

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Specific statutory or other authority authorizing rulemaking:
Sections 9-24-8, 22-2-1, 22-2-2, 22-2-8.1, and 22-10A-3 NMSA 1978.

Rule adoption date:
January 5, 2023

Rule effective date:
January 18, 2023

Reasons for adopting rule:

The purpose of the proposed rulemaking is to establish an educator licensure advancement pathway that phases out the professional development dossier and implements an advancement program comprising a series of five micro-credentials – classroom environment, multi-layered system of supports, assessment literacy, culturally and linguistically responsive instruction, and family engagement – that align with the department-approved educator evaluation system, Elevate NM.

The proposed repeal and replace of this rule adds definitions, addresses technical requirements for advancement between level 1 and level 2 educator licensure, and makes technical changes for concision.

Reasons for any change between the published proposed rule and the final rule:

The department reviewed and considered all written and oral feedback received during the public comment period.

For more detail on the changes between the proposed rule and the rule as adopted, reasons for changes, or information as to why the Department may not have accepted comments or suggested changes, please see "6.69.4 NMAC, Response to Public Comment," attached.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Jacqueline Costales, Ed.S.

Check if authority has been delegated

Title:

Deputy Secretary of Teaching, Learning, and Assessment

Signature: (BLACK ink only OR Digital Signature)

Date signed:

DocuSigned by:
Jacqueline Costales

01/05/2023

Changes Between the Proposed and Adopted Rule and Response to Public Comment

Public Comment Period: November 29, 2022, to January 3, 2023.

The New Mexico Public Education Department (PED) received 31 public comments for the following proposed rulemaking:

- Repeal and replace of 6.60.6 NMAC, Continuing Licensure for Licensed Educator in New Mexico;
- Amendment to 6.60.7 NMAC, Educator Licensure Application Fee
- Repeal and replace of 6.69.4 NMAC, Performance Evaluation System Requirements for Teachers; and
- Repeal and replace of 6.69.5 NMAC, Performance Evaluation System Requirements for Librarian-Teachers

Changes between the proposed and adopted rules, by proposed rule.

RULE CHANGES FOR 6.60.6 NMAC	
Section	Change
6.60.6.5	<ul style="list-style-type: none"> • Corrected the effective date.
6.60.6.8	<ul style="list-style-type: none"> • Corrected the history note to indicate the repeal and replace.
HISTORY	<ul style="list-style-type: none"> • Added a final history note.

RULE CHANGES FOR 6.60.7 NMAC	
Section	Change
6.60.7	<ul style="list-style-type: none"> • <i>There were no changes between the proposed rule and rule submitted for adoption.</i>

RULE CHANGES FOR 6.69.4 NMAC	
Section	Change
6.69.4.5	<ul style="list-style-type: none"> • Corrected the effective date.
6.69.4.9 D. (4) (a)	<ul style="list-style-type: none"> • Clarified the references.
6.69.4.9 D. (4) (b) (iii)	<ul style="list-style-type: none"> • Changed “5” to “five.”
6.69.4.11	<ul style="list-style-type: none"> • Renumbered Subsection E to Subsection D and updated the subsequent subsections.
HISTORY	<ul style="list-style-type: none"> • Added a final history note.

RULE CHANGES FOR 6.69.5 NMAC	
Section	Change
6.69.5.5	<ul style="list-style-type: none"> • Corrected the effective date.
HISTORY	<ul style="list-style-type: none"> • Added the final history note to indicate the repeal and replace.

Changes Between the Proposed and Adopted Rule and Response to Public Comment

Response to public comment. All substantive comments have been summarized below. Comments that are not substantive in nature or fall outside the scope of the rule have not been included.

Terms, Definitions	
Summary of Comments	PED Response
Suggestion to explicitly include, perhaps under the Definitions section, evaluation systems that charter schools have developed in accordance with Section 22-8B-5 NMSA 1978.	Section 22-8B-5 NMSA 1978 grants the Public Education Department (PED) the authority to waive requirements or rules and provisions pertaining to evaluation standards for school personnel for the term of the charter granted. The Department does not believe it is necessary to explicitly include the suggested language as rule is required to align with statute.

Licensure Advancement Requirements, Timeline	
Summary of Comments	PED Response
Comments included a misunderstanding, or questions, regarding an advancement pathway between Level 2 and Level 3.	The rule requires educators with a Level 2 license to complete the Advancement Program for Level II-Level III (APLII-III) before receiving a Level 3 license. Section 11 of 6.69.4 NMAC includes language that explains the APLII-III pathway.
Question regarding whether Level 3 educators need to complete any micro-credentials before advancing.	A level 3 license is the highest educator license an educator can receive. An educator with a level 3 license has the option of pursuing a level 3-B administrator license, but the Department has not established a micro-credentialing pathway for that kind of licensure advancement.

