**PROPOSED REPEAL AND REPLACE**

**INTEGRATED**

**TITLE 6 PRIMARY AND SECONDARY EDUCATION**

**CHAPTER 10 PUBLIC SCHOOL ADMINISTRATION - PROCEDURAL REQUIREMENTS**

**Part 7 STANDARDIZED TESTING PROCEDURES AND REQUIREMENTS**

**6.10.7.1 ISSUING AGENCY:** Public Education Department, hereinafter the department.

[6.10.7.1 NMAC – Rp, 6.10.7.1 NMAC, 10/16/2018]

**6.10.7.2 SCOPE:** All school districts, charter schools, state educational institutions and bureau of Indian education schools that administer standardized tests, as well as their employees or volunteers who have access to those standardized tests.

[6.10.7.2 NMAC - Rp, 6.10.7.2 NMAC, 10/16/2018]

**6.10.7.3 STATUTORY AUTHORITY:** Sections 22-2-1, 22-2-2, and 22-2C-4, NMSA 1978.

[6.10.7.3 NMAC - Rp, 6.10.7.3 NMAC, 10/16/2018]

**6.10.7.4 DURATION:** Permanent

[6.10.7.4 NMAC - Rp, 6.10.7.4 NMAC, 10/16/2018]

**6.10.7.5 EFFECTIVE DATE:** October 16, 2018, unless a later date is cited at the end of a section.

[6.10.7.5 NMAC - Rp, 6.10.7.5 NMAC, 10/16/2018]

**6.10.7.6 OBJECTIVE:** This rule establishes the roles, responsibilities, and procedures required for the preparation, storing, handling, distribution, security, and administration of standardized tests.

[6.10.7.6 NMAC - Rp, 6.10.7.6 NMAC, 10/16/2018]

**6.10.7.7 DEFINITIONS:**

**A. "District or charter test coordinator"** or **“DTC”** means the licensed school instructor, counselor, student success advisor, or administrator in a school district, charter school, state educational institution, or bureau of Indian education school designated by the district superintendent, charter administrator, or governing authority of a state educational institution or BIE school with the overall responsibility for:

**(1)** handling, storing, and distributing standardized tests;

**(2)** recording standardized test distribution by booklet or answer sheet number;

**(3)** collecting and administering standardized tests;

**(4)** training school personnel in test security matters; and

**(5)** followingproper administration procedures.

**B.** **“Instructional support provider”** means every licensed educational diagnostician, interpreter for the deaf, rehabilitation counselor, school counselor, school psychologist, school social worker, or speech language pathologist.

**C. "New Mexico statewide assessment program" or “NMSAP”** means the assessment program that is approved by the department and designates the required standardized tests to be administered in New Mexico public school districts, charter schools, state educational institutions, and bureau of Indian education schools.

**D.** **“Proctor”** means a designated, trained person who assists the test administrator during the time of testing.

**E. “School test coordinator"** means the licensed school instructor, counselor, student success advisor, administrator, or instructional support provider responsible for:

**(1)** handling, storing, and distributing standardized tests for administration to test examiners;

**(2)** recording standardized test distribution by booklet or answer sheet number;

**(3)** collecting and administering standardized tests;

**(4)** training school personnel in test security matters; and

**(5)** following proper administration procedures within the school site.

**F.** **"Standardized test"** means any nationally norm-referenced assessment, state or national performance assessment, or state or national criterion-referenced assessment.

**G. "Standardized test material"** means a standardized test or any related items for paper-based or online testing such as examiner guides, preparation materials, student test tickets, test security guides, answer sheets or booklets, and any student notes, answers, or essays generated during the administration of a standardized test.

**H. "Test administrator"** means the licensed school instructor, counselor, student success advisor, administrator, or instructional support provider in a school district, charter school, state educational institution, or bureau of Indian education school with the responsibility of administering tests under the guidelines outlined in 6.10.7 NMAC.

**I.** **“Test administration window”** means a specified period of time, as designated by the department assessment bureau, during which statewide tests shall be administered.

**J.** **"Testing irregularity"** means any circumstance within or beyond the control of a school district or charter that raises doubts with the department, district, or charter about the propriety of standardized testing procedures, preparation materials, standardized testing administration, standardized testing security, student scores attained from standardized testing, or educators’ or individuals’ conduct observed during standardized test administration.

[6.10.7.7 NMAC - Rp, 6.10.7.7 NMAC, 10/16/2018]

**6.10.7.8 RESPONSIBILITIES OF SUPERINTENDENTS AND CHARTER ADMINISTRATORS:** It shall be the responsibility of each superintendent or charter administrator to ensure that standardized tests are handled, stored, prepared for, and administered in accordance with 6.10.7 NMAC and test manuals provided by the department and testing vendors.

