

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 1 GENERAL PROVISIONS

6.50.1.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.1.1 NMAC - Rp, 6.50.1.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.1.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.1.2 NMAC - Rp, 6.50.1.2 NMAC, 9/1/2014]

6.50.1.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.1.3 NMAC - Rp, 6.50.1.3 NMAC, 9/1/2014]

6.50.1.4 DURATION: Permanent.

[6.50.1.4 NMAC - Rp, 6.50.1.4 NMAC, 9/1/2014]

6.50.1.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.1.5 NMAC - Rp, 6.50.1.5 NMAC, 9/1/2014]

6.50.1.6 OBJECTIVE:

A. The first objective of this part is to set forth the general terms, definitions and conditions governing this chapter, Parts 1-18, and to set forth the general authority of the board of directors of the authority. This part also includes rules to encourage interaction with other state agencies, school districts, other educational entities, charter schools and with residents of New Mexico to better inform them of the operations of the board and to learn of their needs and concerns.

B. The second objective of this part is to establish a code of ethics that must be adhered to by those persons defined as public officials and to provide penalties for failure to comply. The proper operation of a democratic government requires that public officials and those attorneys, consultants, agents and employees on whom they rely for advice and opinions be independent, impartial, and responsible to the people. When a sound code of ethics is promulgated and enforced, the public has confidence in the integrity of its government. The objective of the code of ethics is to advance openness in government by requiring disclosure by public officials of their private interests that may be affected by their public acts; to set standards of ethical conduct; to minimize pressures on public officials and to establish a process for reviewing and settling alleged violations.

C. The third objective of this part is to insure, in the interests of public policy, that all meetings of a quorum of the authority's board of directors held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action delegated to the authority shall be open to the public unless otherwise provided by law.

[6.50.1.6 NMAC - Rp, 6.50.1.6 NMAC, 9/1/2014]

6.50.1.7 DEFINITIONS: The definitions listed below apply to all rule pertaining to the authority, the authority's risk-related and employee-benefit coverages and any rules issued by the authority concerning risk or loss prevention, except where other rules contain more specific definitions of the same term or additional terms.

A. **"Abatement"** means the elimination of a recognized risk-related hazard as the result of a recommendation by a loss prevention representative or by the authority.

B. **"Affidavit of domestic partnership"** means a sworn, written statement, in a form approved by the authority, by which both members of a domestic partnership affirm, solely for the purpose of obtaining employee domestic partner benefits through the authority, that:

(1) the partners are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;

(2) the partners share a primary residence and have done so for 12 or more consecutive months;
(3) the partners are jointly responsible for each other's common welfare and share financial obligations;
(4) neither partner is married or a member of another domestic partnership;
(5) both partners are at least 18 years of age;
(6) both partners are legally competent to sign an affidavit of domestic partnership; and
(7) the partners are not related by blood to a degree of closeness that would prevent them from being married to each other in the state of New Mexico.

C. "Affidavit terminating domestic partnership" means a sworn, written statement, in a form approved by the authority, by which an employee notifies the authority that domestic partner benefits should be terminated because the employee's domestic partnership relationship is terminated.

D. "Authority" means the New Mexico public school insurance authority.

E. "Board" means the board of directors of the authority.

F. "Change of status" means the change of status of an eligible employee or eligible dependent by:
(1) death;
(2) divorce or annulment;
(3) loss of employment;
(4) loss of group or individual health insurance coverage through no fault of the person having the insurance coverage;

(5) birth;
(6) adoption or child placement order in anticipation of adoption;
(7) legal guardianship;
(8) marriage;
(9) incapacity;
(10) establishment or termination through affidavit of domestic partnership or affidavit terminating domestic partnership; or

(11) fulfilling the actively at work requirement and minimum qualifying number of hours through promotion with salary increase or acceptance of a full-time position with salary increase with the same participating entity.

G. "Charter school" means a school organized as a charter school pursuant to the provisions of the 1999 Charter Schools Act, Section 22-8B-1 et seq., NMSA 1978.

H. "Contract period" when applied to employee benefit or risk-related coverages means the established period of time over which the authority provides insurance to participating entities. The contract period shall be specified by the board as part of a memorandum of coverage, a group benefits policy or administrative services agreement. The contract period may be different for different offerings, policies or agreements.

I. "Costs" means the direct and indirect monetary and economic costs of insurance.

J. "Coverage" means insurance protection offered or provided by the authority to persons or entities entitled to participate in the authority's offerings.

K. "Critical hazard" means any risk-related exposure, hazardous condition, or other circumstance having an above average potential for immediate occurrence, but which is not immediately life threatening. A critical hazard is of less severity than an imminent hazard.

L. "Deductible" means the dollar amount which will be deducted from any payments made to or on behalf of a participating entity or employee or covered individual.

M. "Domestic partner" means an unrelated person living with and sharing a common domestic life with an employee of an entity offering domestic partner benefits, where the employee and the partner submit a properly executed affidavit of domestic partnership and where the employee and the partner presently:

(1) are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;
(2) share a primary residence and have done so for 12 or more consecutive months;
(3) are jointly responsible for each other's common welfare and share financial obligations; and
(4) are not married or in another domestic partnership.

N. "Domestic partner benefits" means dependent insurance coverage for a domestic partner offered to an employee as a benefit of employment pursuant to a written petition adopted by a member's governing body that:

(1) states that the member's governing body has voted in an open, public meeting to offer domestic partner benefits to its employees;

(2) sets forth the percentage contribution, if any, the member will make toward an employee's premium for domestic partner coverage;

(3) describes any evidence (documentation or other) the member will require in support of an affidavit of domestic partnership; and

(4) is received by the authority at its offices before the effective date the coverage is to begin.

O. "Due process reimbursement" means the reimbursement of a school district's or charter school's expenses as defined in Section 22-29-3 NMSA 1978 which are incurred as a result of a due process hearing as required pursuant to Section 22-29-12 NMSA 1978.

P. "Eligible dependent" means a person obtaining health care coverage from the authority based upon that person's relationship to the eligible employee as follows:

(1) a person whose marriage to the eligible employee is evinced by a marriage certificate or who has a legally established common-law marriage in a state which recognizes common-law marriages and then moves to New Mexico;

(2) a person who is the domestic partner of an eligible employee, employed by an entity offering domestic partner benefits;

(3) a child under the age of 26 who is either:

(a) a natural child;

(b) a legally adopted child pursuant to the Adoption Act, Section 32A-5-1, et. seq. NMSA 1978 or otherwise by placement order, court order or decree;

(c) a step child who is primarily dependent on the eligible employee for maintenance and support;

(d) a natural or legally adopted child of the eligible employee's domestic partner or a child placed in the domestic partner's household as part of an adoptive placement, legal guardianship, or by court order (excluding foster children) and who is living in the same household and is primarily dependent on the eligible employee for maintenance and support;

(e) a child for whom the eligible employee is the legal guardian and who is primarily dependent on the eligible employee for maintenance and support, so long as evidence of the guardianship is evidenced in a court order or decree (notarized documents, powers of attorney, or kinship documents are not accepted as evidence);

(f) a foster child living in the same household as a result of placement by a state licensed placement agency, so long as the foster home is licensed pursuant to Section 40-7A-1, et. seq. NMSA, 1978;

(g) a child living in the same household after a petition for adoption of that child has been filed pursuant to the Adoption Act, Section 32A-5-1 et. seq. NMSA 1978 or a pre-placement study is pending for purposes of adoption of the child pursuant to Section 32A-5-1 et. seq. NMSA 1978; or

(h) a dependent child pursuant to a qualified medical support order;

(4) a dependent child over 26 who is wholly dependent on the eligible employee for maintenance and support and who is incapable of self-sustaining employment by reason of mental retardation or physical handicap, provided that proof of incapacity and dependency must be provided within 31 days before the child reaches 26 years of age; any child who becomes so incapacitated while covered shall be allowed to continue coverage thereafter during the period of incapacity, and such times thereafter as may be authorized by the board;

(5) no provision in Paragraphs (1) through (4) of Subsection P of 6.50.1.7 NMAC shall result in eligibility of any person adopted by an eligible member pursuant to the adult adoption provisions of Section 40-14-5 NMSA 1978;

(6) no provision in Paragraphs (1) through (4) of Subsection P of 6.50.1.7 NMAC shall result in eligibility of any person who has met the requirements of any such paragraph for the primary purpose of obtaining eligibility under this chapter; any denial of eligibility under this subsection may be submitted for dispute resolution to the director of the authority pursuant to Subsection F of 6.50.10.13 NMAC, and the director's decision may be appealed by following the procedures specified in 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations.

Q. "Eligible participating entity board member, entity governing body member or authority board member" means an active participating entity board member, entity governing body member or authority board member whose entity is currently participating in the authority employee benefits coverages or who is eligible as an active authority board member or as an eligible retiree (Subsection R of 6.50.1.7 NMAC).

