

Proposed Rule Abstract

1. Agency: Public Education Department (PED)
2. Rule Citation: 6.32.2 NMAC
3. Rulemaking Action: Repeal and replace
4. Register Issue and Date of NPRM: Version 1: Volume 28, Issue 6 March 28, 2017; Version 2: Volume 28, Issue 12, June 27, 2017
5. Effective Date: July 1, 2018
6. Specific Legal Authority: Sections 22-23-1 through 22-23-6 NMSA 1978
7. Technical Information: N/A
8. Purpose of Rule: Realign the evaluation and renewal sections of Part 2, 6.32 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs to conform to the Bilingual Multicultural Education Act of 2004, and include program accountability for academic and language proficiency in English and a second language for all students. The proposed rule would also clarify program approval requirements and align instruction with local implementation.
9. Rulemaking Information: Matt Ortiz, 505-476-7941
10. Comment Period: Submit written comments to rmd.cpr@state.nm.us through 5:00 p.m., August 9, 2017. Written comments may be submitted at the hearing with two copies for the hearing officer.
11. Rule Hearing: Wednesday, August 9, 2017, 9:00 a.m. at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, NM 87501-2786

Rule Summary

The proposed amendments to Part 2 of 6.32 NMAC, for implementing Bilingual Multicultural Education Programs (BMEP) make changes to the following: BMEP approval, content areas required to be included in BMEPs and available BMEP models, and BMEP evaluation and program renewal requirements (see **Attachment 1, Title 6, Chapter 32, Part 2 Proposed Rule for Implementing Bilingual Multicultural Education Programs, Version 2**). If adopted, the proposed amendments will be effective July 1, 2018.

Background

At the July 2017 LESC interim meeting, members heard from PED and stakeholders about PED's proposed changes to BMEPs. Stakeholders and legislators voiced concern over limited stakeholder engagement in the development of the first draft, PED's failure to consult with tribal nations as required by statute, and programmatic and fiscal implications of the proposed amendments. Because of stakeholder concerns, PED extended the public comment period to August 9, 2017 and submitted

a second draft of the proposed rule for Title 6, Chapter 32, Part 2 Proposed Rule for Implementing Bilingual Multicultural Education Programs.

Analysis

This LESC analysis reviews the changes from Version 1 to Version 2 of the proposed rule; PED drafted Version 2 in response to public comment on Version 1 (see **Attachment 2, LESC Brief, New Mexico Bilingual Multicultural Education Programs and Version 1 of 6.32.2 NMAC**).

PED states the purpose of the proposed rule change is to realign the evaluation and renewal sections of 6.32.2 NMAC with the Bilingual Multicultural Education Act, and regulatory goals, and also include program accountability for academic and language proficiency in English and a second language for all students, not just English learners (ELs). Additionally, the proposed changes aim to further clarify the program approval requirements and align the program element of instruction with local implementation.

Definitions

In Version 2, PED adds a definition of “target language” defined as the home or heritage language or language other than English of a bilingual multicultural education program. In response to public input, PED included a definition of “target language” because the use of “home or heritage language” does not clearly capture reference to the non-English language of a BMEP. PED indicated the non-English “target language” reflects the language other than English of bilingual multicultural education programs.

Program Approval

If enacted, an initial application for a BMEP will be required to include assurances that all school district personnel are knowledgeable of the requirement to comply with the statutory and regulatory requirements for BMEPs and includes the signature of a parent advisory committee representative and a school board president in addition to the currently required signatures of the superintendent, school principal, and bilingual director. The signature of a school board president was added to Version 2 of the proposed rule change because PED indicated it would ensure alignment with the local approval process of BMEPs.

Additionally, in Version 2 of the proposed changes, if a proposed program is going to provide a Native American language program, the initial application will be required to include a description of the proposed program and evidence of collaboration with tribal representatives to satisfy Section 22.23.1 NMSA 1978. In response to nations, tribes, and pueblos, the proposed change requires evidence of tribal consultation pursuant to the Indian Education Act. In Version 1, PED cited Subsection C of Section 11-18-3 NMSA 1978 as a statutory requirement for tribal collaboration. Currently, evidence of tribal collaboration is not required by regulation to be

included in the initial application but is required as an element of any BMEPs that provide a Native American heritage language revitalization program.

Additionally, data currently required to be submitted by the 20th school day during the first year of the program will now be required to be submitted by the 40th school day and the requirement to establish annual measurable achievement objectives for English and home languages is eliminated. PED may want to consider changing reference to the 40th school day to the “first reporting date,” as the 40th day will not be consistent statewide because of different school start dates.

Instruction of Programs

In Version 2 of the proposed changes, PED restored the provision that requires public schools providing a Native American language program to obtain approval from tribal councils or from other appropriate tribal entities with authority to make education decisions on behalf of Native American children. PED indicated that although stated in the program approval section, the requirement in this section will further underline the need for tribal consultation.

Version 1 included two options for delivering English language development (ELD) instruction depending on a student’s level of language proficiency: 1) the instruction is distinct from English language arts and addresses the English language development of an EL; or 2) ELD is integrated with the instruction of English language arts. Public input noted this was too prescriptive and in response PED proposed a general description of the required ELD content area that is aligned to reflect current research and effective instructional practice in Version 2. English language instruction is required to be distinct from English language arts to develop the English language proficiency of ELs at their current level of language proficiency.

In Version 2, PED changed reference to “time allotted” for programs from “program model” in Paragraph 3 of Section C of 6.32.2.12 NMAC to reflect program intensity, or number of program hours triggers content area and fine arts instruction in the target language. PED emphasized the funding amount generated by the bilingual cost differential depends on program intensity and not on the model or target language of instruction

Program Models. Version 2 of the proposed rule change maintains repealing the maintenance and enrichment BMEP models. Stakeholders, including legislators, voiced concerns over PED’s lack of an explanation regarding how the elimination of the maintenance and enrichment models would impact ELs and fully and initially English proficient students’ opportunity to participate in a BMEP. According to PED, if the proposed amendments are adopted, ELs and heritage speakers of a language other than English, including fully and initially fluent English proficient students, will be eligible to participate in a heritage or dual language immersion model. School districts and charter schools can continue to support the target language and English language development of ELs in a transitional model if they choose. PED also indicated Native American students and other heritage language learners will receive the support they need through other available models.



