

This is an amendment to 6.10.7 NMAC, Sections 1, 2, 3, 6, 7, 8, 9, 11, 12, 13 and 14 effective November 13, 2009.

6.10.7.1 ISSUING AGENCY: [~~State Board of Education~~] Public Education Department
[6.10.7.1 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.2 SCOPE: [~~All school districts and all individuals employed by or volunteering in school districts, other than student test takers, who have access to standardized tests.~~] All school districts, charter schools, state educational institutions and bureau of Indian education schools that administer standardized tests, as well as their employees or volunteers who have access to those standardized tests.
[6.10.7.2 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.3 STATUTORY AUTHORITY: Sections [~~22-1-6, 22-2-1, and 22-2-2;~~] 22-2-1, 22-2-2, 22-2C-4, 22-13-1.1 and 22-13-1.2, NMSA 1978.
[6.10.7.3 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.6 OBJECTIVE: [~~State Department of Public Education ("SDE")~~] The public education department ("PED") is required by statute to measure student achievement through standardized tests administered in [~~the school districts~~] public schools. These tests are also administered by agreement in state educational institutions and bureau of Indian education schools. To carry out this duty, the [~~SBE~~] PED hereby establishes uniform procedures for preparation, security, administration, and safeguarding of standardized tests [~~in the school districts~~] wherever administered.
[6.10.7.6 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.7 DEFINITIONS:

A. **"Testing irregularity"** means any circumstance within or beyond the control of a school district that in the opinion of the [~~State Department of Public Education ("SDE")~~] PED or a school district raises doubts about the propriety of standardized testing procedures, preparation materials, standardized testing administration, standardized testing security, student scores attained from standardized testing, or teacher or student conduct observed during standardized testing.

B. **"Standardized test"** means any nationally norm-referenced test, state or national performance assessment, state or national criterion-referenced assessment or state or national standards-based assessment that is required by law to be administered in all school districts and is required to be administered with standard procedures.

C. **"Standardized test material"** means a standardized test or any related items such as examiner guides, preparation materials, test security guides, answer sheets or booklets and any student notes, answers, or essays generated during the administration of a standardized test.

D. **"Nationally norm-referenced test"** means a timed test whose purpose is to measure student performance against a national norming group.

E. **"Criterion-referenced assessment"** means an assessment that is based upon identified criteria.

F. **"Standards-based assessment"** means a standardized assessment whose purpose is to measure student performance against state standards and benchmarks.

G. **"Performance assessment"** means an assessment based on an extended task which is a demonstration of student ability.

H. **"District test coordinator"** means the licensed school [~~instructor~~] personnel or administrator in a district with the overall responsibility for district handling, storing, distributing and recording such distribution by booklet or answer sheet number, collecting, and administering standardized tests, training school personnel in test security matters and proper administration procedures, and shall be that district's superintendent unless another licensed school instructor or administrator is formally designated.

I. **"School test coordinator"** means the licensed school instructor or administrator in a school with the responsibility for handling, storing, distributing assessments for administration to test examiners and recording such distribution by booklet or answer sheet number, collecting, and administering standardized tests, training school personnel in test security matters and proper administration procedures within the school site, and shall be designated by the district's superintendent.

J. **"Test examiner"** means every licensed school instructor or administrator in a school district with the responsibility of administering tests under this [~~regulation~~] rule.

K. **"New Mexico statewide assessment program "** [~~("NMAP")~~] ("NMSAP") means the

assessment program that is approved by the [~~State Board of Education~~] PED and designates the required standardized tests to be administered in New Mexico public school districts, charter schools and state educational institutions.

L. **“Test administration window”** means a specified period of time, as designated by the [~~SBE~~] PED assessment and evaluation unit, during which statewide tests must be administered.

M. **“Proctor”** means a designated, trained person(s) to assist the test administrator during the time of testing.

[6.10.7.7 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.8 DISTRICT SUPERINTENDENT'S RESPONSIBILITY: It shall be the responsibility of each school district superintendent to ensure that standardized tests are handled, stored, prepared for, and administered in accordance with this [~~regulation~~] rule and in accordance with any precautionary instructions provided with the tests.