R. "Eligible retiree" means:

(1) a closed class: a "non-salaried eligible participating entity governing authority member" who is a former board member, who has served without salary as a member of the governing body of an employer eligible to

participate in the benefits coverages of the authority, and is certified to be such by the director of the authority and has continuously maintained group health insurance coverage through that member's governing body; "eligible retiree" also includes former members of the authority board who has continuously maintained authority group health insurance; with respect to authority and participating entity board members who begin service after January 1, 1997, may participate in the benefits coverages; coverage will end at the request of the member, death or for non-payment;

(2) a "grandfathered retired employee" or "grandfathered retired employee dependent" defined as a retired employee or the dependent of the retired employee who meets all applicable retirement rules of the Educational Retirement Act and educational retirement board but does not receive an Educational Retirement Act pension, and who has been allowed to continue authority coverages prior to the enactment of the Retiree Health Care Authority Act or by agreement between a new member school district or other educational entity;

(3) a "retired employee" who is drawing an Educational Retirement Act pension or with respect to a retired authority employee, a Public Employee Retirement Act pension, and desires to participate in the authority additional life coverage.

S. "Eligible employee" means an employee of an employer eligible to participate in the benefits coverages of the authority including eligible participating entity board members, entity governing body members and authority board members (Subsection Q of 6.50.1.7 NMAC), full-time employees (Subsection X of 6.50.1.7 NMAC), or eligible part-time employees (Subsection T of 6.50.1.7 NMAC).

T. "Eligible part-time employee" means a person employed by, paid by, and working for a participating entity less than 20 hours but more than 15 hours per week during the academic school term and is determined to be eligible for participation in authority employee benefits coverages by an annual resolution which, prior to May 1 of the previous year, is adopted by the participating entity governing body and approved by the authority board.

U. "Employee benefits minimum standards" means the minimum coverages, minimum limits and other factors as specified in authority rules for which insurance is offered.

V. "Established enrollment period" means the period of time and the dates for which an enrollment period is authorized by the authority. The established enrollment period shall be determined by the board on separate lines of employee benefit coverages as the authority board deems appropriate.

W. "Financial interest" means an interest of 10% or more in a business or exceeding \$10,000.00 in any business. For a board member, official, employee, agent, consultant or attorney this means an interest held by the individual, his or her spouse, his or her domestic partner, or his or her minor children.

X. "Full-time employee" means a person employed by, paid by and working for the participating entity 20 hours or more per week during the academic school term or terms. A full-time employee includes participating entity board members, entity governing body members and authority board members as defined in Subsections SS and TT of 6.50.1.7 NMAC.

Y. "Fund" means the authority account or accounts in which the money received by the authority is held.

Z. "Governing body" means the elected board or other governing body that oversees and makes the policy decisions for a school district, charter school or other educational entity. (See also Subsection UU of 6.50.1.7 NMAC)

AA. "Imminent hazard" means those conditions or practices which exist requiring suspension of activities or operations so as to avoid an occurrence which could reasonably be expected to result in death or serious physical harm immediately or before the imminence of such danger can be eliminated through the recommended abatement.

BB. "Ineligible dependents" means:

(1) common law relationships of the same or opposite sex which are not recognized by New Mexico law unless domestic partner benefits are offered by the employee's entity;

(2) dependents while in active military service;

(3) parents, aunts, uncles, brothers and sisters of the eligible employee;

(4) grandchildren left in the care of an eligible employee without evidence of legal guardianship; or

(5) any other person not specifically referred to as eligible.

CC. "Insider information" means information regarding the authority which is confidential under law or practice or which is not generally available outside the circle of those who regularly serve the authority as board members, officials, employees, agents, consultants or attorneys.

DD. "Insurance" means basic insurance, excess insurance, re-insurance, retrospectively rated insurance, self-insurance, self-insured retention and all other mechanisms to provide protection from risks assumed

by the authority.

EE. “Insurance policy” means one or more basic insurance policies, excess insurance policies, reinsurance policies, retrospectively rated insurance policies, or other insurance policies sought or obtained by the authority from one or more insurance companies to provide contractual protection against one or more risks or perils or which provide health related services.

FF. “Line” means insurance protection which protects against a specific category or set of perils.

GG. “Loss prevention” means a system for identification and reduction of risk-related exposures, hazardous conditions or other circumstances likely to produce a loss.

HH. “Loss prevention representative” means the employee of the contracted risk-related agency or the authority charged with the responsibility of providing loss prevention services to the authority.

II. “Memorandum of coverage” means the document which lists all terms and conditions of risk-related coverages.

JJ. “Member” and “members” means all public school districts and charter schools mandated by the New Mexico Public School Insurance Authority Act, Section 22-29-9 et seq. NMSA 1978 to be members of the authority and all other educational entities voluntarily participating in the authority.

KK. “Minimum participation level” means that level of required participation by eligible employees of a participating entity in the authority employee benefits coverages for the particular line of coverage. The percentage level of required participation may vary from one line of coverage to another line of coverage as determined by the board from time to time.

LL. “Native American employees” or “native American dependents” are those persons on the membership rolls of any recognized Indian tribe, nation, or pueblo.

MM. “Occurrence” means continuous and repeated exposures to substantially the same general harmful conditions, accidents or events. All such exposures to substantially the same general condition shall be considered as arising from one occurrence.

NN. “Offering” refers to any single line offering, multi-option or package offering made available by the authority.

OO. “Other educational entity” means an educational entity as defined in Section 22-29-3, NMSA 1978 which is an authority member pursuant to Section 22-29-9E NMSA 1978.

PP. “Package offering” means combining together of two or more lines of risk-related insurance.

QQ. “Participant” means a person receiving employee benefit coverage from the authority.

RR. “Participating entity” means a school district, charter school or other educational entity receiving authority coverage.

SS. “Participating authority board member” means a person that is appointed to serve and is serving as a member of the authority board.

TT. “Participating entity board member” or “participating entity governing body member” means a person that is elected or appointed to serve and is serving as a member of the governing board of a participating entity.

UU. “Participating entity governing board” means the elected or appointed board or other governing body that oversees and makes the policy decisions for the school board, charter school or educational entity.

VV. “Part-time employee” means a person employed by, paid by and working for the participating entity less than 20 hours per week during the academic school term or terms.

WW. “Public official” means a person serving the authority as board member, official, employee, agent, consultant or attorney or as a member of an ad hoc or standing authority advisory committee.

XX. “Recommendation” means a method or means of risk-related corrective action suggested to a participating entity to eliminate a designated hazard.

YY. “Request for waiver” means a request for waiver of participation.

ZZ. “Review board” means the risk-related loss prevention review board. In the event a risk-related loss prevention review board is not designated by the authority board, “review board” means the risk advisory committee of the board.

AAA. “RFP” means a request for proposals and consists of all papers including those attached to or incorporated by reference in a document used to solicit proposals for insurance policies or professional services.

BBB. “Risk-related coverage” means any coverage required under the Tort Claims Act, Section 4-41-1 et seq. NMSA 1978, or any other state mandate and any coverage provided at the authority’s discretion.

CCC. “School district” means any school district as defined in Section 22-29-3 NMSA 1978.

DDD. “Self-insured retention” means that dollar amount from the first dollar of loss up to a maximum amount for which the risk of loss is retained as determined by the authority.

EEE. “Special events” mean events that permit enrollment in employee-benefits coverages.

FFF. “State” means the state of New Mexico.

GGG. “Waiver” or “waiver of participation” means a written document issued by the authority to a school district or charter school excusing the school district or charter school from participation in an authority offering. A school district or charter school may submit a request for waiver of participation for each authority offering.

[6.50.1.7 NMAC - Rp, 6.50.1.7 NMAC, 9/1/2014]

6.50.1.8 COMMUNITY RELATIONS:

A. The board recognizes its responsibility to the public to provide information concerning all of its actions, its policies, and details of its educational and business operations. In recognition of this responsibility the board shall:

(1) open to the public all regular, special and emergency meetings of the authority’s board of directors, board standing committees and board ad hoc committees with notice consistent with the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978 and the resolution adopted by the board governing open meetings;

(2) adopt an annual budget at an open public meeting announced publicly in advance;

(3) provide annual reports of financial and operational activities to members and to the public upon payment of reasonable copying costs pursuant to the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978; and

(4) inform the public of authority matters through appropriate public news media, authority publications and an informational website.

B. The board recognizes that constructive study, discussion and active participation by citizens are necessary to promote the best possible programs of insurance in the community. The board shall do the following to encourage this participation.

(1) The board shall invite participating entities to assist individually or in groups in matters of concern to the authority.

(2) The board shall select, from time to time, committees to serve as study groups to investigate concerns. Each committee shall be appointed by the board for a specific purpose and, after final reports have been completed, shall be dissolved. The function of such committees shall not extend beyond that of study and recommendation as the board shall not delegate its responsibility for discretionary action to any such group.

