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July 14, 2014

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Kevin Force

**RE: STAFF BRIEF: ADMINISTRATIVE RULEMAKING**

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**Proposed Rules:**

- **6.29.5 NMAC, English Language Development**

**Adopted Rules:**

- **6.30.5 NMAC, Optional Full-day Kindergarten Program**
- **6.30.9 NMAC, Pre-Kindergarten Program**

**Proposed Rules**

In the June 30, 2014 issue, the Public Education Department (PED) published in the *New Mexico Register* a Notice of Proposed Rulemaking introducing amendments to rules regarding English language development. The Notice solicited comments on the rule and announced a public hearing on the proposed rulemaking, to be held on July 31, 2014, in Mabry Hall of the Jerry Apodaca Education Building in Santa Fe. (See **Attachment 1, PED NPRM, English Language Development 6.29.5 NMAC, 6/30/14, and Attachment 2, Proposed Rule, English Language Development, 6/30/14.**)

The rulemaking proposes amendments to several sections of the rule, including:

- the rule’s objective (6.29.5.6), which would change the reference to the “New Mexico content standards for English language development,” or NMELD, to “department-approved English language development standards”;
- English language development standards grade spans (6.29.5.8), which currently are seven grade spans (PreK-K, 1, 2, 3, 5, 6-8, and 9-12), and under the proposed rule would be 11 (PreK-K, 1, 2, 3, 4, 5, 6, 7, 8, 9-10, and 11-12);
- the removal of language referring to the assessment of “comprehension skills . . . through the analysis of student performance on reading and listening assessments from both sections 6.29.5.9, “English Language Development Standards Proficiency Levels and Language Domains,” and 6.29.5.10, “Content Standards for English Language Development, Grades Pre-K-12.”

More notably, the rulemaking also proposes two new sections, specifically dealing with English language learners (ELLs):

- 6.29.5.11, “Identification of English Language Learner”; and
- 6.29.5.12, “Exit Criteria for English Language Learner Status.”

#### 6.29.5.11, “Identification of English Language Learner”

A home language survey shall be completed for all students initially enrolling in a public school:

- Initial identification of the student’s home or heritage language or influence, with parental notification, is to occur within 30 days from the beginning of the school year.
- The survey is to remain in the student’s permanent file.
- Those students identified as having a language influence other than English shall be screened with the department-approved English proficiency assessment. Students identified by the assessment as ELLs shall be eligible to receive English language development services and, annually, shall be administered the department’s language development assessments.

#### 6.29.5.12, “Exit Criteria for English Language Learner Status”

- ELL students who achieve a composite score determined sufficient by the department shall be deemed proficient in the English language.
- ELL students so identified as proficient shall nevertheless be monitored for two subsequent years by the school district.

### **Adopted Rules**

The June 13, 2014 issue of the *Register* contained the final adoption of amendments to two sections of the *Administrative Code*:

- **6.30.5 NMAC, Optional Full-day Kindergarten Program; and**
- **6.30.9 NMAC, Pre-Kindergarten Program.**

The Notice of Proposed Rulemaking was published in the *Register* on February 28, 2014 and, soliciting comment on the rules, noted that PED would conduct a public hearing March 31, 2014, in Mabry Hall of the Jerry Apodaca Education Building in Santa Fe.

### **6.30.5 NMAC, Optional Full-day Kindergarten Program**

This rulemaking, identical to the rules as proposed (see **Attachment 3, Adopted Rule, Optional Full-Day Kindergarten, 6/13/14**), amends the program in several respects, including:

- new definitions, such as:
  - “kindergarten entry assessment,” an assessment conducted within the first 30 calendar days of the school year;
  - “progress monitoring,” which means assessments conducted, between screenings, for students who are receiving targeted and intensive interventions, in order to determine whether the student is benefiting from the interventions; and
  - “screening,” which is an assessment conducted three to four times per year for all students to assess specific skills and identify students who are at risk, academically;
- changes to the requirements regarding the length of the school-day and -year, so that the entire section has been stricken and replaced with a single cross-reference: “Students in full-day kindergarten programs must comply with the minimum length of school day and school year as required in Section 22-2-8.1 NMSA 1978<sup>1</sup> and Section 6.10.5 NMAC”<sup>2</sup>;
- beginning with school year 2015-2016, requirements regarding the administration and reporting of the kindergarten entry assessment:
  - all kindergarten students must be administered the entry assessment, provided by PED, with assessment data being reported no later than October 1 of each school year;
  - all kindergarten students must be screened, with PED-approved assessments, three times per school year to determine if they are making adequate progress toward grade-level proficiency, with screening assessment data being reported to PED within the first 30 instructional days of the school year; and
  - students, whom the screening assessment indicates have a reading deficiency, must receive more frequent progress monitoring to determine if they are likely to meet grade-level expectations by the end of the school year.<sup>3</sup>

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<sup>1</sup> Full-day kindergarten programs must meet for five and one-half hours per day, or 990 hours per year, with up to 33 hours being permitted for home visits, or parent-teacher conferences, by the teacher.

<sup>2</sup> For full-day programs on a condensed year calendar (four-day week), a minimum of six hours and 36 minutes per day; for regular and variable calendars, a minimum of five and one-half hours per day. In all cases, up to 33 hours may be used for home visits and parent-teacher conferences.

<sup>3</sup> While the language regarding progress monitoring is unclear, presumably the results of the thrice-annual screening are submitted to PED within the first 30 days of the *next* school year, with students having reading deficiencies subject to further monitoring to determine progress for their current school year.

Finally, this rulemaking proposes to repeal and reserve the last two sections of the rule, sections 6.30.5.14 and 6.30.5.15, “Program Approval” and “End of Year Evaluation,” respectively.

According to PED, this rulemaking originally was proposed to incorporate updated information, as well as to address the Kindergarten Entry Assessment requirement of the Race to the Top Early Learning Challenge Grant.

### **6.30.9 NMAC, Pre-Kindergarten Program**

The amendments adopted by this rulemaking, unchanged from the rules as proposed (see **Attachment 4, Adopted Rule, Pre-Kindergarten, 6/13/14**) include:

- the removal of the defined term “early childhood development specialist,” and its replacement with “early childhood licensed teacher,” which means an adult who is responsible for working directly with four-year-old children in implementing pre-K services, and who is licensed by PED for early childhood education for:
  - birth through third grade;
  - birth through pre-K; or
  - pre-K through third grade;
- the removal of the defined term “request for proposal, or RFP,” and its replacement with “request for application, or RFA, which means all documents, including those attached or incorporated by reference, used for soliciting pre-K program applications;
- removal of reference to requirements for licensure and endorsements for pre-K early childhood specialists, and its replacement with reference to requirements for teacher and educational assistant licensure for pre-K programs;
- changes to eligibility requirements, to:
  - clarify program application to four-year-olds *not* eligible for kindergarten; and
  - allow public schools to provide pre-K services on a per-child reimbursement rate in communities with schools that are designated as Title I schools;
- provisions specifically allowing RFAs for pre-K services to be issued for public schools and charter schools; and
- a requirement that, for funding purposes, at least 66 percent of the children served by a particular pre-K program live within the attendance area of a Title I elementary school.

**NEW MEXICO PUBLIC EDUCATION DEPARTMENT**  
**NOTICE OF PROPOSED RULEMAKING**

The Public Education Department (“Department”) hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786, on Thursday, July 31, 2014, from 10:00 a.m. to noon. The purpose of the public hearing will be to obtain input on the proposed amendments to 6.29.5 NMAC (English Language Development).