A. The superintendent may designate one district test coordinator and additional school test coordinators for the purpose of delegating the duties necessary to carry out compliance with this [~~regulation~~] rule. The district test coordinator must attend standardized test training workshops provided by the [~~SDE~~] PED. The district test coordinator shall hold a valid [~~SBE~~] PED certified school instructor or administrator license, excluding licenses for substitutes, educational assistants, school nurses, and coaches.

B. Any such designation shall:

- (1) be in writing;
- (2) identify the name and title if any of the person(s) so delegated;
- (3) indicate the duration of their assignment which shall be no less than one nor more than three calendar years; and
- (4) indicate that this person(s) has been given a copy of this [~~regulation~~] rule together with any written district policies relating to standardized test preparation, administration and security.

[6.10.7.8 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.9 DISTRICT TEST COORDINATOR'S RESPONSIBILITY: To produce valid results, standardized test materials should be stored, handled, disposed of and administered in a uniform and secure manner. This requires adherence to training procedures and topics, test preparation procedures and administration practices that emphasize test security, compliance with test vendor legal, administration, handling, and disposal procedures, and adherence to the New Mexico [~~Code of Professional Responsibilities~~] Standards of Professional Conduct set forth at 6.60.2 .9 NMAC. These practices are intended to apply to all individuals, other than the tested students themselves, who are expressly or implicitly given access to standardized tests. The district test coordinator shall attend semiannual workshops held by [~~SDE~~] PED in order to be trained and then shall provide training for all district personnel involved in test administration, preparation, and security. It shall be the responsibility of each school district's test coordinator to, at a minimum, implement and carry out the following test material preparation, handling, storage, administration, and secure disposal practices.

A. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist and written procedure for storing and handling standardized test material whereby:

- (1) standardized tests shall be counted, inventoried and stored in a secure area;
- (2) space permitting, standardized test material should be stored in sealed containers in a secure area;
- (3) standardized test material not stored in sealed containers shall be segregated, wrapped in clear or unclear paper, and sealed securely with packing tape bearing the sealing date and the initials of the person sealing it; and
- (4) standardized test material, as directed by the [~~SDE~~] PED, shall be disposed of by either shredding or returning such materials to the test vendor.

B. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist and procedure for accessing standardized test material whereby:

- (1) access to standardized test material shall be restricted, limited and controlled, with personnel having access designated by the district superintendent;
- (2) records shall be maintained that identify the individual who removed a standardized test(s) or other standardized test material, the name of the standardized test(s) or standardized test material that was removed, how many standardized tests or standardized test materials were removed, the identifying number of the standardized test(s) or standardized test material removed, and the date the standardized test(s) or standardized test material was removed;

(3) each standardized test material access record shall be maintained for at least five (5) calendar years and be made available for review by the ~~[SDE]~~ PED upon request;

(4) records similar to paragraph (2) of subsection B of section 9 of 6.10.7 NMAC above shall be maintained on the return of any standardized test material removed; and

(5) the district test coordinator shall inform all district teachers, aides, 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:

(a) developing and disseminating handouts to these individuals;

(b) offering in-service training to these individuals; and

(c) prior to and during a state-mandated assessment administration window, posting conspicuous signs near school copy machines warning that ~~[SBE regulations]~~ PED rules prohibit the copying of any portion of a standardized test including a student's answer, and any other standardized testing material.

C. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist, in-service training and a written procedure for administering standardized tests whereby:

(1) in-service training shall be provided to all persons who administer or proctor a standardized test, and no one shall be permitted to administer or proctor a standardized test without first completing training in accordance with timelines, topics, and materials designated by the ~~[SDE]~~ PED;

(2) only certified school instructors and administrators, excluding substitutes, educational assistants, school nurses, and coaches, shall administer a standardized test;

(3) ~~[SDE]~~ PED sign-in forms, listing training topics and printed name and signature, shall be maintained as a record by date to identify all individuals who have completed the district training in test security, practice materials, and administration of standardized tests;

(4) each sign-in record shall be maintained for at least five (5) calendar years and be made available for review by the ~~[SDE]~~ PED upon request;

