

PROPOSED REPEAL AND REPLACE - STRIKETHROUGH

~~Strikethrough~~ represents language the Department is proposing to delete.

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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, ~~herein after~~ hereinafter the department.
[6.32.2.1 NMAC - Rp, 6.32.2.1 NMAC, 7/1/2018; A, 7/18/2023]

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 9-24-8, 22-2-1, 22-2-2, and 22-23-1 through 22-23-6 NMSA 1978.
[6.32.2.3 NMAC - Rp, 6.32.2.3 NMAC, 7/1/2018; A, 7/18/2023]

6.32.2.4 DURATION: Permanent. ~~[- in the event that any provision of this regulation is deemed to be legally void, the remainder of the provisions of the regulation shall remain in full force and effect until otherwise repealed or expired.]~~
[6.32.2.4 NMAC - Rp, 6.32.2.4 NMAC, 7/1/2018; A, 7/18/2023]

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 education 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; A, 7/18/2023]

6.32.2.7 DEFINITIONS: ~~[As used in the Bilingual Multicultural Education Act, Section 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. "district" means a public school or any combination of public schools in a district;

D. "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;

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

F. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community;

G. "school board" means a local school board; and

H. "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, 7/1/2018; A, 7/18/2023]

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.
[6.32.28 NMAC - Rp, 6.32.2.8 NMAC, 7/1/2018]

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6.32.2.9 PROGRAM GOALS: ~~[As stated in the Bilingual Multicultural Education Act, Section 22-23-1 NMSA 1978, the]~~ 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]~~ areas or domains of listening, speaking, and comprehension; and

B. meet state academic content standards and benchmarks in all subject areas.
[6.32.2.9 NMAC - Rp, 6.32.2.9 NMAC, 7/1/2018; A, 7/18/2023]

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 12, 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 languages and cultures of ~~[all]~~ the students in the program, 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, modern classical and native languages, 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, 6.32.2.10 NMAC, 7/1/2018; A, 7/18/2023]

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 Section 22-23-1 NMSA 1978 and 6.32.2 NMAC.

B. The initial application shall include:

- (1) projected number of students to be served;
- (2) assurances that ~~[all]~~ district and school personnel are knowledgeable of the requirements to comply with Section 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) a program plan;
- (4) a resource allocation plan that supports program implementation;
- (5) evidence of prior tribal consultation in program planning in accordance with the Indian Education Act, Sections 22-23A-1 through 22-23A-8 NMSA 1978; public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children; and

- (6) districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall provide notification of approval and the application approved by the department to tribal councils or other appropriate tribal entities with authority to make education decisions on behalf of Native American children.

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

- (1) instructional plan; and
- (2) actual number of students to be served.

[6.32.2.11 NMAC - Rp, 6.32.2.11 NMAC, 7/1/2018; A, 7/18/2023]

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) instruction to attain academic achievement in two languages, one of which is English;
- (3) sheltered content instruction;
- (4) standardized curriculum, including instructional materials with scope and sequence, that is aligned with the state academic content standards, benchmarks, and performance standards;
- (5) instruction in the history and cultures of New Mexico; and
- (6) culturally and linguistically responsive instruction designed to develop cross-cultural skills.

B. Public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children. An approved 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 or domains of listening, speaking and comprehension;
- (2) instruction to attain academic achievement in English and a Native American language;
- (3) sheltered content instruction;
- (4) standardized curriculum, including instructional materials with scope and sequence, that is aligned with the state academic content standards, benchmarks, and performance standards, unless otherwise agreed to in writing by the department in accordance with the Indian Education Act ~~[Article 23A]~~;
- (5) instruction in the history and cultures of New Mexico Native American tribes; and
- (6) culturally and linguistically responsive instruction designed to develop cross-cultural skills.

C. The following content areas shall be included, as appropriate:

- (1) language arts in the home or heritage language - for funding purposes, time allotted for instruction in the home language ~~[must]~~ shall be equivalent to the time provided for English language arts and ~~[must]~~ shall be consecutive in nature (that is, not fragmented throughout the day);
- (2) 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 content area instruction; and
- (3) language acquisition in the home or heritage language – instruction to develop language proficiency based on the student's home or heritage language proficiency level; and
~~(3)~~ (4) depending on the time allotted for program:
 - (a) content area instruction in the home or heritage language of the program that utilizes the student's language, history, and culture; or
 - (b) fine arts instruction in the home or heritage language of the program that utilizes the student's language, history, culture, and the arts traditions of the student's community.