Interested individuals may provide comments at the public hearing and/or submit written comments to Dr. Icela Pelayo, Director, Bilingual Multicultural Education Bureau, via email at [rule.feedback@state.nm.us](mailto:rule.feedback@state.nm.us), fax (505) 827-6725, or directed to Dr. Icela Pelayo, Director, Bilingual Multicultural Education Bureau, Public Education Department, Jerry Apodaca Public Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501. Written comments must be received no later than 5:00 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed on the Department’s website (<http://ped.state.nm.us/>) under the “Public Notices” link, or obtained from Dr. Sandra Rodriguez, Bilingual Multicultural Education Specialist, by calling (505) 827-6505.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Dr. Sandra Rodriguez at (505) 827-6505 as soon as possible. The NMPED requires at least ten (10) days advance notice to provide requested special accommodations.

**TITLE 6            PRIMARY AND SECONDARY EDUCATION**  
**CHAPTER 29       STANDARDS FOR EXCELLENCE**  
**PART 5             ENGLISH LANGUAGE DEVELOPMENT**

**6.29.5.1            ISSUING AGENCY:** Public Education Department, hereinafter the department.  
[6.29.5.1 NMAC - N, 08-31-2009]

**6.29.5.2            SCOPE:** All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.  
[6.29.5.2 NMAC - N, 08-31-2009]

**6.29.5.3            STATUTORY AUTHORITY:**

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

B.            Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.  
[6.29.5.3 NMAC - N, 08-31-2009]

**6.29.5.4            DURATION:** Permanent.  
[6.29.5.4 NMAC - N, 08-31-2009]

**6.29.5.5            EFFECTIVE DATE:** August 31, 2009, unless a later date is cited at the end of a section.  
[6.29.5.5 NMAC - N, 08-31-2009]

**6.29.5.6            OBJECTIVE:** ~~[The New Mexico content standards for English language development (NMELD)]~~ The department-approved English language development standards [provides] provide companion piece to the New Mexico content standards for English language arts (6.29.4 NMAC). ~~[This document]~~ The approved standards shall guide second-language instruction for PreK-12 English language learner students. The English language learner population falls into three basic categories: students whose primary or home language (L1) is other than English including recent immigrants; students from heritage language groups needing enrichment and further development of academic English, some of whom maintain degrees of fluency in their heritage language; and any other students needing enrichment and further development of academic English. Because instruction must address the appropriate proficiency level of the individual student, which may vary greatly for any age, some consideration must be made for the student's maturity level.  
[6.29.5.6 NMAC - N, 08-31-2009; A, xx-xx-2014]

**6.29.5.7            DEFINITIONS:**

A.            "Academic content standards" means statements that define the knowledge and skills students need to know and be able to demonstrate as proof of competency in the core content areas associated with schooling.

B.            "Academic language" means the language used in academic content in formal schooling contexts, including specialized or technical language and discourse related to each content area.

C.            "Discourse" means extended, connected language that may include explanations, descriptions and propositions.

D.            "English language learners" (ELL) 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.

E.            "Heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin.

F.            "Language domains" means the four main subdivisions of language: listening, speaking, reading and writing.

G.            "Levels of English language proficiency" means the arbitrary division of the second language acquisition continuum into stages of language development.

H.            "Listening" means the ability to process, understand, interpret and evaluate spoken language in a variety of situations.

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- I. “Reading” means the ability to process, understand, interpret and evaluate written language, symbols and text with understanding and fluency.
  - J. “Speaking” means oral communication used in a variety of situations for a variety of purposes and audiences.
  - K. “Writing” means written communication used in a variety of forms for a variety of purposes and audiences.
- [6.29.5.7 NMAC - N, 08-31-2009]

**6.29.5.8 ENGLISH LANGUAGE DEVELOPMENT STANDARDS GRADE SPANS:** ~~[The New Mexico English language development standards are organized into five grade spans: PreK-K, 1-2, 3-5, 6-8, and 9-12.]~~ The English language development standards established by the department are organized in grade levels as follows: PreK-K, 1, 2, 3, 4, 5, 6, 7, 8, 9-10 and 11-12.  
[6.29.5.8 NMAC - N, 08-31-2009; A, xx-xx-2014]