In Version 2 of the proposed rule, PED included language in the heritage and transition models to reflect supporting students in revitalizing, developing or maintaining their home or heritage language while gaining a deeper understanding of their cultural heritage while developing English. During public input, there appeared to be confusion regarding the language domains that must be addressed during instruction within the available program models that address non-applicable domains to some Native American languages (i.e. reading and writing for oral languages). Also, stakeholders emphasized the importance of honoring the long-standing history of heritage languages in New Mexico. Additionally, stakeholders emphasized the need to ensure both language and culture is leveraged for effective language learning. In response, PED indicated the proposed definition of “target language” honors both the heritage languages of the state while also aligning the definition to current heritage learner research and included “culture” in both available models.

Program Evaluation and Renewal

In Version 2 of the proposed rule changes, PED eliminates language currently in 6.32.2.15 NMAC, Evaluation and 6.32.2.16, Program Renewal and replaces 6.32.2.15 with language in the proposed Version 2 that combines the two sections. PED indicated the program evaluation and program renewal sections are combined into one section with additional detail included to clarify expectations with a timeline. Changes proposed in the rule align accountability for BMEPs to stated program goals that students become bilingual and biliterate while also meeting academic expectations as outlined in Section 22.23.1 NMSA 1978.

Version 2 shortens the evaluation period from four years to three years and eliminates annual measurable objectives (AMOs) to determine progress of ELs in a BMEP and replaces it with evidence of sufficient progress toward meeting state targets for English language and academic proficiency. Version 2 continues the use of the school district annual progress report and is now required to be evaluated by PED. If PED determines a program is compliant, the school district may continue the program. However, if after three consecutive years of failing to make sufficient progress toward meeting state targets for language and academic proficiency, PED is required to notify the school district and require the district to develop an action plan to address non-compliance for the program and to adjust the curriculum, program, or method of instruction, or discontinue the program. Additionally, a school district may not apply for program approval for a school year immediately following discontinuation of a program and PED is required to compile and analyze data submitted by school districts and report annually to LESC.

Technical Issues

As noted in Chapter 137, Laws 2017, definitions should not be included in regulation if they are outlined in statute. However, new definitions that are not outlined in statute may be included in regulation. PED may want to consider eliminating definitions in 6.32.2.7, Sections A through I that are outlined in statute.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 32 EDUCATIONAL STANDARDS - BILINGUAL MULTICULTURAL EDUCATION
PART 2 GUIDELINES FOR IMPLEMENTING BILINGUAL MULTICULTURAL EDUCATION
PROGRAMS

6.32.2.1 ISSUING AGENCY: Public Education Department
[6.32.2.1 NMAC - Rp, 6.32.2.1 NMAC, 7-1-2018]

6.32.2.2 SCOPE: This regulation applies to public schools receiving bilingual state funding, K-12.
[6.32.2.2 NMAC - Rp, 6.32.2.2 NMAC, 7-1-2018]

6.32.2.3 STATUTORY AUTHORITY: This regulation is adopted pursuant to Sections 22-2-1, 22-23-1 through 22-23-6, NMSA, 1978.
[6.32.2.3 NMAC - Rp, 6.32.2.3 NMAC, 7-1-2018]

6.32.2.4 DURATION: Permanent
[6.32.2.4 NMAC - Rp, 6.32.2.4 NMAC, 7-1-2018]

6.32.2.5 EFFECTIVE DATE: July 1, 2018, unless a later date is cited at the end of a section.
[6.32.2.5 NMAC - Rp, 6.32.2.5 NMAC, 7-1-2018]

6.32.2.6 OBJECTIVE: This regulation provides requirements for developing and implementing Bilingual Multicultural and Language Revitalization programs (in accordance with Section 22-23-4, NMSA 1978 and Standards for Excellence, Subsection B of 6.30.2.11 NMAC and supports the state of New Mexico's long-standing policy in furthering bilingual multicultural education.
[6.32.2.6 NMAC - Rp, 6.32.2.6 NMAC, 7-1-2018]

6.32.2.7 DEFINITIONS: As used in the Bilingual Multicultural Education Act [22-23-1, NMSA 1978]:

- A. "bilingual multicultural education program" means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;
- B. "culturally and linguistically different" means students who are of a different cultural background than mainstream United States culture and whose home or heritage language, inherited from the student's family, tribe or country of origin, is a language other than English;
- C. "department" means the public education department;
- D. "district" means a public school or any combination of public schools in a district;
- E. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade-level English proficient peers and native English speakers;
- F. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;
- G. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community;
- H. "school board" means a local school board; and
- I. "standardized curriculum" means a district curriculum that is aligned with the state academic content standards, benchmarks and performance standards.

J. "target language" means the home or heritage language or language other than English of a bilingual multicultural education program.

[6.32.2.7 NMAC - Rp, 6.32.2.7 NMAC, 7-1-2018]

6.32.2.8 DEPARTMENT DUTIES: The department shall be responsible for carrying out the powers and duties as provided in the Bilingual Multicultural Education Act, Sections 22-23-1 through 22-23-6 NMSA 1978.
[6.32.2.8 NMAC - N, 7-1-2018]

6.32.2.9 PROGRAM GOALS: The state's bilingual multicultural education program goals are for all students, including English language learners, to:

(DRAFT) Proposed Version 2

A. Become bilingual and biliterate in English and a second language, including Spanish, a Native American language (with appropriate approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children) or another language. For Native American languages that are oral only, the literacy component shall be measured only in the skill areas/domains of listening, speaking, and comprehension; and

B. Meet state academic content standards and benchmarks in all subject areas.

[6.32.2.9 NMAC - N, 7-1-2018]

6.32.2.10 PROGRAM ELIGIBILITY: To be eligible for financial support, each program shall:

A. provide for the educational needs of linguistically and culturally different students, including Native American children and other students who may wish to participate, in grades kindergarten through twelve, with priority to be given to programs in grades kindergarten through three, in any public school or any combination of public schools in a district;

B. fund programs for culturally and linguistically different students in the state in grades kindergarten through three, for which there is an identifiable need to improve the language capabilities of both English and the home language of these students, before funding programs at higher grade levels;

C. use two languages as mediums of instruction for any part or all of the curriculum of the grade levels within the program;

D. establish a parent advisory committee, representative of the language and culture of the students, to assist and advise in the development, implementation, and evaluation of the program;

E. provide procedures to ensure that parental notification is given annually prior to program placement; and

F. provide personnel endorsed in bilingual education, TESOL, or certified in Native American language and culture. The secretary of education may authorize other personnel to implement programs if qualified personnel are not available by the submission of an approved program design that addresses recruitment, professional development, and staffing patterns.