(5) all test examiners and proctors shall be informed that prohibited test practices include but are not limited to:

(a) changing a student's standardized test answers or directing a student to change a standardized test answer;

(b) 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 of standardized test items, specific vocabulary from standardized test directions or standardized test items, or answers before, during or after a standardized test;

(c) discussing, photocopying, or reproducing in any other fashion including paraphrasing, any portion of a standardized test or a student's answer;

(d) affording any student under a standardized administration extra time to complete a timed subtest, unless permitted as an accommodation;

(e) reading standardized test items aloud to students unless required in a specific standardized test or unless a student is required to be provided with special accommodations; permitting students to talk, become disruptive or exchange any papers during a standardized test;

(f) permitting students during a standardized test to have on their desk or use any unauthorized items, including but not limited to, scrap paper (if not required for a subtest), hand computers, laptop computers, cell phones with or without cameras, cameras, calculators, calculator watches and rulers unless any of these are required or permitted by standardized test instructions;

(g) 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;

(i) permitting students to begin a subtest, leave the testing room, and return to finish the subtest;

(j) permitting students to enter a testing room after the standardized test has already commenced;

(k) permitting state-mandated test material to remain unattended in an unlocked room;

(l) taking standardized or state-mandated test material off campus unless specifically authorized by the district test coordinator;

(m) displaying or failing to conceal visual aids that may assist students in the testing room;

(6) test examiners shall take prompt, corrective action if they observe a student engaged in any

prohibited conduct during a standardized test; and

(7) all test examiners shall be informed of their duty to promptly report testing irregularities as soon as they are aware to the district test coordinator.

D. Regardless of whether a district elects to appoint a school test coordinator, district test coordinators shall provide in-service training to all principals in their district in the storing, handling, destruction, and administration of standardized test material.

(1) Principals shall receive the same in-service training and be charged with the same knowledge as those administering standardized test material and those serving as test examiners as set forth in Subsection C of Section 6.10.7.9 NMAC above.

(2) Although district test coordinators need not directly train assistant principals within their districts, if they choose not to train them, they shall at a minimum require assistant principals to be knowledgeable in accordance with subsection C of section 9 of 6.10.7 NMAC above.

E. All training required by this section shall be administered prior to the fall and spring test administration windows. The assessment and evaluation unit of the [SDE] PED shall inform the district test coordinators of the dates of those test administration windows in a memo disseminated to each district test coordinator at least annually.

[6.10.7.9 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.11 STAFF RESPONSIBILITY:

A. All school district staff, including administrators, teachers, volunteers and office personnel who come in contact with standardized tests, shall familiarize themselves with basic principles of standardized test security. Any specific questions should be directed, first to their school or district test coordinator, then to the assessment and evaluation unit of the [SDE] PED.

B. Test examiners shall:

(1) administer the standardized test according to the directions and specifications in the standardized test examiner's manual and during the designated test administration window;

(2) return the standardized tests to the school or district test coordinator after testing each day during the test administration window for secure overnight storage;

(3) use test monitors in the hall to gather additional materials or deal with medical situations; and

(4) review the standardized test examiner's manual so that administration procedures are understood.

C. It shall be a prohibitive practice for anyone to:

(1) photocopy or reproduce in any other fashion including paraphrasing, any portion of a standardized test including a student's answer;

(2) teach from, possess or in any way disseminate a photocopy or other reproduced or paraphrased standardized test or portion of a standardized test;

(3) copy copyrighted test preparation materials for the purpose of distribution;

(4) provide students with a review of specific standardized test questions or answers before, during or after a standardized test;

(5) permit secure standardized test material to remain unattended in an unlocked room;

(6) coach or otherwise inappropriately assist with the selection or writing of student answers; ~~and~~

(7) take standardized test material off campus unless specifically authorized by the district test coordinator or the assessment and evaluation unit of the [SDE] PED; and

(8) disparage or diminish the significance, importance or use of the standardized tests.

