisions in this section appear to inadvertently implicate constitutionally protected rights, particularly regarding educator speech and private adult relationships.

First, multiple proposed provisions regulate educator speech in ways that could reach protected expression, including speech made off campus. NMAC 6.68.8.9 Subsection A(17) bars educators from "knowingly mak[ing] false and derogatory personal comments about an educational colleague," but it does not exempt whistleblowing or other protected speech, such as reports of misconduct, grievances, or union activity (see *Pickering v. Board of Education*, 391 U.S. 563 (1968)). Vagueness compounds the problem. NMAC 6.68.8.9 Subsection A(32) bars "boisterous" conduct, and NMAC 6.68.8.9 Subsection A(35)(d) bars words that are "inflammatory, derogatory, or otherwise demonstrate a bias against a person or group" based on a protected class. Defining these terms or clarifying how PED will distinguish the prohibited conduct from protected expression would provide helpful guidance. Notably, the current standard, NMAC 6.60.9.9 Subsection C(7), contains a First Amendment carve-out stating that "First Amendment protected comments on or off campus are not prohibited." The proposal would drop that clause without a replacement; PED should consider bringing back the clause in its revisions.

Second, proposed provisions raise similar constitutional concerns in extending regulatory authority into private conduct between consenting adults. Subsection (7)(a) would bar an educator from engaging in inappropriate sexual and romantic contact with or make any effort to groom a student on and off campus, and Subsection A(7)(c) would extend this ban for "at least 24 months" after a student graduates or withdraws from the district, even after the former student reaches adulthood. This blanket restriction could risk encroaching on the rights of consenting adults who hold a protected liberty interest in private, consensual relationships (see *Lawrence v. Texas*, 539 U.S. 588 (2003); *Obergefell v. Hodges*, 576 U.S. 644 (2015)). In addition, once a student graduates or withdraws as a legal adult, the state's custodial authority over their personal relationships diminishes substantially (see *Veronica Sch. Dist. 47J v. Acton*, 515 U.S. 646 (1995)). Thus, it is unclear whether the department's authority as a licensing entity would extend to regulating private conduct of this nature.

Drafting Issues

- NMAC 6.68.8.9 Subsection A(15) and A(33) state the same standard word for word, and one should be deleted.
- NMAC 6.68.4.9 Subsection D(3)(d) and other provisions of NMAC 6.68.4 refer to an "applicant" where the rule means "licensee," which could cause confusion about whether a provision applies to discipline of a current license holder or to an application.
- NMAC 6.68.4.13 Subsection E and NMAC 6.68.4.15 Subsection A refer to the licensee as "his or her," while NMAC 6.68.3 uses "they" to refer to the applicant. PED should adopt gender-neutral language consistently across all parts of Chapter 68.
- NMAC 6.68.6.9 Subsection D(20)(m)-(o) assigns "§ 30-22-14" to two distinct offenses, so at least one offense is cited incorrectly, which affects which conviction is disqualifying.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 SCHOOL PERSONNEL - COMPLAINTS, INVESTIGATIONS, DISCIPLINE, AND HEARING PROCEDURES
PART 1 DEFINITIONS AND GENERAL PROVISIONS

6.68.1.1 ISSUING AGENCY: Public Education Department (PED), hereinafter the department.
[6.68.1.1 NMAC - N, 7/1/2027]

6.68.1.2 SCOPE: This rule provides the definitions and general provisions for Title 6, Chapter 68 NMAC, Complaints, Investigations, Discipline and Hearing Procedures.
[6.68.1.2 NMAC - N, 7/1/2027]

6.68.1.3 STATUTORY AUTHORITY: Section 9-24-8 NMSA 1978; Sections 22-1-1.1, 22-1-1.2, and 22-1-2 NMSA 1978; Section 22-2-1 NMSA 1978; Section 22-2-2 NMSA 1978; Section 22-8-42 NMSA 1978; Sections 22-5-4.3 and 22-5- 4.12 NMSA 1978, Sections 22-10A-2, 22-10A-3, 22-10A-4, 22-10A-5, 22-10A-5.1, 22-10A-5.2, 22-10A-30, and 22-10A-31 NMSA 1978; Section 22-21-1 NMSA 1978; Sections 22-35-2 and 22-35-3 NMSA 1978; Sections 28-2-4 and 28-2-5 NMSA 1978; the Children's Code, Chapter 32A NMSA 1978; the Parental Responsibility Act, Chapter 40, Article 5A NMSA 1978; and the Uniform Licensing Act, Chapter 61, Article 1 NMSA 1978. The statutory authority cited in this section applies to all parts of Title 6, Chapter 68 NMAC.
[6.68.1.3 NMAC - N, 7/1/2027]

6.68.1.4 DURATION: Permanent.
[6.68.1.4 NMAC - N, 7/1/2027]

6.68.1.5 EFFECTIVE DATE: July 1, 2027, unless a later date is cited at the end of a section.
[6.68.1.5 NMAC - N, 7/1/2027]

6.68.1.6 OBJECTIVE: The purpose of this rule is to define the applicable terms and general provisions for Title 6, Chapter 8 NMAC, Complaints, Investigations, Discipline and Hearing Procedures.
[6.68.1.6 NMAC - N, 7/1/2027]

6.68.1.7 DEFINITIONS:

A. "Administratively close" means the suspension of all active proceedings and denotes that no further proceedings are contemplated or pending in a matter.

B. "Administrative prosecutor" means an attorney assigned by the department to administratively prosecute cases pending before the department.

C. "Adverse action" means any administrative, civil, or equitable action that may be contemplated by the department, including disciplinary action against a person's license or authorization to practice, such as denial, suspension, or revocation, and any other action permitted by the Uniform Licensing Act, Chapter 61 NMSA 1978, including, reprimands, probation, monitoring of the licensee, conditional limitations, fines, issuance of cease and desist orders, or any other encumbrance on licensure or other certification that may affect an educator's authorization to practice as an educator.

D. "Applicant" means a person who has applied for a license. An applicant may be a party to any proceeding.

E. "Application" means an application for licensure submitted on PED's approved form, which may be one of several types and is either complete or incomplete:

(1) "Continuing application" means a license application submitted by an applicant who currently holds valid licensure and is seeking to continue with that licensure through either advancement or renewal.

(a) "**Advancement**" is a type of continuing application and means a license application submitted by an applicant who currently holds a valid license and is seeking to advance in licensure level from the level of license currently held.

(b) "Renewal" is a type of continuing application and means a license or license application submitted by an applicant who currently holds a valid license and is seeking to continue or renew the same license at the same level.

(2) "Initial application" means a license application submitted by an applicant who does not currently hold the specific type of license sought.

(3) **"Complete"** means an application that has been filled out in full and for which all the required fees and documentation, including but not limited to background information and official transcripts, have been submitted, and which indicates the applicant has fulfilled all academic requirements for the type and level of licensure sought.

(4) **"Incomplete"** application means an application submitted which may be missing required information or supporting documentation, and for which required fees may remain unpaid or background checks uncompleted, or in which responses to character and fitness inquiries remain unfulfilled.

F. **"Bullying"** means any severe, pervasive or persistent act or conduct that targets a student, whether physically, electronically or verbally, and that may be based on a student's actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or cognitive disability or any other distinguishing characteristic; or on an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics; and can be reasonably predicted to:

(1) place a student in reasonable fear of physical harm to the student's person or property;

(2) cause a substantial detrimental effect on a student's physical or mental health;

(3) substantially interfere with a student's academic performance or attendance; or

(4) substantially interfere with a student's ability to participate in or benefit from the services, activities or privileges provided by an agency, educational institution or grantee.

G. **"Child abuse and neglect"**:

(1) **"Abused child"** means a child:

(a) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian, custodian or other adult;

(b) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian, custodian or other adult;

(c) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian, custodian or other adult;

(d) whose parent, guardian, custodian or other adult has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(e) whose parent, guardian, custodian or other adult has knowingly or intentionally tortured, cruelly confined or cruelly punished the child.

(2) **"Neglected child"** means a child:

(a) who has been abandoned by the child's parent, guardian or custodian;

(b) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;

(c) who has been physically or sexually abused, when the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;

(d) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or

(e) who has been placed for care or adoption in violation of the law; provided that nothing in the Children's Code, Chapter 32A NMSA 1978, shall be construed to imply that a child who is being provided with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children's Code; and further provided that no child shall be denied the protection afforded to all children under the Children's Code;

H. **"Complaint form"** means a standardized form that may be used by anybody, including the department, to record in writing, or to give written notification to the department, of potential educator misconduct.

I. **"Corporal punishment"** means a form of discipline or behavior control that involves touching a child or student's body with the intent of inducing pain or humiliation and includes, but is not limited to, shaking, spanking, hitting, hair or ear pulling, or other actions intended to produce pain, fear, shame, or other emotional or physical trauma.

J. **"Cyberbullying"** means any bullying that takes place through electronic communication.

K. **"Educator"** means any licensed or prospective school personnel, school employee, school contractor, or school contractor employee who engages in the profession or practice of education.

L. "Educator misconduct" means any unacceptable, improper, or unprofessional behavior or conduct which may constitute a violation of department issued rules and regulations, including the department standards of conduct. Educator misconduct includes ethical misconduct.

M. "Governing authority," "governing body," or "school board" means the policy-setting body of a school district, charter school, constitutional special school or regional education cooperative, or the final decision maker of another state agency.

N. "Grooming" means any of the following:

(1) engaging in a pattern of flirtatious behavior;

(2) making any effort to gain unreasonable access to, or time alone with, any student with no discernable educational purpose;

(3) offering or giving a ride to a student unless absolutely unavoidable, such as where a student has missed their usual transportation and is unable to make reasonable substitute arrangements; or

(4) engaging in any behavior that can reasonably be construed as involving an inappropriate or overly personal or intimate relationship with, conduct toward, or focus on a student.

O. "Investigator" means an investigator employed by the department for the purposes of carrying out administrative investigations.

P. "License" means a valid license or certificate issued by the department authorizing the individual to engage in the profession of education or other specific practices regulated by the department, which shall be required for any person teaching, supervising an instructional program, providing instructional support services, providing health care and administering medications or performing medical procedures or administering in a public school.

Q. "Licensee" means a person who holds licensure or is authorized to engaged in the profession of education or specific practices regulated by the department.

R. "Licensure" means the licensing portfolio of licensee and includes all licenses held by an educator and licensure applications submitted by an educator.

S. "Notice of contemplated action", or "NCA", is a written communication giving notice that the department is contemplating specific adverse action against a licensee.

T. "Notice of investigation" means a written notice to an individual that the department is conducting an investigation into potential misconduct.

U. "Party" means a respondent licensee, applicant, or unlicensed educator who is the subject of a disciplinary proceeding, or the administrative prosecutor or other department representative.

V. "Reporter" means a person who reports complaints or concerns related to educator misconduct to the department.

W. "School" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area:

(1) "Public school" means a school district, charter school, constitutional special school, regional education cooperative, or the educational program of another state agency.

(2) "Private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board.

(3) "School premises": means "school premises" means:

(a) the buildings and grounds, including playgrounds, playing fields and parking areas and a school bus of a public school, in or on which school or school-related activities are being operated under the supervision of a local school board, charter school or state agency; or

(b) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and -sanctioned activities are being performed.

X. "Sexual conduct" means any of the following:

(1) telling explicit sexual jokes or stories;

(2) engaging in sexual kidding or teasing, making sexual innuendos or making comments with double entendre;

(3) inappropriate physical touching, which is any physical touching, embracing, petting, hand-holding, or kissing which is inappropriate given the age, sex and maturity of the student;

(4) using spoken, written, or any electronic communication to importune, invite, participate with, or entice a person to expose or touch the person's own or another person's intimate body parts or to observe the student's intimate body parts via any form of computer network or system, any social media platform, telephone network, or data network or by text message or instant messaging;

(5) sexual advances or requests for sexual favors;

(6) physical or romantic relationship, including but not limited to, sexual intercourse or oral sexual intercourse;

(7) discussion of one's personal sexual feelings or activities;

(8) discussion, outside of a professional teaching or counseling context endorsed or required by an employing school district, of a student's romantic or sexual feelings or activities;

(9) displaying, sharing or transmitting pornographic or sexually explicit materials; or

(10) any contact that the student previously has indicated is unwelcome, unless such contact is professionally required, e.g. to teach a sport or other skill, or to protect the safety of the student or others.

Y. **"Sexually explicit"** means any communication, language, or material, including a photographic or video image, that relates to or describes sexual conduct.

Z. "**Superintendent**" means a local superintendent, head administrator of a charter school or regional education cooperative, superintendent or commandant of a special school or head administrator of the educational program of a state agency.

AA. "**Unlicensed educator**" means a respondent individual who is not licensed to engaged in the profession of education and who did or is alleged to have engaged in such education activities. An unlicensed person may be a party to any proceeding.

AB. **"Unsupervised contact with children or students"** means access to or contact with, or the opportunity to have access to or contact with, a child or student for any length of time in the absence of:

(1) a licensed staff person from the same school or institution;

(2) a school volunteer who has undergone a background check pursuant to Section 22-10A-5 NMSA 1978; or

(3) any adult relative or guardian of the child or student.

[6.68.1.7 NMAC - N, 7/1/2027]

6.68.1.8 GENERAL PROVISIONS

A. The department's division of educator quality ("EQD") or the department's professional licensure bureau ("PLB") or their designees shall be primarily responsible for administering and implementing these rules.

B. These rules shall be administered, implemented, and employed to promote the substantial interests of the department including educator quality, accountability, and school excellence.

C. The EQD and the PLB shall adopt reasonable measures to widely disseminate these rules and notify educators regarding the consequences for failure to comply with the standards of professional conduct.

D. The EQD and the PLB shall make available to a school any decision and order of the department after the department has taken final licensure action against one of that school's licensed employees based, in whole or in part, on a failure to comply with the standards of professional conduct or any provision of this chapter;

E. **Ex parte communications:** No party nor their attorneys or representatives shall engage in ex parte communications with any hearing officer appointed to hear a case or with the secretary on any matter regarding a pending case or investigation. Likewise, a hearing officer shall not engage in ex parte communications with any party or their attorney or representative on any case to which that hearing officer has been appointed. However, there may be occasions when brief ex parte communications are warranted, for example, for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits. A summary of what was communicated shall be promptly disclosed to the individual who did not participate in the ex parte communication. The secretary shall not engage in any ex parte communication with any party, attorney, representative, or interested person on any matter or for any reason related to a pending investigation, application, or adverse action case where a notice of investigation or contemplated action has been served on a party pursuant to this chapter.

F. **Grounds:** The department may contemplate adverse action for the following grounds, including incompetence, moral turpitude, ethical misconduct, or any other good and just cause:

(1) **"Incompetence" or "incompetent"** means the state of being unable or unqualified to act as an educator or hold educator licensure and may include any of the following:

(a) **"Uncorrected, unsatisfactory work performance"** means the failure by a licensed school employee to satisfactorily perform the tasks which are evaluated by the employee's supervisors, pursuant to the school district's approved plans for evaluation and supervision of its licensed employees. This may include an unsuccessful annual summative evaluation;

(b) A failure to meet department license or certificate requirements including testing, continuing education, or fee requirements;

(c) Medical, legal, educational, or any other evidence type showing a physical, mental, or moral incapacity, whether temporary or not, to act as an educator;

(d) A failure to comply with mandatory job and license duties as required in Section 22-10A-3 (F)NMSA 1978 and 6.29.1.9 NMAC.

(2) **"Moral turpitude"** means an act or behavior that gravely violates the accepted standards of moral conduct, justice or honesty and may include ethical misconduct.

(3) **"Ethical misconduct"** is a specific type of educator misconduct and means any of the following behavior or conduct by school district personnel, school employees, school volunteers, contractors or contractors' employees:

(a) discriminatory practice based on race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition;

(b) sexual misconduct or any sexual offense prohibited by Chapter 30, Article 6A or 9 NMSA 1978 involving an adult or child, regardless of a child's enrollment status;

(c) fondling a child or student, including touching private body parts, such as breasts, buttocks, genitals, inner thighs, groin or anus; or

(d) any other behavior, including licentious, enticing or solicitous behavior, that is reasonably apparent to result in inappropriate sexual contact with a child or student or to induce a child or student into engaging in illegal, immoral or other prohibited behavior.

(4) **"Other good and just cause"** includes, but shall not be limited to, any of the following:

(a) a material misstatement of fact in connection with a licensure or employment application process;

(b) the denial of an application for licensure or the suspension, or revocation of an applicant's educational or other relevant professional certificate or license by the certification or licensing authorities of this or any other state or by a national licensing board or bureau;

(c) material noncompliance with any department regulations prescribing the terms and conditions of employment contracts for licensed school personnel in New Mexico at a time when the licensee was subject to those regulations;

(d) a willful violation of any department regulations prescribing standards of conduct for licensed school personnel at a time when the licensee was subject to those regulations;

(e) any disqualifying conviction subject to the Criminal Offender Employment Act, Chapter 28, Article 2, NMSA 1978 or the Uniform Licensing Act, Section 61-1-36 NMSA 1978;

(f) a failure to comply with a judgment and order for support pursuant to the Parental Responsibility Act, Chapter 40, Article 5A, NMSA 1978;

(g) any intentional alteration, forgery or falsification of any writing, signature, or of any instrument, license, or any official document in connection with any private or public employment or in any dealings with an education agency or the department;

(h) knowingly permitting the continued employment of an educator in a licensed position who lacks a valid license or is not working under a proper departmental waiver from requirements of a public school position requiring a license by the School Personnel Act, Section 22-10A-3, NMSA 1978;

(i) knowingly permitting an educator, school personnel, contractor, contractor's employee, or volunteer without a valid background check from having unsupervised contact with students;

(j) any intentional or deliberate act that endangers the health, safety, or welfare of children, students, or school personnel;

(k) any intentional violation of public health orders, executive orders, and department guidance for the operation of schools, school sponsored activities, and school premises, including school transportation, where such orders concern the health, safety, or welfare of students or school personnel;

(l) any intentional act which causes a fiscal and pecuniary benefit to the licensee and a loss or detriment to an educational agency, whether or not that loss or detriment is later mitigated or otherwise cured;

(m) any conduct which is proscribed for law and specifically provides for the disqualification, forfeiture, or removal of officials and school officials from office, their imprisonment, or the revocation of their licenses or licensure, including those provisions in Article 8, Section 4 of the Constitution of New Mexico, the General Provisions Relating to State Education Institutions, Section 21-1-35, NMSA 1978, and the Public School Code, Sections 22-8-42 and 22-21-1, NMSA 1978;

(n) a failure to comply with any duties to report, duties to investigate or to cooperate in an investigation, duties to conduct a work history inquiry or background check into applicants for employment, or mandatory reporting requirements as provided for in law, including those contained within the School Personnel Act, Section 22-10A-5, 22-10A-5.1, 22-10A-5.2 NMSA 1978, and as detailed in 6.68.2.9 and 6.68.2.12 NMAC;

(o) conduct which intimidates, threatens, injures or takes adverse action against a reporter contrary to Uniform Licensing Act, Section 61-1-7, NMSA 1978 and who has provided information to the department or any other board in good faith or as required by department rule;

(p) signing, entering, or executing a contract that permits the payment of monies, dividends, differentials, bonuses, incentives, salary, wages, or renewal inducements where the payment is neither tied nor traceable to services actually rendered, or which violates the anti-donation or extra or increased compensation clause of Article IX, Section 14 or Article IV, Section 27 of the New Mexico Constitution, respectively;

(q) any other facts or conduct that concerns the department's interest in protecting the public against incompetent teachers, insuring proper educational qualifications, personal fitness and a high standard of teaching performance.

[6.68.1.8 NMAC - N, 7/1/2027]

6.68.1.9 SEVERABILITY: In the event that any one or more of the sections of this chapter, in whole or in part, should be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining sections of this chapter shall not in any way be affected or impaired.
[6.68.1.9 NMAC - N, 7/1/2027]

HISTORY OF 6.68.1 NMAC:
[RESERVED]

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 SCHOOL PERSONNEL - COMPLAINTS, INVESTIGATIONS, DISCIPLINE, AND HEARING PROCEDURES
PART 2 ADMINISTRATIVE COMPLAINTS, REPORTS, AND INVESTIGATIONS

6.68.2.1 ISSUING AGENCY: Public Education Department (PED), hereinafter the department.
[6.68.2.1 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.2 SCOPE: This rule governs administrative complaints, reports, and investigations conducted by the department.
[6.68.2.2 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.3 STATUTORY AUTHORITY: In addition to the statutory authority cited in 6.68.1.3 NMAC, the following apply to this part: Sections 22-5-4.4 and 32A-4-3 NMSA 1978.
[6.68.2.3 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.4 DURATION: Permanent.
[6.68.2.4 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.5 EFFECTIVE DATE: July 1, 2027, unless a later date is cited at the end of a section.
[6.68.2.5 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.6 OBJECTIVE: This rule provides the department's procedures and authority for administrative complaints, required reporting, and investigations into any such matters.
[6.68.2.6 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.7 [RESERVED]
[6.68.2.7 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.8 ADVERSE ACTIONS THAT MAY BE CONTEMPLATED BY THE DEPARTMENT:

A. Upon proof of adequate grounds, the department may deny, revoke or suspend an educator's licensure as provided in the Public Education Code, Section 22-2-2 (K) and the School Personnel Act, Section 22-10A-3, NMSA 1978. Further, pursuant to the Public Education Code, Sections 22-2-1 and 22-2-2 (C), the department may take other disciplinary action, including all adverse actions authorized and enumerated in the Uniform Licensing Act, Section 61-1-3 NMSA 1978.