(3) The board shall encourage participation by school districts, charter schools, other educational entities, employees of educational institutions and interested citizens.

C. Members of the public are entitled to inspect and make copies of public documents of the authority in accordance with the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978.

[6.50.1.8 NMAC - Rp, 6.50.1.8 NMAC, 9/1/2014]

6.50.1.9 BOARD PROCEDURES AND GENERAL AUTHORITY: This section establishes procedures governing the board operations for conducting its business affairs and sets forth the general authority of the board.

A. The authority's board shall be composed of a total of 11 members as provided by Section 22-29-5 NMSA 1978. Solely for the purposes of board membership under Section 22-29-5 NMSA 1978, the term “participating educational entities” as used in that section is defined to mean those educational entities that participate in the authority employee benefits coverages or risk-related coverages or both.

B. Membership on the board shall be for a term not to exceed three years pursuant to Section 22-29-5, NMSA 1978. Members shall serve on the board at the pleasure of the party by which he has been appointed and may be removed by the appointing party for any reason at any time.

C. Alternate representatives to the board shall not be allowed. Voting by proxy also shall not be allowed.

D. A board member shall assume office at the time the appointing entity files written notification of the appointment of the board member at the office of the authority. The written notice shall contain the name, title, business address and business and home telephone number of the board member. A board member shall serve until written notification of a change is filed with the authority or until the three-year term is expired. There is no limitation as to the number of terms a board member may serve.

E. The board shall hold an annual meeting each August. At the option of the board the annual meeting may be scheduled to coincide with the regular August meeting of the board.

F. The officers of the board shall be elected from the board membership. The officers shall consist of

a president, a vice-president and a secretary, who shall be elected at the annual meeting of the board and shall serve for a period of one year. An officer may be reelected to the same position or elected to fill another position as an officer of the board.

G. If an officer vacates his position on the board, the next lower officer shall automatically assume the duties of the higher officer. For example, if the presidency becomes vacant, the vice-president shall automatically assume the title and duties of president and the secretary shall automatically assume the title and duties of vice-president. After due notice, a new secretary will be elected by the board. In the alternative to the automatic progression to higher office, the board may call a special meeting for the purpose of conducting an election of officers in the event of any vacancy in a board office. Each of the new officers, however selected, shall serve until election of officers at the next annual meeting.

H. The regular meetings of the board shall normally be held monthly, in a place to be determined from time to time by the board. The date of any regular meeting may be changed by a majority vote of a quorum of the board. The president or vice-president may cancel a regularly scheduled meeting of the board by giving notice of the cancellation in advance of any regularly scheduled meeting.

I. Robert's Rules of Order are adopted by the board and shall be used for the conduct of all meetings to be held by the authority. Robert's Rules of Order shall be binding in all cases where they are not inconsistent with New Mexico statutes and rules adopted by the authority.

J. Meetings of the board other than regular meetings shall be called according to the following procedures.

(1) A special meeting of the board is a meeting other than a regular or emergency meeting and may be called by the president, vice-president or any three board members for the specific purposes specified in the call. The call shall be made in accordance with the Open Meetings Act requirements, Section 10-15-1 et seq. NMSA 1978, and board resolutions.

(2) An emergency meeting of the board is a meeting other than a regular or special meeting and may be called by the president, vice-president, or any two members of the board to consider a sudden or unexpected set of circumstances affecting the authority for which time is of the essence. The call shall be made in accordance with the Open Meetings Act requirements, Section 10-15-1 et seq. NMSA 1978, and board resolutions.

K. A majority of all of the board members shall constitute a quorum for conducting the affairs of the authority. The president of the board shall be entitled to debate any issue and vote on any issue in the same manner as other members of the board. The president shall be considered to be a member of the board for purposes of a quorum. All matters will be determined by voice vote. Any member of the board may request a roll call vote on any issue. In the event of a roll call, it shall be in alphabetical order with the president voting last.

L. The board shall be addressed according to the following procedures.

(1) An individual may speak on any item that appears on the adopted agenda, before a final vote is taken, by notifying and subsequently being recognized by the president or vice-president. The president or vice-president may, at his discretion, limit the time any individual or entity is allotted to make a presentation and the president or vice-president may, in his discretion, limit the time allotted for any subject.

(2) A person with a matter to present to the board shall submit the request in writing with appropriate supporting materials four days in advance of a regularly scheduled meeting, 24 hours in advance of a special meeting and three hours in advance of an emergency meeting.

M. The board retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the constitution of the state of New Mexico and statutes, including those prescribed by Sections 22-29-1 et. seq. NMSA 1978, and such other power and authority as may be conferred upon the board from time to time. In execution of those powers and duties specifically provided by law, the board has the following general power and authority to:

(1) exercise general control and management of the authority, third party administrators, consultants retained by the authority and other agents, servants and employees;

(2) establish such programs, and provide such services as it deems necessary for the proper and efficient operation of the authority and the good of the participating entities;

(3) exercise control and management of all authority assets and use such assets to promote authority business in such ways as the board deems necessary and proper in accordance with law;

(4) make and adopt or amend rules and regulations for governance of the authority by a majority of the board membership;

(5) make and adopt or amend substantive rules and regulations by a majority vote of the board membership;

(6) repeal a substantive rule of the authority by a majority vote of the board membership, but the

board has no power to suspend any substantive rule except by a two-thirds vote of the membership of the board;

(7) make provisions for interpreting the authority's programs for dissemination to the public and to seek the opinion and advice of the participating entities concerning the authority's insurance programs;

(8) work in a cooperative manner with interested citizens in a continuous effort to improve the authority's programs;

(9) appoint advisory committees, including a risk advisory committee and an employee benefits advisory committee, which are permanent standing committees of the board, as well as ad hoc advisory committees as needed;

(10) establish an executive committee, a permanent standing committee of the board, which shall be made up of the president, vice-president and secretary of the board and which shall serve as the agenda committee; and

(11) hire an executive director and to delegate to the executive director the day to day activities of the authority pursuant to board policy as developed in its open meetings.

N. The permanent risk advisory committee and the permanent employee benefits advisory committee shall be chaired by members of the board or if no board member is available, then by staff. The board shall name the advisory committee members from authority participating entities or covered individuals assuring a balance of large and small participating entities and a geographic balance.

O. An ad hoc advisory committee shall be established for a specific purpose or goal and shall be established for a stated period of time.

P. Members of advisory committees shall be appointed by the president of the board with the advice and consent of the board and shall serve at the pleasure of the board. Advisory committees shall provide notice of meetings as required by the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978, and these rules. Minutes in compliance with Subsection R of 6.50.1.9 NMAC shall be kept by the chairman or his designee. Advisory committee minutes shall be considered acted upon when the board acts on the advisory committee report.

Q. The authority shall pay per diem and mileage consistent with the Per Diem and Mileage Act, Section 10-8-1 et seq. NMSA 1978, as amended, and the applicable department of finance and administration rules. The per diem and mileage payments shall be limited to the following situations.

(1) Authority employees are entitled to receive per diem and mileage for travel incurred in the normal course and scope of their employment; provided however, that no employee shall be entitled to receive per diem and mileage for travel outside of the state without obtaining the board's prior approval for the travel.

(2) Authority board members are entitled to receive per diem and mileage for travel incurred for attending all regular, special and emergency board meetings, or any standing or ad hoc committee meetings of the board called pursuant to the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978 and the authority's open meetings resolution. In addition, the executive committee serving as the authority board agenda committee is entitled to receive per diem and mileage for travel incurred as necessary to conduct the business of the board. Authority board members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of the board.

(3) Authority advisory committee members named by the board to serve on advisory committees are entitled to receive per diem and mileage for travel incurred for attending authority advisory committee meetings which has been scheduled in writing by the board or by the executive director. Authority advisory committee members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of the board.

R. Minutes of the board.

(1) The authority shall keep written minutes of all its open meetings. The minutes shall include as a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered, if any, and a record, where appropriate, of any decisions and votes taken which show how each member voted. All minutes of meetings shall be open to public inspection at reasonable times. Draft minutes shall be prepared within 10 working days after the meeting. Minutes shall not become official until approved by the board. The minutes shall be kept on file as the permanent official record of the authority.

(2) It is the practice of the authority staff (but not a requirement by the authority board) that board meetings are tape recorded. The board secretary shall make notes of board meetings sufficient to reflect the information required in Paragraph (1) of Subsection R of 6.50.1.9 NMAC, and the tape recording shall be available to the secretary, any board member or member of the public for review with regard to the accuracy of draft minutes. However, 30 days after minutes have been adopted by the board, the board secretary shall recycle the tapes by erasure and make them available for re-use.