**A.** Superintendents and state charter administrators shall designate one DTC and may designate a secondary test coordinator for the purpose of delegating the duties necessary to comply with 6.10.7 NMAC.

**B.** Test administration at district charters shall be the responsibility of the DTC designated by the district superintendent. District charters may submit written requests to designate their own test coordinator. Requests shall be submitted to and approved by the superintendent at the start of the school year. Failure to meet any standardized test administration policies or practices will result in removalof the district charter test coordinator without appeal. Upon such determination, all test coordination responsibilities shall defer back to the authorizing district’s test coordinator.

**C.** The designation of district, charter, and secondary test coordinators shall:

**(1)** be in writing; and

**(2)** identify the name, title, and contact information of the person(s) so delegated.

**D.** The superintendent or charter administrator shall complete and return the verification of test security, staff training, and accommodations requirements form to the department within ten business days after the close of all NMSAP testing at the end of each semester.

[6.10.7.8 NMAC - Rp, 6.10.7.8 NMAC, 10/16/2018]

**6.10.7.9 RESPONSIBILITIES OF DISTRICT OR CHARTER TEST COORDINATORS:**

**A.** The DTC shall attend all trainings indicated as mandatory by the department in their entirety. DTC attendance at mandatory trainings shall be subject to verification.

**B.** Once trained, DTCs shall provide training for all secondary test coordinators, school test coordinators, and all personnel involved in test administration, preparation, and security.

**C.** DTCs shall provide principals the same training as test administrators as well as additional training in the storing, handling, destruction, and administration of standardized test material. Assistant principals shall, at a minimum, be knowledgeable of the requirements for the administration of standardized tests set forth in Subsection C of 6.10.7.12 NMAC.

**D.** The DTC shall inform all teachers, educational assistants, substitutes, volunteers, licensed and unlicensed office staff, and anyone else who is likely to come into contact with standardized testing material of the need to maintain strict standardized test security by:

**(1)** developing and disseminating handouts to these individuals;

**(2)** providing training to these individuals; and

**(3)** posting conspicuous signs near school copy machines prior to and during a standardized test that warn of department rules prohibiting the copying of any portion of a standardized test, including student responses and any other standardized testing material.

**E.** The DTC shall provide training participants with copies of the following:

**(1)** 6.10.7 NMAC and any other relevant statute or regulation, if necessary;

**(2)** written district or charter guidance documents;

**(3)** testing schedules; and

**(4)** test administration manuals.

**F.** The department shall inform DTCs of the test administration windows in writing at least annually. DTCs shall ensure that all required training, including online testing and test security training, is administered prior to the fall and spring test administration windows.

**G.** In the absence of a written district or charter policy that includes the procedures outlined in 6.10.7.12 NMAC, the DTC shall develop checklists and written procedures for internal use to ensure compliance with 6.10.7 NMAC.

**H.** The DTC shall:

**(1)** ensure all procedures for standardized testing comply with 6.10.7.12 NMAC; and

**(2)** carry out infrastructure trials and online testing preparations.

[6.10.7.9 NMAC - Rp, 6.10.7.9 NMAC, 10/16/2018]

**6.10.7.10 RESPONSIBILITIES OF SCHOOL TEST COORDINATORS:**

**A.** The school test coordinator(s) shall be trained by the DTC and shall provide training for all school personnel involved in test administration, preparation, and security, unless the DTC provides such training.

**B.** The school test coordinator(s) shall use the written district or charter policy or checklists and written procedures developed by the DTC to implement the procedures outlined in 6.10.7.13 NMAC.

[6.10.7.10 NMAC - Rp, 6.10.7.10 NMAC, 10/16/2018]

**6.10.7.11 RESPONSIBILITIES OF TEST ADMINISTRATORS:**

**A.** Test administrators shall be trained by the school test coordinator or the DTC.

**B.** Trainings shall inform test administrators of their duty to promptly report testing irregularities as soon as they are aware to the DTC.

**C.** Test administrators shall:

**(1)** review the standardized test administrator’s manual so that administration procedures are understood;

**(2)** use test proctors in the hall to gather missing supplies or deal with medical situations;

**(3)** administer the standardized test according to the directions and specifications in the standardized test administrator’s manual;

**(4)** only administer the standardized test during the designated test administration window;

**(5)** return the standardized tests to the school, district, or charter test coordinator after testing each day during the test administration window for secure overnight storage; and

**(6)** take prompt, corrective action if a student is observed engaging in any prohibited conduct during a standardized test.

