

This is an amendment to 6.50.7 NMAC, Sections 8, 9, 12 and 14, effective 12/10/2024.

**6.50.7.8 WAIVER OF PARTICIPATION:** School districts and charter schools shall participate in and accept all authority offerings, unless the school district or charter school has applied for and been granted a waiver for an individual line of coverage by the authority board. If a waiver is granted for an individual line of coverage, the school district or charter school will not be provided any insurance protection or coverage by the authority for the perils covered by that individual line of coverage. The school district or charter school receiving the waiver accepts the obligation to obtain its own insurance protection for the perils covered by the individual line of coverage for which the waiver is granted. A school district or charter school that has been granted a waiver for an individual line of coverage shall be prohibited from participating in that individual line of coverage during the contract period, provided, however, the district or charter school may, if the authority contract period exceeds four years, again seek participation. [~~However, a school district or charter school may, if the authority contract period exceeds four years, again seek participation as if it were an other educational entity pursuant to 6.50.4.8 NMAC.~~]  
[6.50.7.8 NMAC - Rp, 6 NMAC 50.7.8, 09/01/2014; A, 12/10/2024]

**6.50.7.9 RESPONSIBILITIES OF SCHOOL DISTRICTS AND CHARTER SCHOOLS WHICH WAIVE PARTICIPATION IN AUTHORITY COVERAGES:**

**A.** A school district or charter school may waive participation in either the risk related or group health insurance or both. Pursuant to Subsections C and D of Section 22-29-9, a school district or charter school must waive all risk-related or all group health insurance coverages or must petition for participation in the remaining coverages offered by the authority in that particular individual line of coverage.

**B.** Should a school district or charter school waive participation in an individual line of coverage, the school district or charter school shall be responsible for the following charges:

**(1)** For [~~risk-related~~] **risk-related** coverages, the school district or charter school shall forfeit to the authority any right to any return premiums or reserves and shall be responsible to pay to the authority on demand the cost of any prior losses in excess of premium and all the appropriate expenses of the authority in defending, settling and administering any such losses;

**(2)** For group health insurance, the school district or charter school shall forfeit to the authority any right to any return premium or reserves it may be entitled to. The school district or charter school shall also pay to the authority any funds paid for prior incurred claims of the school district or charter school in excess of premium paid by the school district or charter school and shall pay to the authority all the appropriate expenses of the authority in defending, settling and administering such claims.

**C.** Any school district or charter school waiving participation in an individual line of coverage shall pay to the authority any sums determined by the authority to be due in order to hold safe and harmless all other members of the authority from any adverse financial impact caused by the waiver of coverage. An accounting of funds and amounts owed by the school district or charter school shall not be due from the authority until two years after the waiver of participation has taken effect.  
[6.50.7.9 NMAC - Rp, 6 NMAC 50.7.9, 09/01/2014; A, 12/10/2024]

**6.50.7.12 APPROVAL OR DISAPPROVAL OF REQUEST FOR WAIVER OF PARTICIPATION:**

The authority board shall approve or disapprove a waiver of participation based on the documentation submitted by the school district or charter school. The board shall grant a waiver to a school district or charter school that shows evidence to the satisfaction of the board that:

**A.** In the event the waiver is with regard to group health insurance:

**(1)** that the school district or charter school has secured a valid written enforceable commitment from an insurer to provide group health insurance;

**(2)** that the coverage committed to the school district or charter school and the plan benefits for their employees is at least as beneficial as the plan being procured by the authority;

**(3)** that there are no more exclusions from coverage and the exclusions are not broader than those set out in the authority's request for proposals;

**(4)** that the deductibles, stop loss, out of pocket costs, etc., if any, result in no more costs to the employees than would occur pursuant to the authority's request for proposals;

- (5) that any cost containment features not result in any higher costs or burdens on the employees than would result under the authority's request for proposals;
  - (6) that the prospective insurer of the school district or charter school have the same or greater rating as that required in the authority's request for proposals;
  - (7) that the notice of intent to request a waiver has been timely filed;
  - (8) that the request for waiver of participation has been timely filed;
  - (9) that all the data required to be included in the request for waiver of participation has been timely supplied;
  - (10) that the proposed insurer for the school district or charter school has satisfactorily demonstrated to the school district or charter school and to the authority that the insurer in its proposal to the school district or charter school has adequately accounted in its rates for such items as school district or charter school experience, incurred but not reported losses, medical inflation trends and other relevant factors for the purpose of allowing the school district or charter school and the authority to determine the future viability of the plan, if rates are under-quoted at inception and whether the proposed insurer for the school district or charter school meets the minimum financial standards of the authority; and
  - (11) that the total group health insurance offering available in that school district or charter school compares favorably in all respects with the authority's request for proposals;
- B.** In the event the waiver is with regard to risk-related insurance:
- (1) that the school district or charter school has secured a valid written enforceable commitment from an insurer to provide risk-related insurance;
  - (2) that there are no more exclusions from coverage and the exclusions are not broader than those in the authority's request for proposal;
  - (3) that the deductibles, ~~[self-insured]~~ self-insured retention, etc., if any, are no higher or result in any more costs to the school district or charter school than would occur pursuant to the authority's request for proposal;
  - (4) that any cost containment features not result in any higher costs or burdens on the school district or charter school than would result under the authority's request for proposals;
  - (5) that the prospective insurers of the school district or charter school provide coverages as broad as is required in the authority's request for proposals;
  - (6) that the prospective insurers of the school district or charter school have the same or greater rating as required in the authority's request for proposals;
  - (7) that the notice of intent to request a waiver has been timely filed;
  - (8) that the request for waiver of participation has been timely filed;
  - (9) that all the data required to be included in the request for waiver of participation has been included; and
  - (10) that the proposed insurer for the school district or charter school has satisfactorily demonstrated to the school district or charter school and to the authority that the insurer in its proposal to the school district or charter school has adequately accounted in its rates for such items as school district or charter school experience, incurred but not reported losses, the nature of existing coverage(claims made or occurrence) and other relevant factors for the purpose of allowing the school district or charter school and the authority to determine the future costs of coverages, to determine if rates are under-quoted at inception and whether the proposed insurer for the school district or charter school meets the minimum financial standards of the authority.
- [6.50.7.12 NMAC - Rp, 6 NMAC 50.7.12, 09/01/2014; A, 12/10/2024]

**6.50.7.14 AUTOMATIC WAIVER ALLOWED:** School districts and charter schools are entitled to an automatic waiver for any line of authority coverage where the employee pays the full amount of the premium. If the school district or charter school desires insurance protection for a particular line of employee-pay-all coverage, the school district or charter school must affirmatively petition the authority for coverage. In granting the coverage the board shall first determine that the school district or charter school meets the minimum participation requirements as established by the board ~~[from time to time]~~ as necessary, that the school district or charter school will carry the coverage through the end of the contract period and that approval will not jeopardize the stability of the fund.

[6.50.7.14 NMAC - Rp, 6 NMAC 50.7.14, 09/01/2014; A, 12/10/2024]