C. The adverse actions which may be contemplated by the department shall include, but not be limited to, the following:

(1) "Denial," which is the department's refusal and rejection of an applicant's application for a license or certification;

(2) "Grant subject to conditions" which is the department's grant of an applicant's application for a license or certification on the condition that such license would be under probation for a stated period of time to include certain conditions or other restrictions;

(3) "Probation," which is to allow, for a stated period of time, the conduct authorized by a license, subject to conditions or other restrictions that are reasonably related to the grounds for the probation;

(4) "Reprimand," which is a public reproval of the conduct at issue;

(5) "Suspension of a license," which is the prohibition, for a stated period of time, of the conduct authorized by the license, which may or may not be subject to conditions that are reasonably related to the grounds for suspension;

(6) "Revocation," which is the indefinite prohibition of the conduct authorized by the license;

(7) "Permanent revocation," which is a prohibition, in perpetuity, of the conduct authorized by the license; or

(8) "Fine," which is a civil monetary penalty assessed against a party. Pursuant to the Uniform Licensing Act, Section 61-1-4, NMSA 1978, all such fines collected by the department shall be deposited to the credit of the current school fund as provided in Article 12, Section 4 of the Constitution of New Mexico.

D. The department may contemplate adverse action against any license granted after a complaint has been received or a notice of investigation issued, and any such grant of license shall not act to prejudice the department in contemplating or taking adverse action.

E. Reciprocal action: Upon receipt of a certified copy of an adjudication from the appropriate licensing authority in another state, territory, or nation imposing adverse action for grounds that are comparable to the grounds contained within Subsection F of 6.68.1.8 NMAC, the department may contemplate identical or comparable adverse action.

[6.68.2.8 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.9 DUTIES TO REPORT: The following reports to the department shall be submitted on a complaint form:

A. Ethical misconduct: An educator who knows or has a reasonable suspicion that a child or student has been subject to ethical misconduct by school district personnel, a school employee, a school volunteer, a contractor or a contractor's employee shall report the matter immediately to:

(1) the local superintendent; or

(2) the department.

B. Child abuse and neglect: An educator who knows or has a reasonable suspicion that a child or student is an abused child or neglected child shall report the matter immediately to the local superintendent and one of the following:

(1) a local law enforcement agency;

(2) the children youth and family services department (CYFD);

(3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

C. Educator misconduct: An educator who knows that another educator has committed a violation of the department standards of conduct shall report the violation to either the local superintendent or the department in the following circumstances:

(1) If the conduct concerns physical harm or injury to a child or student or comprises ethical misconduct, a report shall be made immediately.

(2) If the conduct does not concern inappropriate contact or harm to a child or student but instead concerns an educator’s honesty, trustworthiness, or fitness to act as an educator, a report shall be made within 30 days.

D. Student misconduct: An educator who knows or has a reasonable suspicion that a student has been harmed or is likely to be harmed due to the following student misconduct shall immediately make a report to the superintendent:

(1) drug or alcohol use, which means any use or abuse of alcohol or illegal drugs or the abuse of legal drugs or prescription drugs;

(2) student on student assault or battery, which means the unlawful, intentional touching, or application of force to a student by another student which is unwelcome and when done with the apparent intent to cause apprehension, violence, or harm to a student. This may include both sexual assault or battery and violent assault or battery; or

(3) bullying or cyberbullying.

E. Superintendent duties to report: Superintendents have special duties to report as follows:

(1) If a superintendent knows or has reasonable suspicion that a child or student has been subject to ethical misconduct, the superintendent shall report the matter to the department immediately.

(2) If, after an investigation of a school employee who resigned, was or is in the process of being discharged, terminated, or has otherwise left school employment, there is any finding of ethical misconduct, the superintendent shall report the matter to the department on a complaint form within 30 days of the separation of employment of the school employee, or immediately if the finding of ethical misconduct is sexual misconduct with an adult or child.

(3) A superintendent shall immediately report to the department any known conviction of any felony or misdemeanor involving moral turpitude of school district personnel, a school employee, a school volunteer, a contractor or a contractor's employee. A list of those convictions which the department has determined may constitute moral turpitude, or which may be disqualifying for educator licensure, are detailed within 6.68.6 NMAC and shall be listed and made available on portion of the department’s website relating to licensing.

(4) A superintendent shall report to the department within 30 days after any adverse personnel action, or the discharge or termination of a school employee, when the adverse personnel action, discharge, or termination is based upon educator misconduct

F. "Immediately", for the purposes of this section, means as soon as practically possible, but at a minimum, within forty-eight hours of an individual acquiring knowledge or reasonable suspicion.

G. Duties to report are nonwaivable: These duties to report are nonwaivable and no agreement between a departing, former, or current licensed individual, school district personnel, school employee, contractor, contractor's employee, or school volunteer and the governing authority or superintendent shall diminish or eliminate the responsibility of investigating and reporting the alleged misconduct to the department or, if legally mandated, to law enforcement or any other relevant agency. Any such agreements to the contrary are null and void.

H. The following common employment defenses shall not be considered justifications for failing to report:

(1) whether the personnel action, reprimand, or suspension is final or pending school board, administrative, appellate, or judicial review;

(2) whether the employee was discharged or left employment before the allegations were investigated or sustained;

(3) whether a person has been licensed for a certain number of years or met local requirements to be entitled to additional employment process or protection;

(4) whether there is a pending grievance or complaint under review;

(5) whether any adverse personnel action was reversed;

(6) in the case of ethical misconduct of which an educator knows or has reasonable suspicion, whether the allegations were sustained or substantiated following an investigation.

I. Discretion to report: The department finds that reporting misconduct is in the interest of the education profession. There shall be no liability on the part of and no action for damages against a person who provides information to the department or any other state, educational, or law enforcement agency when such a report is made in good faith and without malice in the reasonable belief that such information is accurate. It shall not be considered misconduct to make a report to the department under these mandatory rules or in any other circumstances, so long as such a report is made on the department complaint form and that the reporter reasonably believes and articulates facts of misconduct.

J. Protection for reporter: In accordance with the Uniform Licensing Act, Section 61-1-7, NMSA 1978, a party who directly or through an agent intimidates, threatens, injures, or takes adverse action against a person for providing information to a board or the department shall be subject to disciplinary action and such conduct shall constitute adequate grounds for adverse action.

[6.68.2.9 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.10 COMPLAINT FORM:

A. The PLB shall prescribe the complaint form for receiving licensure complaints or reports.

B. The complaint form may be used by anybody, including the department itself, to record in writing, or to give written notification to the department, of potential educator misconduct.

C. A copy of the complaint form shall be made available on the PLB's webpage on the department website.

D. Receipt of a complaint form shall act to stay the expiration of licensure where a license or licensure was scheduled to expire and would expire but for receipt of the form.

E. Receipt of a complaint form shall not preclude a licensee, currently holding department-issued licensure, from seeking or obtaining further licensure through advancement, endorsement, or by submitting additional initial licensure applications.

F. A complaint form and any related materials, including those developed through an investigation, shall constitute a public record and may be released upon request to any party or person except that any confidential information contained within the form or otherwise shall be removed or redacted prior to release. The department may for good cause, or upon a determination that immediate release of the complaint form and related materials may prejudice an ongoing investigation or proceeding, or upon a determination that the constitutional rights of privacy of a party of a party or person may be irreparably damaged, withhold immediate release of the complaint form and any related materials.

G. No respondent rights to a reporter: Proceedings brought forth as a result of the complaint form shall be between the department and the licensee. Unless otherwise required by law, including a requirement to give notice to a reporter for investigation of ethical misconduct, a reporter shall not be privy to and shall not be given

updates, notice, or other follow-up regarding next steps, outcomes, or dispositions of a specific complaint investigation or disciplinary proceeding. The department shall refrain from commenting on, predetermining, or taking any action which may prejudice an ongoing administrative investigation, or disciplinary proceeding.
[6.68.2.10 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.11 COMPLAINT PROCEDURE AND INVESTIGATION PROCEDURES:

A. Upon receipt of a complaint form or whenever it appears that grounds may exist, the department may take one of the following actions:

(1) initiate a reasonable investigation into those grounds or any other alleged violation;

(2) issue a notice of contemplated action; or

(3) decline any adverse action and administratively close the matter.

B. The department may decline any adverse action and administratively close the matter where any one of the following is apparent:

(1) The complaint concerns matters upon which the department lacks jurisdiction;

(2) The complaint is not directed towards and does not concern an identifiable licensee or potential party;

(3) The identified licensee or potential party in the complaint is not responsible for the conduct described;

(4) The complaint fails to provide sufficient facts, evidence, or witness information which the department may investigate;

(5) The complaint fails to detail or sufficiently articulate facts which plausibly may constitute adequate grounds;

(6) The complaint was made for the purposes of harassment or retaliation; or

(7) The pursuit of the complaint would not serve the substantial interests of the department, promote educational excellence, or advance educator quality.

C. Notice of investigation: If the department initiates an investigation, a notice of investigation shall be issued in the following circumstances:

(1) The department shall issue a notice of investigation to a licensee in those cases where a school district has already completed an investigation into ethical misconduct, the licensee is being discharged, terminated, or otherwise has left employment, and the department has not yet commenced its own investigation of a licensee prior to receipt of the complaint form. Such a notice of investigation shall be issued within sixty (60) days of receipt of a complaint form and shall contain the following information:

(a) that the licensee is the subject of an investigation;

(b) a general description of the alleged acts for which the investigation is sought;

(c) the licensee's right to provide a rebuttal or explanation; and

(d) a notice that the licensee shall not discuss any matters detailed in the notice of investigation with any student or other potential victim.

(2) The department may at any time issue a notice of investigation to educators subject to allegations of educator misconduct, and nothing in this rule shall prohibit the issuance of notices of investigation to any other person on any other matter.

(3) The issuance of a department notice of investigation to any licensee prior to the expiration date of a license shall act to stay the expiration of licensure where a license or licensure was scheduled to expire and would expire but for the issuance of the notice.

D. Notice to reporter: If the department issues a notice of investigation, opens an inquiry, or initiates an investigation into allegations of ethical misconduct, the department shall issue a notice of report to a reporter of ethical misconduct within five (5) business days. This notice of report shall contain a statement that the department has received a complaint concerning misconduct and is investigating the complaint.

E. No declination conclusions required: The department shall not be required to issue declination conclusions or findings of fact explaining its decisions with regard to opening, closing, conducting or declining to conduct investigations or issuing notices of contemplated action, except as otherwise required by law.

F. Administrative investigators and administrative prosecutors: The department may employ, contract with, or assign an administrative prosecutor or administrative investigator to represent and perform any functions of the department, the EQD, or the PLB as outlined in this rule as provided in law.

G. Experts: A department investigation or prosecution may seek opinions of, reports from, or otherwise employ experts.
[6.68.2.11 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.12 DUTY FOR SUPERINTENDENT TO COOPERATE AND PROVIDE INFORMATION:

A. A superintendent's report of educator misconduct to the department shall, if known, include: the name, address and age of the child or student involved; the child's or student's parents, guardians or custodians; the school district personnel, school employee, school volunteer, contractor or contractor's employee who is alleged to have committed educator misconduct; and any evidence of educator misconduct, including the nature and extent of any injuries and other information that the superintendent believes might be helpful to investigate such a report.

B. The department shall have access to any records maintained by the superintendent or district pertaining to any educator misconduct case.

C. A superintendent shall keep and maintain written records on all actions taken to improve any person's work performance and all improvements made in the person's work performance and shall provide those records to the department upon request.

D. A superintendent shall cooperate fully with any department investigation into educator misconduct and shall respond to department questions posed during the course of an investigation.

[6.68.2.12 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

6.68.2.13 INVESTIGATIVE SUBPEONAS:

A. Subpoena authority: Pursuant to the Uniform Licensing Act, Subsection A of Section 61-1-4NMSA 1978, when investigating complaints against licensees, applicants, or unlicensed educators, the PLB may issue civil investigative subpoenas.

B Subpoena types: The PLB may issue civil investigative subpoenas and civil investigative subpoenas duces tecum to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence.

C. Persons subject to subpoena: All persons, whether that person holds an educator license or not, shall be subject to a department-issued civil investigative subpoena.

D. Method of service: Subpoenas may be served personally or by certified mail, or any other manner as provided for service of subpoenas by the New Mexico rules of civil procedure

E. Form: Subpoenas shall substantively comply with the form as provided by the New Mexico Rules of Civil Procedure.

F. Objections and motions to quash: Before the time specified for compliance, an interested person may object to or move to quash an investigative subpoena. If an objection or motion to quash is received, the person issuing the subpoena shall not be entitled to the discovery, attendance, or production except by further administrative order from the department or by order of a court of law.

G. Enforcement:

(1) Administrative enforcement: Upon objection or a motion to quash, the department may quash, modify, or administratively order compliance with an investigative subpoena.

(2) Judicial enforcement: Pursuant to the Uniform Licensing Act, Section 61-1-10 NMSA 1978,f any person refuses to respond to an investigative subpoena, to take the oath or affirmation as a witness, to be examined, or to obey any lawful administrative order of the department, or after receiving an objection or motion to quash the subpoena, an interested party, upon notice to the issuer and subject of the subpoena, may move to compel compliance through a court of law.

H. Sanctions for licensees who fail to comply: Failure to comply with a valid and properly served investigative subpoena, unless objection or motion to quash is made in a in a timely manner, may be grounds for disciplinary action against a licensed educator.

[6.68.2.13 NMAC - Rp, 6.68.2 NMAC, 7/1/2027]

HISTORY OF 6.68.2 NMAC:

History of Repealed Material:

6.68.2 NMAC, Denial of Applications for Licenses for School Personnel, repealed effective July 1, 2027, and replaced by 6.68.2 NMAC, Administrative Complaints, Reports, and Investigations, effective July 1, 2027. Material concerning licensure applications and related hearing procedures was reorganized into 6.68.3 NMAC.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 SCHOOL PERSONNEL - COMPLAINTS, INVESTIGATIONS, DISCIPLINE, AND HEARING PROCEDURES
PART 3 GRANT OR DENIAL OF LICENSE APPLICATIONS

6.68.3.1 ISSUING AGENCY: Public Education Department (PED), hereinafter the department.
[6.68.3.1 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.2 SCOPE: This rule governs the grant and denial of applications for licenses and certificates for school personnel enumerated in Subsection A of Section 22-10A-3 NMSA 1978.
[6.68.3.2 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.3 STATUTORY AUTHORITY: In addition to the statutory authority cited in 6.68.1.3 NMAC, the following apply to this part: Sections 22-10A-7, 22-10A-8, 22-10A-10, 22-10A-11, 22-10A-11.1 through 22-10A-11.9, 22-10A-12, 22-10A-12.1, 22-10A-13, 22-10A-15, 22-10A-17, 22-10A-17.1, 22-10A-17.2, and 39-3-1.1 NMSA 1978.
[6.68.3.3 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.4 DURATION: Permanent.
[6.68.3.4 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.5 EFFECTIVE DATE: July 1, 2027, unless a later date is cited at the end of a section.
[6.68.3.5 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.6 OBJECTIVE: This rule governs the licensure application process of all licenses and certificates issued by the department, as well as the grant or denial of such applications.
[6.68.3.6 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.7 DEFINITIONS: [RESERVED]

6.68.3.8 APPLICATIONS FOR LICENSURE-COMPLETION OF FILE AND REAPPLICATION:

A. The PLB shall prescribe the forms for licensure applications in New Mexico.

B. All applicants for licensure shall meet the department requirements governing the types and levels of licenses sought that are in effect on the date of an application.

C. Continuing applications shall be submitted on the current form prescribed by the PLB by the June 30 expiration date of such license or licenses. An individual whose license expired on June 30 and is employed for the coming school year shall have submitted a complete application within thirty (30) days of commencing their school employment duties for that year. In no event shall the application for continuing licensure be submitted sooner than January 1 of the expiration year.

D. When a license expiration is stayed by receipt of a complaint or notice of investigation, a continuing application may be submitted as though it expired or is expiring on the original expiration date. If no application is received by the original expiration date, a continuing application may be submitted within sixty (60) days after the department administratively closes the case.

E. If no application is received by the expiration date or, in the case of a stay of expiration, within sixty (60) days of the department's administrative closure, the license or licensure shall expire.

F. An initial or continuing application shall be valid for one year from receipt, during which time the applicant shall ensure that the PLB has a complete application with all the information necessary to determine their qualifications for the licenses and levels sought therein.

G. Should the PLB deem the application incomplete, it shall notify the applicant of how the application is incomplete, and detail in writing what is required for the application to be completed. If an application remains incomplete one year from the date of receipt, it shall expire.

H. Once a license, or an initial or continuing application expires, an applicant seeking licensure shall be required to file a new initial application for the licenses and levels sought and to pay any required application fees for a new initial licensure application.

I. No educator shall have unsupervised contact with students until the educator has received a cleared background check from the governing authority and the department, and any such rule or policy providing otherwise shall be void.

[6.68.3.8 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.9 REQUIREMENT TO CERTIFY CONTINUING APPLICATIONS:

A. Continuing applications shall include certification on a department approved form that the applicant has satisfactorily demonstrated the competencies required for the level of licensure held during the term of the applicant's most recent employment.

B. Superintendents or governing authorities shall, when requested, complete a competency certification form related to licensure to certify one of the following:

(1) The applicant has satisfactorily demonstrated the competencies for the level of licensure held during the term of their last employment, the dates and term of which the superintendent shall provide;

(2) The applicant did not complete an adequate term or internship period for the superintendent or governing authority to certify the applicant has satisfactorily demonstrated the competencies required for the level of licensure held;

(3) The applicant failed to satisfactorily demonstrate the competencies for the level of licensure held during the term of their last employment, the dates and term of which the superintendent shall provide.

C. Continuing applications shall be considered incomplete until such certification is obtained. If due to circumstances beyond the applicant's control, an educator is unable to obtain superintendent or governing authority certification, an educator shall complete and provide a certification unavailability form.

D. A certification unavailability form shall require proof of having sought superintendent certification, documents which reasonably support the educator's demonstration of competencies for the level of licensure held during the term of the applicant's last employment, and detail and provide documents which establish the date and terms of the last employment.

[6.68.3.9 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.10 PROCEDURES FOR THE DENIAL OF LICENSURE APPLICATIONS OR THE GRANT OF LICENSURE APPLICATIONS SUBJECT TO CONDITIONS:

A. If the PLB concludes that sufficient grounds exist to deny a complete licensure application or to grant the licensure application subject to conditions, then the PLB may issue a written notice of contemplated action (NCA) to an applicant.

B. Service of notices: Any notice required to be served by this rule may be served either personally or by certified mail, return-receipt-requested, directed to the applicant at their last known address as shown by the records of the PLB. If the notice is served personally, service shall be made in the same manner as is provided by the rules of civil procedure for the district courts. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the notice or decision to the addressee, or refusal of the addressee to accept delivery.

C. The NCA shall contain the following:

(1) a statement that the applicant has failed to satisfy the department that the applicant is qualified to be examined or issued a license, as the case may be;

(2) a statement indicating in what respects the applicant has failed to satisfy the department; and

(3) a statement that the applicant may secure a hearing before the department by requesting a hearing via certified mail to the secretary with return receipt requested within 20 days after receiving service of notice; and

(4) a statement calling the applicant's attention to the applicant's rights under the Uniform Licensing Act, Section 61-1-8 NMSA 1978.

D. Copies of notice: If the licensure application indicates current or prospective employment by a school in New Mexico, the department shall send a copy of the NCA shall to the superintendent employing or seeking to employ the applicant, unless the applicant is a superintendent, in which case the president of the governing authority of the school where the superintendent is employed shall be sent a copy of the notice.

E. Time limitations:

(1) An NCA shall not be filed later than two years after the discovery of the conduct that would be the basis of the contemplated action, except as otherwise provided in law.

(2) Discovery of the conduct shall be considered to have occurred on the date on which a complaint or other information that would reasonably connect the allegations to the applicant was received by the department.

(3) The time limitation shall be tolled by any civil or criminal litigation in which the applicant is a party that arises from substantially the same facts, conduct, or transactions that would be the basis for the department's contemplated action.