[6.50.1.9 NMAC - Rp, 6.50.1.9 NMAC, 9/1/2014]

6.50.1.10 CODE OF ETHICS:

A. Registration and disclosure duties of public officials.

(1) Upon becoming a public official, a person shall provide registration information to the authority office as listed below. This information shall be updated every April and shall be available to the public at all times:

- (a) name;
- (b) address and telephone number;
- (c) professional, occupational or business licenses;
- (d) membership on boards of directors of corporations, public or private associations or organizations; and

(e) the nature, but not the extent or amount, of his financial interests as defined in Subsection X of 6.50.1.7 NMAC within one month of becoming a public official.

(2) A public official who has a financial interest which may be affected by an official act of the authority, ad hoc or advisory committee shall declare such interest prior to discussion, voting, advising or taking any other action and that declaration shall be entered in the official minutes of the authority. A public official shall abstain from voting, advising or taking any other action including discussion on that issue if the decision, in his opinion, may affect his financial interest in a manner different from its effect on the general public.

B. No public official shall request or receive a gift or loan for personal use or for the use of others from any person involved in a business transaction with the authority with the following exceptions:

- (1) an occasional non-pecuniary gift of insignificant value;
- (2) an award publicly presented in recognition of public service;
- (3) a commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of the state to engage in the business of making loans; or
- (4) a political campaign contribution, provided that such gift or loan is properly reported and actually used in a political campaign.

C. No public official shall personally represent private interests before the authority board or any ad hoc or standing committee.

D. No public official shall use or disclose insider information regarding the authority for his own or other's private purposes.

E. No public official shall use authority services, personnel or equipment for personal benefit, convenience or profit, except when such use is generally available to the public and when in accordance with policies of the authority board.

F. No public official shall acquire or negotiate to acquire a financial interest at a time when the official believes or has reason to believe that it will be substantially or directly affected by his official acts.

G. No public official shall enter into a contract or transaction with the authority or its public officials, unless the contract or transaction is made public by filing notice with the authority board.

H. No public official shall vote or otherwise participate in the negotiation or the making of any authority contract with any business or entity in which he has a direct financial interest.

I. No public official shall seek to be awarded a contract where such public official has participated in the process of preparation of the bid or request for proposals.

J. Any contract, approval, sale or purchase entered into or official action taken by a public official in violation of 6.50.1.10 NMAC may be voided by action of the authority board.

K. It is a violation of 6.50.1.10 NMAC for any public official knowingly, willfully or intentionally to conceal or fail to disclose any financial interest required to be disclosed by 6.50.1.10 NMAC or violate any of its provisions.

L. Any person may make a sworn, written complaint to the authority board of a violation by a public official of 6.50.1.10 NMAC. Such complaint shall be filed with the authority executive director or if it is a complaint against the executive director, then with the authority board. The complaint shall state the specific provision of 6.50.1.10 NMAC which has allegedly been violated and the facts which the complainant believes support the complaint. Within 15 days of receiving the complaint, the authority board in executive session shall appoint a hearing officer to review the complaint for probable cause. The hearing officer shall receive the written complaint and notify the person complained against of the charge. Persons complained against shall have the opportunity to submit documents to the hearing officer for his review in determining probable cause. Within 15 days of undertaking the inquiry to determine probable cause, the hearing officer shall report his findings to the authority board. In the event the hearing officer rejects a complaint as lacking in probable cause, he shall provide a written statement of reasons for his rejection to the authority board and the complainant. Upon a finding of probable cause,

within 30 days the hearing officer shall conduct an open hearing in accordance with due process of law. Within a time after the hearing, as specified by the authority board, the hearing officer shall report his findings and recommendations to the authority board for appropriate action based on those findings and recommendations. If the complaint is found to be frivolous, the authority board may assess the complainant the costs of the hearing officer's fees. Upon recommendation of the hearing officer, the authority board may issue a public reprimand to the public official; remove or suspend him from his office, employment or contract and refer complaints against public officials to the appropriate law enforcement agency for investigation and prosecution.

M. The executive director and the authority board shall maintain the confidentiality of the complaint and instruct the complainant that he is also required to keep the complaint confidential pursuant to Subsection L of 6.50.1.10 NMAC. Except for the hearing, the proceedings shall be kept confidential by all parties concerned, unless the accused public official requests that the process be open at any stage.

N. A separate hearing officer shall be appointed by the authority board for each complaint. The hearing officer may be an authority board member, agent or employee of the authority or another person. The complainant and the person complained against have the right to one disqualification of a designated hearing officer. [6.50.1.10 NMAC - Rp, 6.50.1.10 NMAC, 9/1/2014]

HISTORY OF 6.50.1 NMAC:

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

NMPSIA 86-1, Open Meetings Act Resolution, filed 09-18-86; NMPSIA 86-2, Definitions, filed 10-31-86; NMPSIA 88-2, Definitions, filed 11-4-88; NMPSIA 86-3, Board Procedures and General authority, filed 10-31-86; NMPSIA 86-4, Community Relations, filed 10-31-86; NMPSIA 89-2, Staff Headquarters, filed 08-03-89; NMPSIA Rule 93-1, Definitions, filed 03-22-93; NMPSIA Rule 93-3, Board Procedures and General authority, filed 03-22-93; Community Relations, filed 10-31-86; NMPSIA Rule 93-2, Community Relations, filed 03-22-93; NMPSIA Rule 89-200, Code of Ethics, filed 03-27-89; NMPSIA 93-4, Code of Ethics, filed 03-22-93.

History of Repealed Material:

6.50.1 NMAC, General Provisions (filed 7/1/2004) repealed 9/1/2014.

Other History:

NMPSIA Rule 93-1, Definitions (filed 03-22-93); NMPSIA Rule 93-2, Community Relations (filed 03-22-93); NMPSIA Rule 93-3, Board Procedures and General authority (filed 03-22-93); NMPSIA 93-4, Code of Ethics (filed 03-22-93) was all renumbered, reformatted, amended and replaced by 6 NMAC 50.1, General Provisions, effective 10/15/97.

6 NMAC 50.1, General Provisions (filed 10/1/97) was renumbered, reformatted, amended and replaced by 6.50.1 NMAC, General Provisions, effective 7/15/2004.

6.50.1 NMAC, General Provisions (filed 7/1/2004) was repealed and replaced by 6.50.1 NMAC, General Provisions, effective 9/1/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 2 CONTRACTS FOR PURCHASE OF PROFESSIONAL SERVICES AND
INSURANCE

6.50.2.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.2.1 NMAC - Rp, 6 NMAC 50.2.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.2.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.2.2 NMAC - Rp, 6 NMAC 50.2.2, 09/01/2014]

6.50.2.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.2.3 NMAC - Rp, 6 NMAC 50.2.3, 09/01/2014]

6.50.2.4 DURATION: Permanent.

[6.50.2.4 NMAC - Rp, 6.50.2.4 NMAC, 09/01/2014]

6.50.2.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.2.5 NMAC - Rp, 6 NMAC 50.2.5, 09/01/2014]

6.50.2.6 OBJECTIVE: The objective of this part is to establish requirements for procurement of professional services, consulting and insurance services for the authority. The objective is to set out policies to stimulate maximum competition for provision of these services. It is not the objective of this part to restate the Procurement Code, Section 13-1-1 et seq., NMSA 1978, but only to supplement it where necessary.

[6.50.2.6 NMAC - Rp, 6 NMAC 50.2.6, 09/01/2014]

6.50.2.7 DEFINITIONS: As used in this part: "professional services" means the services of third party administrators, insurance consultants, banks, underwriters, brokers, agents, architects, archaeologists, artists, entertainers, auditors, engineers, clergymen, land surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, photographers, pilots, researchers, teachers, writers, interpreters, and persons or businesses providing similar services.

[6.50.2.7 NMAC - Rp, 6 NMAC 50.2.7, 09/01/2014]

6.50.2.8 CONTRACT APPROVAL:

A. Every contract for professional services, consulting or insurance services shall be approved by the board only after its general legal counsel has reviewed it and has affirmed it is in compliance with appropriate provisions of the Procurement Code, Section 13-1-1 et seq., NMSA 1978 and these rules.

B. All amendments to contracts for professional services, consulting or insurance services shall also be subject to review and approval by the board's general legal counsel as provided in these rules.

[6.50.2.8 NMAC - Rp, 6 NMAC 50.2.8, 09/01/2014]

6.50.2.9 CONTRACT REQUIREMENTS:

A. All contracts for professional services, consulting or insurance services shall be in a form and contain such provisions as may be required by the board and its general legal counsel.

B. Each contract for professional services, consulting or insurance services shall comply with the Governmental Conduct Act, Section 10-16-1 et seq. NMSA 1978. In particular the provisions of Sections 10-16-7, 10-16-8 and 10-16-9 NMSA 1978 regarding contracts between state agencies and public officers or employees of the state, with the family of the public officer or employee or with a business in which the public officer or

employee or the family of the public officer or employee shall be strictly observed. When financial disclosure is required under the Financial Disclosure Act, Section 10-16A-1 et seq. NMSA 1978, the disclosure shall be filed with the secretary of state.

