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September 24, 2015

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Kevin Force

**RE: ADMINISTRATIVE RULEMAKING**

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**Adopted Rules**

- **6.30.5, Optional Full-Day Kindergarten Program**
- **6.32.3, Seal of Bilingualism-Biliteracy on New Mexico Diploma of Excellence**

**6.30.5, Optional Full-Day Kindergarten Program**

The August 28, 2015 issue of the *New Mexico Register* contained the final adoption of amendments to the rules governing optional full-day kindergarten. The Notice of Proposed Rulemaking was published in the *Register* on May 29, 2015 and, soliciting comment on the proposed rules, noted that the Public Education Department (PED) was to have conducted a public hearing on June 29, 2015 in Santa Fe.

This adopted rule only addressed one simple amendment: PED changed the defined term “screening” to the new term “interim assessment,” both of which mean, “[A]n assessment conducted three to four times a year for all students to assess specific skills and to identify those at risk academically.” The rulemaking strikes the term “screening” in favor of “interim assessment.” (See **Attachment 1, Adopted Rule, Optional Full-Day Kindergarten 9/1/15.**)

### **6.32.3, Seal of Bilingualism-Biliteracy on New Mexico Diploma of Excellence**

The September 15, 2015 issue of the *New Mexico Register* contained the final adoption of the proposed new rule for the administration of the Bilingualism-Biliteracy Seal on New Mexico Diplomas of Excellence. The Notice of Proposed Rulemaking was published in the *Register* on June 16, 2015 and, soliciting comment on the proposed rule, noted that PED was to have conducted a public hearing on July 20, 2015 in Mabry Hall of the Jerry Apodaca Education Building in Santa Fe. (See **Attachment 2, Adopted Rule, Seal of Bilingualism 9/15/15.**)

The rule cites as statutory authority:

- Section 22-1-9.1 NMSA 1978, “New Mexico diploma of excellence; state seal for bilingual and biliterate graduates,” which was enacted in the 2014 Regular Legislative Session, as Laws 2014, Ch. 46;
- Section 22-2-1 NMSA 1978, “Secretary and department; general powers”; and
- Section 9-24-8(D) NMSA 1978, “Secretary; duties and general powers,” specifically regarding the secretary’s rulemaking authority.

The rule’s objective is to establish criteria for students to earn a state seal of bilingualism on a New Mexico diploma of excellence, certifying that the recipient is proficient in a world language other than English for meaningful use in college, career, or response to local community need.

This rule includes several new definitions, including:

- “Academic language,” which means the language used in academic content in formal schooling contexts, including specialized or technical language and discourse related to each content area;
- “Expressive language,” which means using language to express information, ideas or concepts in either oral, signed, or written communication;
- “Proficiency,” which means the ability to express oneself in a language with sufficient structural accuracy and vocabulary to participate effectively in most social and academic situations; and
- “Receptive language,” which means processing language to comprehend information, ideas, or concepts in ether oral, signed, or written communication.

The proposed rule also includes certain proficiency requirements that must be established in order to earn the bilingualism seal, including completion of graduation requirements and demonstration of proficiency in a language other than English, by:

- certification by an individual tribe that a student is proficient in the tribal language;
- units of credit and an assessment;
- units of credit and an alternative process portfolio; or
- an assessment and an alternative process portfolio.

Finally, the rule proposes to require that the graduate’s high school transcript indicate that the graduating student earned the bilingualism seal on the New Mexico diploma of excellence.

It should be noted that the adopted includes several differences from the rule as proposed. Most notably, the definition for the term “world language,” which in the proposed rule was “used to distinguish English from languages other than English,” was not included in the adopted rule, despite the term still being employed several times in the adopted rule. Other differences are minor changes that do not change the rule substantively from the proposed version.

**Adopted Rule,  
Optional Full-Day Kindergarten, 9/1/15**

**ATTACHMENT 1**

**New Mexico Register / Volume XXVI, Issue 16 / August 28, 2015**

This is an amendment to 6.30.5 NMAC, Sections 7 and 12, effective August 28, 2015.

**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” 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~~ 10 consecutive school days. (Subsection B of Section 22-8-2 NMSA 1978).
- D.** “Department” means the public education department.
- E.** “Interim assessment” means an assessment conducted three to four times a year for all students to assess specific skills and to identify those at risk academically.
- ~~**E.**~~ **E.** “Kindergarten entry assessment” means an assessment conducted within the first 30 ~~calendar~~ instructional days of the school year.
- ~~**F.**~~ **G.** “Progress monitoring” means assessments conducted between ~~screenings~~ interim assessments 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; A, 08-28-2015]

**6.30.5.12 PROGRAM ELEMENT: ASSESSMENT:**

- A.** 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 ~~4~~ 15 of each school year.
- B.** All students in kindergarten must be administered a department-approved ~~screening~~ interim 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~~ Interim 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~~ interim 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.