[6.68.3.12 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.11 DENIALS NOT SUBJECT TO HEARING:

A. The PLB may deny any complete application for:

(1) failure to pass a required examination;

(2) failure to pay the required application fee;

(3) failure to meet licensure qualifications or continuing education requirements, including department microcredential requirements.

B. Applications denied under this section shall not be provided an opportunity for a hearing.

C. Temporary licensure extensions: The department may provide for temporary licensure extensions beyond the initial licensure term in exigent circumstances. This includes temporary licensure extensions beyond a level 1 licensure term of five years. The department's grant or denial of such licensure extensions shall not be subject to review. For the purposes of this subsection, exigent circumstances are those extenuating circumstance beyond the applicant's control, which absent an extension, may create an administrative, financial, or medical burden.

D. When the department chooses to proceed under this section to deny without an opportunity for a hearing, an aggrieved applicant may within thirty (30) days send to the PLB a written request that the department review any denial. The department shall have ninety (90) days from the date of the request to review the denial and render a decision. The decision on review shall not be reviewable.

[6.68.3.10 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.12 PRE-HEARING PROCEDURES:

A. Filing of request for hearing: An applicant shall initiate a request for hearing by delivering a timely, written request for hearing to the office of the secretary in Santa Fe, New Mexico. Such request shall be sent by certified mail, return-receipt-requested, within twenty (20) days after service of the NCA on the applicant.

B. If a hearing is requested, within twenty (20) days of receipt of the request, the department shall notify the applicant of the following: the time and place of the hearing; the name, address and telephone number of the person who shall conduct the hearing for the department; and the statutes and rules authorizing the department to take the contemplated action. The hearing shall be held not more than sixty (60) nor less than fifteen (15) days from the date said notice is deposited in the mail, return receipt requested, or the date of personal service.

C. Failure to request a hearing: If the applicant does not make a timely written request for a hearing as required by these rules, the department may take the action contemplated in the notice and such action shall be final and not subject to judicial review.

D. Appointment of a hearing officer:

(1) All hearings shall be conducted by a hearing officer who shall be a duly licensed New Mexico attorney.

(2) Upon receipt of the request for a hearing, the PLB shall appoint a hearing officer. Any hearing officer appointed to serve on a case shall be held to the same ethical standards of impartiality, competence and diligence that are set forth in Cannon 2 of Rule 21-200 NMRA of the Code of Judicial Conduct.

(3) The hearing officer may issue pre-hearing orders which may include:

(a) setting deadlines for the exchange of documents intended to be introduced;

(b) setting deadlines for the exchange of a list of each witness and any evidence a party intends to call or introduce during the hearing;

(c) setting deadlines and procedures for any discovery, motions, or pleadings, intended by any party;

(d) ordering the applicant to have their attorney, if any, file within 30 days a written notice of appearance with the hearing officer with a copy to opposing party;

(e) cautioning the parties of their need to comply with the prohibitions on ex parte communications; and

(f) setting the date and venue of the hearing.

(4) If either party requests a pre-hearing conference with the hearing officer, such conference shall be scheduled by the hearing officer and be held telephonically or virtually unless both parties agree to meet in person.

(5) Within fifteen (15) days of their appointment, a hearing officer shall hold a pre-hearing scheduling conference and issue a pre-hearing order detailing the hearing officer's prehearing orders.

(6) A hearing officer shall have the authority:

(a) to have counsel to develop the case; to administer oaths or affirmations to witnesses called to testify; to take testimony; to examine witnesses; and to direct a continuance of any case.

(b) to hold conferences before or during the hearing for the settlement or simplification of the issues, but such settlement or simplification shall only be with the consent of the applicant;

(c) to hear pre-hearing motions for which the hearing officer shall issue written orders with a copy to both parties of any pre-hearing motion filed by a party;

(d) to subpoena, for purposes of discovery and of the hearing, witnesses and relevant books, papers, documents and other evidence, in compliance with Paragraphs A through D of Rule 1-045 NMRA and Form 4-505 NMRA; a party may also issue such subpoenas with the approval of the hearing officer;

(e) to impose any appropriate evidentiary sanction against a party who fails to provide discovery or to comply with a subpoena, including striking a witness's testimony or documentary evidence;

(f) to take notice of judicially cognizable facts as well as of general, technical or scientific facts within their specialized knowledge, so long as the applicant is notified either before or during the hearing of the facts so noticed and their source, and is afforded an opportunity to contest said facts; and

(g) to impose costs on the applicant upon motion of the department.

E. Discovery:

(1) Rules of discovery provided in Rules 1-026 through 1-037 NMRA shall apply, except that deadlines for a responding party to reply to requests for admissions or production of documents and interrogatories shall be within 10 days of the delivery of the request. No such request shall be made less than 15 days before the hearing.

(2) Upon written request to another party, any party is entitled to:

(a) obtain the names and addresses of witnesses who may be called by the other party to testify at the hearing; and

(b) inspect and copy any documents or items which the other party may introduce in evidence at the hearing.

(3) Any opposition to any pre-hearing motion filed by a party shall be filed within 10 days of the service of that motion on the other party.

(4) This rule shall authorize any party to seek discovery sanctions or relief from a district court.

(5) Any party may take depositions after service of notice in accordance with the rules of civil procedure for the district courts. Depositions may be used as in proceedings governed by those rules.

F. Pleadings: Parties shall serve copies of all pleadings on each other, and the hearing officer shall sign and date each pleading and shall include a signed and dated certificate of service with the pleadings.

G. Hearing officer excusal:

(1) Peremptory: Any party may peremptorily excuse a hearing officer by filing with the current hearing officer a notice of peremptory excusal within twenty (20) days of service of the appointment of hearing officer.

(2) Good cause: Any party may request the excusal of a hearing officer for good cause by filing with the current hearing officer a motion of excusal for cause at least twenty days prior to the date of the hearing.

(3) Recusal: No hearing officer shall sit in any action in which the hearing officer's impartiality may reasonably be questioned under the provisions of the Constitution of New Mexico or the Code of Judicial Conduct, and the hearing officer shall file a recusal in any such action.

(4) An objection to the timeliness or validity of an excusal may be raised by any party or by the currently appointed hearing officer on their own motion. The hearing officer shall rule on the timeliness or validity of any such objection. If the excused hearing officer determines that the excusal has met the applicable procedural and legal requirements in this rule, the hearing officer shall proceed no further except to provide notice of the excusal and order appointment of a replacement hearing officer. If the excused hearing officer determines that the excusal has not met the applicable procedural and legal requirements in this rule, the hearing officer may proceed to preside over the case.

(5) Procedures for appointment of a replacement hearing officer:

(a) A replacement hearing officer shall be appointed by the department within twenty (20) days of the filing of the hearing officer's excusal or recusal.

(b) Any hearings scheduled to take place within twenty (20) days of the filing of the hearing officer's excusal shall be vacated and rescheduled. The department shall serve proper notice on the applicant of the time and place of the reschedule hearing, and of the new hearing officer, within twenty (20) days of the filing of the original hearing officer's excusal. Any rescheduled hearing shall be held not more than sixty (60) nor less than fifteen (15) days from the date of service of said notice.

(c) A filing of excusal by a party other than the department, including an applicant or licensee, shall act to stay any time limitations up to and until a hearing may be held.

[6.68.3.13 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.13 RIGHTS OF AN APPLICANT:

As provided in the Uniform Licensing Act, Section 61-1-8 NMSA 1978, a party entitled to be heard under the act shall have the right to be represented by counsel; to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who appear on a matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request for them to the secretary or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the secretary or the hearing officer.

[6.68.3.13 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.14 HEARING:

A. Purpose: The purpose of the hearing shall be to determine whether sufficient grounds exist to deny or to grant, subject to conditions, a licensure application.

B. Burden of proof: The burden of proof shall be upon the department to establish by a preponderance of the evidence that sufficient grounds exist to either deny the application or grant it subject to conditions.

C. Venue of hearing:

(1) Initial licensure applications: Any hearing on the merits involving initial licensure applications shall be held in Santa Fe County;

(2) Continuing licensure applications: Any hearing involving an application for continuing licensure shall be conducted, at the election of the department, in the county in which the applicant maintains residence or in a county in which the act complained of occurred, although the department and applicant may agree to hold such a hearing in a different county or by virtual means.

D. Conduct of hearings on the merits:

(1) The order of presentation of evidence at a hearing shall be as follows: The department shall present evidence to establish that sufficient grounds exist for the denial of the applicant's initial or continuing licensure. Thereafter, the applicant may present evidence to rebut or explain the allegations. The hearing officer shall allow rebuttal evidence and closing arguments. The hearing officer may order the sequence of presentation of evidence be changed in the interest of administrative efficiency.

(2) The rules of civil procedure and the rules of evidence shall not apply to the hearing, except as specifically provided in this section, but it shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the hearing officer shall permit each party to call and examine witnesses, cross-examine witnesses, and introduce exhibits. Documentary evidence may be received in the form of copies or excerpts. Evidence shall be admitted without regard to technical rules of evidence, but the hearing officer may exclude any evidence which is not relevant to the issues and may require reasonable substantiation of statements or records where accuracy or truth is in reasonable doubt. Any evidence may be admitted that is of a kind commonly relied on by reasonably prudent people in the conduct of legal proceedings. The hearing officer may in their discretion exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence. Rules of privilege shall be applicable to the same extent as in proceedings before the courts of this state. Parties or their attorneys may make timely objections to the introduction of any evidence they view as inadmissible under this paragraph. The rules of civil procedure and rules of evidence may be used as an aid in the evaluation of any motion or pleading.

(3) A complete record shall be made of all evidence received during the course of the hearing. The record shall be preserved by any stenographic method in use in the district courts of this state or, in the

discretion of the department, by digital recording technology. The department shall observe any standards pertaining to digital recordings established for the district courts of this state.

(4) All witnesses shall swear or affirm that their testimony will be truthful. A person authorized to administer oaths shall swear in each witness. The hearing officer may determine the capacity of a witness to testify and may consider capacity in determining the weight of the evidence. The hearing officer may refuse to admit testimony from a proposed witness who is found lacking capacity.

(5) The hearing officer may require post-hearing briefs be submitted by the parties. Unless ordered otherwise, such briefs shall not exceed 40 pages in length, double-spaced, exclusive of attachments, and shall be on paper eight and one-half by eleven inches in length. The hearing officer may order briefs be received in electronic or physical format, except that the applicant shall be permitted to submit physical, paper briefs by any specified deadline.

E. Failure to appear:

(1) If an applicant fails to appear at a hearing and no continuance has been granted, the hearing officer may hear the evidence of such witnesses as may have appeared and proceed to consider and dispose of the case on the weight of the evidence before the hearing officer.

(2) Where an applicant fails to appear for a hearing or fails to request a hearing due to sickness, accident or other good cause, such licensee may apply to the hearing officer where he failed to appear, or to the department where he failed to request a hearing, to reopen the proceeding, and upon finding such cause sufficient, the hearing officer or the department, as the case may be, shall schedule a hearing and give the applicant notice of such as required by this rule. The hearing officer may require evidence to prove licensee's good cause in such cases.

F. Continuing jurisdiction:

(1) Despite the expiration date of an applicant's licensure, or the expiration of any pending licensure application, the department shall continue to have jurisdiction to hear a case under this rule where the applicant was issued a notice of investigation or contemplated action prior to any such expiration date or where a complaint form concerning the applicant was received by the department prior to any such expiration date.

(2) The issuance of such notice upon an applicant or the receipt of such a complaint shall act to stay the expiration of licensure where that individual's licensure was scheduled to expire and would expire during a proceeding to deny continuing licensure under this rule but for the stay of the expiration.

(3) Where the secretary issues a final order in which the applicant's licensure is not revoked, suspended, or outright denied, then the applicant shall be permitted to renew their licensure as though it expired on the original expiration date, as long as the applicant satisfies all other licensure requirements for the level and type of license sought. Such an application shall be received within sixty (60) days of the secretary's final order.

[6.68.3.15 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.15 THE HEARING OFFICER'S REPORT TO THE SECRETARY:

A. The hearing officer shall afford the applicant and the department an opportunity to file proposed findings of fact and conclusions of law by a deadline specified by the hearing officer not to exceed thirty (30) days from receipt of the record of the testimonial portion of the hearing.

B. The hearing shall close thirty (30) days from receipt of the record of the testimonial portion of the hearing. No party shall submit post-hearing briefs or proposed findings of fact and conclusions of law after the hearing is closed unless leave to file late is granted by the hearing officer.

C. Contents:

(1) After the hearing has closed, the hearing officer shall submit a formal written report to the secretary within 30 days consisting of the following labeled paragraphs: statement of the case, legal issues, proposed findings of fact, proposed conclusions of law, proposed findings as to adequate grounds, and proposed order by the hearing officer.

(2) The hearing officer may include or exclude from the report to the secretary any portions of the parties' proposed findings, conclusions of law, or proposed orders. Moreover, the hearing officer may revise the submitted proposed findings and conclusions and make other findings and conclusions as the hearing officer deems supported by the evidence at the hearing.

(3) The hearing officer shall limit their proposed order to: denial of the application, grant of the application subject to conditions, or rejection of adverse action against the application.

(4) The hearing officer may identify either mitigating or aggravating circumstances in the hearing officer report that may bear on the proposed order.

D. In any denial action of an individual's application for licensure brought under authority of the Parental Responsibility Act, Article 40-5A NMSA 1978, the hearing officer shall limit their proposed findings, conclusions or order to the issues of whether a certified list of obligors from the human services department (HSD) has been submitted indicating that individual as being in non-compliance of a district court child support order, and whether the HSD has provided to the department a certified statement that the charged individual is presently in compliance with that order. The hearing officer and the secretary shall defer to any district court child support order directed to the department relative to an applicant's educator license(s).

E. The hearing officer shall submit a copy of the report directly to the parties to the hearing, or to their attorneys, if any, on the same day the hearing officer serves the secretary.

F. The hearing officer's report shall be considered a privileged communication between the department's hearing officer and the secretary not subject to public inspection until the secretary has reviewed the report and rendered a final decision.

[6.68.3.16 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.16 DECISION OF THE SECRETARY:

A. The secretary shall review the report of the hearing officer together with any briefs or proposed findings of fact, conclusions of law, or orders timely submitted by the parties. The secretary shall render a final decision and order based on a preponderance of the evidence. The secretary's decision shall include a statement informing the applicant of their right to judicial review and the time within which such review shall be sought. The secretary shall either:

(1) Adopt the hearing officer's proposed findings of fact, conclusions of law and order;

(2) Modify said findings of fact and conclusions of law and order and render a decision;

(3) Reopen the case to receive additional evidence or for other cause on request from the parties or on the secretary's own motion; and where a request to reopen the case comes from the applicant, the secretary shall serve upon the applicant within 15 days after receipt of said request, a decision to grant or refuse said request; and where the case is reopened, notice of the hearing shall be served on the applicant within 15 days after service of the decision to reopen with the hearing being held within 45 days after the service of said notice and the decision from the hearing being served on the applicant within 30 days after the hearing; or

(4) Reject any adverse action against the applicant's licensure application on the grounds alleged and order the individual's application review to go forward to determine if the applicant is otherwise qualified for licensure or continuing licensure.

B. The secretary is not an appellate reviewer of the hearing officer's proposed findings of fact, conclusions of law, or order. Rather, the secretary is ultimately responsible for issuing a final decision and order relative to possible adverse action against an applicant's educator licensure. The secretary is at liberty to order any adverse action available to the department, provided that any deviation from the hearing officer's proposed of fact, conclusions of law, and order is supported by a preponderance of the evidence after conducting an independent review of the transcript of the hearing.

C. The secretary may adopt and incorporate into the decision and order all or any part of a written settlement proposed by the parties, whether or not a case has gone to a hearing. Any such settlement proposal shall be executed or signed and contain the detailed agreements of the respective parties. Upon adoption and incorporation by the secretary of all or any part of a written settlement, that settlement or the incorporated portions shall become merged into the secretary's decision and order as a final agency decision.

D. Secretary decision due date: The final decision and order of the secretary based on the hearing will be rendered and signed within ninety (90) days after the hearing closes upon receipt of the record of the testimonial portion of the hearing.

E. Service: A written copy of the decision of the secretary shall be served on the applicant personally in accordance with the rules of civil procedure for the district courts or by certified mail, return-receipt-requested, directed to the applicant at their last known address, or to their attorney, as shown by the records of the PED, within 15 days after the decision is rendered and signed.

F. Notice to School: The department shall provide a copy of the decision of the secretary to any superintendent or school identified during the course of the proceedings as employing the applicant.

G. The decision of the secretary is a public record and may be reported to the national association of state directors of teacher education and certification's (NASDTEC's) clearinghouse or to any other organization.

[6.68.3.17 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.17 WAIVER:

A. Time limits: Any time limits specified in this rule may be waived by the applicant if done in writing.

B. Hearing: No hearing need be held by the department if the applicant waives in writing the right to the hearing.

C. Voluntary denial or voluntary grant subject to conditions: After service of a notice of an investigation or contemplated action on a party applying for initial or continuing licensure, that individual may voluntarily agree to a denial of their application, or a grant subject to conditions, provided that any such voluntary denial or grant subject to conditions is accomplished in writing where the individual has an opportunity to consult with and retain an attorney. A voluntary denial or a voluntary grant subject to conditions may be achieved only with the approval of the secretary, so long as the individual knowingly submits to the jurisdiction of the department and waives in writing their right to a hearing and the other procedures set forth in this rule. Neither a voluntary denial nor a voluntary grant subject to conditions are subject to judicial review and the effect of such a voluntary denial or voluntary grant subject to conditions is binding on the parties to the agreement accomplishing the denial.

D. A voluntary denial is not a voluntary withdrawal of an application but is an actual denial of a licensure application. The department shall not allow applications to be withdrawn except for good cause shown.
[6.68.3.17 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

6.68.3.18 APPEAL:

A. A final decision by the secretary after the hearing officer has made the required recommendations may be appealed to the district court by an applicant within 30 days of the date of filing of the decision in accordance with Section 39-3-1.1, NMSA 1978.

B. At any time before or during the appeal, the aggrieved party may apply to the department or file a motion in accordance with the rules for civil procedure for the district courts in the reviewing court for an order staying the operation of department's decision pending the outcome of the review. The department or court, as the case may be, may grant or deny the stay in its discretion. No order granting or denying a stay shall be reviewable.
[6.68.3.18 NMAC - Rp, 6.68.3 NMAC, 7/1/2027]

HISTORY OF 6.68.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

SBE Regulation No. 84-1, Governing Denial of Applications for Certification for School Personnel in New Mexico, filed January 24, 1984;

SBE Regulation 87-1, Governing Denial of Applications for Licenses for School Personnel in New Mexico, filed August 17, 1989.

History of Repealed Material:

6 NMAC 4.2.4.4, Denial of Applications for Licenses for School Personnel, filed June 1, 1998, repealed effective November 30, 2005.

6.68.3 NMAC, Suspension, Revocation or Other Disciplinary Action Regarding a Department Issued License, repealed effective July 1, 2027, and replaced by 6.68.3 NMAC, Grant or Denial of License Applications, effective July 1, 2027. Material concerning suspension, revocation, and other disciplinary actions was reorganized into 6.68.4 NMAC.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 SCHOOL PERSONNEL - COMPLAINTS, INVESTIGATIONS, DISCIPLINE AND HEARING PROCEDURES
PART 4 SUSPENSION, REVOCATION OR OTHER DISCIPLINARY ACTION REGARDING A DEPARTMENT ISSUED LICENSE

6.68.4.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.68.4.1 NMAC - N, 7/1/2027]

6.68.4.2 SCOPE: This rule governs adverse action regarding a licensee.
[6.68.4.3 NMAC - N, 7/1/2027]

6.68.4.3 STATUTORY AUTHORITY: In addition to the statutory authority cited in 6.68.1.3 NMAC, the following applies to this part: Section 39-3-1.1 NMSA 1978.
[6.68.4.3 NMAC - N, 7/1/2027]

6.68.4.4 DURATION: Permanent.
[6.68.4.4 NMAC - N, 7/1/2027]

6.68.4.5 EFFECTIVE DATE: July 1, 2027, unless a later date is specified at the end of a section.
[6.68.4.5 NMAC - N, 7/1/2027]

6.68.4.6 OBJECTIVE: This rule is adopted by the department to govern the procedures for adverse action regarding a licensee.
[6.68.4.6 NMAC - N, 7/1/2027]

6.68.4.7 DEFINITIONS: [RESERVED]

6.68.4.8 COMMENCEMENT OF PROCEEDINGS:

A. If the department concludes that sufficient grounds exist to take adverse action against a licensee, then the PLB may issue an NCA to a licensee.