[6.50.2.9 NMAC - Rp, 6 NMAC 50.2.9, 09/01/2014]

6.50.2.10 PROCEDURES FOR ENTERING INTO CONTRACTS:

A. Contracts for professional services, consulting or insurance services shall be solicited, negotiated and awarded through a competitive sealed proposal process in accordance with the Procurement Code, Section 13-1-1 et seq., NMSA 1978. Sole source, emergency and small purchases shall also be solicited, negotiated and awarded in accordance with the Procurement Code, Section 13-1-1 et seq., NMSA 1978.

B. Proposals shall be evaluated based on the requirements set forth in the invitation for proposals, which requirements shall include criteria for evaluating proposals such as experience, both quantitative and qualitative, prior provision of similar services, client references, price and any other considerations the authority deems relevant. No criteria may be used in proposal evaluations that are not set forth in the invitation for proposals. The authority may provide that price is a factor, but that a contract need not be awarded to the vendor proposing the lowest price. The award shall be made to the responsible offeror or offerors whose proposal is most advantageous to the authority, taking into consideration the evaluation factors set forth in the request for proposals.

C. All prospective contractors shall submit to the board a signed completed original of a contract prepared by, reviewed and approved by the authority's general legal counsel. The contract form shall be submitted to and approved by the board prior to initiating any action with prospective contractors for contractual services and prior to beginning performance of any services pursuant to the contract.

D. There shall be no liability whatsoever by the authority, and there shall be no services rendered unless those services have commenced after approval of a contract for services by the board.

[6.50.2.10 NMAC-Rp, 6.50.2.10 NMAC, 09/01/2014]

6.50.2.11 MULTI-TERM CONTRACTS: Any multi-term contract for services (including the furnishing of insurance) shall only be entered into pursuant to the provisions of the Procurement Code, Section 13-1-150 NMSA 1978 as amended and supplemented.

[6.50.2.11 NMAC - Rp, 6 NMAC 50.2.11, 09/01/2014]

6.50.2.12 RIGHT TO PROTEST: Any offeror who is aggrieved in connection with a solicitation or award of a contract may protest to the executive director of the authority. The protest shall be submitted in writing within 15 calendar days after knowledge of the facts or occurrence giving rise to the protest.

[6.50.2.12 NMAC - Rp, 6 NMAC 50.2.12, 09/01/2014]

6.50.2.13 FILING OF PROTEST:

A. Protests must be in writing and addressed to the executive director.

B. The protest shall:

(1) include the name and address of the protestant;

(2) include the solicitation number;

(3) provide a statement of the grounds for protest;

(4) include supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time, in which case the expected availability date shall be indicated;

(5) a statement of the facts or occurrences giving rise to the protest; and

(6) specify the ruling requested from the director.

C. No formal pleading is required to initiate a protest, but protests shall be concise, logically arranged, and direct.

[6.50.2.13 NMAC - Rp, 6 NMAC 50.2.13, 09/01/2014]

6.50.2.14 PROCUREMENTS AFTER PROTEST:

A. In the event of a timely protest, as defined in 6.50.2.12 and 6.50.2.13 NMAC, the executive director shall not proceed further with the procurement unless he makes a written determination that it is necessary to go forward with the award of the contract to protect substantial interests of the authority. Such written determination shall set forth the basis for the determination.

B. In no circumstance will a procurement be halted after a contract has been awarded merely because a protest has been filed.

C. The point in time in which a contract is awarded is that point at which a legally enforceable contract is created, unless the context clearly requires a different meaning.
[6.50.2.14 NMAC - Rp, 6 NMAC 50.2.14, 09/01/2014]

6.50.2.15 PROCEDURE:

A. Upon the filing of a timely protest, the burden is on the protestant to give notice of the protest to and to cause service to be made (as provided in the Rules of Civil Procedure) upon the contractor if award has been made or, if no award has been made, notice to and service upon all bidders and offerors who appear to have a substantial and reasonable prospect of receiving an award if the protest is upheld or denied.

B. The protestant and every business that receives notice pursuant to Subsection A of 6.50.2.15 NMAC will automatically be parties to any further proceedings before the executive director. In addition, any other person or business may move to intervene at any time during the course of the proceedings. Intervention will be granted upon a showing of a substantial interest in the outcome of the proceedings. Intervenors shall accept the status of the proceedings at the time of their intervention; in particular, they must abide by all prior rulings and accept all previously established time schedules.

C. The executive director and all employees and the general legal counsel of the authority are not parties to the proceedings.
[6.50.2.15 NMAC - Rp, 6 NMAC 50.2.15, 09/01/2014]

6.50.2.16 AUTHORITY TO RESOLVE PROTEST: The executive director may take any action reasonably necessary to resolve a protest regarding risk-related coverages. Such actions include, but are not limited to, the following:

- A. issue a final written determination summarily dismissing the protest;
- B. obtain information from the staff of the state purchasing agent or state central purchasing office;
- C. require the parties to produce information or witnesses under their control for examination;
- D. require parties to express their positions on any issue in the proceeding;
- E. require parties to submit legal briefs on any issues in the proceeding;
- F. establish procedural schedules;
- G. regulate the course of the proceedings and the conduct of any participants;
- H. receive, rule on, exclude or limit evidence;
- I. take official notice of any fact that is among the traditional matters of official or administrative notice;
- J. conduct hearings; and
- K. take any action reasonably necessary to compel discovery or control the conduct of parties or witnesses.

[6.50.2.16 NMAC - Rp, 6 NMAC 50.2.16, 09/01/2014]

6.50.2.17 HEARINGS:

A. Hearings are disfavored and will be held only when the executive director determines that substantial material factual issues are present that cannot be resolved satisfactorily through an examination of written documents in the record. Any party may request a hearing, but such requests shall be deemed denied unless specifically granted.

B. Hearings, when held, should be as informal as practicable under the circumstances, but the executive director has absolute discretion in establishing the degree of formality for any particular hearing. In no event is the executive director required to adhere to formal rules of evidence or procedure.

[6.50.2.17 NMAC - Rp, 6 NMAC 50.2.18, 09/01/2014]

6.50.2.18 RESOLUTION:

A. The executive director shall, within 30 days after receipt of all information or the date of any hearing, whichever is later, issue a written determination relating to the protest. The determination shall:

- (1) state the reasons for the action taken; and
- (2) inform the protestant of the right to judicial review of the determination pursuant to Section 13-1-183 N.M.S.A. 1978.

B. A copy of the written determination shall be sent immediately by certified mail, return receipt requested, to each of the parties.

[6.50.2.18 NMAC - Rp, 6 NMAC 50.2.19, 09/01/2014]

6.50.2.19 RELIEF:

A. If, prior to award of a contract, the executive director makes a determination that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be canceled.

B. If, after an award of a contract, the executive director makes a determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has not acted fraudulently or in bad faith:

(1) the contract may be ratified, affirmed and revised to comply with law, provided that a determination is made that doing so is in the best interests of the authority; or

(2) the contract may be terminated, and the business awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract plus a reasonable profit prior to termination.

C. If, after an award of a contract, the executive director makes a determination that a solicitation or award of a contract is in violation of law or that the business awarded the contract has acted fraudulently or in bad faith, the contract shall be canceled.

D. Except as provided in Paragraph (2) of Subsection B of 6.50.2.19 NMAC, the executive director shall not award money damages or attorneys' fees.

[6.50.2.19 NMAC - Rp, 6 NMAC 50.2.20, 09/01/2014]

6.50.2.20 MOTION FOR RECONSIDERATION:

A. A motion for reconsideration of a written determination issued pursuant to 6.50.2.18 NMAC, may be filed by any party involved in the procurement. The motion for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification of the determination is deemed warranted, specifying any errors of law made, or information not previously considered.

B. A motion for reconsideration shall be filed not later than 10 days after receipt of the written determination.

C. The executive director shall issue a written response within 10 business days to the motion for reconsideration. A copy of the written response shall be sent immediately by certified mail, return receipt requested, to each of the parties.

[6.50.2.20 NMAC - Rp, 6 NMAC 50.2.21, 09/01/2014]

6.50.2.21 DESIGNEE:

A. At any point during a protest proceeding the executive director or the board may appoint a designee, to act in place of the executive director. The designee will have all of the powers described in these rules regarding protest procedures except the power to issue a written determination under 6.50.2.18 NMAC. The designee only has authority to recommend a resolution to the executive director under that section.

B. The designee may be any person other than any person having made a proposal in response to the request for proposal.

C. A designee shall present a recommended written resolution to the executive director or the board and mail a copy to each of the parties. No party may appeal from the recommended resolution of the designee.