**Changes Between the Proposed and Adopted Rule and
Response to Public Comment**

Licensure Advancement Requirements, Timeline (continued)	
<p>Concern from educators that the work they have completed toward the professional development dossier (PDD) will not count.</p>	<p>PED has developed a transition period that allows educators who began the professional development dossier (PDD) to complete it in order to advance between levels, if they choose.</p> <ul style="list-style-type: none"> • Year 1 and 2 Educators Year 1 and 2 educators are encouraged to begin APLI-II as soon as they are able as the program was designed to take 1.25 years (5 quarters) to complete. Educators are eligible for a Level II license after three years of teaching and successful completion of the advancement program. • Year 3 and 4 Educators Year 3 and 4 educators may choose to participate in APLI-II or to complete a PDD. In choosing to participate in APLI-II, based on the educator’s district deadlines for submitting a Level II license, there could be a difference in when a pay increase could go into effect because the program was designed to take 1.25 years (5 quarters) to complete. A dossier takes one year to complete. • Year 5 Educators Year 5 educators must do dossier to complete an advancement program by the end of the fifth year of teaching.
<p>Concerns with how burdensome the proposed licensure advancement pathway will be, including whether the timeline to complete the advancement program is flexible enough and whether it would be more difficult than the PDD.</p>	<p>The Advancement Program for Level I – Level II (APLI-II) and the Advancement Program for Level II – Level III (APLII-III) was developed based on input from educators who sought flexibility in advancing between licenses. APLI-II allows educators to pause in between micro-credential courses and continue them, so long as they are completed before an educators’ fifth year of teaching. Both APLI-II and APLII-III pathways were designed to be more collaborative, giving participants opportunities to receive support and immediate feedback from the micro-credential course facilitators, while maintaining professional rigor.</p>
<p>Concerns that teachers had to complete any pathway before advancing licensure levels.</p>	<p>Per state law – Section 22-10A-4 NMSA 1978 – the New Mexico licensure for teachers and school administrators is a progressive career system in which licensees are required to demonstrate increased competencies and undertake increased duties as they progress through the licensure levels.</p>

**Changes Between the Proposed and Adopted Rule and
Response to Public Comment**

Concerns regarding the requirement to achieve 85 percent mastery to successfully complete micro-credentials.

The advancement programs are designed to be collaborative, giving participants opportunities to have two-way communication with micro-credential facilitators and receive immediate feedback. The requirement to achieve 85 percent mastery does not refer to an assessment, but rather refers to different tasks or assignments a facilitator will be available to help with.

**Changes Between the Proposed and Adopted Rule and
Response to Public Comment**

Micro-credential Requirements	
Summary of Comments	PED Response
Suggestion to consider breaking the micro-credentials into smaller parts, using workshops and evidence-based assessments that align with educators' professional needs, and ensuring educators have ongoing professional development.	A micro-credential is a competency-based process that is made up of several small "stacked" courses, each focused on a discrete skill or area aligned with the four domains in the educator evaluation system. The Advancement Program for Level I – Level II (APLI-II) and the Advancement Program for Level II – Level III (APLII-III) was developed based on input from educators who sought flexibility in advancing between licenses.
Concern with whether MLSS as a micro-credential applies to special education teachers providing tier 3 instruction and whether there is differentiation between special education and gifted instruction.	The Multi-layered System of Supports (MLSS) was developed with all students in mind. The MLSS provides holistic intervention framework that guides educators, those closest to the student, to intervene quickly when students need additional supports, which includes special education services. The MLSS framework reflects the supports that the classroom teacher, school, family, and health and wellness staff offer toward readying students to experience academic and behavioral success in school resulting in students being ready for success.
Cultural and linguistic responsive instruction ignores differentiated instruction or modern instructional practices.	The Department disagrees that cultural and linguistic responsive instruction ignores differentiated instruction or modern instructional practices. On the contrary, the Department feels that sensitivity to a student's cultural and linguistic background is a more modern approach to instruction and is, in fact, a necessary component of the state's response to the historic <i>Martinez/Yazzie</i> consolidated lawsuit.
Social-emotional learning and restorative practices are missing.	The micro-credential courses for classroom environment, MLSS, assessment literacy, cultural and linguistic responsive instruction, and family engagement, encompass social-emotional learning and restorative practices as they were designed to address the whole child.
Suggestion to switch the term "assessment literacy" with "data-driven instruction." What an educator does with assessment results is more important than the assessment.	The micro-credential courses support data-driven instruction, despite the course name.

**Changes Between the Proposed and Adopted Rule and
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Educator Evaluation and Mastery	
Summary of Comments	PED Response
Concern with how the micro-credentials align with the educator evaluation system.	A micro-credential is a competency-based process that is made up of several small “stacked” courses, each focused on a discrete skill or area aligned with the four domains in Elevate NM, the educator evaluation system.