**6.29.5.9 ENGLISH LANGUAGE DEVELOPMENT STANDARDS PROFICIENCY LEVELS AND LANGUAGE DOMAINS:**

- A. The English language development standards have five general levels of English language proficiency: “entering” (level 1), “emerging” (level 2), “developing” (level 3), “expanding” (level 4), “bridging” (level 5)."
  - B. Reading, writing, listening and speaking skills are addressed at each proficiency level.  
~~[Comprehension skills are assessed through the analysis of student performance on reading and listening assessments.]~~
- [6.29.5.9 NMAC - N, 08-31-2009; A, xx-xx-2014]

**6.29.5.10 CONTENT STANDARDS FOR ENGLISH LANGUAGE DEVELOPMENT, Grades PreK-12:** The New Mexico English language development content standards distinguish five general standards: “Social and instructional language,” “The language of language arts,” “the language of mathematics,” “the language of science,” and “the language of social studies.” Reading, writing, listening and speaking skills are addressed in each standard. ~~[Comprehension skills are assessed through the analysis of student performance on reading and listening assessments.]~~

- A. English language proficiency standard 1: PreK- 12. Social and instructional language: English language learners communicate for social and instructional purposes within the school setting.
  - (1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.
  - (2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.
  - (3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.
  - (4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.
- B. English language proficiency standard 2: PreK-12. The language of language arts: English language learners communicate information, ideas and concepts necessary for academic success in the content area of language arts.
  - (1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.
  - (2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.
  - (3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.
  - (4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.
- C. English language proficiency standard 3: PreK-12. The language of mathematics: English language learners communicate information, ideas and concepts necessary for academic success in the content area of mathematics.
  - (1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.
  - (2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

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(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

D. English language proficiency standard 4: PreK-12. The language of science: English language learners communicate information, ideas and concepts necessary for academic success in the content area of science.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

E. English language proficiency standard 5: PreK-12. The language of social studies: English language learners communicate information, ideas and concepts necessary for academic success in the content area of social studies.

(1) Listening: Process, understand, interpret and evaluate spoken language in a variety of situations.

(2) Speaking: Engage in oral communication in a variety of situations for a variety of purposes and audiences.

(3) Reading: Process, understand, interpret and evaluate written language, symbols, and text with understanding and fluency.

(4) Writing: Engage in written communication in a variety of situations for a variety of purposes and audiences.

[6.29.5.10 NMAC - N, 08-31-2009; A, xx-xx-2014]

**6.29.5.11 IDENTIFICATION OF ENGLISH LANGUAGE LEARNER: A home language survey shall be completed for all new students initially enrolling in a public school.**

A. Initial identification of students' home/heritage language (s) or language influence and parent notification must occur not later than 30 days after the beginning of the school year.

B. The home language survey shall be kept in each student's cumulative file.

C. Students for whom the home language survey indicates a language or language influence other than English shall be screened with the department- approved English language proficiency screening assessment.

D. Students receiving scores below the composite score established by the department to be used to determine English language proficiency will be classified as English language learners and are eligible to receive English language development services.

E. Students classified as English language learners must be assessed annually with the department- approved language development assessment.

[6.29.5.11 NMAC – N, xx-xx-2014]

**6.29.5.12 EXIT CRITERIA FOR ENGLISH LANGUAGE LEARNER STATUS:**

A. English language learners attaining a composite score as determined by the department on the department-approved English language proficiency assessment will deemed English language proficient.

B. Students attaining the composite score identified in subsection A must be monitored for two subsequent school years by the school district.

[6.29.5.12 NMAC – N, xx-xx-2014]

**HISTORY OF 6.29.5 NMAC:**

**Pre-NMAC HISTORY:** The material in this part is derived from that previously filed with the State Records Center:

SDE 74-17, (Certificate No. 74-17), Minimum Educational Standards for New Mexico Schools, filed April 16, 1975.

SDE 76-9, (Certificate No. 76-9), Minimum Education Standards for New Mexico Schools, filed July 7, 1976.

SDE 78-9, Minimum Education Standards for New Mexico Schools, filed August 17, 1978.

SBE 80-4, Educational Standards for New Mexico Schools, filed September 10, 1980.

SBE 81-4, Educational Standards for New Mexico Schools, filed July 27, 1981.