B. Service of notice: Any notice required to be served by this rule may be served either personally or by certified mail, return-receipt-requested, directed to the licensee at their last known address as shown by the records of the PLB. If the notice or decision is served personally, service shall be made in the same manner as is provided for service by the rules of civil procedure for the district courts. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the notice or decision to the addressee or refusal of the addressee to accept delivery.

C. The NCA shall contain the following:

(1) A statement that the department has sufficient evidence that, if not rebutted or explained, may justify the department in taking the contemplated action;

(2) A statement indicating the general nature of the evidence and allegations, including specific laws or rules that are alleged to have been violated;

(3) Instructions for requesting a hearing;

(4) A statement that the department's contemplated action will be taken and shall become final unless the licensee requests a hearing according to the procedure and within the time specified, and that such action is not subject to judicial review;

(5) A statement calling the licensee's attention to his or her rights under this rule and the ULA, Section 61-1-8, NMSA 1978.

D. Copies of notice: A copy of the notice shall be sent by the department to the superintendent employing or seeking to employ the licensee, if known, unless the licensee is the said superintendent, in which case the president of the governing authority shall be sent a copy of the notice.

E. Time Limitations

(1) A NCA shall not be filed later than two years after the discovery of the conduct that would be the basis of the contemplated action, except as otherwise provided in law.

(2) Discovery is considered the date on which a complaint or other information that would reasonably connect the allegations to the licensee was received by the department.

(3) The time limitation shall be tolled by any civil or criminal litigation in which the licensee is a party arising from substantially the same facts, conduct, or transactions that would be the basis for the department's action.

[6.68.4.7 NMAC - N, 7/1/2027]

6.68.4.9 PREHEARING PROCEDURES:

A. Filing of request for hearing: A licensee shall initiate a request for hearing by filing a timely, written request for hearing with the department, by delivery of such request to the office of the secretary of the department in Santa Fe, New Mexico. Such request shall be sent by certified mail, return-receipt-requested within twenty (20) days after service of the notice on the licensee.

B. If a hearing is requested, the department, within twenty (20) days of receipt of the request, shall notify the licensee of the time and place of the hearing, the name, address and telephone number of the person who shall conduct the hearing for the department and the statutes and regulations authorizing the department to take the contemplated action, which hearing shall be held not more than sixty (60) nor less than (15) days from the date of service of said notice.

C. Failure to request a hearing: If the licensee does not make a timely written request for a hearing in the time and manner required by these rules, the department may take the adverse action contemplated in the notice and such action shall be final and not subject to judicial review.

D. Appointment of a hearing officer:

(1) All hearings may be conducted by a hearing officer who shall be a duly licensed New Mexico attorney.

(2) Upon receipt of the request for a hearing, the PLB shall appoint the hearing officer. Any hearing officer appointed to serve on a case shall be held to the same ethical standards of impartiality, competence and diligence that are set forth in Cannon 2 of Rule 21-200 NMRA of the Code of Judicial Conduct.

(3) The hearing officer may issue pre-hearing orders that may include:

(a) Setting deadlines for the exchange of documents intended to be introduced;

(b) Setting deadlines for the exchange of a list of each witness and any evidence a party intends to call or introduce during the hearing;

(c) Setting deadlines and procedures for any discovery, motions, or pleadings, intended by any party;

(d) Ordering the applicant to have their attorney, if any, file within 30 days a written notice of appearance with the hearing officer with a copy to opposing party;

(e) Cautioning the parties of their need to comply with the prohibitions on ex parte communications; and

(f) Setting the date and venue of the hearing.

(4) If either party requests a pre-hearing conference with the hearing officer, such conference shall be scheduled by the hearing officer and be held telephonically or virtually unless both parties agree to meet in person.

(5) Within fifteen (15) days of an appointment, a hearing officer shall seek to hold a pre-hearing scheduling conference and issue a pre-hearing order detailing the hearing officer's prehearing orders.

(6) The hearing officer shall have the authority:

(a) To have counsel to develop the case; to administer oaths or affirmations to witnesses called to testify; to take testimony; to examine witnesses; and to direct a continuance of any case; hearing officers may also hold conferences before or during the hearing for the settlement or simplification of the issues, but such settlement or simplification shall only be with the consent of the licensee;

(b) To hear pre-hearing motions, for which the hearing officer shall issue written orders with a copy to both parties of any pre-hearing motion filed by a party;

(c) To subpoena, for purposes of discovery and of the hearing, witnesses and relevant books, papers, documents and other evidence in compliance with Rules 1-045A to D of the New Mexico rules of civil procedure and New Mexico civil form 4-505; a party may also issue such subpoenas with the approval of the hearing officer;

(d) To impose any appropriate evidentiary sanction against a party who fails to provide discovery or to comply with a subpoena, including the striking of a witness or the striking of documentary evidence;

(e) To take notice of judicially cognizable facts as well as of general, technical or scientific facts within their specialized knowledge so long as the applicant is notified either before or during the hearing of the facts so noticed and their source, and is afforded an opportunity to contest said fact; and

(f) To impose costs on the applicant upon motion of the department

E Discovery:

(1) Rules of discovery provided in Rules 26 through 37 of the New Mexico rules of civil procedures shall apply, except that deadlines for a responding party to reply to requests for admissions or production of documents, and interrogatories shall be within 10 days of the delivery of the request. No such request shall be made less than 15 days before the hearing.

(2) Upon written request to another party, any party is entitled to:

(a) Obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(b) Inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

(3) Any opposition to any pre-hearing motion filed by a party shall be filed within 10 days of the service of that motion on the other party.

(4) This rule does not authorize either party to seek discovery sanctions or relief from a district court.

(5) Any party may take depositions after service of notice in accordance with the rules of civil procedure for the district courts. Depositions may be used as in proceedings governed by those rules.

F. Pleadings: Parties shall serve copies of all pleadings on each other and the hearing officer shall sign and date each pleading and shall include a signed and dated certificate of service with their pleading.=

G. Hearing officer excusal:

(1) Peremptory: Any party may peremptorily excuse a hearing officer by filing with the current hearing officer a notice of peremptory excusal within twenty days of service of the appointment of hearing officer.

(2) Good cause: Any party may request the excusal of a hearing officer for good cause by filing with the current hearing officer a motion of excusal for cause at least twenty days prior to the date of the hearing.

(3) Recusal: No hearing officer shall sit in any action in which the hearing officer's impartiality may reasonably be questioned under the provisions of the Constitution of New Mexico or the Code of Judicial Conduct, and the hearing officer shall file a recusal in any such action.

(4) An objection to the timeliness or validity of an excusal may be raised by any party or by the currently appointed hearing officer on its own motion. The hearing officer shall rule on the timeliness or validity of any such objection. If the excused hearing officer determines that the excusal has met the applicable procedural and legal requirements in this rule, the hearing officer shall proceed no further except to provide notice of the excusal and order appointment of a replacement hearing officer. If the excused hearing officer determines that the excusal has not met the applicable procedural and legal requirements in this rule, the hearing officer may proceed to preside over the case.

(5) Procedures for appointment of a replacement hearing officer:

(a) A replacement hearing officer will be appointed by the department within twenty (20) days of the filing of the hearing officer's excusal.

(b) Any hearings scheduled to take place within twenty (20) days of the filing of the hearing officer's excusal shall be vacated and rescheduled. The department shall give proper notice to the applicant of the time and place of the reschedule hearing within twenty (20) days of the filing of the hearing officer's excusal. Any rescheduled hearing shall be held not more than sixty (60) nor less than fifteen (15) days from the date of service of said notice.

(c) A filing of excusal by a party other than the department, including an applicant or licensee, shall act to stay any time limitations until a hearing may be held.

[6.68.4.8 NMAC - N, 7/1/2027]

6.68.4.10 RIGHTS OF A LICENSEE:

As set forth in the Uniform Licensing Act, Section 61-1-8, NMSA 1978, a party entitled to be heard under the act shall have the right to be represented by counsel; to present all relevant evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who appear on a matter relevant to the

issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request for them to the Secretary or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the secretary or the hearing officer.
[6.68.4.10 NMAC - N, 7/1/2027]

6.68.4.11 HEARING:

A. Purpose: The purpose of the hearing shall be to determine whether sufficient grounds exist for adverse action

B. Burdens of proof: The burden of proof shall be upon the department to establish by a preponderance of the evidence that sufficient grounds exist. The licensee's burden shall be to sufficiently rebut or explain the evidence.

C. Venue of hearing: The hearing shall be conducted in the county in which the licensee resides, or at the election of the department, in any county in which the act or acts complained of occurred, although the licensee and the department may agree to hold such a hearing in some other county or by virtual means.

D. Conduct of hearings on the merits:

(1) The order of presentation of evidence shall be as follows: The department shall present evidence in an attempt to establish that sufficient grounds exist for the suspension, revocation or other disciplinary action against the licensee's license. Thereafter, the licensee may present evidence in defense. The hearing officer shall allow rebuttal evidence or closing arguments. The order of presentation of evidence may be altered sequence of evidence to be changed in the interest of administrative efficiency.

(2) Rules of Evidence: The rules of civil procedure and the rules of evidence shall not apply to the hearing, except as specifically provided in this regulation, but it shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the hearing officer shall permit each party to call and examine witnesses, cross-examine witnesses and introduce exhibits. Documentary evidence may be received in the form of copies or excerpts. Evidence will be admitted without regard to technical rules of evidence, but the hearing officer may exclude any evidence, which is not relevant to the issues and may require reasonable substantiation of statements or records where accuracy or truth is in reasonable doubt. Any evidence may be admitted that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may in his or her discretion exclude incompetent, irrelevant, immaterial or unduly repetitious evidence. Rules of privilege shall be applicable to the same extent as in proceedings before the courts of this state. Parties or their attorneys may make timely objections to the introduction of any evidence they view as inadmissible under this paragraph and absent any other authority which may be applicable, the rules of civil procedure may be used to evaluate and resolve any issue, motion or pleading.

(3) A complete record shall be made of all evidence received during the course of the hearing. The record shall be preserved by any stenographic method in use in the district courts of this state or, in the discretion of the board, by digital recording technology. The department shall observe any standards pertaining to digital recordings established for the district courts of this state.

(4) All witnesses shall swear or affirm that their testimony will be truthful. A person authorized to administer oaths shall swear each witness. The hearing officer may determine the capacity of a witness to testify and may consider capacity in determining the weight of the evidence. The hearing officer may refuse to admit testimony from a proposed witness who is found lacking capacity.

(5) The hearing officer may require post-hearing briefs to be submitted by the parties. Such briefs shall not exceed 40 pages in length, double-spaced, exclusive of attachments, and shall be on paper eight and one-half by eleven inches in length. The hearing officer may order briefs be received in electronic or physical format, except that the licensee shall be permitted to submit physical, paper briefs by any specified deadline.

E. Failure to appear: If a licensee fails to appear at a hearing and no continuance has been granted, the hearing officer may hear the evidence of such witnesses as may have appeared and proceed to consider and dispose of the case on the weight of the evidence before them. Where a licensee fails to appear for a hearing or fails to request a hearing due to sickness, accident or other good cause, such licensee may apply to the hearing officer where he failed to appear, or to the department where he failed to request a hearing, to reopen the proceeding, and upon finding such cause sufficient, the hearing officer or the department shall schedule a hearing and give the licensee notice of such as required by this rule. The hearing officer may require evidence to prove licensee's good cause in such cases.

F. Continuing jurisdiction

(1) Despite the expiration date of a licensee's licensure, or the expiration of any pending licensure application, the department shall continue to have jurisdiction to hear a case under this rule where the licensee was issued a notice of investigation prior to any such expiration date or where a complaint form concerning the licensee was received by the department prior to any such expiration date.

(2) The issuance of such notice upon a licensee or the receipt of such a complaint shall act to stay the expiration of licensure where that individual's licensure was scheduled to expire and would expire during a proceeding under this regulation but for the stay of the expiration.

(3) Where the secretary issues a final order in which the licensee's licensure is neither revoked, suspended, nor outright denied, then the licensee shall be permitted to renew a license as though it expired on the original expiration date as long as all other licensure requirements for the level and type of license sought are satisfied. The PLB shall allow the individual 60 days from the secretary's final decision to file a renewal application.

[6.68.4.11 NMAC - N, 7/1/2027]

6.68.4.12 THE HEARING OFFICER'S REPORT TO THE SECRETARY:

A. The hearing officer shall afford the licensee and the department an opportunity to file proposed findings of fact and conclusions of law by a deadline specified by the hearing officer not to exceed thirty (30) days from receipt of the record of the testimonial portion of the hearing.

B. The hearing shall close (thirty) 30 days from receipt of the record of the testimony portion of the hearing. No party shall submit post-hearing briefs or proposed findings of fact and conclusions of law after the merits hearing is closed unless leave to file late is granted by the hearing officer for good cause shown.

C. Contents:

(1) After the hearing has closed, the hearing officer shall submit a formal written report to the secretary within thirty (30) days, consisting of the following labeled paragraphs: statement of the case, legal issues, proposed findings of fact, proposed conclusions of law, proposed finding as to adequate grounds, and proposed order by the hearing officer.

(2) The hearing officer may include or exclude from the report to the secretary any portions of the parties' proposed findings, conclusions of law, or proposed orders. Moreover, the hearing officer may revise the submitted proposed findings and conclusions and make other findings and conclusion as the hearing officer deems are supported by the evidence at the hearing.

(3) The hearing officer shall limit the proposed order to an adverse action available to the department or rejection of adverse action against the licensee.

(4) The hearing officer may identify either mitigating or aggravating circumstances in the hearing officer's report which may bear on the proposed order.

D. In any adverse actions of an individual's license(s) brought under authority of the Parental Responsibility Act, the hearing officer shall limit his or her proposed findings, conclusions or order to the issues of whether a certified list of obligors from the human services department (HSD) has been submitted indicating that individual as being in non-compliance of a district court child support order, and whether HSD has provided to the department a certified statement that the licensee is presently in compliance with that order. The hearing officer and the secretary shall defer to any district court child support order directed to the department relative to a licensee's educator license(s).

E. The hearing officer shall submit a copy of the report directly to the parties to the hearing, or to their attorneys, if any, on the same day the hearing officer serves the secretary.

F. The hearing officer's report shall be considered a privileged communication between the department's hearing officer and the secretary not subject to public inspection until the secretary has reviewed the report and rendered a final decision.

[6.68.4.12 NMAC - N, 7/1/2027]

6.68.4.13 DECISION OF THE SECRETARY:

A. The secretary shall review the report of the hearing officer together with any briefs or proposed findings of fact, conclusions of law, and proposed orders timely submitted by the parties. The secretary shall render a final decision and order based on a preponderance of the evidence. The secretary's decision shall include a statement informing the licensee of the right to judicial review and the time within which such review shall be sought. The secretary shall either:

(1) Adopt the hearing officer's proposed findings of fact, conclusions of law and order; or

(2) Modify said findings of fact and conclusions of law and order and render a decision; or

(3) Reopen the case to receive additional evidence or for other cause on request from the parties or on the secretary's own motion; and where a request to reopen the case comes from the licensee, the secretary shall serve upon the licensee within 15 days after receipt of said request, a decision to grant or refuse said request; and where the case is reopened, notice of the hearing shall be served on the licensee within fifteen days after service of the decision to reopen with the hearing being held within 45 days after the service of said notice and the decision from the hearing being served on the licensee within 30 days after the hearing; or

(4) Reject any adverse action against the licensee's licensure on the grounds alleged and order the said license(s) to remain in full force and effect.

B. The secretary is not an appellate reviewer of the hearing officer's proposed findings of fact, conclusions of law, or order. Rather, the secretary is ultimately responsible for issuing a final decision and order relative to possible adverse action against a licensee's educator licensure. The secretary is at liberty to order any adverse action available to the department, provided that any deviation from the hearing officer's proposed findings of fact, conclusions or law, and order is supported by a preponderance of the evidence after conducting an independent review of the transcript of the hearing.

C. The secretary may adopt and incorporate into the decision and order all or any part of a written settlement proposed by the parties, whether or not a case has gone to a hearing. Any such settlement proposal shall be executed or signed and contain the detailed agreements of the respective parties. Upon adoption and incorporation by the secretary of all or any part of a written settlement, that settlement or the incorporated portions shall become merged into the secretary's decision and order as a final agency decision.

D. Secretary decision due date: The final decision and order of the secretary based on the hearing will be rendered and signed within ninety (90) days after the hearing closes upon receipt of the record of the testimonial portion of the hearing.

E. Service: A written copy of the decision of the secretary shall be served on the licensee personally in accordance with the rules of civil procedure for the district courts or by certified mail, return-receipt-requested, directed to the licensee at his or her last known address, or to his or her attorney, as shown by the records of the department, within 15 days after the decision is rendered and signed.

F. Notice to School: The department shall provide a copy of the decision of the secretary to any superintendent or school identified during the course of the proceedings as employing the applicant.

G. The decision of the secretary is a public record and may be reported to the national association of state directors of teacher education and certification's (NASDTEC's) clearinghouse or to any other organization.

[6.68.4.13 NMAC - N, 7/1/2027]

6.68.4.14 WAIVER:

A. Time limits: The time limits specified in this rule may be waived by the licensee if done in writing.

B. Hearing: No hearing need be held by the department if the licensee waives in writing the right to the hearing.

C. Voluntary surrender: After service of a notice of investigation or contemplated action, on a party, that individual may consent to adverse action or voluntarily surrender a license or licensure in a manner tantamount to revocation or suspension , provided that any such voluntary surrender is accomplished in writing where the individual has an opportunity to consult with and retain an attorney. A voluntary surrender may be achieved only with the approval of the secretary, so long as the licensed individual knowingly submits to the jurisdiction of the department and waives in writing any right to a hearing and the other procedures set forth in this rule. A voluntary surrender is not subject to judicial review, and its effect is binding on the parties to the agreement accomplishing the surrender.

[6.68.4.14 NMAC - N, 7/1/2027]

6.68.4.15 APPEAL:

A. A final decision by the secretary after the hearing officer has made his or her recommendations may be appealed to the district court by an applicant within 30 days of the date of filing of the decision in accordance with Section 39-3-1.1, NMSA 1978.

B. At any time before or during the appeal, the aggrieved party may apply to the department or file a motion in accordance with the rules for civil procedure for the district courts in the reviewing court for an order staying the operation of department's decision pending the outcome of the review. The department or court may grant or deny the stay in its discretion. No order granting or denying a stay shall be reviewable.

[6.68.4.15 NMAC - N, 7/1/2027]

HISTORY OF 6.68.4 NMAC: [RESERVED]

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 SCHOOL PERSONNEL - COMPLAINTS, INVESTIGATIONS, DISCIPLINE, AND HEARING PROCEDURES
PART 5 RESERVED - UNLICENSED EDUCATORS & EQUITABLE RELIEF

[RESERVED]

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 SCHOOL PERSONNEL - COMPLAINTS, INVESTIGATIONS, DISCIPLINE, AND HEARING PROCEDURES
PART 6 DISQUALIFYING CONVICTIONS

6.68.6.1 ISSUING AGENCY: Public Education Department (PED), hereinafter the department.
[6.68.6.1 NMAC - N, 7/1/2027]

6.68.6.2 SCOPE: This rule lists the specific criminal convictions that may be disqualifying for educator licensure.
[6.68.6.2 NMAC - N, 7/1/2027]

6.68.6.3 STATUTORY AUTHORITY: In addition to the statutory authority cited in 6.68.1.3 NMAC, the following apply to this part: Sections 28-2-4, 28-2-5, 31-29-2, 31-29-9, and 61-1-36 NMSA 1978.
[6.68.6.3 NMAC - N, 7/1/2027]

6.68.6.4 DURATION: Permanent.
[6.68.6.4 NMAC - N, 7/1/2027]

6.68.6.5 EFFECTIVE DATE: July 1, 2027, unless a later date is cited at the end of a section.
[6.68.6.5 NMAC - N, 7/1/2027]

6.68.6.6 OBJECTIVE: The following criminal convictions shall constitute grounds for denial of an application for licensure issued by the department and further shall constitute grounds to suspend or revoke licensure issued by the department.
[6.68.6.6 NMAC - N, 7/1/2027]

6.68.6.7 DEFINITIONS: [RESERVED]

6.68.6.8 GENERAL

A. The department may take adverse action on the sole basis of a criminal conviction included on these lists, unless otherwise provided in law.

B. Any criminal conviction, including those listed herein, which results in a sentence of a felony may constitute grounds for denial of an application for licensure issued by the department and further may constitute grounds to suspend or revoke licensure issued by the department except as otherwise provided for in law.

C. The department may take adverse action on the sole basis of a criminal conviction, whether or not such conviction is included on these lists and whether or not such conviction resulted in a sentence of a felony where the crime occurred at, within, or on school grounds, regardless of whether the school grounds are public or private, where the crime concerned children or students, or where the subject or victim of said crime was a student, child, educator, or school employee.