[6.10.7.11 NMAC - Rp, 6.10.7.11 NMAC, 10/16/2018]

**6.10.7.12 PROCEDURES FOR STANDARDIZED TESTING:**

**A. Storing and handling of standardized test material.**

**(1)** Standardized tests shall be counted, inventoried, and stored in a secure, locked location with limited access.

**(2)** Space permitting, standardized test material shall be stored in sealed containers in a secure area.

**(3)** Standardized test materials, as directed by the department, shall be disposed of by either shredding or returning such materials to the test vendor.

**B. Accessing standardized test material.**

**(1)** Access to standardized test materials shall be restricted, limited, and controlled.

**(2)** Personnel with access to standardized test materials shall be designated by the superintendent or charter administrator.

**(3)** The removal of standardized test materials from their secure, locked location for the purposes of test administration and submittal at the close of the test administration window shall be logged and recorded. Records shall:

**(a)** identify the individual who removed standardized test materials;

**(b)** identify the name(s) and identifying number(s) of the standardized test materials that were removed;

**(c)** identify the number of standardized test materials that were removed;

**(d)** identify the date the standardized test materials were removed;

**(e)** include documentation of any standardized test materials taken off school grounds and their return;

**(f)** be maintained for at least five calendar years; and

**(g)** be made available for review by the department upon request.

**C. Administration of standardized tests.**

**(1)** Only licensed school instructors, administrators, and instructional support providers shall administer a standardized test.

**(2)** Substitutes, educational assistants, school nurses, and coaches shall not administer standardized tests.

**(3)** Training shall be provided to all persons who administer or proctor a standardized test. Individuals shall not be permitted to administer or proctor a standardized test without first completing training in accordance with the timelines, topics, and materials designated by the department.

**(a)** Sign-in forms listing training topics, printed name, and signature shall be maintained as a record by date to identify all individuals who have completed the district or charter training in test security, practice materials, and administration of standardized tests.

**(b)** Each sign-in record shall be maintained for at least five calendar years and be made available for review by the department upon request.

**(4)** The ratio of test administrators to students shall not exceed 25 students per test administrator.

**(5)** Test proctors shall be utilized to support the following:

**(a)** gathering of missing supplies; and

**(b)** assistance with medical situations.

**D. Prohibited Practices.** The following practices shall be prohibited:

**(1)** changing a student's standardized test answers, erasing double-marked or lightly erased or lightly marked answers, or directing or suggesting that a student change a standardized test answer;

**(2)** providing students with a review of specific standardized test items, specific standardized test items with minor changes in settings or numbers, verbal or written restatements or paraphrasing of standardized test items, specific vocabulary from standardized test directions or standardized test items, or answers before, during or after a standardized test;

**(3)** discussing, photocopying, or reproducing in any other fashion including paraphrasing, any portion of a standardized test or student responses;

**(4)** affording any student under a standardized administration extra time to complete a timed subtest, unless permitted as an accommodation in the student’s IEP, 504 plan, or English learner plan;

**(5)** reading standardized test items aloud to students unless required in a specific standardized test or unless required as an accommodation in the student’s IEP, 504 plan, or English learner plan;

**(6)** permitting students during a standardized test to have on or near their desk or on their person, any unauthorized items, including scrap paper, tablets, laptop computers, cell phones with or without cameras, cameras, calculators, calculator watches, smart watches, media players, headphones, backpacks, and rulers unless any of these are required or permitted by standardized test instructions;

**(7)** permitting students to observe standardized test vocabulary words with definitions, addition or multiplication tables (in various forms), spelling words on the standardized test, or similar assistance material during the administration of the standardized test;

**(8)** permitting students to talk, become disruptive, or exchange any test materials;

**(9)** permitting students to begin a subtest, leave the testing room, and return to finish the subtest;

**(10)** permitting students to enter a testing room after the standardized test has already commenced;

**(11)** permitting standardized test material to remain unattended in an unlocked room;

**(12)** taking standardized test material off campus unless specifically authorized by the DTC;

**(13)** displaying or failing to conceal visual aids that may assist students in the testing room;

**(14)** administering a standardized test to immediate family members or relatives including children, stepchildren, siblings, nieces, nephews, or grandchildren;

**(15)** teaching from, possessing, or in any way disseminating a photocopy or other reproduced or paraphrased standardized test or portion of a standardized test;