[6.30.5.12 NMAC - N, 11-14-2000; A, 11-13-2009; A, 06-13-2014; A, 08-28-2015]

**Adopted Rule,  
Seal of Bilingualism, 9/15/15**

**ATTACHMENT 2**

**New Mexico Register / Volume XXVI, Issue 17 / September 15, 2015**

**TITLE 6            PRIMARY AND SECONDARY EDUCATION  
CHAPTER 32       EDUCATIONAL STANDARDS - BILINGUAL MULTICULTURAL EDUCATION  
PART 3            SEAL OF BILINGUALISM-BILITERACY ON NEW MEXICO DIPLOMA OF  
                         EXCELLENCE**

**6.32.3.1            ISSUING AGENCY:** Public Education Department (PED)

[6.32.3.1 NMAC - N, 09-15-15]

**6.32.3.2            SCOPE:** Local school boards and governing bodies of state-chartered schools.

[6.32.3.2 NMAC - N, 09-15-15]

**6.32.3.3            STATUTORY AUTHORITY:** This regulation is adopted pursuant to Sections 22-1-9.1, 22-2-1 and 9-24-8(D) NMSA 1978.

[6.32.3.3 NMAC - N, 09-15-15]

**6.32.3.4            DURATION:** Permanent.

[6.32.3.4 NMAC - N, 09-15-15]

**6.32.3.5            EFFECTIVE DATE:** September 15, 2015, unless a later date is cited at the end of a section.

[6.32.3.5 NMAC - N, 09-15-15]

**6.32.3.6            OBJECTIVE:** This rule establishes the criteria for students to earn a state seal of bilingualism-biliteracy on a New Mexico diploma of excellence. The state seal of bilingualism-biliteracy certifies that the recipient is proficient for meaningful use in college, a career or to meet a local community language need in a world language other than English.

[6.32.3.6 NMAC - N, 09-15-15]

**6.32.3.7            DEFINITIONS:**

**A.** "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.

**B.** "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.

**C.** "Expressive language" means using language to express information, ideas or concepts in either oral, signed or written communication.

**D.** "Language other than English" is any language other than English, including world languages. **E.** "Proficiency" means able to express oneself in a language with sufficient structural accuracy and vocabulary to participate effectively in most social and academic situations.

**F.** "Receptive language" means processing language to comprehend information, ideas or concepts in either oral, signed or written communication.

[6.32.3.7 NMAC - N, 09-15-15]

**6.32.3.8            PROFICIENCY REQUIREMENTS:**

**A.** To earn the bilingualism-biliteracy seal on the diploma of excellence, students must meet the graduation requirements as specified in Subsection J of 6.29.1.9 NMAC and demonstrate proficiency in a language other than English, through one of the following methods:

- (1) certification by an individual tribe;
- (2) units of credit and an assessment;
- (3) units of credit and an alternative process portfolio; or
- (4) an assessment and an alternative process portfolio.

**B.** Certification by an individual tribe. A tribe may certify that a student is proficient in the tribal language. Tribes will develop the methods and processes for determining proficiency in their respective tribal languages.

**C.** Units of credit and assessments option. A student may demonstrate proficiency by meeting both the units of credit and assessment requirements.

(1) The student must receive a grade of C or higher in four units of credit in a language other than English. All four units of credit must be in the same language other than English and shall consist of language courses, language arts courses, content area courses or any combination thereof. For the purposes of meeting the requirements of this option, a student may not use units of credit in English language arts or English as a second language for English language learners.

**SOURCE: New Mexico Register**

**Adopted Rule,  
Seal of Bilingualism, 9/15/15**

- (2) The student must meet the assessment of proficiency requirement as follows:
- (a) the student must attain a score of three or higher on an advanced placement examination for a language other than English; or
  - (b) the student must attain a score of four or higher on an international baccalaureate examination for a higher-level language other than English course; or
  - (c) the student must score proficient on a national assessment of language proficiency in a language other than English; or
  - (d) the student may demonstrate proficiency by passing a New Mexico assessment in a world language other than English.

**D.** Units of credit and alternative process portfolio option. A student may demonstrate proficiency by meeting both the units of credit and alternative process portfolio option requirements.

(1) The student must receive a grade of C or higher in four units of credit in a language other than English. All four units of credit must be in the same language other than English and shall consist of language courses, language arts courses, content area courses or any combination thereof. For the purposes of meeting the requirements of this option, units of credit in English language arts or English as a second language for English language learners cannot be used.

(2) The student must create a portfolio comprised of the following: a presentation, an interview with a panel composed of three or more members of the district's education staff and community who are proficient in the target language other than English, and a student-produced work sample, written when appropriate. Districts shall ensure that the alternative portfolio option includes both the receptive and expressive aspects of the language other than English.

**E.** Assessment and alternative process portfolio option. A student may demonstrate proficiency by meeting both the assessment and alternative process portfolio option requirements.

- (1) The student must meet the assessment of proficiency requirement as follows:
- (a) the student must attain a score of three or higher on an advanced placement examination for a language other than English; or
  - (b) the student must attain a score of four or higher on an international baccalaureate examination for a higher-level language other than English course; or
  - (c) the student must score proficient on a national assessment of language proficiency in a language other than English; or
  - (d) the student may demonstrate proficiency by passing a New Mexico assessment in a world language other than English.

(2) The student must create a portfolio comprised of the following: a presentation, an interview with a panel composed of three or more members of the district's education staff and community who are proficient in the target language other than English, and a student-produced work sample, written when appropriate. Districts shall ensure that the alternative portfolio option includes both the receptive and expressive aspects of the language other than English.

[6.32.3.8 NMAC - N, 09-15-15]

**6.32.3.9 TRANSCRIPT:** The graduate's high school transcript must also indicate that the graduate received the state seal on the graduate's New Mexico diploma of excellence.

[6.32.3.9 NMAC - N, 09-15-15]

**HISTORY OF 6.32.3 NMAC:** [Reserved]