D. The department may continue to consider any criminal conviction, whether or not such conviction is included on these lists, as evidence to show a licensed educator, or applicant, violated the Public School Code, Chapter 22 NMSA 1978, The School Personnel Act, Chapter 22, Article 10A NMSA 1978; or the Public Education Department Act, Chapter 9, Article 24 NMSA 1978.
[6.68.6.8 NMAC - N, 7/1/2027]

6.68.6.9 DISQUALIFYING STATE CRIMES

A. All disqualifying criminal offenses include detailed citations to provisions of the New Mexico Statutes, Annotated.

B. In the event of renumbering or amendment of such statutory provisions, convictions of the renumbered or amended provisions shall continue to constitute grounds for denial of an application or contemplating or taking adverse licensure action by the PED if the definition of the acts constituting such crimes remain substantially similar.

C. A conviction of an offense in a court of another state shall be deemed a conviction of the offense in New Mexico with the same elements. If there is no offense in New Mexico with the same elements, the

conviction shall be deemed a conviction of the most serious offense in New Mexico that is established by the elements of the offense in the other state.

D. State offenses:

(1) Article 2 – Homicide
- **(a)** § 30-2-1. Murder
- **(b)** § 30-2-3. Manslaughter
- **(c)** § 30-2-4. Assisting Suicide
- **(d)** § 30-2-5. Excusable Homicide

(2) Article 3 - Assault and Battery
- **(a)** § 30-3-2. Aggravated Assault
- **(b)** § 30-3-3. Assault w/Intent to Commit Felony
- **(c)** § 30-3-5. Aggravated Battery
- **(d)** § 30-3-7. Injury To Pregnant Woman
- **(e)** § 30-3-8. Shooting At Dwelling/Occupied Buildings
- **(f)** §30-3-9. Assault/Battery on School Personnel
- **(g)** §30-3-13. Aggravated. Assault v. Household Member
- **(h)** §30-3-14. Assault v. Household Member w/Intent to Commit Violent Felony
- **(i)** §30-3-17. Multiple Convictions of Battery or Aggravated Batter
- **(j)** §30-3-19. Threatening a Judge or immediate family of a judge.

(3) Article 3a - Harassment and Stalking
- **(a)** §30-3A-3. Stalking
- **(b)** §30-3A-3.1. Aggravated Stalking

(4) Article 4 - Kidnapping
- **(a)** §30-4-1. Kidnapping
- **(b)** §30-4-2. Criminal Use of Ransom Money
- **(c)** §30-4-3. False Imprisonment

(5) Article 6 - Crimes against Children and Dependents
- **(a)** §30-6-1 (D). Abuse of a child.
- **(b)** §30-6-1 (F). Negligent abuse of a child.
- **(c)** §30-6-1 (B). Abandonment of a child
- **(d)** §30-6-1 (B). Abandonment of a child that results in great bodily harm or death.
- **(e)** §30-6.2. Abandonment of a Dependent
- **(f)** §30-6-3. Contributing to Delinquency of Minor

(6) Article 6a – Sexual Exploitation of Children
- **(a)** §30-6A-3. Sexual Exploitation of Children
- **(b)** §30-6A-4. Sexual Exploitation of Children / Prostitution

(7) Article 7 - Weapons and Explosives
- **(a)** §30-7-2. Unlawful Carrying of Deadly Weapon
- **(b)** §30-7-2.1. Unlawful Carrying on School Premises
- **(c)** §30-7-3. Unlawful Carrying of Firearm in License Liquor Premises
- **(d)** §30-7-5. Dangerous Use of Explosives
- **(e)** §30-7-12. Unlawful Possession of Bus by Force
- **(f)** §30-7-16. Felon in Possession
- **(g)** §30-7-19.1 Possession of Explosive Devise
- **(h)** §30-7-20. Facsimile/Hoax Bomb or Explosive
- **(i)** §30-7-21. False Report / Fire or Explosive

(8) Article 9 - Sexual Offenses
- **(a)** §30-9-2. Enticement of a Child.
- **(b)** §30-9-4. Promoting Prostitution
- **(c)** §30-9-4.1. Accepting Earnings of a Prostitute
- **(e)** §30-9-11. Criminal Sexual Penetration
- **(f)** §30-9-12. Criminal Sexual Contact
- **(g)** §30-9-13. Criminal Sexual Contact of a Minor
- **(h)** §30-9-12. Criminal Sexual Contact
- **(i)** §30-9-14.3. Aggravated Indecent Exposure
- **(j)** §30-9-20. Voyeurism

(9) Article 9a - Animal Sex abuse

(a) §30-9A-3 (A). Bestiality

(b) §30-9A-3 (B). Promoting Bestiality

(c) §30-9A-3 (C). Aggravated Bestiality

(10) Article 12 - Abuse of Privacy

(a) §30-12-12. Disturbing a Marked Burial Ground

(11) Article 14 - Breaking and Entering

(a) §30-14-8. Breaking and Entering

(12) Article 15 - Property Damage

(a) § 30-15-3. Damaging Insured Property

(13) Article 16 – Larceny

(a) § 30-16-1 (D) - (H). Larceny

(b) § 30-16-2. Robbery

(c) § 30-16-3. Burglary

(d) § 30-16-4. Aggravated Burglary

(e) § 30-16-5. Possession Burglary Tools

(f) § 30-16-6. Fraud

(g) § 30-16-7. Unlawful Dealing in Food Stamps

(h) § 30-16-8. Embezzlement

(i) § 30-16-9. Extortion

(j) § 30-16-10. Forgery

(k) § 30-16-11. Receiving Stolen Property

(l) § 30-16-16. Falsely Obtaining Services

(m) § 30-16-20. Shoplifting

(n) § 30-16-24.1. Theft of Identity

(o) § 30-16-26. Theft of Credit Card

(p) § 30-16-27. Possession of Stolen Credit Card

(q) § 30-16-28. Fraudulent Transfer/Receipt of Credit Card

(r) § 30-16-30. Dealing in Credit Cards of Another

(s) § 30-16.31. Forgery of a Credit Card

(t) § 30-16-32. Fraudulent Signing of Credit Cards

(u) § 30-16-33. Fraudulent Use of Credit Cards

(v) § 30-16-34. Fraudulent Acts by Merchants/Employees

(w) § 30-16-35. Possession of Incomplete Credit Cards

(x) § 30-16-36. Receipt of Property in Violation of Act

(y) § 30-16-37. Obtaining Fraudulently Acquired Transportation Ticket

(z) § 30-16-39. Fraudulent Keeping / Obtaining Possession of Rental Vehicle.

(aa) § 30-16-40. Fraudulent Refusal to Return Rental Vehicle.

(ab) § 30-16d-1. Unlawful Taking of Vehicle.

(ac) § 30-16d-2. Embezzlement of Vehicle

(ad) § 30-16d-3. Fraudulently Obtaining Vehicle

(ae) § 30-16d-4. Receiving/Transferring Stolen Vehicles

(af) § 30-16d-6. Altering or Changing Engine

(ag) § 30-16d-7. Operating a Chop Shop

(14) Article 17 - Fire

(a) §30-17-5. Arson and Negligent Arson

(b) §30-17-6. Aggravated Arson

(15) Article 18 - Animals

(a) §30-18-1. Cruelty to Animals

(b) §30-18-3. Unlawful Branding

(c) §30-18-6. Transporting Stolen Livestock.

(d) §30-18-12. Injury to Livestock

(e) §30-17-13. Injury to a Police Dog

(16) Article 19 - Gambling

(a) §30-19-3. Commercial Gambling

(b) §30-19-13. Bribery of Participant in a Contest

(c) §30-19-15. Unlawful to Accept Profit of Anything of Value to be Transmitted to Gambling

(17) Article 20 - Crimes Against Public Peace
- **(a)** §30-20-11. Dueling
- **(b)** §30-20-12. Use of Telephone to Terrify, Intimidate, Threaten.
- **(c)** §30-20-16. Bomb Scares Unlawful

(18) Article 20 - Antiterrorism
- **(a)** §30-20A-3. Unlawful Acts / Civil Disorder / Terrorism

(19) Article 21 – Sabotage
- **(a)** §30-21.1. Sabotage

(20) Article 22 - Interference with Law Enforcement
- **(a)** §30-22-1.1. Aggravated Fleeing a Law Enforcement Officer
- **(b)** §30-22-4. Harboring / Aiding a Felon
- **(c)** §30-22-6. Compounding a Crime
- **(d)** §30-22-5. Tampering With Evidence
- **(e)** §30-22-7. Unlawful Rescue
- **(f)** §30-22-8. Escape from Jail
- **(g)** §30-22-8.1. Escape from Community Custody Release
- **(h)** §30-22-9. Escape from Penitentiary
- **(i)** §30-22-10. Escape from Custody of Parole Officer
- **(j)** §30-22-11. Assisting Escape
- **(k)** §30-22-12. Furnishing Articles for Prisoners Escape
- **(l)** §30-22-13. Furnishing Drugs/Alcohol to a Prisoner
- **(m)** §30-22-14. Bringing Contraband into Prison
- **(n)** §30-22-14. Bringing Contraband into juvenile detention facility
- **(o)** §30-22-16. Possession of Deadly Weapon or Explosives by prisoner
- **(p)** §30-22-17. Assault by Prisoner.
- **(q)** §30-22-19. Unlawful Assault on Jail
- **(r)** §30-22-22. Aggravated Assault on Police Officer
- **(s)** §30-22-23. Assault w/ intent to commit Violent Felon on Police Officer
- **(t)** §30-22-24. Battery on Police Officer
- **(u)** §30-22-25. Aggravated Battery on Police Officer
- **(v)** §30-22-26. Assisting With Assault on Police Officer
- **(w)** §30-22-27. Disarming a Police Officer

(21) Article 23 - Misconduct by Officials
- **(a)** §30-23-2. Paying / Receiving Public Funds for Services Not Rendered
- **(b)** §30-23-3. Making or Permitting False Public Voucher
- **(c)** §30-23-6. Unlawful Interest in a Public Contract

(22) Article 25 - Perjury and False Affirmations
- **(a)** §30-24-1. Bribery of Public Official or Employee
- **(b)** §30-24-2. Demanding/Receiving Bribe by Public Officer/Employee
- **(c)** §30-24-3. Bribery/Intimidation of Witness
- **(d)** §30-24-4. Acceptance of Bribe by a Witness

(23) Article 28 - Initiatory Crimes
- **(a)** §30-28-1. Attempt to Commit a Felony
- **(b)** §30-28-2. Conspiracy
- **(c)** § 30–28–3. Criminal Solicitation

(24) Article 31 - Controlled Substances
- **(a)** §30-31-20. Trafficking in Controlled Substance
- **(b)** §30-31-21. Distribution to a Minor
- **(c)** §30-31-22. Distribution Controlled/Counterfeit
- **(d)** §30-31-24. Violations of Administration Provisions of Controlled Substance Act
- **(e)** §30-31-25. Controlled Substances; Prohibited Acts
- **(f)** §30-31-41. Anabolic Steroids, Possession / Distribution

(25) Article 31a - Imitation Controlled Substances

(a) §30-31a-4. Manufacturing For Distribution/Possession of Imitation Controlled Substance

(b) §30-31a-5. Sale to a Minor

(c) §30-31a-6. Possession w/ Intent

(26) Article 31b - Imitation Controlled Substances

(a) §30-31b-12. Drug Precursors; Prohibited Acts

(27) Article 37 - Sexually Oriented Material Harmful to Minors

(a) §30-37-2. Offensive Sexual Materials to Minors

(b) §30-37-3.2 Child Solicitation by Electronic Communication Device

(c) §30-37-3.3. Criminal Sexual Communication with a Child

(d) §30-37-10. Unlawful Tie In Arrangements / Sexually Oriented Material Harmful To Minors

(28) Article 37a – Unauthorized Distribution of Sensitive Images

(a) §30-37a-1. Unauthorized Distribution of Sensitive Images; Penalties

(29) Article 40 - Public Assistance

(a) §30-40-1. Failure to Disclose Facts/Public Assistance

(b) §30-40-2. Unlawful Use of Food Stamps or Medical I.D. Card

(c) §30-40-3. Misappropriating Public Assistance

(d) §30-40-4. Making or Permitting A False Claim for Public Assistance

(e) §30-40-6. Failure to Reimburse HSD by Medicaid Provider

(30) Article 41 - Kickback Bribe or Rebate

(a) §30-41-1. Soliciting/Receiving Illegal Kickbacks

(b) §30-41-2. Offering/Paying Illegal Kickback

(31) Article 42 - Racketeering

(a) §30-42-4. Prohibited Racketeering Activities

(32) Article 43 - Loan Sharking

(a) §30-43-3. Making Extortionate Extensions of Credit

(b) §30-43-4. Financing Extortionate Extension of Credit

(c) §30-43-5. Collection of Extensions of Credit by Extortion

(33) Article 44 - Medicaid Fraud

(a) §30-44-7. Medicaid Fraud

(34) Article 45 - Computer Crimes

(a) §30-45-3. Computer Access W/Intent to Defraud

(b) §30-45-4. Computer Abuse

(c) §30-45-5. Unauthorized Computer Use

(35) Article 47 - Resident Abuse and Neglect

(a) §30-47-4. Abuse of a Resident

(b) §30-47-5. Neglect of a Resident

(c) §30-47-6. Exploitation of Resident's Property

(36) Article 50 - Fraudulent Telemarketing

(a) §30-50-4. Fraudulent Telemarketing

(37) Article 52 - Human Trafficking

(a) §30-52-1. Human Trafficking

(39) Article 53 - Disruption of Communication and Utility Service

(a) §30–53–1 Creation of a Safety Hazard or Disruption of Communications and Utilities Services by Theft or Intentional Damage

(40) Chapter 66 - Motor Vehicles

(a) §66-8-102. Driving Under the Influence of Intoxicating Liquor or Drugs (4th offense or more).

(b) §66-8-101. Homicide by Vehicle; Great Bodily Harm by Vehicle

(41) Chapter 21 - State and Private Education Institutions

(a) §21-1-35. Sales by boards, officers or employees prohibited; parties to contracts receiving commission or profit

(42) Chapter 22 - Public Schools

(a) §22-8-42 - Violation of Public School Finance Act

(b) §22-21-1 - Prohibiting Sales to the department, to school districts, and to school personnel

[6.68.6.8 NMAC - N, 7/1/2027]

6.68.6.10 DISQUALIFYING FEDERAL CRIMES

A. All disqualifying federal criminal offenses include detailed citations to provisions of the United States Code, Annotated.

B. In the event of renumbering or amendment of such statutory provisions, convictions of the renumbered or amended provisions, shall continue to constitute grounds for denial of an application by the **d**epartment if the definition of the acts constituting such crimes remain substantially similar.

(1) Chapter 2 - Aircraft and Motor Vehicles

(a) § 32. Destruction of Aircraft or Aircraft Facilities

(b) § 33. Destruction of Motor Vehicles or Motor Vehicle Facilities

(c) § 35. Imparting or Conveying False Information

(d) § 36. Drive-by Shooting

(e) § 37. Violence at International Airports

(f) § 38. Fraud Involving Aircraft or Space Vehicle Parts in Interstate or Foreign Commerce

(g) § 39. Traffic Signal Preemption Transmitters

(h) § 39a. Aiming a Laser Pointer at an Aircraft

(i) § 39b. Unsafe Operation of Unmanned Aircraft

(j) § 40. Commercial Motor Vehicles Required to Stop for Inspections

(k) § 40a. Operation of Unauthorized Unmanned Aircraft over Wildfires

(l) § 41. Hunting, Fishing, Trapping; Disturbance or Injury on Wildlife Refuges

(m) § 42. Importation or Shipment of Injurious Mammals, Birds, Fish (Including Mollusks and Crustacea), Amphibia, and Reptiles; Permits, Specimens for Museums; Regulations.

(l) § 43. Force, Violence, and Threats Involving Animal Enterprises

(o) § 47. Use of Aircraft or Motor Vehicles to Hunt Certain Wild Horses or Burros; Pollution of Watering Holes

(p) § 48. Animal Crushing

(q) § 49. Enforcement of Animal Fighting Prohibitions.

(2) Chapter 5 - Arson

(a) § 81. Arson Within Special Maritime and Territorial Jurisdiction

(3) Chapter 7 - Assault

(a) § 111. Assaulting, Resisting, or Impeding Certain Officers or Employees

(b) § 112. Protection of Foreign Officials, Official Guests, and Internationally Protected Persons

(c) § 113. Assaults Within Maritime and Territorial Jurisdiction

(d) § 114. Maiming Within Maritime and Territorial Jurisdiction

(e) § 113. Assaults Within Maritime and Territorial Jurisdiction

(f) § 115. Influencing, Impeding, or Retaliating Against a Federal Official by Threatening or

(g) Injuring a Family Member

(h) § 116. Female Genital Mutilation

(i) § 117. Domestic Assault by a Habitual Offender

(j) § 118. Interference with Certain Protective Functions

(k) § 119. Protection of Individuals Performing Certain Official Duties

(4) Chapter 9 - Bankruptcy

(a) § 152. Concealment of Assets; False Oaths and Claims; Bribery

(b) § 153. Embezzlement Against Estate

(c) § 154. Adverse Interest and Conduct of Officers

(d) § 155. Fee Agreements in Cases Under Title 11 and Receiverships

(e) § 156. Knowing Disregard of Bankruptcy Law or Rule

(f) § 157. Bankruptcy Fraud

(5) Chapter 10 - Biological Weapons

(a) § 175. Prohibitions with Respect to Biological Weapons

(b) § 175b. Possession by Restricted Persons

(c) § 175c. Variola Virus

(6) Chapter 11 - Bribery, Graft, and Conflicts of Interest

(a) § 201. Bribery of Public Officials and Witnesses

(b) § 203. Compensation to Members of Congress, Officers, and Others in Matters Affecting the Government

(c) § 204. Practice in United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit by Members of Congress

(d) § 205. Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government

(e) § 207. Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches

(f) § 208. Acts Affecting a Personal Financial Interest

(g) § 209. Salary of Government Officials and Employees Payable Only by United States

(h) § 210. Offer to Procure Appointive Public Office

(i) § 211. Acceptance or Solicitation to Obtain Appointive Public Office

(j) § 212. Offer of Loan or Gratuity to Financial Institution Examiner

(k) § 213. Acceptance of Loan or Gratuity by Financial Institution Examiner

(l) § 214. Offer for Procurement of Federal Reserve Bank Loan and Discount of Commercial Paper

(m) § 215. Receipt of Commissions or Gifts for Procuring Loans

(n) § 217. Acceptance of Consideration for Adjustment of Farm Indebtedness

(o) § 219. Officers and Employees Acting as Agents of Foreign Principals

(p) § 220. Illegal Remunerations for Referrals to Recovery Homes, Clinical Treatment Facilities,

(q) § 224. Bribery in Sporting Contests

(r) § 225. Continuing Financial Crimes Enterprise

(s) § 226. Bribery Affecting Port Security

(t) § 227. Wrongfully Influencing a Private Entity's Employment Decisions by a Member of Congress or an Officer or Employee of the Legislative or Executive Branch

(7) Chapter 11B - Chemical Weapons

(a) § 229. Prohibited Activities

(8) Chapter 12 - Civil Disorders

(a) § 231. Civil Disorders

(9) Chapter 13 - Civil Rights

(a) § 241. Conspiracy Against Rights

(b) § 242. Deprivation of Rights Under Color of Law

(c) § 243. Exclusion of Jurors on Account of Race or Color

(d) § 244. Discrimination Against Person Wearing Uniform of Armed Forces

(e) § 246. Deprivation of Relief Benefits

(f) § 247. Damage to Religious Property; Obstruction of Persons in the Free Exercise of Religious Beliefs

(g) § 248. Freedom of Access to Clinic Entrances

(h) § 249. Hate Crime Acts

(10) Chapter 15 - Claims and Services in Matters Affecting Government

(a) § 285. Taking or Using Papers Relating to Claims

(b) § 286. Conspiracy to Defraud the Government with Respect to Claims

(c) § 287. False, Fictitious or Fraudulent Claims

(d) § 288. False Claims for Postal Losses

(e) § 289. False Claims for Pensions

(f) § 290. Discharge Papers Withheld by Claim Agent

(g) § 291. Purchase of Claims for Fees by Court Officials

(h) § 292. Solicitation of Employment and Receipt of Unapproved Fees Concerning Federal Employees' Compensation

(11) Chapter 17 - Coins and Currency

(a) § 331. Mutilation, Diminution, and Falsification of Coins

(b) § 332. Debasement of Coins; Alteration of Official Scales, or Embezzlement of Metals

(c) § 333. Mutilation of National Bank Obligations

(d) § 334. Issuance of Federal Reserve or National Bank Notes

(e) § 335. Circulation of Obligations of Expired Corporations

(f) § 336. Issuance of Circulating Obligations of Less than $1

(g) § 337. Coins as Security for Loans

(12) Chapter 17A - Common Carrier Operation Under the Influence of Alcohol or Drugs