D. The executive director or the board shall approve, disapprove or modify the recommended resolution of the designee in writing. Such approval, disapproval or modification shall be the written determination required by 6.50.2.18 NMAC.

[6.50.2.21 NMAC - Rp, 6 NMAC 50.2.22, 09/01/2014]

6.50.2.22 FINAL DETERMINATION:

A. In those proceedings in which no motion for reconsideration is filed, the written determination issued pursuant to 6.50.2.18 NMAC shall be the final determination for purposes of the time limits for seeking judicial review under Section 13-1-183 NMSA 1978.

B. In those proceedings in which a motion for reconsideration is filed, the written response to the motion issued pursuant to Subsection C of 6.50.2.20 NMAC shall be the final determination for purposes of the time limits for seeking judicial review under Section 13-1-183 NMSA 1978.

[6.50.2.22 NMAC - Rp, 6 NMAC 50.2.23, 09/01/2014]

6.50.2.23 COPIES OF COMMUNICATIONS:

A. Each party to a protest proceeding shall certify that it has provided every other party with copies of all documents or correspondence addressed or delivered to the executive director.

B. No party shall submit any material, evidence, explanation, analysis, or advice, whether written or oral, to the executive director or the board *ex parte*, regarding any matter at issue in a protest.
[6.50.2.23 NMAC - Rp, 6 NMAC 50.2.24, 09/01/2014]

6.50.2.24 PROTESTS REGARDING HEALTH CARE CONTRACT PURCHASING: Protests concerning the authority's purchase of health care contracts shall be resolved by the procurement manager pursuant to the Health Care Purchasing Act, Section 13-7-1 et seq., NMSA 1978.
[6.50.2.24 NMAC - N, 09/01/2014]

6.50.2.25 CONTRACTS - AUDITS:

A. The authority has the primary responsibility for contract compliance monitoring. The board or its consultant if any, shall audit contracts on a random basis to determine:

- (1) if the tasks called for in the scope of services have been performed;
- (2) if the contract was completed in time and within budget; and
- (3) if the services were performed to the satisfaction of the authority.

B. For purposes of compliance with this provision, every contract shall require the contractor to maintain detailed time records which indicate the date, time and nature of services rendered.
[6.50.2.25 NMAC - Rp, 6 NMAC 50.2.25, 09/01/2014]

6.50.2.26 VOUCHER APPROVAL -- PROFESSIONAL SERVICES

A. No voucher for payment of professional services will be approved by the board or its third party administrators, other than a payroll voucher or travel voucher, unless the contract and any amendments to the contract have been approved where required by these rules. All vouchers must contain the contract identification number.

B. The board or its third party administrators shall not approve any voucher for the payment of professional services unless the voucher certifies that the services have been rendered.
[6.50.2.26 NMAC - Rp, 6 NMAC 50.2.26, 09/01/2014]

HISTORY of 6.50.2 NMAC:

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

NMPSIA Rule 89-100, Contracts for Purchase of Professional Services and Insurance, filed 3/27/89.

NMPSIA Rule 93-5, Contracts for Purchase of Professional Services and Insurance, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.2, Contracts for Purchase of Professional Services and Insurance, filed 10/1/97 - Repealed effective 09/01/2014

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
**PART 3 PROCUREMENT OF COVERAGE FOR RISK-RELATED EXPOSURES, EMPLOYEE-
BENEFITS AND DUE PROCESS REIMBURSEMENT**

6.50.3.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.3.1 NMAC - Rp, 6 NMAC 50.3.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.3.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.3.2 NMAC - Rp, 6 NMAC 50.3.2, 09/01/2014]

6.50.3.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.3.3 NMAC - Rp, 6 NMAC 50.3.3, 09/01/2014]

6.50.3.4 DURATION: Permanent.

[6.50.3.4 NMAC - Rp, 6 NMAC 3.4, 09/01/2014]

6.50.3.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.3.5 NMAC - Rp, 6 NMAC 50.3.5, 09/01/2014]

6.50.3.6 OBJECTIVE: The objective of this part is to delineate the powers of the authority to procure insurance or to self-insure risk-related exposures and to provide for employee-benefit programs and due process reimbursement coverage and the general methods by which these coverages will be offered.

[6.50.3.7 NMAC - Rp, 6 NMAC 50.3.6, 09/01/2014]

6.50.3.7 DEFINITIONS: [RESERVED]

6.50.3.8 AUTHORIZATION TO PROCURE INSURANCE OR TO SELF-INSURE RISK-RELATED, EMPLOYEE BENEFIT AND DUE PROCESS REIMBURSEMENT COVERAGES: The authority is authorized to provide for risk-related exposures, employee benefit programs and due process reimbursement coverage in the following ways.

A. Obtain basic, excess, reinsurance or retrospectively rated insurance policies for any combination of risk-related or employee-benefit coverages on behalf of all persons or entities authorized to participate in the authority's coverages in compliance with the Procurement Code, Section 13-1-1 et seq. NMSA 1978, the Health Care purchasing Act, Section 13-7-1 NMSA 1978, and the competitive sealed proposal process of Section 13-1-28 NMSA 1978.

B. Self-insure all or any part of risk-related, employee benefit and due process reimbursement coverages offered to persons or entities authorized to participate in the authority's coverages.

C. Establish pooling and participation arrangements to provide risk-related or employee-benefit coverages on behalf of all persons or entities authorized to participate in the authority's coverages.

D. Establish reasonable self-insured retention or self-insured liability levels.

E. Establish reasonable deductibles, stop loss, out of pocket, co-pays or other cost containment mechanisms.

F. Modify any basic, excess, reinsurance or retrospectively rated insurance policies, pooling or participation agreements or other insurance coverage.

G. Add or delete one or more risks, one or more perils, one or more benefits or one or more lines in any self- insurance, insurance contract, pooling or participation agreement.

[6.50.3.8 NMAC - Rp, 6 NMAC 50.3.8, 09/01/2014]

6.50.3.9 AUTHORIZATION TO OFFER RISK RELATED COVERAGES: The authority is authorized to offer risk-related coverages to all school districts and charter schools. The authority may offer risk-related coverages to individual other educational entities by special agreement.
[6.50.3.9 NMAC - Rp, 6 NMAC 50.3.9, 09/01/2014]

6.50.3.10 AUTHORIZATION TO OFFER EMPLOYEE-BENEFIT COVERAGES:

A. The authority is authorized to offer employee-benefit coverages to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents and persons or entities authorized to participate in the authority's coverage.

B. The authority is authorized to offer mandatory benefit coverages as follows: Basic non-contributory life insurance and medical benefit plans whether insured or self-insured.

C. The authority is authorized to offer optional benefit coverages as follows: dental, vision, disability, or additional life and such other line or lines of coverage as the board may determine from time to time.

[6.50.3.10 NMAC - Rp, 6 NMAC 50.3.10, 09/01/2014]

6.50.3.11 AUTHORIZATION TO OFFER DUE PROCESS REIMBURSEMENT COVERAGE:

A. The authority is authorized to include due process reimbursement coverage in its self-insured retention risk pool pursuant to Section 22-29-12 NMSA 1978, as amended and supplemented.

B. The board shall determine at the beginning of each fiscal year the amount available in the fund for reimbursements. The provisions for distribution of the fund amount shall be set forth in the general liability memorandum of coverage including the process for submitting claims and the method of distribution.

[6.50.3.11 NMAC - N, 09/01/2014]

HISTORY of 6.50.3 NMAC:

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

NMPSIA Rule 86-201, Procurement of and Self-Insurance of Employee Benefit Coverages, filed 10/31/86;

NMPSIA Rule 86-100, Procurement of and Self-Insurance of Related Coverages, filed 10/31/86;

NMPSIA Rule 93-6, Procurement of or Self-Insurance of Risk Related and Employee-Benefits Coverages, filed 33/22/93.

