

TITLE 2 PUBLIC FINANCE
CHAPTER 82 EDUCATIONAL RETIREMENT
PART 9 ADMINISTRATIVE UNIT REPORTS AND REMITTANCES

2.82.9.1 ISSUING AGENCY: Educational Retirement Board, P. O. Box 26129, Santa Fe, New Mexico 87502-0129./
[2.82.9.1 NMAC - Rp, 2.82.9.1 NMAC, 07/01/2025]

2.82.9.2 SCOPE: This rule applies to local administrative units and state agencies required to file reports on contributions to the Educational Retirement Act (ERA) fund.
[2.82.9.2 NMAC - Rp, 2.82.9.2 NMAC, 07/01/2025]

2.82.9.3 STATUTORY AUTHORITY: The Educational Retirement Act, Sections 22-11-1 to 22-11-55 NMSA 1978.
[2.82.9.3 NMAC - Rp, 2.82.9.3 NMAC, 07/01/2025]

2.82.9.4 DURATION: Permanent.
[2.82.9.4 NMAC - Rp, 2.82.9.4 NMAC, 07/01/2025]

2.82.9.5 EFFECTIVE DATE: July 1, 2025, unless a later date is cited at the end of a section or paragraph.
[2.82.9.5 NMAC - Rp, 2.82.9.5 NMAC, 07/01/2025]

2.82.9.6 OBJECTIVE: Instructions for preparing and filing timely reports and specifies penalties for late filing of reports or late deposit of contributions.
[2.82.9.6 NMAC - Rp, 2.82.9.6 NMAC, 07/01/2025]

2.82.9.7 DEFINITIONS:
A. “**Fiscal year**” means the New Mexico state government fiscal year – July 1 through June 30.
B. “**LAU**” means local administrative unit.
C. “**Terminate**” means to leave employment with an LAU for any reason.
[2.82.9.7 NMAC - Rp, 2.82.9.7 NMAC, 07/01/2025]

2.82.9.8 EMPLOYER REPORTS:
A. Instructions for the preparation and handling of employer reports and monthly remittances by the local administrative units shall be outlined in detail once each year and electronically transmitted to each local administrative unit by the director.
B. Employer reports shall encompass all local administrative unit employees including those employees whom the local administrative unit has identified as excluded from coverage except that an employer may omit student employees and resident physicians.
C. Monthly contributions from employees and local administrative units shall be electronically transmitted no later than the 15th day of the month following the month for which contributions are withheld.
(1) Employer reports and contributions shall be electronically transmitted or postmarked no later than the 15th of the following month. The director may enter into an agreement with a local administrative unit for an extension of this deadline for the employer report. No such extension is available for submission of the contributions.
(2) When the 15th of the month falls on a weekend or holiday, the report and contributions are due on the next workday.
(3) Local administrative units shall be assessed late charges for not submitting reports or contributions in accordance with the above schedule. A charge of fifty dollars (\$50) per day shall be assessed for untimely reports. Upon a written showing of good cause, the director may waive charges to the local administrative unit for untimely reports. No such waiver of charges is available for late contributions. The charges for late contributions will be calculated at a rate equal to the state treasurer's overnight investment program rate plus one

percent. The rate will be applied daily and cumulatively for the period of time from the 15th to the date of postmark. The late charge shall be the greater amount calculated by applying the foregoing rate or ten dollars (\$10). The director shall report any and all such assessments and waivers to the board.

(4) A local administrative unit shall be assessed a penalty for each report filed that fails to correctly include or identify an individual as employed or to mis-categorize an employee when submitting a work report reflecting payment of wages as required pursuant to this rule. The penalty shall be payable to ERB and shall be assessed for each report filed incorrectly as follows: 1st failure – five hundred dollars (\$500), 2nd failure – one thousand dollars (\$1,000), 3rd and each subsequent failure – one thousand five hundred dollars (\$1,500). Upon a written showing of good cause, the director may waive the penalty for a first failure. Upon a written showing of good cause, the Board may waive the penalty for a second and any subsequent failure.

D. The director shall prepare forms for all regular reports or make available other means for such regular reports from the local administrative units as may be required in the administration of the Educational Retirement Act.

[2.82.9.8 NMAC - Rp, 2.82.9.8 NMAC, 07/01/2025]

HISTORY OF 2.82.9 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ERB 67-3, Rules and Procedures, filed 6/30/1967.

ERB 78-1, Rules and Procedures, filed 8/7/1978.

ERB Rule IX, Administrative Unit Reports and Remittances, filed 7/2/1982.

History of Repealed Material:

2.82.5 NMAC – Retirement Benefits, filed 6/30/1999, was repealed and replaced by 2.82.9 NMAC – Retirement Benefits, effective 07/01/2025.