[6.32.2.10 NMAC - Rp, 6.32.2.8 NMAC, 7-1-2018]

6.32.2.11 PROGRAM APPROVAL:

A. A public school district shall submit an initial application to the department by the date of the preceding school year as specified by the department for each school requesting program approval. A proposed bilingual multicultural education program shall be eligible pursuant to 22-23-1 NMSA 1978 and 6.32.2 NMAC.

B. The initial application shall include:

(1) projected number of students to be served; and

(2) ~~signatures of superintendent, bilingual education/title III coordinator, and school principal~~ assurances that all district and school personnel are knowledgeable of the requirements to comply with 22-23-1 NMSA 1978 and 6.32.2 NMAC; signatures of school board president, superintendent, bilingual multicultural education director, school principal, and a parent advisory committee representative who shall not be employed by the district or school.

(3) description of proposed program; and

(4) evidence of tribal consultation to satisfy the goals of 22-23A NMSA; public schools providing a Native American language program shall obtain approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children.

C. The department shall review initial applications for approval. Districts with ~~initially~~ approved applications shall submit by the ~~20th~~ 40th day of the target school year the following:

(1) ~~annual measurable achievement objectives (AMAOs) for English and home language;~~

~~(2)~~(1) instructional plan; and

~~(3)~~(2) actual number of students to be served.

[6.32.2.11 NMAC - Rp, 6.32.2.13 NMAC, 7-1-2018]

6.32.2.12 PROGRAM ELEMENT - INSTRUCTION:

A. Public schools providing an approved bilingual multicultural education program shall include:
(1) instruction to attain language proficiency and literacy skills in two languages, one of which is English;

(2) sheltered content instruction;

(DRAFT) Proposed Version 2

(3) standardized curriculum that is aligned with the state academic content standards, benchmarks and performance standards; and

(4) instruction in the history and cultures of New Mexico.

B. Public schools providing an approved Native American ~~heritage language revitalization~~ program shall include:

(1) instruction to attain language proficiency and literacy skills in English and a Native American language (where tribal language is written); for Native American languages that are oral only, the literacy component shall be measured only in the skill areas/domains of listening, speaking and comprehension;

(2) sheltered content instruction;

(3) standardized curriculum that is aligned with the state academic content standards, benchmarks and performance standards;

(4) instruction in the history and cultures of New Mexico Native American tribes; and

(5) public schools providing a Native American ~~heritage language revitalization~~ program (or other approved bilingual education model) shall obtain appropriate approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children.

C. The following content areas shall be included in all programs:

(1) language arts in the home or heritage language ~~■~~ for funding purposes, time allotted for instruction in the home language must be equivalent to the time provided for English language arts and must be consecutive in nature (that is, not fragmented throughout the day);

(2) ~~modifications of instruction in the English language arts that address the developmental, linguistic and academic needs of students; and~~ English language development – English language instruction to develop the English language proficiency of English language learners based on the student’s English language proficiency level; instruction shall be distinct from English language arts.

(3) depending on the time allotted for program model:

(a) content area instruction in two languages the target language of the program that utilizes the student’s language, history, and/or culture; and/or

(b) fine arts instruction in two languages the target language of the program that utilizes the student’s language, history, culture, and the arts traditions of his/her the student’s community.

D. All programs shall implement one or more of the following bilingual education models in the public school program:

(1) dual language immersion: designed to develop:

(a) high academic achievement in two languages;

(b) additive bilingual and biliterate proficiency; and

(c) cross-cultural skills development.

~~(2) enrichment: designed to further develop the home language of fully English proficient students and to teach the cultures of the state;~~

~~(3)(2) heritage language: designed to support and revitalize a student’s native language and culture through oral and/or written language instruction; Native American language programs require approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children; designed to support students in revitalizing, developing or maintaining their home or heritage language while gaining a deeper understanding of their cultural heritage.~~

(4) maintenance: designed to develop and maintain proficiency and literacy in the primary or home language while developing a student’s literacy and oral skills in English;

~~(5)(3) transitional: designed to transfer students from home language instruction with gradual transition to an all English curriculum. designed to develop skills in the primary or home language and culture while introducing, maintaining, and developing skills in English.~~

[6.32.2.12 NMAC - Rp, 6.32.2.10 NMAC, 7-1-2018]

6.32.2.13 PROGRAM ELEMENT - PROFESSIONAL DEVELOPMENT:

A. Public school districts shall provide professional development to teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents, other instructional personnel, and financial officers in the areas of:

(1) research-based bilingual/multicultural and/or language revitalization programs and implications for instruction;

(2) best practices of English as a second language (ESL); English language development (ELD) and bilingual/multicultural and/or language revitalization programs; and

(3) principles of language acquisition.

B. Bilingual/multicultural education or language revitalization programs shall be part of the district's professional development plan as required in Subsection E of Section 22-23-5 NMSA 1978. Bilingual educators, including teachers, instructional support personnel, principals, and program administrators, will participate in professional development. Principals and program administrators shall participate in training that addresses program supervision.

[6.32.2.13 NMAC - Rp, 6.32.2.12 NMAC, 7-1-2018]

6.32.2.14 PROGRAM ELEMENT - ASSESSMENT:

A. Trained personnel shall administer state-approved language proficiency assessments in English and the home or heritage language annually until proficiency in each language is achieved.

B. Public school districts shall comply with federal assessment requirements, including Titles I and III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as amended and office for civil rights requirements.

C. Students enrolled in this program shall participate in the New Mexico standards-based assessment (NMSBA) program.

D. In those grades that students do not participate in the New Mexico standards-based assessment program, the public school district shall develop and implement an assessment and evaluation program.