History of Repealed Material:

6 NMAC 50.3, Procurement of or Self-Insurance of Risk-Related and Employee Benefits Coverages, filed 10/1/97 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 4 PARTICIPATION IN AUTHORITY COVERAGES BY OTHER EDUCATIONAL ENTITIES

6.50.4.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.
[6.50.4.1 NMAC - Rp, 6 NMAC 50.4.1 NMAC, 09/01/2014]
[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.4.2 SCOPE: This part applies to other educational entities.
[6.50.4.2 NMAC - Rp, 6 NMAC 50.4.2, 09/01/2014]

6.50.4.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.
[6.50.4.3 NMAC - Rp, 6 NMAC 50.4.3, 09/01/2014]

6.50.4.4 DURATION: Permanent.
[6.50.4.4 NMAC - Rp, 6 NMAC 50.4.4, 09/01/2014]

6.50.4.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.
[6.50.4.5 NMAC - Rp, 6 NMAC 50.4.5, 09/01/2014]

6.50.4.6 OBJECTIVE: The objective of this part is to set forth the procedures for other educational entities to join or exit the authority as well as rules and procedures concerning participation in authority coverages by other educational entities.
[6.50.4.6 NMAC - Rp, 6 NMAC 50.4.6, 09/01/2014]

6.50.4.7 DEFINITIONS: [RESERVED]

6.50.4.8 PROCEDURE FOR JOINING THE AUTHORITY BY OTHER EDUCATIONAL ENTITIES:

- A.** Other educational entities who desire to join the authority shall provide the following to the authority:
- (1) an up-to-date employee census including for all employees their age, gender and classification;
 - (2) a minimum of three years loss reports and claims experience for all lines of authority coverages the other educational entity wishes to participate in;
 - (3) submission of financial and benefit information which meets standards set by the board;
 - (4) a resolution of the governing body of the other educational entity stating that it is requesting authority membership and participation in the authority's offerings of risk related and employee benefits coverages and a statement that the other educational entity will abide by the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978, and all authority rules and board policies and will keep in force all authority coverages for the duration of the then existing carrier agreements;
 - (5) an agreement in a form acceptable to the authority whereby the governing body of the other educational entity agrees that it will abide by and be bound by the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978, and all other authority rules and board policies, including authority claims processing, settlement practices and the authority schedule for payment of premiums, late penalties and applicable interest, and will take, pay for and keep in force for the duration of the carrier agreements all applicable authority coverages; and
 - (6) payment of an excess premium deposit equal to (10%) of the total annual first year premiums for the coverages selected by the educational entity desiring to join the authority.

B. An other educational entity desiring to participate in only some of the authority's coverages shall apply for waivers as is required of school districts and charter schools pursuant to Subsections C and D of Section 22-29-9 NMSA 1978.

C. The authority may reject any application by any other educational entity with or without cause.
[6.50.4.8 NMAC - Rp, 6 NMAC 50.4.8, 09/01/2014]

6.50.4.9 PROCEDURE FOR EXITING THE AUTHORITY BY OTHER EDUCATIONAL ENTITIES:

- A.** Other educational entities can voluntarily exit the authority only at the expiration of the carrier agreements for the authority coverages they have selected.
- B.** Under no circumstances can other educational entities voluntarily exit the authority prior to having been a member for a minimum of three years.
- C.** An other educational entity desiring to exit the authority shall make a request to the board in writing stating the reasons why it desires to exit no later than 90 days prior to the expiration date of the carrier agreements for the authority coverages the other educational entity has selected. The board shall vote whether to accept the resignation of the other educational entity at its next regular meeting following receipt of the other educational entity's request to exit.
- D.** The board shall reevaluate other educational entities who violate authority rules, regulations or board policies, which have poor loss histories or which evidence clear signs of fiscal irresponsibility and the board may at its discretion terminate the other educational entity's membership in the authority upon 90 day notice. [6.50.4.9 NMAC - Rp, 6 NMAC 50.4.9, 09/01/2014]

6.50.4.10 PENALTIES AGAINST OTHER EDUCATIONAL ENTITIES FOR FAILURE TO PARTICIPATE AFTER JOINING THE AUTHORITY:

- A.** Other educational entities may not drop any authority coverages prior to the expiration of carrier contracts. However, should a successor governing body of a participating other educational entity drop participation by refusing continued premium payments, the other educational entity shall be terminated from all coverages by the authority upon 30 day notice and the following penalties shall be incurred.
 - (1)** For risk-related coverages, the other educational entity shall forfeit to the authority any right to any reserves held on its behalf and shall pay to the authority the cost of any losses in excess of premium.
 - (2)** For health and life employee benefits coverages, the other educational entity shall forfeit to the authority any right to any return premiums or reserves it may otherwise be entitled to. It shall pay to the authority any funds the authority has paid for or will pay for incurred claims related to the other educational entity in excess of premiums paid by the other educational entity as well as administrative expenses directly or indirectly related to claim payments including third party administrator costs and a reasonable percentage of the authority administrative costs.
- B.** If the other educational entity ceases to participate in authority coverages prior to expiration of the carrier contracts, it shall, in addition to any other penalties, 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 its failure to participate. [6.50.4.10 NMAC - Rp, 6 NMAC 50.4.10, 09/01/2014]

6.50.4.11 DUE DATES FOR ACCOUNTING BY THE AUTHORITY: An accounting of funds and amounts owed by or to the other educational entity which has failed to participate, dropped coverages or exited the authority for any reason shall not be due from the authority any earlier than two years for employee benefits coverages and for risk-related coverages after the failure to participate, early exit or dropping of coverage by the other educational entity. [6.50.4.11 NMAC - Rp, 6 NMAC 50.4.11, 09/01/2014]

HISTORY of 6.50.4 NMAC:

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

NMPSIA Rule 88-100, Participation Rules and Regulations Rule, 11/04/88.

NMPSIA Rule 93-7, Other Educational Entities Participation, 3/22/93.

History of Repealed Material:

6 NMAC 50.4, Other Educational Entities Participation (filed 10/1/97) repealed 09/01/2014.

NMAC History:

6 NMAC 50.4, Other Educational Entities Participation, 10/01/97.

6 NMAC 50.4, Other Educational Entities Participation (filed 10/01/97) was repealed and replaced by 6.50.4 NMAC, Participation In Authority Coverages By Other Educational Entities, effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 5 DETERMINATION OF PREMIUMS FOR EMPLOYEE-BENEFITS, RISK-RELATED
AND DUE PROCESS REIMBURSEMENT COVERAGES

6.50.5.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.5.1 NMAC - Rp, 6 NMAC 50.5.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is, 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.5.2 SCOPE: This part applies to all school districts, charter schools and other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.5.2 NMAC - Rp, 6 NMAC 50.5.2, 09/01/2014]

6.50.5.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978 directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.5.3 NMAC - Rp, 6 NMAC 50.5.3, 09/01/2014]

6.50.5.4 DURATION: Permanent.

[6.50.5.4 NMAC - Rp, 6 NMAC 50.5.4, 09/01/2014]

6.50.5.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.5.5 NMAC - Rp, 6 NMAC 50.5.5, 09/01/2014]

6.50.5.6 OBJECTIVE: The objective of this part is to establish the policy for determining premium levels.

[6.50.5.6 NMAC - Rp, 6 NMAC 50.5.6, 09/01/2014]

6.50.5.7 DEFINITIONS: [RESERVED]

6.50.5.8 ESTABLISHMENT OF EMPLOYEE-BENEFIT AND RISK RELATED PREMIUMS:

A. The authority shall establish premiums necessary to protect the solvency of the fund considering all expenses, potential expenses and costs of the authority programs.

B. Whenever possible, the authority shall obtain loss experience for each line of coverage for each participating entity.

C. Whenever possible and economically feasible, the authority shall obtain professional actuarial advice to establish premium levels.

D. Whenever possible, the authority shall consider the loss experience of each particular participating entity as a primary factor in establishing the premiums for that entity. However, the authority shall also use other factors as necessary to protect the stability and solvency of the fund.

E. Exposure information, which includes, but is not limited to, property values, vehicle counts, payroll, average daily attendance, budgets, new or hazardous exposures, is requested from each member typically in December of each year. This information is one of the factors used to allocate premiums among the members. The deadline for submission of this information to the authorized representative of the authority is the second Friday in January. The authorized representative shall have three to four weeks to review the data, ask and answer any questions and verify the information. The final deadline for the submission of all additional or amended exposure information by the members to the authorized representative is the second Friday in February. The board will have the final decision to approve or reject any late received exposure information. If the exposure information is not received by the deadlines described above, the board may, at its discretion, impose a 10% penalty increase to that member's prior year's exposure information.

F. If, at any time, the authority becomes aware that a member has under reported exposure information, an additional premium will be charged at a rate to be determined by the board.

G. If, at any time, the authority becomes aware that a member over reports exposure information, the member will not receive any return of premiums paid. However, if there are extenuating circumstances, the member can request that the board waive the forfeiture of the return premium.
[6.50.5.8 NMAC - Rp, 6 NMAC 50.5.8, 09/01/2014]

6.50.5.9 ESTABLISHMENT OF DUE PROCESS REIMBURSEMENT PREMIUMS: Due process reimbursement coverage premiums shall be established in accordance with Section 22-29-12 NMSA 1978 and the applicable memorandum of coverage.
[6.50.5.9 NMAC - N, 09/01/2014]

6.50.5.10 NONDISCLOSURE OF PREMIUM CHANGES: Authority staff, actuaries or consultants shall not discuss or disclose to participating entities, employees, retirees or the public any premium changes until authorized to do so by the board.
[6.50.5.10 NMAC - Rp, 6 NMAC 50.5.9, 09/01/2014]

HISTORY of 6.50.5 NMAC:

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

NMPSIA Rule 86-207, Employee-Benefits Determination Of Premium Levels, filed 10-31-86;

NMPSIA Rule 93-8, Employee-Benefits And Risk-Related Coverages Determination Of Premium Levels, filed 3-22-93.

