

PROPOSED AMENDMENT - STRIKETHROUGH

[Strikethrough] represents language the Department is proposing to delete.

Underline represents language the Department is proposing to add.

This is an amendment to 6.10.7 NMAC Sections 2, 3, 6, 7, 8, 9, and 12, effective August 15, 2023.

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, herein after the department.
[6.10.7.1 NMAC – Rp, 6.10.7.1 NMAC, 12/27/2018]

6.10.7.2 SCOPE: ~~All school~~ School districts, charter schools, state ~~educational~~ institutions, and bureau of Indian education (BIE) schools, including virtual programs, 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, 12/27/2018; A, 8/15/2023]

6.10.7.3 STATUTORY AUTHORITY: Sections 9-24-8, 22-2-1, 22-2-2 and 22-2C-4 NMSA 1978.
[6.10.7.3 NMAC - Rp, 6.10.7.3 NMAC, 12/27/2018; A, 8/15/2023]

6.10.7.4 DURATION: Permanent.
[6.10.7.4 NMAC - Rp, 6.10.7.4 NMAC, 12/27/2018]

6.10.7.5 EFFECTIVE DATE: December 27, 2018, unless a later date is cited at the end of a section.
[6.10.7.5 NMAC - Rp, 6.10.7.5 NMAC, 12/27/2018]

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. The purpose of this rule is to maintain standardization of procedures to ensure valid and reliable results, equity of opportunity, and fairness to students.
[6.10.7.6 NMAC - Rp, 6.10.7.6 NMAC, 12/27/2018; A, 8/15/2023]

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, virtual program, state educational institution, or bureau of Indian education school (BIE) 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 and test material, including student test tickets for online 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) following proper test administration procedures.

B. "Instructional support provider" means a 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 BIE 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 administrators;

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

(3) collecting and administering standardized tests;

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- (4) training school personnel in test security matters; and
- (5) following proper test 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 BIE 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.

K. "Virtual program" means an educational program conducted via computers online, either entirely or as a hybrid virtual program in combination with in-person educational programming.
[6.10.7.7 NMAC - Rp, 6.10.7.7 NMAC, 12/27/2018; A, 8/15/2023]

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]~~ this rule and test manuals provided by the department or 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 documented 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 removal of 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 documentation to the department within 10 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, 12/27/2018; A, 8/15/2023]

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, the DTC shall provide training for all secondary test coordinators, school test coordinators, and all personnel involved in test administration, preparation, and security.

C. The DTC 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

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(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]~~ this rule and any other relevant statute or regulation, if necessary;

(2) written district or charter school guidance documents;

(3) testing schedules;

(4) test administration manuals; and

(5) 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.

F. 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]~~ this rule.

G. The DTC shall, in accordance with department rules and standards:

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

(2) collaborate with appropriately licensed personnel to ensure appropriate test assignment for all students, and appropriate accommodations for students with disabilities and English learners; and

(3) carry out infrastructure trials, as necessary, and online testing preparations.
[6.10.7.9 NMAC - Rp, 6.10.7.9 NMAC, 12/27/2018; A, 8/15/2023]

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 6.10.7.12 NMAC.
[6.10.7.10 NMAC - Rp, 6.10.7.10 NMAC, 12/27/2018]

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 stationed in the hallway 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 immediate 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, 12/27/2018]

6.10.7.12 PROCEDURES FOR STANDARDIZED TESTING:

All schools, including virtual programs, shall maintain a chain of custody that identifies authorized staff members and tracks the movement of secure test materials from one location to another.

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

(1) Standardized ~~[tests]~~ test material, including student test tickets for online testing, 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

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shredding or returning such materials to the test vendor.

(4) Virtual programs shall document a chain of custody that includes secure storage and handling of all test administration equipment and materials from the designated delivery of vendor materials to the designated testing locations of all students eligible for testing.

B. Accessing standardized test material.

(1) Access to standardized test materials, including student test tickets for on-site, online testing, 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 that 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, counselors, student success advisors, administrators, and instructional support providers shall administer a standardized test.

(2) Substitutes, educational assistants, school nurses, and coaches shall not administer standardized tests unless the individual additionally holds valid licensure to serve as a teacher, counselor, student success advisor, administrator, or instructional support provider.

(3) Educational assistants may be permitted to support testing accommodations for one-on-one and small group testing under the supervision of a test administrator.

~~(b)~~ Educational assistants administering accommodations shall:

~~(i)~~ (a) meet the requirements stated in 6.10.7.11 NMAC;

~~(ii)~~ (b) receive the written approval of the DTC;

~~(iii)~~ (c) be under the supervision of a test administrator as defined in

Subsection H of 6.10.7.7 NMAC; and

~~(iv)~~ (d) not support accommodations for a group larger than five

students.

(4) 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.

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

(a) Tests may be administered to no greater than 30 students per test administrator if, at a minimum, an additional test administrator or test proctor is present for the duration of the test.

(b) At no point shall the number of students tested simultaneously and in the same location exceed 30 students without the presence of at least two test administrators or one test administrator and one test proctor.

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

(a) gathering of missing supplies;

(b) assistance with medical situations; and

(c) monitoring of the testing environment in the presence of a test administrator.

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(7) All mandatory statewide assessments, including those administered to students in fully virtual or hybrid programs, shall be administered in person, on site, by a test administrator on school premises or at an official district designated location.

(8) Test administrators shall prepare and manage the environment for on-site, in-person, online testing to ensure that students look only at their individual computers.

D. Prohibited ~~Practices~~ 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 without secure browsers, cell phones with or without cameras, cameras, calculators, calculator watches, smart watches, media players, headphones, wireless earbuds, 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;
 - (17) coaching or otherwise inappropriately assisting with the selection or writing of student answers; and
 - (18) accessing secure, online testing portals with unassigned log-in information
- [6.10.7.12 NMAC - Rp, 6.10.7.12 NMAC, 12/27/2018; A, 8/15/2023]

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 to follow

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alternative review procedures is granted by 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 relating to the suspected testing irregularity. 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, 12/27/2018]

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 proctors 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 report 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) the corrective 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, 12/27/2018]

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, 12/27/2018]

HISTORY OF 6.10.7 NMAC

History of Repealed Material:

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6.10.7 NMAC, Statewide Standardized Testing Security Issues and Irregularities, filed 9/28/2001 - Repealed effective 12/27/2018.

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, Standardized Testing Procedures and Requirements, effective 12/27/2018.

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