[6.10.7.11 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.12 NON-DISCLOSURE OF STUDENT TEST MATERIALS: All standardized tests in the [NMAP] NMSAP are the sole [~~State Board approved~~] PED-approved and mandated assessments for the state of New Mexico. Each, with the exception of off-the-shelf standardized assessments, was developed by the [SDE] PED, or the test vendor under contract with the [SDE] PED, to help identify academic progress made by public education students and evaluate the program effectiveness of New Mexico public schools. The [SDE] PED has a proprietary interest in the assessments within the [NMAP] NMSAP. As such, the [SDE] PED must safeguard not only its proprietary interest, but also the confidentiality of each standardized test.

A. Any person suspected of engaging in a testing irregularity who requests a meeting, review, or hearing under state law or regulation shall have only limited access to test items within the [NMAP] NMSAP.

(1) Given the proprietary nature of any assessment which is part of the [NMAP] NMSAP, under no circumstance shall a standardized test which is part of the [NMAP] NMSAP be released.

(2) Upon request, a person suspected of engaging in a testing irregularity shall be given as much access to an [NMAP] NMSAP assessment as is reasonably necessary to prepare for a pending meeting or hearing.

(3) The original or copy of any [NMAP] NMSAP assessment used as evidence at any meeting or hearing shall also be subject to confidentiality by all attendees and participants.

B. Any person given permission to view an [NMAP] NMSAP assessment may only view the assessment during routine office hours of the [SDE] PED under supervision of an [SDE] PED employee and on the [SDE's] PED's premises, unless permission is given to review the assessment under the direction of an appointee of the [SDE] PED. No [NMAP] NMSAP may be written on, marked, electronically copied, hand-duplicated, or otherwise removed from the premises of the [SDE] PED or a local education agency in possession of an [NMAP] NMSAP assessment.

C. Any person permitted to review any standardized test which is part of the [NMAP] NMSAP or participating in a review associated with assessment development procedures shall sign a non-disclosure form offered by the [SDE] PED 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.

[6.10.7.12 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.13 REPORTING TESTING IRREGULARITIES: The [SBE] PED finds that measuring student achievement through the administration of standardized tests will have a positive, long reaching impact on students, school districts and school improvement. To ensure the integrity of these tests and their results, the principles of test security must be strictly followed. Accordingly, material violations of this [regulation] rule or breaches of test security shall constitute good and just cause to suspend or revoke a person's [SBE] PED licensure. Additionally:

A. School district personnel and volunteers shall promptly report suspected testing irregularities to the district test coordinator. Where the district test coordinator is suspected of having engaged in a testing irregularity, reporting shall be made within three (3) days of learning of the suspected irregularity by telephoning the assessment and evaluation unit of the [SDE] PED.

B. School districts shall report by telephone suspected testing irregularities to the assessment and evaluation unit of the [SDE] PED within three (3) working days of being notified of a suspected testing irregularity.

C. The district test coordinator shall submit a report to the assessment and evaluation unit of the [SDE] PED that contains the allegation(s), his/her findings and corrective action taken, if any.

D. School districts shall cooperate with the [SDE] PED if the [SDE] PED determines that further investigation or action is needed.

[6.10.7.13 NMAC – N, 09-28-01; A, 11-13-09]

6.10.7.14 CORRECTIVE MEASURES: After investigating suspected testing irregularities and confiscating any standardized test material it deems necessary to conclude its investigation, the [SDE] PED may take any combination of the following corrective measures:

A. direct the district or a named individual to cease and desist engaging in a particular testing irregularity ~~and/or~~ or the administration of further standardized tests during the current school year;

B. confiscate any standardized test materials that jeopardizes the security of the standardized test;

C. recommend any further action it deems reasonable and necessary to maintain test security;

D. invalidate the standardized test results and inform the district that a specific standardized test or portion of a standardized test must be replaced with a re-administered similar or alternative form, or any affected student will not receive scores on portions or all of a standardized assessment;

E. refer the matter for possible suspension or revocation of a person's educator or administrator licensure or other [SBE] PED licensure pursuant to procedures set forth in the [SBE's] PED's suspension/revocation [regulation] rule;

F. refer the matter to the accreditation team for appropriate action;

G. take any other action authorized by state or federal law or regulation.

[6.10.7.14 NMAC – N, 09-28-01; A; 11-13-09]