

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY
PART 6 TITLE I SUPPLEMENTAL EDUCATIONAL SERVICES

6.19.6.1 ISSUING AGENCY: Public Education Department
[6.19.6.1 NMAC - N, 08/15/05]

6.19.6.2 SCOPE: This rule applies to all school districts, public schools, including charter schools, and all state-approved supplemental educational services providers who offer or plan to offer such services in New Mexico.
[6.19.6.2 NMAC - N, 08/15/05]

6.19.6.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, 22-9-3, 22-9-15 NMSA 1978; 20 U.S. Code Section 6316; 34 Code of Federal Regulations Part 200.
[6.19.6.3 NMAC - N, 08/15/05]

6.19.6.4 DURATION: Permanent
[6.19.6.4 NMAC - N, 08/15/05]

6.19.6.5 EFFECTIVE DATE: August 15, 2005, unless a later date is cited at the end of a section.
[6.19.6.5 NMAC - N, 08/15/05]

6.19.6.6 OBJECTIVE: This rule establishes requirements for:

- A. supplemental educational services providers who seek to use incentives as a method of promoting selection of their services by parents of eligible children;
- B. allowable rewards to students to reward attendance, continued participation and achievement related to the supplemental educational services; and
- C. establishing a timeline to be followed by supplemental educational services providers and all school districts and public schools, including charter schools for commencing and ending supplemental educational services during the school year.

[6.19.6.6 NMAC - N, 08/15/05]

6.19.6.7 DEFINITIONS:

- A. "Department" means the public education department.
- B. "Eligible child or eligible children" means a child or children from low income families as determined by a school district, public school, or charter school for the purposes of allocating federal funds made available under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as amended.
- C. "Incentives" means any goods, facilities, services, gifts, coupons, discounts, rebates, or cash offered or given to anyone by or on behalf of a supplemental educational services provider to promote selection of their services by parents or guardians of eligible children.
- D. "Rewards" means an acceptable classroom incentive with no redeemable monetary value to an eligible child or that child's parent or guardian and that is offered to an eligible child only as a reward for attendance, continued participation, or achievement related to a provider's services.
- E. "Supplemental educational services" means tutoring and other supplemental academic enrichment services that are in addition to instruction provided during the school day and are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on required academic assessments and attain proficiency in meeting the state's academic achievement standards.
- F. "Timeline" means a schedule established by the department that delineates when parental notifications, are to be issued, when parent notifications are to be returned, when supplemental educational services may commence, and approximately how much supplemental educational service shall be completed prior to the state-mandated criterion referenced testing.

[6.19.6.7 NMAC - N, 08/15/05]

6.19.6.8 REQUIREMENTS.

A. All school districts, public schools, including charter schools and all state-approved supplemental educational services providers who offer or plan to offer supplemental educational services in New Mexico, shall adhere to timelines as follows.

(1) Parental notification shall occur two weeks after school has started.

(2) The enrollment period for supplemental educational services is at a minimum the four (4) week period subsequent to the beginning of a school year after the issuance of notification to parents of the availability of supplemental educational services.

(3) Supplemental educational services shall begin no later than four (4) weeks after the later of the following dates:

(a) the minimum enrollment period for supplemental educational services has ended; or

(b) the date the child has enrolled for supplemental educational services.

(4) Each supplemental educational services provider must complete at least seventy-five percent of services to eligible children for whom the parent/guardian has selected the supplemental educational service provider prior to the administration of the state-mandated criterion referenced testing.

B. Except for good cause shown in writing to the department, no school district, public school, including a charter school shall enter into agreements or otherwise permit supplemental educational services providers to operate during the mandatory state-mandated criterion referenced testing.

C. Beginning with the 2005-2006 school year and continuing in every school year thereafter, supplemental educational services providers shall not directly or indirectly use incentives as a method of promoting selection of their services by parents or guardians of eligible children. Provided, however, that rewards may be offered to eligible children:

(1) to reward attendance, continued participation, or achievement related to a provider's services;

(2) if the reward has no redeemable monetary value to the eligible child or his parent/guardian and is otherwise consistent with accepted classroom incentives, such as pizza parties, ice cream parties, school supplies having nominal value, or the opportunity to order discounted instructional material for the eligible child's personal use; and

(3) parents or guardians of an eligible child or children consent to the offering of such incentives.

[6.19.6.8 NMAC - N, 08/15/05]

6.19.6.9 UNFAIR PRACTICES: Supplemental educational services funds are funds that have been provided by grant to the department. The department disburses these funds to school districts and charter schools for purposes of reimbursing providers for services performed pursuant to professional services contracts entered into with providers. For purposes of performing supplemental educational services and as a condition of receipt of these public funds, it shall constitute an unfair practice for providers to offer or provide any incentive other than those allowed by this rule.

A. School districts or charter school employees who learn that a supplementary educational services provider has offered to or actually provided an incentive other than those allowed by this rule, shall:

(1) promptly notify the provider in writing to cease and desist this practice immediately;

(2) promptly notify any parent or guardian that any incentive other than those allowed by this rule may not be offered by a provider and may not be accepted by the parent or guardian; and

(3) notify the department in writing if a provider fails or refuses to cease or desist in offering or providing non-allowed incentives.

B. The department upon receiving a written notification under this section or upon receiving a complaint from any other sources, may, after verifying such offering:

(1) notify the provider in writing to cease and desist this practice immediately because any incentive other than those allowed by this rule may not be offered by a provider nor accepted by the parent or guardian;

(2) notify parents or guardians that any incentive other than those allowed by this rule may not be offered by a provider and may not be accepted by the parent or guardian;

(3) notify appropriate authorities of suspected conduct that may constitute soliciting or receiving illegal kickbacks in whole or in part with public money.

[6.19.6.9 NMAC - N, 08/15/05]

HISTORY OF 6.19.6 NMAC: [Reserved]