[6.32.2.14 NMAC - Rp, 6.32.2.11 NMAC, 7-1-2018]

6.32.2.15 EVALUATION:

~~A. To evaluate bilingual multicultural education program effectiveness and use of funds each district shall maintain academic achievement and language proficiency data and update the data annually;~~

~~(1) Districts shall submit to the department an annual progress report.~~

~~(2) Reports shall be submitted by September 30th of the following year.~~

~~(3) The report shall include:~~

~~(a) verification that the program has identified and served students most in need (with priority given to K-3) based on language proficiency (English and home language) and academic achievement;~~

~~(b) a current analysis of assessment results by school and by model(s);~~

~~(c) data demonstrating that participating students have met the state targets for annual measurable achievement objectives (AMAOs); and~~

~~(d) an expenditure report from the general ledger on use of funds for the program.~~

~~B. The department shall compile and analyze the student data submitted by public school districts and shall report annually to the appropriate interim legislative committee.~~

~~[6.32.2.15 NMAC - Rp, 6.32.2.15 NMAC, 11-30-05]~~

~~**6.32.2.16 PROGRAM RENEWAL:** The district annual report will be the indicator to determine the effectiveness of the program, and need for program renewal and/or modification. The following cycle will apply for evaluation of program effectiveness:~~

~~A. after the first year (SY 2005-06), districts will report baseline data;~~

~~B. after the second year, districts shall submit a progress report, by school, indicating how schools met annual measurable achievement objectives from year one to year two; if data shows improvement, the public school district may continue the program as previously outlined in the initial or modified application;~~

~~C. after two consecutive years of the school's failing to make progress toward meeting AMAOs, the department shall:~~

~~(1) notify the public school district that the school has not demonstrated reasonable progress;~~

~~(2) assist the school in the development of an improvement plan; and~~

~~(3) provide technical assistance to the school and district.~~

~~D. after four consecutive years of the school's failure to make progress toward meeting AMAOs, the department shall:~~

~~(1) require the school to modify the curriculum, program, and method of instruction; or~~

~~(2) the program shall be redesigned, modified, or discontinued by the department.~~

6.32.2.15 PROGRAM EVALUATION AND RENEWAL:

A. Program Evaluation. Bilingual multicultural education programs shall be evaluated by the department annually for effectiveness and for the appropriate use of funds generated by the bilingual cost

differential in the funding formula. For the purposes of such evaluation, each district shall maintain academic achievement and language proficiency data for each school year of each program, which shall be updated annually. This data shall be provided to the department in an annual progress report submitted to the department by September 30 of the following school year.

(1) The annual report shall include the following, by school and by model(s):

(a) verification that the program has identified and served students most in need (with priority given to K-3) based on language proficiency (English and home or heritage language) and academic achievement;

(b) a current analysis of language and academic assessment results demonstrating that participating students have made sufficient progress in meeting the state targets for language and academic proficiency;

(c) specific and attainable goals for the following school year; and

(d) an expenditure report from the general ledger on the use of funds generated by the bilingual cost differential in the funding formula for the program.

B. Program Renewal. Based on program monitoring and review of the annual report, the Department will determine whether the bilingual multicultural education program is compliant pursuant to 22-23-1 NMSA 1978 and 6.32.2 NMAC.

(1) If the department determines that a program is compliant, the public school district may continue the program as authorized in the approved application.

(2) If the department determines that a program is not compliant, the department shall notify the district of such non-compliance.

(a) Upon receipt of a notice of non-compliance from the department, the district shall develop a program improvement plan, with technical assistance from the department, to address the non-compliance. This plan shall include provisions to adjust the curriculum, program or method of instruction, as necessary. The plan must be submitted to the department within thirty days of receipt by the district of the notice of non-compliance. The district shall implement this plan during the school year in which the district received the notice of non-compliance.

(b) A district in the process of implementing a program improvement plan shall submit its annual report to the department and will be evaluated by the department for compliance based on the standards articulated previously in this rule, and not solely on the basis of whether they have fully implemented and complied with the program improvement plan.

(c) If upon review, after receipt of the annual report submitted by a district with a program improvement plan, the department determines that the district remains non-compliant; the department shall so notify the district. If the district remains non-compliant after the first year of implementation of the program improvement plan, the district will be required to re-evaluate the program improvement plan and make necessary adjustments. The district must report the results of this evaluation and any revisions to the original program improvement plan to the department within thirty days of receipt of the notice of non-compliance. If a program is determined to be non-compliant after receiving three consecutive notices of non-compliance, the department shall notify the district and shall discontinue the program at the end of the third school year unless the district can verify compliance to the satisfaction of the department. If the department determines that a district has become compliant, the district may continue the program as approved by the department.

(d) A district may not apply for approval for a bilingual multicultural education program for the school year immediately following a discontinuation by the department.

(e) All districts, regardless of any discontinuation by the department, shall submit the annual report to the department, for any year in which the district has provided assurances to the department.

C. The department shall compile and analyze the data submitted by public school districts and shall report annually to the appropriate interim legislative committee.

[6.32.2.16 NMAC - Rp, 6.32.2.15 NMAC, 7-1-2018]

HISTORY OF 6.32.2 NMAC:

PRE-NMAC HISTORY: The material in this regulation is derived from that previously filed with the State Records Center and Archives under: State Board of Education Regulation 73-21, Guidelines for Submitting Bilingual-Multicultural Education Proposals, filed June 18, 1973 and State Board of Education Regulation No. 75-19, Guidelines for Implementing Bilingual-Multicultural Programs, filed January 22, 1976.

HISTORY OF REPEALED MATERIAL: 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Programs, repealed effective 07-01-03; 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs, repealed effective 11-30-05; 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs, repealed effective 7-1-2018.