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

- (1) dual language immersion: designed to develop proficiency in two languages;
- (2) enrichment: designed to further develop the home language, as defined in Subsection G of Section 22-23-2 NMSA 1978, of fully English proficient students;
- (3) heritage language: designed to support and revitalize a student's heritage language and culture through oral and written communication; for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking and comprehension;

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

(5) transitional: designed to develop skills in the home language and culture while developing continued skills and proficiency in English.

[6.32.2.12 NMAC - Rp, 6.32.2.12 NMAC, 7/1/2018; A, 7/18/2023]

6.32.2.13 PROGRAM ELEMENT - PROFESSIONAL DEVELOPMENT: Districts shall provide professional development to employees.

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

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

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

(3) classroom assessments that support academic and language development;

(4) principles of first and second language acquisition, including language revitalization, differentiated language instruction and sheltered content instruction; and

(5) effective practices of program implementation and program evaluation.

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.

[6.32.2.13 NMAC - Rp, 6.32.2.13 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; public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval for language proficiency assessments from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children; for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking, and comprehension.

B. Public school districts shall comply with federal assessment 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, 6.32.2.14 NMAC, 7/1/2018]

6.32.2.15 PROGRAM EVALUATION:

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

(1) 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;

(2) a current analysis of language and academic assessment results demonstrating that participating students have made measurably significant growth toward meeting the state targets for language and academic proficiency;

(3) specific and measurable goals for the following school year, based on Paragraph (2) of Subsection A of 6.32.2.15 NMAC;

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(4) verification that teachers, Native American language and culture teachers, teacher assistants, instructional support personnel, principals, bilingual directors or coordinators, associate superintendents, superintendents, other instructional personnel, and financial officers have participated in the districts professional development plan for the program;

(5) 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; and

(6) districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall provide the annual progress report submitted to the department to tribal councils or other appropriate tribal entities with authority to make education decisions on behalf of Native American children.

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

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

6.32.2.16 PROGRAM RENEWAL:

~~A.~~ Based on program monitoring and review of the annual report, the department will determine whether the bilingual multicultural education program is compliant pursuant to Section 22-23-1 NMSA 1978 and 6.32.2 NMAC.

~~(4)~~ A. If the department determines that a program is compliant, the public school district may continue the program as authorized in the approved application; districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall notify tribal councils or other appropriate tribal entities with authority to make educational decisions on behalf of Native American children of compliance and program continuation.

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

~~(a)~~ (1) 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 components or method of instruction, as necessary. The plan ~~must~~ shall be submitted to the department within 30 days, or, with prior written approval of the department, additional time not to exceed 90 days, from 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)~~ (2) 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 in 6.32.2.15 NMAC, and not solely on the basis of whether they have fully implemented and complied with the program improvement plan.

~~(c)~~ (3) 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~~ shall report the results of this evaluation and any revisions to the original program improvement plan to the department within 30 days, or, with prior written approval of the department, additional time not to exceed 90 days, of receipt of the notice of non-compliance.

~~(d)~~ (4) 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.

~~(e)~~ (5) A district may not apply for approval for a bilingual multicultural education program for the school year immediately following a discontinuation by the department.

~~(f)~~ (6) Districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall notify tribal councils or other appropriate tribal entities with authority to make educational decisions on behalf of Native American children of non-compliance and provide evidence of tribal consultation in the development of a program improvement plan in accordance with the Indian Education Act, Sections 22-23A-1 through 22-23A-8 NMSA 1978 and the Bilingual Multicultural Education Act, Section 22-23-1 NMSA 1978.

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~~(g)~~ (7) 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.
[6.32.2.16 NMAC - Rp, 6.32.2.16 NMAC, 7/1/2018; A, 7/18/2023]

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 7/1/2003; 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs, repealed effective 11/30/2005; 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs, filed 11/30/2005 was repealed and replaced by Guidelines for Implementing Bilingual Multicultural Education Programs effective 7/1/2018.

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