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SBE 82-4, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed November 16, 1982.

SBE Regulation No. 83-1, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed June 24, 1983.

SBE Regulation 84-7, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed August 27, 1984.

SBE Regulation 85-4, Educational Standards for New Mexico Schools, Basic, Special Education, and Vocational Programs, filed October 21, 1985.

SBE Regulation No. 86-7, Educational Standards for New Mexico Schools, filed September 2, 1986.

SBE Regulation No. 87-8, Educational Standards for New Mexico Schools, filed February 2, 1988.

SBE Regulation No. 88-9, Educational Standards for New Mexico Schools, filed October 28, 1988.

SBE Regulation No. 89-8, Educational Standards for New Mexico Schools, filed November 22, 1989.

SBE Regulation No. 90-2, Educational Standards for New Mexico Schools, filed September 7, 1990.

SBE Regulation No. 92-1, Standards for Excellence, filed January 3, 1992.

**History of Repealed Material:**

6.30.2 NMAC, Standards for Excellence, filed November 2, 2000 - Repealed effective August 15, 2009.

**NMAC History:**

6 NMAC 3.2, Standards for Excellence, filed October 17, 1996.

6.30.2 NMAC, Standards for Excellence, November 2, 2000, replaced by 6.29.1 NMAC, General Provisions; 6.29.2 NMAC, Arts Education; 6.29.3 NMAC, Career and Technical Education; 6.29.4 NMAC, English Language Arts; 6.29.5 NMAC, English Language Development; 6.29.6 NMAC, Health Education; 6.29.7 NMAC, Mathematics; 6.29.8 NMAC, Modern, Classical and Native Languages; 6.29.9 NMAC, Physical Education; 6.29.10 NMAC, Science; 6.29.11 NMAC, Social Studies.

This is an amendment to 6.30.9 NMAC, Sections 6, 7, 8, 9, 10 and 11, effective June 13, 2014.

**6.30.9.6 OBJECTIVE:** This rule seeks to implement a state funded pre-kindergarten program through the public education department and addresses collaboration with the children, youth and families department, program requirements, pre-kindergarten eligibility, requests for ~~[proposals and contracts for services]~~ applications, and administration of funds.

[6.30.9.6 NMAC - N, 1/31/2007; A, 6/13/2014]

**6.30.9.7 DEFINITIONS:**

A. "Community" means an area defined by school district boundaries, tribal boundaries or joint boundaries of a school district and tribe or any combination of school districts and tribes.

B. "CYFD" means the children, youth and families department.

C. "Department" means the public education department or PED.

D. ~~["Early childhood development specialist" means the adult responsible for working directly with four year old children in implementing pre-kindergarten services.]~~ "Early childhood licensed teacher" means the adult responsible for working directly with four-year-old children in implementing pre-kindergarten services and holding valid licensure issued by the PED in one or more of the following:

(1) licensure in early childhood education from birth through grade 3

(2) licensure in early childhood education from birth through pre-K;

(3) early childhood education pre-K through grade 3.

E. "Eligible provider" means a person licensed by the children, youth and families department that provides early childhood developmental readiness services or preschool special education, or is a public school, tribal program or head start program.

F. "Pre-kindergarten or pre-k" mean a voluntary developmental readiness program for children who have attained their fourth birthday prior to September 1.

G. "Pre-k program" means a voluntary program for the provision of pre-k services throughout the state that addresses the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity.

H. ~~["Request for proposal or RFP" means all documents, including those attached or incorporated by reference, used for soliciting proposals pursuant to the Procurement Code (see 13.1.1 through 13.1.199 NMSA 1978)]~~ "Request for application or RFA" means all documents, including those attached or incorporated by reference, used for soliciting applications for pre-k programs.