Proposed Version 2 (DRAFT)



Notice of Proposed Rulemaking (NPRM)

Date: June 16, 2017

Prepared By: McCorquodale

Proposed Rulemaking Abstract

1. **Agency:** Public Education Department (PED)
2. **Rule citation:** 6.32.2 NMAC
3. **Rulemaking Action (Amend, Repeal, Repeal and Replace, New):** Repeal and replace
4. **Register issue and Date of NPRM:** Volume 28, Issue 6, March 28, 2017
5. **Effective date:** Undetermined in 2017
6. **Specific legal authority:** 6.32.2 NMAC – Sections 22-2-1, 22-23-1 through 22-23-6 NMSA 1978.
7. **Purpose of rule:** Obtain input on the proposed repeal and replace of 6.32.2 NMAC.
8. **Rulemaking information Contact:** Jamie Gonzalez, 505-827-7889
9. **Comment period:** Submit to rule.feedback@state.nm.us or to Jamie Gonzalez, Policy Division, PED, Room 101, 300 Don Gaspar Avenue, Santa Fe, NM 87501, through 5 p.m. on August 9, 2017.
10. **Rule hearing:** May 2, 2017, from 9:00 a.m. to 11:00 a.m. (comment period has been extended to August 9, 2017), Jerry Apodaca Education Building, 300 Don Gaspar Avenue, Santa Fe, NM 87501

New Mexico 2015-2016 BMEP
Descriptive Statistics

- Number of school districts and charter schools with BMEPs: **71**
- Number of schools with BMEPs: **465**
- Number of students statewide: **338,608**
- Number of ELs statewide: **48,238**
- Number of ELs in a BMEP: **20,811**
- Number of Hispanic students statewide: **207,452**
- Number of Hispanic students in a BMEP: **40,033**
- Number of Native American students statewide: **34,696**
- Number of Native American students in a BMEP: **8,302**
- Number of “other” students statewide: **96,460**
- Number of “other” students in a BMEP: **4,030**

See Attachment 2 for more descriptive statistics.

Source: PED

Rule Summary

6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs. The proposed amendments make changes to bilingual multicultural education programs (BMEPs) for program approval, required content areas to be included in BMEPs, available BMEP models, program evaluation, and renewal requirements. See Attachment 1.

Background

In statute, the state’s bilingual multicultural education program (BMEP) goals are for all students, including English learners (ELs), to become bilingual and biliterate in English as a second language, including Spanish, a Native American language, or another language. The program aims to ensure students participating in a BMEP meet and achieve all academic standards. The Bilingual Multicultural Education Act of 2004 provides funds for school districts and charter schools to implement BMEPs that use two languages, including English and the home, heritage, or target language, as a medium of instruction in the teaching and learning process.

Statute requires PED to issue rules for the development and implementation of BMEPs. Statutes were originally promulgated in 2005 and have not been amended since initial implementation. On May 2, 2017, PED held a hearing on proposed rule changes for guidelines implementing BMEPs. The public comments during the hearing had overarching concerns that include: limited stakeholder engagement; lack of clarification from PED regarding how the changes would impact student eligibility and participation; fiscal implications; and lack of tribal consultation.

In a meeting with LESC staff, PED indicated the purpose of the proposed amendments to 6.32.2 NMAC was to streamline BMEP models to best meet the needs of ELs and students wishing to maintain a heritage language or learn a second language other than English. PED also indicated the proposed amendments for using English language proficiency as an added indicator aligns with the new accountability measure under the federal Every Student Succeeds Act (ESSA).

Analysis

Program Approval

If enacted, an initial application for a BMEP will be required to include assurances that all school district personnel are knowledgeable of the requirement to comply with the statutory and regulatory requirements for BMEPs and the signature of a parent advisory committee representative in addition to the currently required signatures of the superintendent, school principal, and bilingual director. Statute requires the establishment of a parent advisory committee in schools with a BMEP, though PED indicated many school districts and charter schools either lack a parent advisory committee or use a school district employee who has children participating in a BMEP to meet the requirement to have a parent advisory committee. PED indicated this change is intended to ensure high-quality parent involvement. Data currently required to be submitted by the 20th school day during the first year of the program will now be required to be submitted by the 40th school day and the requirement to establish annual measurable achievement objectives (AMOs) for English and home languages is eliminated. Additionally, the initial application will be required to include a description of the proposed program and evidence of collaboration with tribal representatives required by Subsection C of Section 11-18-3 NMSA 1978 if a proposed program is going to provide a Native American language program. Currently, evidence of tribal collaboration is not required to be included in the initial application but is required as an element of any BMEP that provides a Native American heritage language revitalization program.

Program Instruction

Currently, all BMEPs are required to teach language arts in the home or heritage language and instruction in the home language must be equivalent to the time provided for English language arts. Also, modifications of instruction in English language arts must address the linguistic and academic needs of students. The proposed rule incorporates new language relating to instruction for BMEPs. The new requirements include using the level of language proficiency of an EL to support meeting the needs of academic English language development instruction in two ways: 1) the instruction is distinct from English language arts and addresses the English language development of an EL; or 2) English language development is integrated with the instruction of English language arts. Depending on the program model, content area and fine arts instruction will be in the home or heritage language that utilizes the student's language, history, and culture.

Program Models. The proposed rule repeals the maintenance and enrichment models used in BMEPs and redefines the heritage language and transition models. Currently, a maintenance model is designed to develop and maintain academic proficiency in the first language while developing a student's literacy and oral skills in English. According to PED's current Bilingual Multicultural Education Annual Report, there were 109 maintenance models statewide in the 2015-2016 school year. Maintenance models provide support for ELs in schools where the EL population may not be significant enough to implement a dual language immersion model. However, components of the definition of the maintenance model are integrated into the transitional model that may provide a similar opportunity. In the proposed rule, a heritage language model is defined as a model that is designed to revitalize and support the home or heritage language and culture of the student through oral and written language; and a transitional model is defined as a model designed to develop skills in the primary language or home language while introducing, maintaining, and developing skills in English. In current PED guidance, a transitional model is designed specifically for ELs to prepare them to transition to the district's all-English general education program and a heritage language model is designed to revitalize and support the home or heritage language and culture of the student through oral and written language.

Currently, an enrichment model is designed to instruct students whose primary home language is a language other than English, who are fluent English proficient (former ELs, and students initially English proficient), and who are achieving academically in the general curriculum. The enrichment model also integrates the history and cultures of the state of New Mexico. Statewide, there were 149 enrichment models in the 2015-2016 school year. PED indicated the enrichment model is not designed for identified ELs. Furthermore, English language development or English as a second language instruction is not provided in an enrichment model. According to PED, components of the enrichment model can be found in the dual language immersion and heritage language models including instruction in the history and cultures of New Mexico. Additionally, current guidance indicates former ELs and students who are initially English proficient are eligible to participate in a dual language immersion or a heritage language model, but may not participate in a maintenance or transitional model.