(a) § 342. Operation of a Common Carrier Under the Influence of Alcohol or Drugs

(13) Chapter 18 - Congressional, Cabinet, and Supreme Court Assassination, Kidnapping, and Assault

(a) § 351. Congressional, Cabinet, and Supreme Court Assassination, Kidnapping, and Assault

(14) Chapter 19 - Conspiracy

(a) § 371. Conspiracy to Commit Offense or to Defraud United States

(b) § 372. Conspiracy to Impede or Injure Officer

(c) § 373. Solicitation to Commit a Crime of Violence

(15) Chapter 21 - Contempts

(a) § 402. Contempts Constituting Crimes

(b) § 403. Protection of the Privacy of Child and Child Witnesses Victims

(16) Chapter 23 - Contracts

(a) § 431. Contracts by Member of Congress

(b) § 432. Officer or Employee Contracting with Member of Congress

(c) § 435. Contracts in Excess of Specific Appropriation

(d) § 436. Convict Labor Contracts

(e) § 440. Mail Contracts

(f) § 441. Postal Supply Contracts

(g) § 442. Government Publishing Office

(h) § 443. War Contracts

(17) Chapter 25 - Counterfeiting and Forgery

(a) §470. Counterfeit Acts Committed Outside the United States

(b) §471. Obligations or Securities of United States

(c) §472. Uttering Counterfeit Obligations or Securities

(d) §472. Uttering Counterfeit Obligations or Securities

(e) § 473. Dealing in Counterfeit Obligations or Securities

(f) §474. Plates, Stones, or Analog, Digital, or Electronic Images for Counterfeiting Obligations

(g) § 475. Imitating Obligations or Securities; Advertisements

(h) § 476. Taking Impressions of Tools Used for Obligations or Securities

(i) § 477. Possessing or Selling Impressions of Tools Used for Obligations or Securities

(j) § 478. Foreign Obligations or Securities

(k) § 479. Uttering Counterfeit Foreign Obligations or Securities

(l) § 480. Possessing Counterfeit Foreign Obligations or Securities

(m) § 481. Plates, Stones, or Analog, Digital, or Electronic Images for Counterfeiting Foreign Obligations or Securities

(n) § 483. Uttering Counterfeit Foreign Bank Notes

(o) § 484. Connecting Parts of Different Notes

(p) § 485. Coins or Bars

(q) § 486. Uttering Coins of Gold, Silver or Other Metal

(r) § 487. Making or Possessing Counterfeit Dies for Coins

(s) § 488. Making or Possessing Counterfeit Dies for Foreign Coins

(t) § 489.Making or Possessing Likeness of Coins

(u) § 490. Minor Coins

(v) § 491. Tokens or Paper Used as Money

(w) §493. Bonds and Obligations of Certain Lending Agencies
(x) § 494. Contractors' Bonds, Bids, and Public Records
(y) § 495. Contracts, Deeds, and Powers of Attorney
(z) § 496. Customs Matters
(aa) § 497. Letters Patent
(ab) § 498. Military or Naval Discharge Certificates
(ac) § 499. Military, Naval, or Official Passes
(ad) § 500. Money Orders
(ae) § 501. Postage Stamps, Postage Meter Stamps, and Postal Cards
(af) § 502. Postage and Revenue Stamps of Foreign Governments
(ag) § 503. Postmarking Stamps
(ah) § 504. Printing and Filming of United States and Foreign Obligations and Securities
(ai) § 505. Seals of Courts; Signatures of Judges or Court Officers
(aj) § 506. Seals of Departments or Agencies
(ak) § 507. Ship's Papers
(al) § 508. Transportation Requests of Government
(am) § 509. Possessing and Making Plates or Stones for Government Transportation Requests
(an) § 510. Forging Endorsements on Treasury Checks or Bonds or Securities of the United States
(ao) § 511. Altering or Removing Motor Vehicle Identification Numbers
(ap) § 512. Forfeiture of Certain Motor Vehicles and Motor Vehicle Parts
(aq) § 513. Securities of the States and Private Entities
(ar) § 514. Fictitious Obligations

(18) Chapter 26 - Criminal Street Gangs
(a) § 521. Criminal Street Gangs

(19) Chapter 27 - Customs
(a) § 541. Entry of Goods Falsely Classified
(b) § 542. Entry of Goods by Means of False Statements
(c) § 543. Entry of Goods for Less than Legal Duty
(d) § 544. Relanding of Goods
(e) § 545. Smuggling Goods into the United States
(f) § 546. Smuggling Goods into Foreign Countries
(g) § 547. Depositing Goods in Buildings on Boundaries
(h) § 548. Removing or Repacking Goods in Warehouses
(i) § 549. Removing Goods from Customs Custody; Breaking Seals
(j) § 550. False Claim for Refund of Duties
(k) § 551. Concealing or Destroying Invoices or Other Papers
(l) § 552. Officers Aiding Importation of Obscene or Treasonous Books and Articles
(m) § 553. Importation or Exportation of Stolen Motor Vehicles, off-Highway Mobile Equipment, Vessels, or Aircraft
(n) § 554. Smuggling Goods from the United States
(o) §555. Border Tunnels and Passages

(20) Chapter 29 - Elections and Political Activities
(a) §592. Troops at Polls
(b) §593. Interference by Armed Forces
(c) §594. Intimidation of Voters
(d) §595. Interference by Administrative Employees of Federal, State, or Territorial Governments
(e) § 596. Polling Armed Forces
(f) § 597. Expenditures to Influence Voting
(g) § 598. Coercion by Means of Relief Appropriations
(h) § 599. Promise of Appointment by Candidate
(i) § 600. Promise of Employment or Other Benefit for Political Activity

(j) § 601. Deprivation of Employment or Other Benefit for Political Contribution
(k) § 602. Solicitation of Political Contributions
(l) § 603. Making Political Contributions
(m) § 604. Solicitation from Persons on Relief
(n) § 605. Disclosure of Names of Persons on Relief
(o) § 606. Intimidation to Secure Political Contributions
(p) § 607. Place of Solicitation
(q) § 608. Absent Uniformed Services Voters and Overseas Voters
(r) § 609. Use of Military Authority to Influence Vote of Member of Armed Forces
(s) § 610. Coercion of Political Activity
(t) § 611. Voting by Aliens

(21) Chapter 31 - Embezzlement and Theft

(a) § 641. Public Money, Property or Records
(b) § 642. Tools and Materials for Counterfeiting Purposes
(c) § 643. Accounting Generally for Public Money
(d) § 644. Banker Receiving Unauthorized Deposit of Public Money
(e) § 645. Court Officers Generally
(f) § 646. Court Officers Depositing Registry Moneys
(g) § 647. Receiving Loan from Court Officer
(h) § 648. Custodians, Generally, Misusing Public Funds
(i) § 649. Custodians Failing to Deposit Moneys; Persons Affected
(j) § 650. Depositaries Failing to Safeguard Deposits
(k) § 651. Disbursing Officer Falsely Certifying Full Payment
(l) § 652. Disbursing Officer Paying Lesser in Lieu of Lawful Amount
(m) § 653. Disbursing Officer Misusing Public Funds
(n) § 654. Officer or Employee of United States Converting Property of Another
(o) § 655. Theft by Bank Examiner
(p) § 656. Theft, Embezzlement, or Misapplication by Bank Officer or Employee
(q) § 657. Lending, Credit and Insurance Institutions
(r) § 658. Property Mortgaged or Pledged to Farm Credit Agencies
(s) § 659. Interstate or Foreign Shipments by Carrier; State Prosecutions
(t) § 660. Carrier's Funds Derived from Commerce; State Prosecutions
(u) § 661. Within Special Maritime and Territorial Jurisdiction
(v) § 662. Receiving Stolen Property Within Special Maritime and Territorial Jurisdiction
(w) § 663. Solicitation or Use of Gifts
(x) § 664. Theft or Embezzlement from Employee Benefit Plan
(y) § 665. Theft or Embezzlement from Employment and Training Funds; Improper Inducement; Obstruction of Investigations
(z) § 666. Theft or Bribery Concerning Programs Receiving Federal Funds
(aa) § 667. Theft of Livestock
(ab) § 668. Theft of Major Artwork
(ac) § 669. Theft or Embezzlement in Connection with Health Care
(ad) § 670. Theft of Medical Products

(22) Chapter 35 - Escape and Rescue

(a) § 751. Prisoners in Custody of Institution or Officer
(b) § 752. Instigating or Assisting Escape
(c) § 753. Rescue to Prevent Execution
(d) § 755. Officer Permitting Escape
(e) § 756. Internee of Belligerent Nation
(f) § 757. Prisoners of War or Enemy Aliens
(g) § 758. High Speed Flight from Immigration Checkpoint

(24) Chapter 37 - Espionage and Censorship

(a) § 792. Harboring or Concealing Persons
(b) § 793. Gathering, Transmitting or Losing Defense Information
(c) § 794. Gathering or Delivering Defense Information to Aid Foreign Government

(d) § 795. Photographing and Sketching Defense Installations
(e) § 796. Use of Aircraft for Photographing Defense Installations
(f) § 797. Publication and Sale of Photographs of Defense Installations
(g) § 798. Disclosure of Classified Information
(h) § 799. Violation of Regulations of National Aeronautics and Space Administration
(i) § 831. Prohibited Transactions Involving Nuclear Materials
(j) § 832. Participation in Nuclear and Weapons of Mass Destruction Threats to the United States

(23) Chapter 40 - Importation, Manufacture, Distribution and Storage of Explosive Materials

(a) § 842. Unlawful Acts

(24) Chapter 41 - Extortion and Threats

(a) § 871. Threats Against President and Successors to the Presidency
(b) § 872. Extortion by Officers or Employees of the United States
(c) § 873. Blackmail
(d) § 874. Kickbacks from Public Works Employees
(e) § 875. Interstate Communications
(f) § 876. Mailing Threatening Communications
(g) § 877. Mailing Threatening Communications from Foreign Country
(h) § 878. Threats and Extortion Against Foreign Officials, Official Guests, or Internationally
(i) § 879. Threats Against Former Presidents and Certain Other Persons
(j) § 880. Receiving the Proceeds of Extortion

(25) Chapter 42 - Extortionate Credit Transactions

(a) § 892. Making Extortionate Extensions of Credit
(b) § 893. Financing Extortionate Extensions of Credit
(c) § 894. Collection of Extensions of Credit by Extortionate Means

(26) Chapter 43 - False Personation

(a) § 913. Impersonator Making Arrest or Search

(27) Chapter 44 - Firearms

(a) § 922. Unlawful Acts
(b) § 926a. Interstate Transportation of Firearms
(c) § 929. Use of Restricted Ammunition
(d) § 930. Possession of Firearms and Dangerous Weapons in Federal Facilities
(e) § 931. Prohibition on Purchase, Ownership, or Possession of Body Armor by Violent Felons

(28) Chapter 45 - Foreign Relations

(a) § 953. Private Correspondence with Foreign Governments
(b) § 954. False Statements Influencing Foreign Government
(c) § 955. Financial Transactions with Foreign Governments
(d) § 956. Conspiracy to Kill, Kidnap, Maim, or Injure Persons or Damage Property in a Foreign
(e) Country
(f) § 957. Possession of Property in Aid of Foreign Government
(g) § 958. Commission to Serve Against Friendly Nation
(h) § 959. Enlistment in Foreign Service
(i) § 960. Expedition Against Friendly Nation
(j) § 961. Strengthening Armed Vessel of Foreign Nation
(k) § 962. Arming Vessel Against Friendly Nation
(l) § 963. Detention of Armed Vessel
(m) § 964. Delivering Armed Vessel to Belligerent Nation
(n) § 965. Verified Statements as Prerequisite to Vessel's Departure
(o) § 966. Departure of Vessel Forbidden for False Statements
(p) § 967. Departure of Vessel Forbidden in Aid of Neutrality

(29) Chapter 47 - Fraud and False Statements

(a) § 1001. Statements or Entries Generally
(b) § 1002. Possession of False Papers to Defraud United States
(c) § 1003. Demands Against the United States
(d) § 1004. Certification of Checks
(e) § 1005. Bank Entries, Reports and Transactions
(f) § 1006. Federal Credit Institution Entries, Reports and Transactions
(g) § 1010. Department of Housing and Urban Development and Federal Housing Administration Transactions
(h) § 1011. Federal Land Bank Mortgage Transactions
(i) § 1012. Department of Housing and Urban Development Transactions
(j) § 1013. Farm Loan Bonds and Credit Bank Debentures
(k) § 1014. Loan and Credit Applications Generally; Renewals and Discounts; Crop Insurance
(l) § 1015. Naturalization, Citizenship or Alien Registry
(m) § 1016. Acknowledgment of Appearance or Oath
(n) § 1017. Government Seals Wrongfully Used and Instruments Wrongfully Sealed
(o) § 1018. Official Certificates or Writings
(p) § 1019. Certificates by Consular Officers
(q) § 1020. Highway Projects
(r) **§** 1021. Title Records
(s) § 1022. Delivery of Certificate, Voucher, Receipt for Military or Naval Property
(t) § 1023. Insufficient Delivery of Money or Property for Military or Naval Service
(u) § 1024. Purchase or Receipt of Military, Naval, or Veteran's Facilities Property
(v) § 1025. False Pretenses on High Seas and Other Waters
(w) § 1026. Compromise, Adjustment, or Cancellation of Farm Indebtedness
(x) § 1027. False Statements and Concealment of Facts in Relation to Documents Required by the Employee Retirement Income Security Act of 1974
(y) § 1028. Fraud and Related Activity in Connection with Identification Documents, Authentication Features, and Information
(z) § 1028a. Aggravated Identity Theft
(aa) § 1029. Fraud and Related Activity in Connection with Access Devices
(ab) § 1030. Fraud and Related Activity in Connection with Computers
(ac) § 1031. Major Fraud Against the United States
(ad) § 1032. Concealment of Assets from Conservator, Receiver, or Liquidating Agent
(ae) § 1033. Crimes by or Affecting Persons Engaged in the Business of Insurance Whose Activities Affect Interstate Commerce
(af) § 1034. Civil Penalties and Injunctions for Violations of Section 1033
(ag) § 1035. False Statements Relating to Health Care Matters
(ah) § 1036. Entry by False Pretenses to Any Real Property, Vessel, or Aircraft of the United States or Secure Area of Any Airport or Seaport
(ai) § 1037. Fraud and Related Activity in Connection with Electronic Mail
(aj) § 1038. False Information and Hoaxes
(ak) § 1039. Fraud and Related Activity in Connection with Obtaining Confidential Phone Records Information of a Covered Entity
(al) § 1040. Fraud in Connection with Major Disaster or Emergency Benefits

(30) Chapter 49 - Fugitives from Justice

(a) § 1071. Concealing Person from Arrest
(b) § 1072. Concealing Escaped Prisoner
(c) § 1073. Flight to Avoid Prosecution or Giving Testimony
(d) § 1074. Flight to Avoid Prosecution for Damaging or Destroying Any Building or Other Real or Personal Property

(31) Chapter 50 - Gambling

(a) § 1082. Gambling Ships
(b) § 1083. Transportation Between Shore and Ship; Penalties

(c) § 1084. Transmission of Wagering information; Penalties

(32) Chapter 50A - Genocide

(a) § 1091. Genocide

(33) Chapter 51 - Homicide

(a) § 1111. Murder

(b) § 1112. Manslaughter

(c) § 1113. Attempt to Commit Murder or Manslaughter

(d) § 1114. Protection of Officers and Employees of the United States

(e) § 1115. Misconduct or Neglect of Ship Officers

(f) § 1116. Murder or Manslaughter of Foreign Officials, Official Guests, or Internationally

(g) Protected Persons

(h) § 1117. Conspiracy to Murder

(i) § 1118. Murder by a Federal Prisoner

(j) § 1119. Foreign Murder of United States Nationals

(k) § 1120. Murder by Escaped Prisoners

(l) § 1121. Killing Persons Aiding Federal Investigations or State Correctional Officers

(m) § 1122. Protection Against the Human Immunodeficiency Virus

(34) Chapter 53—Indians

(a) § 1153.Offenses Committed Within Indian Country

(b) § 1155. Intoxicants Dispensed on School Site

(c) § 1163. Embezzlement and Theft from Indian Tribal Organizations

(d) § 1169.Reporting of Child Abuse

(e) § 1170. Illegal Trafficking in Native American Human Remains and Cultural Items

(35) Chapter 55 - Kidnapping

(a) § 1201. Kidnapping

(b) § 1202. Ransom Money

(c) § 1203. Hostage Taking

(d) § 1204. International Parental Kidnapping

(36) Chapter 63 - Mail Fraud and Other Fraud Offenses

(a) § 1341. Frauds and Swindles [Statutory Text & Notes of Decisions Subdivisions I to X]

(b) § 1341. Frauds and Swindles [Notes of Decisions Subdivisions XI to XVII]

(c) § 1342. Fictitious Name or Address

(d) 1343. Fraud by Wire, Radio, or Television

(e) § 1344. Bank Fraud

(f) § 1347. Health Care Fraud

(g) § 1348. Securities and Commodities Fraud

(h) § 1349. Attempt and Conspiracy

(i) § 1350. Failure of Corporate Officers to Certify Financial Reports

(j) § 1351. Fraud in Foreign Labor Contracting

(37) Chapter 65 - Malicious Mischief

(a) § 1361. Government Property or Contracts

(b) § 1362. Communication Lines, Stations or Systems

(c) § 1363. Buildings or Property Within Special Maritime and Territorial Jurisdiction

(d) § 1364. Interference with Foreign Commerce by Violence

(e) § 1365. Tampering with Consumer Products

(f) § 1366. Destruction of an Energy Facility

(g) § 1367. Interference with the Operation of a Satellite

(h) § 1368. Harming Animals Used in Law Enforcement

(i) §1369. Destruction of Veteran's Memorials

(38) Chapter 67 - Military and Navy

(a) § 1385. Use of Army and Air Force as Posse Comitatus

(b) § 1386. Keys and Keyways Used in Security Applications by the Department of Defense

(c) § 1387. Demonstrations at Cemeteries Under the Control of the National Cemetery Administration and at Arlington National Cemetery

(d) § 1388. Prohibition on Disruptions of Funerals of Members or Former Members of the Armed Forces

(e) § 1388. Prohibition on Disruptions of Funerals of Members or Former Members of the Armed Forces

(f) § 1389. Prohibition on Attacks on United States Servicemen on Account of Service

(39) Chapter 69 - Nationality and Citizenship

(a) § 1429. Penalties for Neglect or Refusal to Answer Subpoena

(40) Chapter 71 - Obscenity

(a) § 1470. Transfer of Obscene Material to Minors

(41) Chapter 73 - Obstruction of Justice

(a) § 1501. Assault on Process Server

(b) § 1502. Resistance to Extradition Agent

(c) § 1503. Influencing or Injuring Officer or Juror Generally

(d) § 1504. Influencing Juror by Writing

(e) § 1505. Obstruction of Proceedings Before Departments, Agencies, and Committees

(f) § 1506. Theft or Alteration of Record or Process; False Bail

(g) § 1508. Recording, Listening to, or Observing Proceedings of Grand or Petit Juries While Deliberating or Voting

(h) § 1509. Obstruction of Court Orders

(i) § 1510. Obstruction of Criminal Investigations

(j) § 1511. Obstruction of State or Local Law Enforcement

(k) § 1512. Tampering with a Witness, Victim, or an Informant

(l) § 1513. Retaliating Against a Witness, Victim, or an Informant

(m) § 1516. Obstruction of Federal Audit

(n) § 1517. Obstructing Examination of Financial Institution

(o) § 1518. Obstruction of Criminal Investigations of Health Care Offenses

(p) § 1520. Destruction of Corporate Audit Records

(q) § 1521. Retaliating Against a Federal Judge or Federal Law Enforcement Officer by False Claim or Slander of Title

(42) Chapter 75 - Passports and Visas

(a) § 1543. Forgery or False Use of Passport

(b) § 1546. Fraud and Misuse of Visas, Permits, and Other Documents

(43) Chapter 77 - Peonage, Slavery, and Trafficking in Persons

(a) §1581. Peonage; Obstructing Enforcement

(b) §1582. Vessels for Slave Trade

(c) §1583. Enticement into Slavery

(d) §1584. Sale into Involuntary Servitude

(e) §1585. Seizure, Detention, Transportation or Sale of Slaves

(f) §1586. Service on Vessels in Slave Trade

(g) §1587. Possession of Slaves Aboard Vessel

(h) §1588. Transportation of Slaves from United States

(i) §1589. Forced Labor

(j) §1590. Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor

(k) §1591. Sex Trafficking of Children or by Force, Fraud, or Coercion

(l) §1592. Unlawful Conduct with Respect to Documents in Furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor

(m) § 1593a. Benefitting Financially from Peonage, Slavery, and Trafficking in Persons

(n) § 1597.Unlawful Conduct with Respect to Immigration Documents

(44) Chapter 79 - Perjury

(a) § 1621. Perjury Generally

(b) § 1622. Subornation of Perjury

(c) § 1623. False Declarations Before Grand Jury or Court

(45) Chapter 81 - Piracy and Privateering

(a) § 1651. Piracy Under Law of Nations

(b) § 1652. Citizens as Pirates

(c) § 1653. Aliens as Pirates

(d) § 1654. Arming or Serving on Privateers

(e) § 1655. Assault on Commander as Piracy

(f) § 1656. Conversion or Surrender of Vessel

(g) § 1657. Corruption of Seamen and Confederating with Pirates

(h) § 1658. Plunder of Distressed Vessel

(i) § 1659. Attack to Plunder Vessel

(j) § 1660. Receipt of Pirate Property

(k) § 1661. Robbery Ashore

(46) Chapter 83 – Postal Service

(a) § 1713. Issuance of Money Orders Without Payment

(b) § 1716c. Forged Agricultural Certifications

(c) § 1722. False Evidence to Secure Second-Class Rate

(47) Chapter 84 - Presidential and Presidential Staff Assassination, Kidnapping and Assault

(a) § 1751. Presidential and Presidential Staff Assassination, Kidnapping, and Assault; Penalties

(b) § 1752. Restricted Building or Grounds

(48) Chapter 85 - Prison–Made Goods

(a) § 1761. Transportation or Importation

(b) § 1762. Marking Packages

(49) Chapter 87 - Prisons

(a) § 1791. Providing or Possessing Contraband in Prison

(b) § 1792. Mutiny and Riot Prohibited

(c) § 1793. Trespass on Bureau of Prisons Reservations and Land

(50) Chapter 88 - Privacy

(a) § 1801. Video Voyeurism

(51) Chapter 90 - Protection of Trade Secrets

(a) § 1831. Economic Espionage

(52) Chapter 90A - Protection of Unborn Children

(a) § 1841. Protection of Unborn Children

(53) Chapter 91 - Public Lands

(a) § 1855. Timber Set Afire

(b) § 1859. Surveys Interrupted

(c) § 1864. Hazardous or Injurious Devices on Federal Lands

(54) Chapter 93—Public Officers and Employees

(a) § 1901. Collecting or Disbursing Officer Trading in Public Property

(b) § 1902. Disclosure of Crop Information and Speculation Thereon

(c) § 1903. Speculation in Stocks or Commodities Affecting Crop Insurance

(d) § 1905. Disclosure of Confidential Information Generally

(e) § 1906. Disclosure of Information from a Bank Examination Report

(f) § 1907. Disclosure of Information by Farm Credit Examiner

(g) § 1909. Examiner Performing Other Services

(h) § 1910. Nepotism in Appointment of Receiver or Trustee

(i) § 1911. Receiver Mismanaging Property

(j) § 1912. Unauthorized Fees for Inspection of Vessels

(k) § 1913. Lobbying with Appropriated Moneys

(l) § 1915. Compromise of Customs Liabilities

(m) § 1916. Unauthorized Employment and Disposition of Lapsed Appropriations

(n) § 1917. Interference with Civil Service Examinations
(o) § 1918. Disloyalty and Asserting the Right to Strike Against the Government
(p) § 1919. False Statement to Obtain Unemployment Compensation for Federal Service
(q) § 1922. False or Withheld Report Concerning Federal Employees' Compensation
(r) § 1923. Fraudulent Receipt of Payments of Missing Persons
(s) § 1924. Unauthorized Removal and Retention of Classified Documents or Material

(55) Chapter 95 - Racketeering
(a) § 1951. Interference with Commerce by Threats or Violence
(b) § 1952. Interstate and Foreign Travel or Transportation in Aid of Racketeering Enterprises
(c) § 1953. Interstate Transportation of Wagering Paraphernalia
(d) § 1954. Offer, Acceptance, or Solicitation to Influence Operations of Employee Benefit Plan
(e) § 1955. Prohibition of Illegal Gambling Businesses
(f) § 1956. Laundering of Monetary Instruments
(g) § 1957. Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity
(h) § 1958. Use of Interstate Commerce Facilities in the Commission of Murder-for-Hire
(i) § 1959. Violent Crimes in Aid of Racketeering Activity
(j) § 1960. Prohibition of Unlicensed Money Transmitting Businesses

(56) Chapter 96 - Racketeer Influenced and Corrupt Organizations
(a) § 1962. Prohibited Activities

(62) Chapter 97 - Railroad Carriers and Mass Transportation Systems on Land, on Water, or Through the Air
(a) § 1991. Entering Train to Commit Crime
(b) § 1992. Terrorist Attacks and Other Violence Against Railroad Carriers and Against Mass Transportation Systems on Land, on Water, or Through the Air

(57) Chapter 101 - Records and Reports
(a) § 2071. Concealment, Removal or Mutilation Generally
(b) § 2072. False Crop Reports
(c) § 2073. False Entries and Reports of Moneys or Securities.

(58) Chapter 102 - Riots
(a) § 2101. Riots

(59) Chapter 103 - Robbery and Burglary
(a) § 2111. Special Maritime and Territorial Jurisdiction
(b) § 2112. Personal Property of United States
(c) § 2113. Bank Robbery and Incidental Crimes [Statutory Text & Notes of Decisions Subdivisions I to III]
(d) § 2114. Mail, Money, or Other Property of United States
(e) § 2115. Post Office
(f) § 2116. Railway or Steamboat Post Office
(g) § 2117. Breaking or Entering Carrier Facilities
(h) § 2118. Robberies and Burglaries Involving Controlled Substances
(i) § 2119. Motor Vehicles

(60) Chapter 105 - Sabotage
(a) § 2152. Fortifications, Harbor Defenses, or Defensive SEA Areas
(b) § 2153. Destruction of War Material, War Premises, or War Utilities
(c) § 2154. Production of Defective War Material, War Premises, or War Utilities
(d) § 2155. Destruction of National-Defense Materials, National-Defense Premises, or National- Defense Utilities

(e) § 2156. Production of Defective National-Defense Material, National-Defense Premises, or National-Defense Utilities

(f) § 2191. Cruelty to Seamen

(g) § 2192. Incitation of Seamen to Revolt or Mutiny

(h) § 2193. Revolt or Mutiny of Seamen

(i) § 2194. Shanghaiing Sailors

(j) § 2195. Abandonment of Sailors

(k) § 2196. Drunkenness or Neglect of Duty by Seamen

(l) § 2197. Misuse of Federal Certificate, License or Document

(m) § 2199. Stowaways on Vessels or Aircraft

(61) Chapter 109 - Searches and Seizures

(a) § 2231. Assault or Resistance

(b) § 2232. Destruction or Removal of Property to Prevent Seizure

(c) § 2233. Rescue of Seized Property

(d) § 2234. Authority Exceeded in Executing Warrant

(e) § 2235. Search Warrant Procured Maliciously

(f) § 2236. Searches Without Warrant

(g) § 2237. Criminal Sanctions for Failure to Heave to, Obstruction of Boarding, or Providing False Information

(62) Chapter 109A - Sexual Abuse

(a) § 2241. Aggravated Sexual Abuse

(b) § 2242. Sexual Abuse

(c) § 2243. Sexual Abuse of a Minor or Ward

(d) § 2244. Abusive Sexual Contact

(e) § 2245. Offenses Resulting in Death

(63) Chapter 109B - Sex Offender and Crimes Against Children Registry

(a) § 2250. Failure to Register

(64) Chapter 110 - Sexual Exploitation and Other Abuse of Children

(a) § 2251. Sexual Exploitation of Children

(b) § 2251a. Selling or Buying of Children

(c) § 2252. Certain Activities Relating to Material Involving the Sexual Exploitation of Minors

(d) § 2252a. Certain Activities Relating to Material Constituting or Containing Child Pornography

(e) § 2252b. Misleading Domain Names on the Internet

(f) § 2252c. Misleading Words or Digital Images on the Internet

(g) § 2257. Record Keeping Requirements

(h) § 2257a. Record Keeping Requirements for Simulated Sexual Conduct

(i) § 2258. Failure to Report Child Abuse

(j) § 2258a. Reporting Requirements of Providers

(k) § 2258b. Limited Liability for Providers or Domain Name Registrars

(l) § 2258c. Use to Combat Child Pornography of Technical Elements Relating to Reports Made to the Cybertipline

(m) § 2258d. Limited Liability for NCMEC

(n) § 2260. Production of Sexually Explicit Depictions of a Minor for Importation into the United States

(o) § 2260a. Penalties for Registered Sex Offenders

(65) Chapter 110A - Domestic Violence and Stalking

(a) § 2261. Interstate Domestic Violence

(b) § 2261a. Stalking

(c) § 2261b. Enhanced Penalty for Stalkers of Children

(d) § 2262. Interstate Violation of Protection Order

(66) Chapter 111 - Shipping

(a) § 2271. Conspiracy to Destroy Vessels

(b) § 2272. Destruction of Vessel by Owner

(c) § 2273. Destruction of Vessel by Nonowner

(d) § 2274. Destruction or Misuse of Vessel by Person in Charge
(e) § 2275. Firing or Tampering with Vessels
(f) § 2277. Explosives or Dangerous Weapons Aboard Vessels
(g) § 2276. Breaking and Entering Vessel
(h) § 2278. Explosives on Vessels Carrying Steerage Passengers
(i) § 2279. Boarding Vessels Before Arrival
(j) § 2280. Violence Against Maritime Navigation
(k) § 2280a. Violence Against Maritime Navigation and Maritime Transport Involving Weapons of Mass Destruction
(l) § 2281. Violence Against Maritime Fixed Platforms
(m) § 2281a. Additional Offenses Against Maritime Fixed Platforms
(n) § 2282a. Devices or Dangerous Substances in Waters of the United States Likely to Destroy or Damage Ships or to Interfere with Maritime Commerce
(o) § 2282b. Violence Against AIDS to Maritime Navigation
(p) § 2283. Transportation of Explosive, Biological, Chemical, or Radioactive or Nuclear Materials
(q) § 2284. Transportation of Terrorists
(r) § 2285. Operation of Submersible Vessel or Semi-Submersible Vessel Without Nationality

(67) Chapter 111A - Destruction of, or Interference with, Vessels or Maritime Facilities
(a) § 2291. Destruction of Vessel or Maritime Facility
(b) § 2292. Imparting or Conveying False Information

(68) Chapter 113 - Stolen Property
(a) § 2312. Transportation of Stolen Vehicles
(b) § 2313. Sale or Receipt of Stolen Vehicles
(c) § 2314. Transportation of Stolen Goods, Securities, Moneys, Fraudulent State Tax Stamps, or Articles Used in Counterfeiting
(d) § 2315. Sale or Receipt of Stolen Goods, Securities, Moneys, or Fraudulent State Tax Stamps
(e) § 2316. Transportation of Livestock
(f) § 2317. Sale or Receipt of Livestock
(g) § 2318. Trafficking in Counterfeit Labels, Illicit Labels, or Counterfeit Documentation or Packaging
(h) § 2319. Criminal Infringement of a Copyright
(i) § 2319a. Unauthorized Fixation of and Trafficking in Sound Recordings and Music Videos of Live Musical Performances
(j) § 2319b. Unauthorized Recording of Motion Pictures in a Motion Picture Exhibition Facility
(k) § 2319c. Illicit Digital Transmission Services
(l) § 2320. Trafficking in Counterfeit Goods or Services
(m) § 2321. Trafficking in Certain Motor Vehicles or Motor Vehicle Parts
(n) § 2322. Chop Shops

(69) Chapter 113A - Telemarketing and Email Marketing Fraud
(a) § 2325. Definition
(b) § 2326. Enhanced Penalties

(70) Chapter 113B - Terrorism
(a) § 2332. Criminal Penalties
(b) § 2332a. Use of Weapons of Mass Destruction
(c) § 2332b. Acts of Terrorism Transcending National Boundaries
(d) § 2332d. Financial Transactions
(e) § 2332e. Requests for Military Assistance to Enforce Prohibition in Certain Emergencies
(f) § 2332f. Bombings of Places of Public Use, Government Facilities, Public Transportation Systems and Infrastructure Facilities
(g) § 2332g. Missile Systems Designed to Destroy Aircraft
(h) § 2332h. Radiological Dispersal Devices

(i) § 2332i. Acts of Nuclear Terrorism
(j) § 2339. Harboring or Concealing Terrorists
(k) § 2339a. Providing Material Support to Terrorists
(l) § 2339b. Providing Material Support or Resources to Designated Foreign Terrorist Organizations
(m) § 2339c. Prohibitions Against the Financing of Terrorism
(n) § 2339d. Receiving Military-Type Training from a Foreign Terrorist Organization

(71) Chapter 113C - Torture
(a) § 2340. Definitions
(b) § 2340a. Torture

(72) Chapter 114 - Trafficking in Contraband Cigarettes and Smokeless Tobacco
(a) § 2342. Unlawful Acts
(b) § 2343. Recordkeeping, Reporting, and Inspection
(c) § 2344. Penalties

(73) Chapter 115 - Treason, Sedition, and Subversive Activities
(a) § 2381. Treason
(b) § 2382. Misprision of Treason
(c) § 2383. Rebellion or Insurrection
(d) § 2384. Seditious Conspiracy
(e) § 2385. Advocating Overthrow of Government
(f) § 2386. Registration of Certain Organizations
(g) § 2387. Activities Affecting Armed Forces Generally
(h) § 2388. Activities Affecting Armed Forces During War
(i) § 2389. Recruiting for Service Against United States
(j) § 2390. Enlistment to Serve Against United States

(74) Chapter 117 - Transportation for Illegal Sexual Activity and Related Crimes
(a) § 2421. Transportation Generally
(b) § 2421a. Promotion or Facilitation of Prostitution and Reckless Disregard of Sex Trafficking
(c) § 2422. Coercion and Enticement
(d) § 2423. Transportation of Minors
(e) § 2424. Filing Factual Statement About Alien Individual
(f) § 2425. Use of Interstate Facilities to Transmit Information About a Minor
(g) § 2427. Inclusion of Offenses Relating to Child Pornography in Definition of Sexual Activity for Which Any Person Can be Charged with a Criminal Offense

(75) Chapter 118 - War Crimes
(a) § 2441. War Crimes
(b) § 2442. Recruitment or Use of Child Soldiers

(76) Chapter 119 - Wire and Electronic Communications Interception and Interception of Oral Communications
(a) § 2511. Interception and Disclosure of Wire, Oral, or Electronic Communications Prohibited
(b) § 2512. Manufacture, Distribution, Possession, and Advertising of Wire, Oral, or Electronic Communication Intercepting Devices Prohibited
(c) § 2513. Confiscation of Wire, Oral, or Electronic Communication Intercepting Devices
(d) § 2515. Prohibition of Use as Evidence of Intercepted Wire or Oral Communications

(82) Chapter 121 – Stored Wire and Electronic Communications and Transactional Records Access
(a) § 2701. Unlawful Access to Stored Communications
(b) § 2709. Counterintelligence Access to Telephone Toll and Transactional Records
(c) § 2710.Wrongful Disclosure of Video Tape Rental or Sale Records
(d) § 2713. Required Preservation and Disclosure of Communications and Records

[6.68.6.9 NMAC - N, 7/1/2027]

HISTORY OF 6.68.6 NMAC: [RESERVED]

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 SCHOOL PERSONNEL – COMPLAINTS, INVESTIGATIONS, DISCIPLINE AND HEARING PROCEDURES
PART 7 CODE OF ETHICS FOR EDUCATORS

6.68.7.1 ISSUING AGENCY: Public Education Department
[6.68.7.1 NMAC - N, 7/1/2027]

6.68.7.2 SCOPE: This rule applies to all educators and all schools.
[6.68.7.2 NMAC - N, 7/1/2027]

6.68.7.3 STATUTORY AUTHORITY: The statutory authority cited in 6.68.1.3 NMAC applies to this part.
[6.68.7.3 NMAC - N, 7/1/2027]

6.68.7.4 DURATION: Permanent
[6.68.7.4 NMAC - N, 7/1/2027]

6.68.7.5 EFFECTIVE DATE: July 1, 2027, unless a later date is specified at the end of a section.
[6.68.7.5 NMAC - N, 7/1/2027]

6.68.7.6 OBJECTIVE: The department seeks to make ethical values and ethical leadership an integral part of the day-to-day activities of schools, and holds all persons within the scope of this rule accountable for adhering to minimal standards of accepted professional conduct and ethical behavior. The department accepts the recommendations of its professional practices and standards council and the ethics subcommittee that a code of ethics and standards of professional conduct applicable to the education profession will infuse the learning environment with choices and values designed to assist in shaping young minds into educated, responsible citizens.
[6.68.7.6 NMAC - N, 7/1/2027]

6.68.7.7 DEFINITIONS: [RESERVED]

6.68.7.8 PRIMARY RESPONSIBILITY OF AN EDUCATOR: In accordance with paragraph A of Section 22-10A-4 of the School Personnel Act, the primary responsibilities of the education profession are two-fold:

A. to educate the children of this state.

B. to improve the professional practices and ethical conduct of its members.

[6.68.7.8 NMAC - N, 7/1/2027]

6.68.7.9 MODEL CODE OF ETHICS FOR EDUCATORS (MCEE): We, professional educators of New Mexico, affirm our belief in the worth and dignity of humanity. We recognize the supreme importance of the pursuit of truth, the encouragement of scholarship, and the promotion of democratic citizenship. We regard as essential to these goals the protection of freedom to learn and to teach with the guarantee of equal educational opportunity for all. We affirm and accept our responsibility to practice our profession according to the highest ethical standards. We acknowledge the magnitude of the profession we have chosen, and engage ourselves, individually and collectively, to judge our colleagues and to be judged by them in accordance with the applicable provisions of this code. We accordingly adopt this Model Code of Ethics for Educators in New Mexico which sets forth the following Principles:

A. Principle I: Responsibility to the Profession. The professional educator knows that trust in the profession depends upon a level of professional responsibility that may be higher than the minimal standard of policy and law. This responsibility entails holding oneself and other educators to the same ethical standards.

(1) The professional educator demonstrates responsibility to oneself and the profession by:

(a) holding oneself responsible to MCEE and other recognized professional ethics standards;

(b) knowing and upholding the procedures, policies, and laws relevant to professional practice regardless of personal views;

(c) monitoring and maintaining sound mental, physical, and emotional health necessary to perform duties and services of any professional assignment and taking appropriate measures when personal or health-related issues may interfere with work-related duties;

(d) refraining from using one's position for personal gain and avoiding the appearance of impropriety;

(e) taking responsibility and credit only for work actually performed or produced, and acknowledging the work and contributions made by others; and

(f) recognizing a lack of knowledge or understanding of the MCEE is not, in itself, a defense of unprofessional conduct;

(2) The professional educator fulfills the obligation to address and attempt to resolve ethical issues by:

(a) identifying and taking reasonable steps to resolve conflicts between the MCEE and the implicit or explicit demands of a person or organization;

(b) maintaining fidelity to the MCEE by taking proactive steps when having reason to believe that another educator may be approaching or involved in an ethically compromising situation;

(c) refraining from discriminating or retaliating against a person on the basis of having made an ethics complaint;

(d) refraining from filing or encouraging frivolous ethics complaints solely to harm or retaliate; and

(e) cooperating fully and honestly during investigations and proceedings;

(3) The professional educator promotes and advances the profession within and beyond the school community by:

(a) engaging in respectful discourse regarding issues that impact the profession;

(b) influencing and supporting decisions and actions that positively impact teaching and learning, educational leadership and student services;

(c) staying current with ethics guidelines and decisions from professional organizations and other relevant sources;

(d) engaging with the greater educational community through professional organizations and associations; and

(e) advocating for adequate resources and facilities to ensure equitable opportunities for all members within the learning community.

B. Principle II: Responsibility for Professional Competence. The professional educator is committed to the highest levels of professional and ethical practice.

(1) The professional educator demonstrates commitment to high standards of practice through:

(a) using the MCEE and other ethics codes unique to one's discipline to guide and frame educational decision-making;

(b) incorporating into one's practice state and national standards, including those specific to one's discipline;

(c) advocating for equitable educational opportunities for all students;

(d) accepting the responsibilities, performing duties and providing services corresponding to the area of certification, licensure, or training of one's position;

(e) reflecting upon and assessing one's professional skills, knowledge and competency on an ongoing basis; and

(f) committing to ongoing professional learning.