**(16)** copying copyrighted test preparation materials for the purpose of distribution; and

**(17)** coaching or otherwise inappropriately assisting with the selection or writing of student answers.

[6.10.7.12 NMAC - Rp, 6.10.7.12 NMAC, 10/16/2018]

**6.10.7.13 NONDISCLOSURE OF STANDARDIZED TEST MATERIALS:**

**A.** All standardized tests in the NMSAP are the proprietary interest of the department and shall be safeguarded.

**B.** Any person permitted to review a standardized test that is part of the NMSAP or participating in a review associated with assessment development procedures shall sign a nondisclosure form offered by the department agreeing not to reveal any confidential materials, specific standardized test items, or specific concepts or skills to be measured on the standardized test to include verbal or written restatements of standardized test items, minor changes in settings or numbers, and specific vocabulary from standardized test directions or standardized test items.

**C.** Any person given permission to review an NMSAP assessment may only review the assessment on site during department office hours with the supervision of a department employee, unless permission is given for reviewing the assessment with an appointee of the department. No NMSAP assessment may be written on, marked, electronically copied, hand-duplicated, or otherwise removed from the premises of the department or a local education agency in possession of an NMSAP assessment.

**D.** Upon request, a person suspected of engaging in a testing irregularity shall be given as much access to an NMSAP assessment as is reasonably necessary to prepare for a pending meeting or hearing. The original or copy of any NMSAP assessment used as evidence at any meeting or hearing shall also be subject to confidentiality by all attendees and participants.

**E.** With the permission of testing vendors, the department may choose to release select portions of standardized assessments for the purposes of training and professional development. Under no circumstance shall any part of a standardized test not previously released by the department be released by any unauthorized individual or organization.

[6.10.7.13 NMAC - Rp, 6.10.7.13 NMAC, 10/16/2018]

**6.10.7.14 REPORTING STANDARDIZED TESTING IRREGULARITIES:** To ensure the integrity of standardized tests and their results, the principles of test security shall be strictly followed. Accordingly, material violations of this rule or breaches of test security shall constitute good and just cause to suspend or revoke a person's department licensure.

**A.** School personnel and volunteers shall report suspected testing irregularities to the DTC within 24 hours.

**B.** Districts and charters shall report by telephone or e-mail suspected testing irregularities to the department within three business days of being notified of a suspected testing irregularity.

**C.** The DTC shall submit a testing irregularity reporting form within ten business days to the department assessment bureau that contains:

**(1)** the allegation(s);

**(2)** the findings from a completed investigation at the local level; and

**(3)** thecorrective action taken, if any.

**D.** If a DTC is suspected of having engaged in a testing irregularity, the individual who discovers the irregularity shall notify the department assessment bureau by telephone or e-mail within three business days of learning of the suspected irregularity.

**E.** Districts and charters shall cooperate with the department if further investigation or action is needed.

[6.10.7.14 NMAC - Rp, 6.10.7.14 NMAC, 10/16/2018]

**6.10.7.15** **CORRECTIVE MEASURES FOR STANDARDIZED TESTING IRREGULARITIES: A.** The department reserves the right to investigate suspected testing irregularities and confiscate any materials deemed necessary to conclude the investigation at their discretion.

**B.** Any combination of the following corrective measures may be taken by the department:

**(1)** direct the district or charter or a named individual to cease and desist engaging in a particular testing irregularity or the administration of further standardized tests during the current school year;

**(2)** revoke access to standardized test materials to ensure test security;

**(3)** recommend any further action it deems reasonable and necessary to maintain test security;

**(4)** invalidate the standardized test results and inform the district or charter that the affected student will not receive scores on portions or all of a standardized assessment;

**(5)** refer the matter for possible suspension or revocation of a person's educator or administrator licensure or other department licensure pursuant to procedures set forth in 6.68.3 NMAC;

**(6)** refer the matter to other department divisions for appropriate action;

**(7)** take any other action authorized by state or federal law or regulation; or

**(8)** modify school, district, and charter accountability determinations.

[6.10.7.15 NMAC - N, 10/16/2018]

**HISTORY OF 6.10.7 NMAC**

**History of Repealed Material:**

6.10.7 NMAC, Statewide Standardized Testing Security Issues and Irregularities, filed 9/28/2001 - Repealed effective 10/16/2018.

**Other History of 6.10.7 NMAC:**

6.10.7 NMAC, Statewide Standardized Testing Security Issues and Irregularities, filed 9/28/2001, was repealed and replaced by 6.10.7 NMAC, Statewide Standardized Testing Security Issues and Irregularities, effective 10/16/2018.