Students are not funded by the model they participate in but by the number of hours the student qualifies for in a BMEP. Each full-time equivalent student participating in a PED-approved BMEP generates 0.5 units. The full-time equivalency status of students is determined by program intensity, or the number of hours a student participates in an approved BMEP. A student participating in three hours of bilingual programming is considered 1 FTE and generates 0.5 units while students participating in two-hour programs generate 0.333 program units and students participating in one-hour programs generate 0.167 program units. During the 2016-2017 school year, a student participating in a one-hour program generated \$663, a student participating in a two-hour program generated \$1327, and a student participating in a three-hour program generated \$1990. PED indicates the funding amount generated does not depend on the BMEP model or home or heritage language of instruction.

More than 52.2 thousand students generated \$35.1 million in bilingual funding statewide during the 2016-2017 school year; almost 16 percent of the total kindergarten through 12th grade student population participated in a BMEP during the 2016-2017 school year.

New Mexico tribal and pueblo representatives voiced concern that tribal nations were never consulted regarding the proposed changes pursuant to the State Tribal Collaboration Act. The State Tribal Collaboration Act requires "a reasonable effort to collaborate with Indian nations, tribes or pueblos in the development and implementation of policies, agreements and programs of the state agency that directly affect American Indians or Alaska Natives." See Attachment 3, Section 11-18-3 (C)

NMSA 1978. In a letter to the Bilingual Multicultural Education Bureau, the Pueblo Council of Governors indicated the proposed repeal and replacement of certain sections will directly impact the education of Native American students. The New Mexico Indian Education Act ensures maintenance of native languages and further requires coordination and consultation with tribal and pueblo leaders in the implementation of provisions directly affecting Native American students. See Attachment 4.

Additionally, stakeholders, including legislators, voiced concerns over PED's lack of an explanation regarding how the elimination of the maintenance and enrichment models could impact ELs and the fully and initially English proficient students' opportunity to participate in a BMEP. See Attachment 5. According to PED, if the proposed amendments are adopted, ELs and heritage speakers of a language other than English, including fully- and initially-fluent English proficient students, will be eligible to participate in a heritage or dual language immersion model. School districts and charter schools can continue to support home or heritage language and English language development of ELs in a transitional model if they choose. PED also indicated Native American students and other heritage language learners will not experience an impact of program loss because other available models will provide the support they need. The Bilingual Multicultural Education Bureau indicated they will support school districts and charter schools with program models that are being phased out to help support their transition into the appropriate model(s) for the 2018-2019 school year that best meet the needs of students. If adopted, PED indicated updated guidance will reflect the new changes. PED's Bilingual Multicultural Education Bureau provides a technical assistance manual for school districts and charter schools to use as guidance in choosing the best BMEP model that supports meeting the needs of their students.

Fiscal Implications. Public comment from the hearing included concerns of an uncertain fiscal impact the elimination of the maintenance and enrichment models could have on school districts and charter schools. However, PED advised LESC staff the changes are not intended to have any fiscal impact because students in maintenance and enrichment models will be able to transfer to a dual language immersion, heritage language, or a transitional model. PED advised LESC staff that a number of existing programs appeared to be claiming funding for student participation in courses that are not BMEP approved courses. PED does data validation audits for funding formula compliance and this may result in some currently funded programs losing funding. However, PED reiterated this is independent of the rule change.

Program Evaluation

The amendments remove reference to AMOs for English and home language development that was required under the federal No Child Left Behind Act. Instead, the proposed rule replaces AMOs with accountability measures that include an EL's progress in meeting the state target for language and academic proficiency. The federal Every Student Succeeds Act (ESSA) requires states to include English language proficiency (ELP) in their statewide accountability system indicating the percent of ELs making progress in achieving ELP. In New Mexico's Title I state plan, the ELP growth targets are a measure of the extent to which students are gaining ELP over a reasonable period of time with the expectation that ELs gain proficiency in English within five years.

Program Renewal

Currently, the school district annual report provides information about the effectiveness a BMEP and the need for program renewal or modification. Within four years, school districts submit a report comprising: baseline data after the first year of starting a BMEP; progress report of how schools with BMEPs are meeting AMOs from first year to the second year; and based on data of AMOs, determine

if the BMEP program needs modifications or may continue as is. If a BMEP fails to make progress after four consecutive years, the BMEP is required to modify the curriculum or instruction, redesign the program, or discontinue the program.

The proposed rule shortens the evaluation period from four years to two years and eliminates AMOs to determine progress of ELs in a BMEP and replaces it with evidence of sufficient progress toward meeting state targets for English language and academic proficiency. The proposed rule continues the use of the district annual progress report and is now required to be evaluated by PED. If PED determines a program is compliant, the school district may continue the program. However, if after two consecutive years of failing to make sufficient progress toward meeting state targets for language and academic proficiency, PED is required to notify the school district and require the district to develop an action plan to address non-compliance for the program and to adjust the curriculum, program or method of instruction, or discontinue the program.

Next Steps

Because of the concerns raised at the May 2, 2017 rulemaking hearing, PED extended the public comment period to August 9, 2017. In the interim, PED indicated the department will reach out to stakeholders for consultation and feedback, including tribal consultation. PED explained the plan is to revise the proposed rule and guidelines for implementing a BMEP based on stakeholder input.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 32 EDUCATIONAL STANDARDS - BILINGUAL MULTICULTURAL EDUCATION
PART 2 GUIDELINES FOR IMPLEMENTING BILINGUAL MULTICULTURAL EDUCATION
PROGRAMS

6.32.2.1 ISSUING AGENCY: Public Education Department
 [6.32.2.1 NMAC - Rp, 6.32.2.1 NMAC, 11-30-05]

6.32.2.2 SCOPE: This regulation applies to public schools receiving bilingual state funding, K-12.
 [6.32.2.2 NMAC - Rp, 6.32.2.2 NMAC, 11-30-05]

6.32.2.3 STATUTORY AUTHORITY: This regulation is adopted pursuant to Sections 22-2-1, 22-23-1 through 22-23-6, NMSA, 1978.
 [6.32.2.3 NMAC - Rp, 6.32.2.3 NMAC, 11-30-05]