I. "Tribe" means an Indian nation, tribe or pueblo located in New Mexico.

[6.30.9.7 NMAC - N, 1/31/2007; A, 6/13/2014]

**6.30.9.8 COLLABORATION WITH CYFD:** The PED shall collaborate with the CYFD in the development and implementation of a voluntary program for the provision of pre-kindergarten services throughout the state. Such collaboration shall include but not be limited to:

A. development and issuance of the ~~[RFP]~~ RFA;

B. training and technical assistance provided to pre-k program ~~[supervisors]~~ administrators and program staff;

C. collection of program data that is not identifiable to an individual student;

D. reporting to the governor and legislative committees regarding implementation and progress;

E. contacting the CYFD prior to recommending any changes to the Pre-Kindergarten Act or this rule.

[6.30.9.8 NMAC - N, 1/31/2007; A, 6/13/2014]

**6.30.9.9 REQUIREMENTS:** The CYFD and PED shall cooperate in the development and implementation of a voluntary program for the provision of pre-k services throughout the state. The pre-k program shall address the total developmental needs of preschool children, including physical, cognitive, social and emotional needs, and shall include health care, nutrition, safety and multicultural sensitivity. In order to implement the pre-k program, the PED shall:

A. award program funds ~~[through an RFP process]~~ to public school districts and schools, including charter schools;

B. provide technical assistance to providers to ensure effectiveness;

C. ensure that funds shall not be used for any religious, sectarian or denominational purposes, instruction or material;

D. ensure communities being served are meeting eligibility requirements based on the funding criteria of the Pre-Kindergarten Act;

E. monitor programs for compliance with the pre-k law, rule and ~~[contract]~~ agreement to include scheduled and unscheduled visits and any necessary corrective actions; and

F. determine public school requirements for ~~[licensure or teaching endorsements for pre-k program early childhood development specialists and staff]~~ teacher and educational assistant licensure for pre-k programs.  
[6.30.9.9 NMAC - N, 1/31/2007; A, 6/13/2014]

**6.30.9.10 PRE-KINDERGARTEN ELIGIBILITY:** Children who turn four years old before September 1 and are not age eligible for kindergarten are eligible to participate in pre-k programs. Pre-kindergarten services may be provided by public schools on a per-child reimbursement rate in communities with public elementary schools that are designated as Title I schools.

[6.30.9.10 NMAC - N, 1/31/2007; A, 6/13/2014]

**6.30.9.11 REQUESTS FOR ~~[PROPOSALS AND CONTRACTS]~~ APPLICATIONS AND AGREEMENTS FOR PRE-K SERVICES:** The PED shall:

A. issue ~~[an RFP]~~ a RFA for pre-k services to serve eligible four-year-old children through public school programs and charter schools;

B. ensure that the proposal contains a detailed description of the services that are to be provided, including:

- (1) how those services shall meet pre-k program standards;
- (2) the number of four-year-old children that shall be served;
- (3) a description of the facilities along with site and floor plans;
- (4) additional revenue sources and funding amounts available for the pre-k program;
- (5) a description of the qualifications and experience of the early childhood ~~[development specialists]~~ licensed teacher for each site;
- (6) the plan for communicating with and involving parents in the program;
- (7) how program services meet the continuum of services to children; and
- (8) any other relevant information requested by the department.

C. for funding purposes, ensure that at least 66% of the children served live within the attendance zone of a Title I elementary school.

[6.30.9.11 NMAC - N, 1/31/2007; A, 6/13/2014]

This is an amendment to 6.30.5 NMAC, Sections 7, 10, 12, 14 and 15, effective June 13, 2014.

**6.30.5.7 DEFINITIONS:**

- A. “Scientifically-based reading research” is the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties.
- B. “Developmentally appropriate practices” result from the process of professionals making decisions about the well-being and education of children based on at least three important kinds of information:
- (1) child development and learning;
  - (2) strengths, interests, and needs of each individual child; and
  - (3) knowledge of the social and cultural contexts in which children live.
- C. “MEM” ~~[as referenced in 6.6.104.8 A.]~~ means “membership,” which is total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days. (Subsection B of Section 22-8-2 NMSA 1978).
- D. “Department” means the public education department.
- E. “Kindergarten entry assessment” means an assessment conducted within the first 30 calendar days of the school year.
- F. “Progress monitoring” means assessments conducted between screenings on students who are receiving targeted and intensive interventions to determine whether the student is benefitting from interventions.
- G. “Screening” means an assessment conducted three to four times a year for all students to assess specific skills and to identify those at risk academically.
- [6.30.5.7 NMAC - N, 11-14-2000; A, 06-13-2014]