(2) The professional educator demonstrates responsible use of data, materials, research, and assessment by:

(a) recognizing others' work by appropriately citing data or materials from published, unpublished or electronic sources when disseminating information;

(b) using appropriate assessments for the purposes for which they are intended and for which they have been validated to guide educational decisions;

(c) conducting research in an ethical and responsible manner with appropriate permission and supervision;

(d) seeking and using evidence, instructional data, research and professional knowledge to inform practice;

(e) creating, maintaining, disseminating, storing, retaining and disposing of records and data relating to one's research and practice,

(f) in accordance with, but not limited to, official guidance, policy and laws, using data, data sources, or findings accurately, reliably and ethically.

(3) The professional educator demonstrates competence by acting in the best interest of all students by:

(a) increasing students' access to the curriculum, activities, and resources to provide a quality and equitable educational experience;

(b) working to engage the school community to close achievement, opportunity and attainment gaps; and

(c) protecting students from any practice that harms or has the reasonable potential to harm.

C. Principal III: Responsibility to Students. The professional educator has a primary obligation to promote the health, safety and wellbeing of all students. The professional educator treats students with dignity and respect, and establishes and maintains appropriate verbal, physical, emotional and social boundaries.

(1) The professional educator respects the rights and dignity of all students by:

(a) respecting students by taking into account their individual characteristics, including but not limited to race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition.

(b) interacting with students with transparency and in appropriate settings;

(c) communicating with students in a clear, respectful, and culturally sensitive manner;

(d) considering the implications of accepting gifts from or giving gifts to students;

(e) engaging in physical contact with students only when there is a clearly defined purpose that benefits students and continually keeps their health, safety and wellbeing in mind;

(f) avoiding multiple relationships with students that might impair objectivity and increase the risk of harm to their wellbeing or decrease educator effectiveness;

(g) acknowledging there are no circumstances that allow for educators to engage in romantic or sexual relationships with students; and

(h) considering the ramifications of entering into adult relationships of any kind with a former student, including but not limited to, any potential harm to the former student, public perceptions and the possible impact on the educator's career. The professional educator ensures the adult relationship was not started while the former student was in school.

(2) The professional educator demonstrates an ethic of care through:

(a) seeking to understand students' educational, academic, personal and social needs as well as their values, beliefs and cultural background;

(b) respecting the dignity, worth and uniqueness of each individual student including, but not limited to, race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition; and

(c) establishing and maintaining an environment that promotes the emotional, intellectual, physical and sexual safety of all students.

(3) The professional educator maintains student trust and confidentiality when interacting with students in a developmentally appropriate manner and within appropriate limits by protecting the confidentiality of student records and releasing personal data in accordance with prescribed state and federal laws and local policies.

D. Principle IV: Responsibility to the School Community. The professional educator promotes appropriate relationships and effective interactions with members of the school community.

(1) The professional educator promotes appropriate and effective relationships with parents and guardians by:

(a) communicating with parents or guardians in a timely, respectful and culturally sensitive manner that represents the students' best interests;

(b) demonstrating a commitment to equality, equity, diversity and inclusion with parents or guardians;

(c) considering the implication of accepting gifts from or giving gifts to parents or guardians; and

(d) maintaining appropriate confidentiality with respect to student information disclosed by or to parents or guardians unless required by law.

(2) The professional educator promotes appropriate and effective relationships with colleagues by:

(a) respecting colleagues as fellow professionals and maintaining civility when differences arise;

(b) resolving conflicts, whenever possible, privately and respectfully and in accordance with policy;

(c) working to ensure a workplace environment that is free from harassment;

(d) collaborating with colleagues in a manner that supports academic achievement and related goals that promote the best interests of students;

(e) keeping student safety, education, and health paramount by maintaining and sharing educational records appropriately and objectively in accordance with local policies and state and federal laws;

(f) enhancing the professional growth and development of new educators by supporting effective field experiences, mentoring or induction activities across the career continuum;

(g) ensuring educators who participate as mentors for new educators, cooperating teachers and leadership positions are prepared and supervised to assume these roles; and

(h) demonstrating a commitment that educators are assigned to positions in accordance with their educational credential, preparation, or training to maximize students' opportunities and achievement.

(3) The professional educator promotes appropriate and effective relationships with the community and other stakeholders by:

(a) maintaining the highest professional standards of accuracy, honesty and appropriate disclosure of information when representing the school or district within the community and in public communications;

(b) advocating for policies and laws benefiting students and families within the school community; and

(c) collaborating with community agencies, organizations, and individuals in order to advance students' best interests.

(4) The professional educator promotes appropriate and effective relationships with employers by:

(a) exhibiting personal and professional conduct that is in the best interest of the organization, learning community, school community and profession;

(b) using property, facilities, materials and resources in accordance with local policies and state and federal laws;

(c) respecting intellectual property rights (e.g., original lesson plans, district level curricula, syllabi, gradebooks) when sharing materials; and

(d) considering the implications of offering or accepting gifts or preferential treatment by vendors or an individual in a position of professional influence or power.

(5) The professional educator recognizes the problematic nature of maintaining multiple different relationships with a single student or group of students by:

(a) considering the risks that multiple relationships might impair objectivity, increase the likelihood of harm to students' learning and wellbeing, or diminish educator effectiveness;

(b) considering the risks and benefits of a professional relationship with someone with whom the educator has a current or past personal relationship;

(c) considering the implications and possible ramifications of engaging in a personal relationship with parents or guardians, student teachers, colleagues and supervisors; and

(d) ensuring professional responsibilities to paraprofessionals, student teachers or interns do not interfere with responsibilities to students, their learning and wellbeing.

E. Principle V: Responsible and Ethical Use of Technology. The professional educator considers the impact of consuming, creating, distributing and communicating information through all technologies. The ethical educator is vigilant to ensure appropriate boundaries associated with role, time and place are maintained when using electronic communication.

(1) The professional educator uses technology in a responsible manner by:

(a) using social media transparently and primarily for purposes of teaching and learning per school and district policy, and considering the ramifications of using social media and direct communication via technology with one's interactions with students, colleagues and the general public;

(b) staying current with trends and uses of school technology;

(c) evaluating information obtained electronically for reliability and bias;

(d) respecting intellectual property rights, copyright and fair use when accessing, using and documenting proprietary materials;

(e) understanding and abiding by policy and procedures on the use of technology and communication;

(f) recognizing that some electronic communications are records under the Freedom of Information Act (FOIA) and state public access laws;

(g) considering the implications of sharing legally protected or other sensitive information electronically either via professional or personal devices or accounts; and

(h) exercising vigilance in maintaining separate and professional virtual profiles and keeping personal and professional lives distinct.

(2) The professional educator ensures students' safety and well-being when using technology by:

(a) being vigilant in identifying, addressing and reporting (when appropriate and in accordance with local school, district, state and federal policy) inappropriate and illegal materials or images in electronic or other forms;

(b) respecting the privacy of students' presence on social media unless there is possible risk of harm to the student or others; and

(c) being attentive to (and appropriately reporting) information concerning possible cyberbullying incidents and their potential impact on the student learning environment.

(3) The professional educator maintains confidentiality with the use of technology by:

(a) taking appropriate and reasonable measures to maintain confidentiality of privileged information and stored or transmitted educational records;

(b) understanding the intent of Family Educational Rights to Privacy Act (FERPA) and how it applies to sharing student records electronically;

(c) ensuring the rights of third parties, including the right of privacy, are not violated via the use of technology; and

(d) protecting information from being shared with unintended third parties through technology.

(4) The professional educator promotes the appropriate use of technology in educational settings by:

(a) advocating for equal and equitable access to technology for all students;

(b) promoting the benefits and clarifying the limitations of various appropriate technological applications with colleagues, appropriate school personnel, parents and community members;

(c) promoting technological applications that assist and enhance the teaching and learning process; and

(d) practicing and advocating for cybersecurity to protect oneself, others and the integrity of the network.

[6.68.7.9 NMAC - N, 7/1/2027]

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 SCHOOL PERSONNEL - COMPLAINTS, INVESTIGATIONS, DISCIPLINE, AND HEARING PROCEDURES
PART 8 STANDARDS OF PROFESSIONAL CONDUCT

6.68.8.1 ISSUING AGENCY: Public Education Department (PED), hereinafter the department
[6.68.8.1 NMAC - N, 7/1/2027]

6.68.8.2 SCOPE: This rule applies to all educators.
[6.68.8.2 NMAC - N, 7/1/2027]

6.68.8.3 STATUTORY AUTHORITY: The statutory authority cited in 6.68.1.3 NMAC applies to this part.
[6.68.8.3 NMAC - N, 7/1/2027]

6.68.8.4 DURATION: Permanent.
[6.68.8.4 NMAC - N, 7/1/2027]

6.68.8.5 EFFECTIVE DATE: July 1, 2027, unless a later date is cited at the end of a section.
[6.68.8.5 NMAC - N, 7/1/2027]

6.68.8.6 OBJECTIVE: This rule seeks to provide minimum standards of professional conduct expected for all educators in New Mexico for which any violation may constitute grounds for adverse action.
[6.68.8.6 NMAC - N, 7/1/2027]

6.68.8.7 DEFINITIONS: [RESERVED]
[6.68.8.7 NMAC - N, 7/1/2027]

6.68.8.8 DEPARTMENT FINDING:
The department finds that adherence to these standards of professional conduct has a significant bearing on licensed school personnel's turpitude or the proper performance of their duties. Both the code of ethics and standards of professional conduct are intended to provide a valuable framework of personal ethics to assist educators and administrators in their interaction with colleagues, students and parents. However, the standards of professional conduct establish minimal standards of acceptable professional behavior to which all educators shall adhere.
[6.68.8.8 NMAC - N, 7/1/2027]

6.68.8.9. STANDARDS:

A. Violation of any of these standards of professional conduct shall subject an educator to adverse action:

(1) An educator shall withhold confidential student records or information about a student's personal and family life unless the release of the information is authorized by the student's parent or legal guardian or is otherwise permitted or required by law, including the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g and 34 C.F.R. Part 99; the federal Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq. and 34 C.F.R. Part 300; Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. Section 794 and 34 C.F.R. Part 104; Section 43-1-19 NMSA 1978 of the Mental Health and Developmental Disabilities Code; the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978; the Public School Code, Chapter 22 NMSA 1978; and Sections 32A-2-32 and 32A-4-3 NMSA 1978 of the Children's Code.

(2) An educator shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition;

(3) An educator shall not use our positions as licensed school employees to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a student to discipline for misconduct whether or not the student actually engages in the behavior;

(4) An educator shall not tutor students without written permission from the student's parent or legal guardian or superintendent, and only at a place or time approved by the superintendent or the student's parent or legal guardian;

(5) An educator shall not give a gift to any one student unless all students situated similarly receive or are offered gifts of equal value for the same reason;

(6) An educator shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;

(7) An educator shall not engage in inappropriate contact with, or make any effort to groom, a student, whether or not on school property:

(a) Inappropriate contact includes the following:

(i) sexual conduct or grooming; and

(ii) all forms of sexual touching, sexual relations or romantic relations.

(b) It is not a defense to any violation of paragraph (7), and it shall not be deemed appropriate if the student consented to the conduct.

(c) The prohibitions described in paragraph (7) shall extend at least 24 months after the date of a student's graduation or the date the student otherwise ceases enrollment in a school or school district where an educator is employed even if the student reaches their legal majority or age of consent.

(8) An educator shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision, or responsibility to sexually harass any other student, which prohibited behavior includes:

(a) making any sexual advances, requests for sexual favors, repeated sexual references, any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display or distribution of sexually oriented materials where students can see them or which creates an intimidating, hostile, or offensive school environment.

(9) An educator shall not interfere with a student's right to a public education by harassing a student or creating an intimidating, hostile or offensive school environment for any student. Such prohibition includes any harassment of a student by bullying or cyberbullying.

(10) An educator shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure;

(11) An educator shall not orally or in writing misrepresent our professional or educational qualifications;

(12) An educator shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history;

(13) An educator shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education;

(14) An educator shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school;

(15) An educator shall not hold, or continue to hold, employment for which educator licensure or certification is required when the individual knew, should have known, or is informed by the department, that the individual does not hold the required credentials; and

(16) An educator shall not disclose personal, medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law;

(17) An educator shall not knowingly make false and derogatory personal comments about an educational colleague to any students, or any parent, or school employee connected to any school, or the department. For the purposes of this rule, an "educational colleague" may include any student, parent, school employee, or department official.

(18) An educator shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds $100, excluding approved educational awards, honoraria, plaques, trophies, and prizes;

(19) An educator shall avoid conduct connected with official duties that is unfair, improper, illegal or gives the appearance of being improper or illegal;

(20) An educator shall not sexually harass any educational colleague, or school visitor school or anyone else we might encounter in the course of our official duties, which includes but shall not be limited to:

(a) making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above;

(b) making any other verbal gesture or physical conduct with any of the above-named individuals even where the licensed educator believes they consent or they actually initiate the activity;

(c) displaying or distributing any sexually oriented materials where the above-named individuals can see them;

(21) An educator shall not create an intimidating, hostile, or offensive work environment for any work colleague for the purpose of or which has the effect of unreasonably interfering with their work performance or ability to work;

(22) An educator shall not engage in inappropriate displays of affection, even with consenting adults, while on school premises, or during school events off campus;

(23) An educator shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs;

(24) An educator shall use educational facilities, property, and funds only for educational purposes or purposes for which they are intended consistent with applicable policy, law and regulation;

(26) An educator shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition;

(27) An educator shall not engage in any outside employment which presents a conflict of interest, such conflicts shall include but not be limited to:

(a) the performance of which conflicts with our public school duties, such as where a licensed educator takes a private job that would require performance in the very school district where they are employed;

(b) where we use confidential or privileged information obtained from our public school employment as part or all of our private employment duties; or

(c) that impairs our physical ability to perform our school duties;

(28) An educator shall not, with the intent to conceal or confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:

(a) in connection with our official school duties;

(b) in connection with another licensed person's official school duties;

(c) in connection with any standardized or non-standardized testing;

(d) in connection with any school application or disclosure process; or

(e) in connection with any writing submitted to the department related to licensure, including endorsements;

(29) An educator shall not in connection with any official duty, including continuous education, required professional development, and department-required education, such as APL microcredentials, knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts, or representing another's substantive work as one's own.

(30) An educator shall not engage in any prohibited conduct during a standardized or non-standardized assessment, including formative or summative assessments, prohibited conduct shall include but not be limited to the following:

(a) which constitutes a prohibited testing practice or violations of testing procedures as defied by the department at 6.10.7.12 NMAC;

(b) conduct which would breach the security of any assessment;

(c) that was intended to ignore, or had the effect of ignoring, administering portions or the entirety of any assessment or their instructions;

(d) that would give students an unfair advantage in taking any assessment;

(e) that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test; or

(f) that would assist students in obtaining services or benefits for which they do not qualify or are not entitled;

(31) An educator shall not award or change a student's interim or final course grades if the grade is not warranted or if materially non-compliant with the school's policy on grade awards or grade changes. An educator may also violate this paragraph if the educator withholds information or alternatively, is unable to

provide information, to either the superintendent, governing authority, or department supporting the award or change of interim or final course grades, unless good cause shown for the withholding, or failure to provide.

(32) An educator shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, or otherwise disorderly conduct which tends to disturb the peace;

(33) An educator shall not hold, or continue to hold, employment for which educator licensure or certification is required when the individual knew, should have known or is informed by the department, that the individual does not hold the required credentials; and

(34) An educator shall not use school information technology equipment, hardware, software or internet access to view, download, display, store or print pornographic images or advertisements, nude images, or sexually explicit depictions or other media;

(35) An educator shall not engage in unprofessional conduct, including:

(a) battering or assaulting a student for no valid reason;

(b) restraining or secluding a student for no valid reason or when not done in the manner approved by department rules and regulations;

(c) corporal punishment;

(d) using any written or spoken words in public schools or at school events that are inflammatory, derogatory or otherwise demonstrate a bias against a person or group, on the basis of their race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition; or

(e) engaging in favoritism or preferential treatment toward any school employee or applicant in regards to that individual's hiring, discipline, terms of employment, working conditions or work performance due to that individual's familial relationship with the licensee;

(36) An educator shall not violate department prohibitions or, or department requirements that schools be drug-free, tobacco-free, and gun-free including:

(a) being under the influence of alcohol or illegal drugs on school premises or during the school day;

(b) possessing or using illegal drugs, or illegal drug paraphernalia, on school premises or during the school day;

(c) possessing or consuming alcohol beverages on school premises;

(d) consuming, using, or possession of tobacco or nicotine products, e-cigarettes or electronic delivery systems, and nicotine or drug liquid containers, or any other mood-altering substances, including marijuana or cannabis on school premises and during the school day;

(c) bringing firearms onto school property or possessing them on school property, except with proper authorization; or

(e) distributing or selling to, inducement of, or participating with, any student or child in the use, consumption, or improper use of any alcohol, drug, tobacco, mood altering substance, including marijuana or cannabis, or firearm whether or not on school premises or during the school day.

(37) An educator shall not conduct a search and seizure of a student's person or their property, except upon reasonable suspicion that a crime or other breach of disciplinary rules is occurring or has occurred. Any search and seizure shall be limited by the department's search and seizure rules, and any physical touching shall last no longer than necessary to resolve the educators' suspicion.

(38) An educator shall not engage in obstruction or any other action to impede, hinder, or improperly influence a department investigation or proceeding, or any judicial, law enforcement, child abuse and neglect, or US department of Education investigation or proceeding. Obstructive acts include:

(a) making false statements to any department official, school official, investigator, or during any judicial or administrative proceeding;

(b) tampering with, creating forged documents, altering records, destroying, or concealing any document, or evidence, during a school, or department investigation, or during any judicial or administrative proceeding;

(c) intimidating, coercing, or persuading a witness or student to refuse to testify, change their testimony, or destroy evidence;

(d) contacting any witness after having received a notice of investigation and direction from either the department or a supervising school official to refrain from such contacts;

(e) refusing a department issued subpoena or any other school related subpoena except upon objection or a motion to quash when made in good faith.

[6.68.8.9 NMAC - N, 7/1/2027]

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 68 COMPLAINTS, INVESTIGATIONS, DISCIPLINE, AND HEARING PROCEDURES
PART 9 DECLARATORY RULINGS

6.68.9.1 ISSUING AGENCY: Public Education Department (PED), hereinafter the department.
6.68.9.1 NMAC - N, 7/1/2027]

6.68.9.2 SCOPE: This rule applies to administrative declaratory rulings issued by the department and any application thereto. This rule does not apply to declaratory judgments issued by a court of law and any application thereto.
[6.68.9.2 NMAC - N, 7/1/2027]

6.68.9.3 STATUTORY AUTHORITY: In addition to the statutory authority cited in 6.68.1.3 NMAC, the following applies to this part: Section 61-1-33 NMSA 1978.
[6.68.9.3 NMAC - N, 7/1/2027]

6.68.9.4 DURATION: Permanent.
[6.68.9.4 NMAC - N, 7/1/2027]

6.68.9.5 EFFECTIVE DATE: July 1, 2027, unless a later date is cited at the end of a section.
[6.68.9.5 NMAC - N, 7/1/2027]

6.68.9.6 OBJECTIVE: This rule establishes the procedures for seeking and applying administrative declaratory rulings and for department-issued declaratory rulings, which may be used to clarify rights relating to licensure, but which may not in themselves constitute adverse action against an educator.
[6.68.9.6 NMAC - N, 7/1/2027]

6.68.9.7 [RESERVED]
[6.68.9.7 NMAC - N, 7/1/2027]

6.68.9.8 DECLARATORY RULINGS BY THE DEPARTMENT

A. Any licensee whose rights, relating to licensure, may be affected by the application of any statute enforced or administered by the department or by any decision, order, or regulation of the department, may request in writing a declaratory ruling from the department regarding a particular set of facts.

B. A request for a declaratory ruling shall be submitted on a department-approved declaratory ruling request form maintained on the portion of the department website relating to licensure.

C. The department shall respond in writing with a declaration to such a written request within one hundred and twenty (120) days.

(1) The department may respond with a refusal to issue a declaratory ruling if there are relevant pending proceedings, whether administrative or otherwise, and a declaratory ruling would not terminate the uncertainty or controversy giving rise to the relevant ongoing proceedings.

(2) The department may respond with a refusal to issue a declaratory ruling if the declaratory ruling request presents genuine issues of material facts. Alternatively, the department may respond by seeking to develop a particular set of facts by opening an investigation.

D. A declaratory ruling shall be limited to determining the applicability of any relevant statute, decision, order, or regulation to a particular set of facts. The department's declaration may be either affirmative or negative in form and effect.

E. The department may also issue declaratory rulings or similar rulings on its own motion.

F. Effect on time limitations: A request for or issuance of a declaratory ruling shall not act to stay the time limitations for initiating adverse action against a licensee.

G. The effect of a declaratory ruling shall be limited to the department and to the licensee, if any, who requested or is the subject of the declaratory ruling.

[6.68.9.8 NMAC - N, 7/1/2027]

HISTORY OF 6.68.9 NMAC: [RESERVED]