6.32.2.4 DURATION: Permanent
 [6.32.2.4 NMAC - Rp, 6.32.2.4 NMAC, 11-30-05]

6.32.2.5 EFFECTIVE DATE: November 30, 2005, unless a later date is cited at the end of a section.
 [6.32.2.5 NMAC - Rp, 6.32.2.5 NMAC, 11-30-05]

6.32.2.6 OBJECTIVE: This regulation provides requirements for developing and implementing Bilingual Multicultural and Language Revitalization programs (in accordance with Section 22-23-4, NMSA 1978 and Standards for Excellence, Subsection B of 6.30.2.11 NMAC and supports the state of New Mexico's long-standing policy in furthering bilingual multicultural education.
 [6.32.2.6 NMAC - Rp, 6.32.2.6 NMAC, 11-30-05]

6.32.2.7 DEFINITIONS: As used in the Bilingual Multicultural Education Act [22-23-1, NMSA 1978]:

- A. "bilingual multicultural education program" means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;
- B. "culturally and linguistically different" means students who are of a different cultural background than mainstream United States culture and whose home or heritage language, inherited from the student's family, tribe or country of origin, is a language other than English;
- C. "department" means the public education department;
- D. "district" means a public school or any combination of public schools in a district;
- E. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade-level English proficient peers and native English speakers;
- F. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;
- G. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community;
- H. "school board" means a local school board; and
- I. "standardized curriculum" means a district curriculum that is aligned with the state academic content standards, benchmarks and performance standards.

[6.32.2.7 NMAC - Rp, 6.32.2.7 NMAC, 11-30-05]

6.32.2.8 DEPARTMENT DUTIES: The department shall be responsible for carrying out the powers and duties as provided in the Bilingual Multicultural Education Act, Sections 22-23-1 through 22-23-6 NMSA 1978.
 [6.32.2.8 NMAC - N, 11-30-05]

6.32.2.9 PROGRAM GOALS: The state's bilingual multicultural education program goals are for all students, including English language learners, to:

- A. Become bilingual and biliterate in English and a second language, including Spanish, a Native American language (with appropriate approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children) or another language. For Native

American languages that are oral only, the literacy component shall be measured only in the skill areas/domains of listening, speaking, and comprehension; and

B. Meet state academic content standards and benchmarks in all subject areas.

[6.32.2.9 NMAC - N, 11-30-05]

6.32.2.10 PROGRAM ELIGIBILITY: To be eligible for financial support, each program shall:

A. provide for the educational needs of linguistically and culturally different students, including Native American children and other students who may wish to participate, in grades kindergarten through twelve, with priority to be given to programs in grades kindergarten through three, in any public school or any combination of public schools in a district;

B. fund programs for culturally and linguistically different students in the state in grades kindergarten through three, for which there is an identifiable need to improve the language capabilities of both English and the home language of these students, before funding programs at higher grade levels;

C. use two languages as mediums of instruction for any part or all of the curriculum of the grade levels within the program;

D. establish a parent advisory committee, representative of the language and culture of the students, to assist and advise in the development, implementation, and evaluation of the program;

E. provide procedures to ensure that parental notification is given annually prior to program placement; and

F. provide personnel endorsed in bilingual education, TESOL, or certified in Native American language and culture. The secretary of education may authorize other personnel to implement programs if qualified personnel are not available by the submission of an approved program design that addresses recruitment, professional development, and staffing patterns.

[6.32.2.10 NMAC - Rp, 6.32.2.8 NMAC, 11-30-05]

6.32.2.11 PROGRAM APPROVAL:

A. A public school district shall submit an initial application to the department by the date of the preceding school year as specified by the department for each school requesting program approval. A proposed bilingual multicultural education program shall be eligible pursuant to 22-23-1 NMSA 1978 and 6.32.2 NMAC.

B. The initial application shall include:

(1) projected number of students to be served; ~~and~~

(2) ~~signatures of superintendent, bilingual education/title III coordinator, and school principal.~~ assurances that all district and school personnel are knowledgeable of the requirements to comply with 22-23-1 NMSA 1978 and 6.32.2 NMAC; signatures of superintendent, bilingual multicultural education director, school principal, and a parent advisory committee representative who shall not be employed by the district or school.

(3) description of proposed program; and

(4) evidence of tribal consultation pursuant to Subsection C of Section 11-18-1 NMSA 2009; public schools providing a Native American language program shall obtain approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children.

C. The department shall review initial applications for approval. Districts with ~~initially~~ approved applications shall submit by the ~~20th~~ 40th day of the target school year the following:

(1) ~~annual measurable achievement objectives (AMAOs) for English and home language;~~

~~(2)~~(1) instructional plan; and

~~(3)~~(2) actual number of students to be served.

[6.32.2.11 NMAC - Rp, 6.32.2.13 NMAC, 11-30-05]

6.32.2.12 PROGRAM ELEMENT - INSTRUCTION:

A. Public schools providing an approved bilingual multicultural education program shall include:

(1) instruction to attain language proficiency and literacy skills in two languages, one of which is English;

(2) sheltered content instruction;

(3) standardized curriculum that is aligned with the state academic content standards, benchmarks and performance standards; and

(4) instruction in the history and cultures of New Mexico.

B. Public schools providing an approved Native American ~~heritage~~ language ~~revitalization~~ program shall include:

(1) instruction to attain language proficiency and literacy skills in English and a Native American language (where tribal language is written); for Native American languages that are oral only, the literacy component shall be measured only in the skill areas/domains of listening, speaking and comprehension;

(2) sheltered content instruction;

(3) standardized curriculum that is aligned with the state academic content standards, benchmarks and performance standards; and

(4) instruction in the history and cultures of New Mexico Native American tribes; ~~and~~

~~(5) public schools providing a Native American heritage language revitalization program (or other approved bilingual education model) shall obtain appropriate approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children.~~

C. The following content areas shall be included in all programs:

(1) language arts in the home or heritage language; for funding purposes, time allotted for instruction in the home language must be equivalent to the time provided for English language arts and must be consecutive in nature (that is, not fragmented throughout the day);

(2) ~~modifications of instruction in the English language arts that address the developmental, linguistic and academic needs of students; and depending on an English language learner's English language proficiency level:~~

(a) English language development; instruction that shall be distinct from English language arts and addresses the English language learning needs of English language learners; or

(b) English language development integrated with English language arts; instruction that addresses the developmental, linguistic, and academic needs of English language learners.