**6.30.5.10 LENGTH OF SCHOOL DAY-MINIMUM:**

- ~~A. — For the 2009-2010 school year, students in full-day kindergarten programs must be in school-directed programs, exclusive of lunch, for a minimum of five and one-half hours per day or nine hundred hours per year (Section 22-2-8.1 NMSA 1978).~~
- ~~B. — For the 2010-2011 and subsequent school years, students in full-day kindergarten programs must be in school-directed programs, exclusive of lunch, for a minimum of five and one-half hours per for a minimum of 180 school days or for a minimum of 150 school days for districts on alternative schedules (Section 22-2-8.1 NMSA 1978 and 6.10.5 NMAC).]~~ Students in full-day kindergarten programs must comply with the minimum length of school day and school year as required in Section 22-2-8.1 NMSA 1978 and 6.10.5 NMAC.
- [6.30.5.10 NMAC - N, 11-14-2000; A, 11-13-2009; A, 06-13-2014]

**6.30.5.12 PROGRAM ELEMENT: ASSESSMENT**

- A. ~~[Teachers or instructional assistants under the guidance of teachers must administer developmentally appropriate assessments reflecting the whole child to participating students.]~~ Beginning with the 2016-2017 school year, all students in kindergarten must be administered the New Mexico kindergarten entry assessment provided by the department. Kindergarten entry assessment data must be reported through the department’s data collection reporting system no later than October 1 of each school year.
- B. ~~[Teachers or instructional assistants under the guidance of teachers must administer pretests by September 30 and posttests by April 30 of each school year to assess student performance.]~~ All students in kindergarten must be administered a department-approved screening assessment at least three times per school year to determine if students are making adequate progress toward grade level reading proficiency by the end of the school year. Screening assessment data must be reported to the department’s data collection and reporting system within the first 30 instructional days of the school year. Any student identified with a reading deficiency based on the screening assessment measure must receive more frequent progress monitoring to determine if the student is on target to meet grade level expectations by the end of the school year.
- C. Public schools districts having both half-day and full-day state-funded kindergarten programs will assess performance of all kindergarten students.
- ~~[D. — Public school districts must submit student test data to the public education department by May 30 of each school year.]~~
- [6.30.5.12 NMAC - N, 11-14-2000; A, 11-13-2009; A, 06-13-2014]

**6.30.5.14 [PROGRAM APPROVAL]**

Adopted Rule, Pre-Kindergarten, 6/13/14  
New Mexico Register/Volume XXV, Number 11/June 13, 2014

~~A. School districts seeking initial approval of full day kindergarten for a new school shall request public education department approval using the organization of grade levels and establishing/closing school waiver request form described in Subsection F of 6.29.1.9 NMAC.~~

~~B. The public education department will review all such requests for initial approval through the procedures set forth in Subsection F of 6.29.1.9 NMAC.] [RESERVED]~~  
[6.30.5.14 NMAC - N, 11-14-2000; A, 11-13-2009; Repealed, 06-13-2014]

**6.30.5.15 [END OF YEAR EVALUATION]**

~~A. Schools must provide verification to the state department of education that the kindergarten/literacy readiness program has:~~

~~(1) served the children identified as most in need; and~~

~~(2) implemented a literacy based full day kindergarten based on the program elements described above in Subsection A of 6.30.5.11.~~

~~B. Upon development and implementation of a statewide full day kindergarten test data system, the public education department shall compile student test data submitted by public school districts and make an annual report to the state board of education, legislative education study committee, and the legislature.] [RESERVED]~~  
[6.30.5.15 NMAC - N, 11-14-2000; A, 11-13-2009; Repealed, 06-13-2014]