(3) depending on the program model:

(a) content area instruction in ~~two languages~~ the home or heritage language of the program that utilizes the student's language, history, and/or culture; and/or

(b) fine arts instruction in ~~two languages~~ the home or heritage language of the program that utilizes the student's language, history, culture, and the arts traditions of his/her the student's community.

D. All programs shall implement one or more of the following bilingual education models in the public school program:

(1) dual language immersion: designed to develop:

(a) high academic achievement in two languages;

(b) additive bilingual and biliterate proficiency; and

(c) cross-cultural skills development.

~~(2) enrichment: designed to further develop the home language of fully English proficient students and to teach the cultures of the state;~~

~~(3)(2) heritage language: designed to support and revitalize a student's native language and culture through oral and/or written language instruction; Native American language programs require approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children; designed to revitalize and support the home or heritage language and culture of the student through oral and written language instruction.~~

~~(4) maintenance: designed to develop and maintain proficiency and literacy in the primary or home language while developing a student's literacy and oral skills in English;~~

~~(5)(3) transitional: designed to transfer students from home language instruction with gradual transition to an all English curriculum; designed to develop skills in the primary or home language while introducing, maintaining, and developing skills in English.~~

[6.32.2.12 NMAC - Rp, 6.32.2.10 NMAC, 11-30-05]

6.32.2.13 PROGRAM ELEMENT - PROFESSIONAL DEVELOPMENT:

A. Public school districts shall provide professional development to teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents, other instructional personnel, and financial officers in the areas of:

(1) research-based bilingual/multicultural and/or language revitalization programs and implications for instruction;

(2) best practices of English as a second language (ESL); English language development (ELD) and bilingual/multicultural and/or language revitalization programs; and

(3) principles of language acquisition.

B. Bilingual/multicultural education or language revitalization programs shall be part of the district's professional development plan as required in Subsection E of Section 22-23-5 NMSA 1978. Bilingual educators, including teachers, instructional support personnel, principals, and program administrators, will participate in professional development. Principals and program administrators shall participate in training that addresses program supervision.

[6.32.2.13 NMAC - Rp, 6.32.2.12 NMAC, 11-30-05]

6.32.2.14 PROGRAM ELEMENT - ASSESSMENT:

A. Trained personnel shall administer state-approved language proficiency assessments in English and the home or heritage language annually until proficiency in each language is achieved.

B. Public school districts shall comply with federal assessment requirements, including Titles I and III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as amended and office for civil rights requirements.

C. Students enrolled in this program shall participate in the New Mexico standards-based assessment (NMSBA) program.

D. In those grades that students do not participate in the New Mexico standards-based assessment program, the public school district shall develop and implement an assessment and evaluation program.

[6.32.2.14 NMAC - Rp, 6.32.2.11 NMAC, 11-30-05]

6.32.2.15 EVALUATION:

A. To evaluate bilingual multicultural education program effectiveness and the use of funds generated by the bilingual cost differential in the funding formula, each district shall maintain academic achievement and language proficiency data and update the data annually.

(1) Districts shall submit to the department an annual progress report.

(2) Reports shall be submitted by September 30th of the following year.

(3) The report by school and by model(s) shall include:

(a) verification that the program has identified and served students most in need (with priority given to K-3) based on language proficiency (English and home or heritage language) and academic achievement;

(b) a current analysis of assessment results by school and by model(s); a current analysis of language and academic assessment results demonstrating that participating students have made sufficient progress in meeting the state targets for language and academic proficiency;

(c) data demonstrating that participating students have met the state targets for annual measurable achievement objectives (AMAOs); and specific and attainable goals for the following school year; and

(d) an expenditure report from the general ledger on the use of funds generated by the bilingual cost differential in the funding formula for the program.

B. The department shall compile and analyze the student data submitted by public school districts and shall report annually to the appropriate interim legislative committee.

[6.32.2.15 NMAC - Rp, 6.32.2.14 NMAC, 11-30-05]

6.32.2.16 PROGRAM RENEWAL: ~~The district annual report will be the indicator to determine the effectiveness of the program, and need for program renewal and/or modification. The following cycle will apply for evaluation of program effectiveness:~~

~~A. after the first year (SY 2005-06), districts will report baseline data;~~

~~B. after the second year, districts shall submit a progress report, by school, indicating how schools met annual measurable achievement objectives from year one to year two; if data shows improvement, the public school district may continue the program as previously outlined in the initial or modified application;~~

~~C. after two consecutive years of the school's failing to make progress toward meeting AMAOs, the department shall:~~

~~(1) notify the public school district that the school has not demonstrated reasonable progress;~~

~~(2) assist the school in the development of an improvement plan; and~~

~~(3) provide technical assistance to the school and district.~~

~~D. after four consecutive years of the school's failure to make progress toward meeting AMAOs, the department shall:~~

~~(1) require the school to modify the curriculum, program, and method of instruction; or~~

~~(2) the program shall be redesigned, modified, or discontinued by the department.~~

A. A bilingual multicultural education program shall be compliant pursuant to 22-23-1 NMSA 1978 and 6.32.2 NMAC.

(1) The district annual progress report will be evaluated by the department for compliance.

(2) If the department determines that a program is compliant, the public school district may continue the program as previously outlined in the approved application.

(3) After two consecutive years of failing to make sufficient progress toward meeting state targets for language and academic proficiency, the department shall determine that the program is not compliant and shall:

(a) notify the public school district that the program is not compliant;

(b) require the program to develop a corrective action plan to address the non-compliance including a plan to adjust the curriculum, program or method of instruction;

(c) verify compliance; or

(d) discontinue the program.

[6.32.2.16 NMAC - Rp, 6.32.2.15 NMAC, 11-30-05]

HISTORY OF 6.32.2 NMAC:

PRE-NMAC HISTORY: The material in this regulation is derived from that previously filed with the State Records Center and Archives under: State Board of Education Regulation 73-21, Guidelines for Submitting Bilingual-Multicultural Education Proposals, filed June 18, 1973 and State Board of Education Regulation No. 75-19, Guidelines for Implementing Bilingual-Multicultural Programs, filed January 22, 1976.

HISTORY OF REPEALED MATERIAL: 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Programs, repealed effective 07-01-03; 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs, repealed effective 11-30-05.