History of Repealed Material:

6 NMAC 50.5, Employee-Benefits And Risk-Related Coverages Determination Of Premium Levels, filed 10/1/97- Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 6 NOTICE OF RISK-RELATED, EMPLOYEE-BENEFITS AND DUE PROCESS
REIMBURSEMENT COVERAGES

6.50.6.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.
[6.50.6.1 NMAC - Rp, 6 NMAC 50.6.1, 09/01/2014]
[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.6.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.
[6.50.6.2 NMAC - Rp, 6 NMAC 50.6.2, 09/01/2014]

6.50.6.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq., NMSA 1978.
[6.50.6.3 NMAC - Rp, 6 NMAC 50.6.3, 09/01/2014]

6.50.6.4 DURATION: Permanent.
[6.50.6.4 NMAC - Rp, 6 NMAC 50.6.4, 09/01/2014]

6.50.6.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.
[6.50.6.5 NMAC - Rp, 6 NMAC 50.6.5, 09/01/2014]

6.50.6.6 OBJECTIVE: The objective of this part is to establish the procedure for providing notice of coverage of risk-related, employee benefits and due process reimbursement coverages.
[6.50.6.6 NMAC - Rp, 6 NMAC 50.6.6, 09/01/2014]

6.50.6.7 DEFINITIONS: [RESERVED]

6.50.6.8 COVERAGE NOTIFICATION: The authority will issue notification of coverage for each offering to each participating entity within 30 days of the inception of the coverage. The coverage notification may specify the types, limits, amounts and general terms of coverage to be provided to the participating entity. The notification shall state that a complete copy of the memorandum of coverage which governs risk-related and due process reimbursement coverages will be made available to all interested parties upon request. Each covered employee under employee benefits coverages shall receive a summary plan description or insurance certificate. The terms of the insurance policy or memorandum of coverage, not the coverage notification or summary shall control in any dispute over coverage. Final determination of whether a claim is covered rests solely with the authority.
[6.50.6.8 NMAC - Rp, 6 NMAC 50.6.8, 09/01/2014]

HISTORY OF 6.50.6 NMAC:

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

NMPSIA 86-103, Notice of Risk-Related Coverage, filed 10/31/86.

NMPSIA 86-206, Notice of Coverage, filed 10/31/86.

NMPSIA 93-9, Notice of Risk-Related and Employee Benefits Coverage, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.6, Notice of Risk-Related and Employee Benefits Coverage, filed 10/1/97 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 7 WAIVER OF PARTICIPATION IN AUTHORITY COVERAGE OFFERINGS BY
SCHOOL DISTRICTS AND CHARTER SCHOOLS-MINIMUM BENEFIT AND
STANDARDS

6.50.7.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.7.1 NMAC - Rp, 6 NMAC 50.7.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.7.2 SCOPE: This part applies to all school districts and charter schools.

[6.50.7.2 NMAC - Rp, 6 NMAC 50.7.2, 09/01/2014]

6.50.7.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq., NMSA 1978.

[6.50.7.3 NMAC - Rp, 6 NMAC 50.7.3, 09/01/2014]

6.50.7.4 DURATION: Permanent.

[6.50.7.4 NMAC - Rp, 6 NMAC 50.7.4, 09/01/2014]

6.50.7.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.7.5 NMAC - Rp, 6 NMAC 50.7.5, 09/01/2014]

6.50.7.6 OBJECTIVE: The objective of this part is to establish the procedures for school districts and charter schools to obtain a waiver of participation in authority coverage offerings.

[6.50.7.6 NMAC - Rp, 6 NMAC 50.7.6, 09/01/2014]

6.50.7.7 DEFINITIONS:

A. “Individual line of coverage” means either “risk-related” or “group health insurance” as those terms are defined in Section 22-29-3 NMSA 1978.

B. “Minimum benefit standards” means the coverages required by the authority in its requests for proposal to the various insurance carriers.

C. “Minimum financial standards” means the premiums, deductibles, limits of liability, coinsurance and other financial parameters associated with the authority coverages as set forth in the requests for proposal sent to the various insurance carriers.

[6.50.7.7 NMAC - Rp 6 NMAC 50.7.7, 09/01/2014]

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 another educational entity pursuant to 6.50.4.8 NMAC.

[6.50.7.8 NMAC - Rp, 6 NMAC 50.7.8, 09/01/2014]

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 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]

6.50.7.10 MINIMUM BENEFIT AND FINANCIAL STANDARDS: Minimum benefit and financial standards shall be established by the authority pursuant Subsection B of Section 22-29-9, NMSA 1978, at the time of the request for proposal process for the line or lines of coverage proposed to be solicited by the authority. The terms and conditions of the requests for proposal which specify the minimum benefits and financial standards which the authority requires potential carriers to respond to shall also constitute the minimum benefit and financial standards which any district seeking a waiver of coverage must match.

[6.50.7.10 NMAC - Rp, 6 NMAC 50.7.10, 09/01/2014]

6.50.7.11 BOARD PROCEDURE FOR CONSIDERING REQUESTS FOR WAIVER:

A. In the event the authority determines it will issue a request for proposal for either risk-related or group health insurance because of termination of an existing contract during its term or because of expiration of an existing contract pursuant to the contractual term limit, the authority shall issue a schedule for the procurement. The request for proposal shall contain a proposed time schedule for responsive offers. The authority shall also set a target date for selection of a carrier. Sixty days prior to the carrier selection target date, the authority shall, by ordinary mail, send to each school district and charter school a copy of the authority's request for proposal notifying the school districts and the charter schools that the request for proposal sets forth the minimum benefits and financial standards for purposes of their opportunity to waive participation in the individual line of coverage being procured. The authority shall in the notice to the school districts and charter schools establish a deadline within which time any school district or charter school desiring a waiver must submit documentation of its proposal matching the authority's minimum benefits and financial standards. A copy of 6.50.7 NMAC shall be enclosed with the notice.

B. A school district or charter school that plans to file a request for waiver for any individual line of coverage shall within 14 calendar days after receiving notice from the authority as required by Subsection A of 6.50.7.11 NMAC above, file a notice of intent to file a request for waiver for that particular individual line of coverage. The purpose of this preliminary filing is to permit the authority to structure its request for proposal to give notice to any proposed bidders of the approximate number of school districts and charter schools that may attempt to waive participation in that individual line of coverage, since this can have a significant effect on the procurement process.

C. Any school district or charter school that has filed a notice of intent to file a request for waiver, may, if the school district or charter school desires to continue its waiver efforts, seek proposals for insurance through a request for proposal in accordance with state law. The school district's or charter school's request for proposal shall, as a minimum, contain the minimum employee benefits and financial standards or the risk-related minimum benefits and financial standards as required by the authority's request for proposal. The school district or charter school may include additional coverages or additional limits in its request for proposal.

D. After the school district or charter school receives responses to its request for proposals and still desires to continue to seek a waiver, it shall prepare a request for waiver which affirmatively sets forth the

coverages, the premiums and a summary of the school district's or charter school's data with respect to each of the criteria set forth in 6.50.7.12 NMAC.

E. The request for waiver of participation with all documentation shall be filed with the authority on or before the date on which the authority's request for proposal requires proposals to be received.

F. Any school district or charter school that does not timely file a notice of intent to file for a waiver of participation or a request for waiver of participation is prohibited from waiving out of the authority coverage.

G. When the authority receives a request for a waiver of participation, the authority shall immediately send a notice to the school district or charter school setting forth the time and place for a public board meeting to consider approval or rejection of the waiver request. Since time is of the essence, if necessary, the board shall call a special meeting in accordance with the Open Meetings Act, Section 10-15-1 et seq., NMSA 1978, to consider the waiver request.

H. At the meeting, the school district or charter school will present its proposed coverages and the costs of those coverages. Then, the authority's executive director will explain the comparable coverages to be offered by the authority and their costs. The board shall review all documents and information presented orally and in writing and then shall either make its decision at the meeting or notify the school district or charter school of the decision in writing within five calendar days after the meeting.

I. The decision of the authority board to grant or deny a waiver of participation is final. Any district denied a waiver of participation may appeal such decision. An appeal shall be taken within thirty days from the date of the board action. Such appeal is on the record made before the authority board and the board decision may be reversed only if shown upon a review of the whole record to be arbitrary, capricious or in violation of law. [6.50.7.11 NMAC - Rp, 6 NMAC 50.7.11, 09/01/2014]

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 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]

6.50.7.13 WITHDRAWAL, FAILURE TO FOLLOW PROCEDURES, EXPIRATION OF WAIVERS:

- A. A request for waiver may be withdrawn at any time prior to or at the scheduled meeting.
- B. Failure to follow the procedures set forth in this rule shall be adequate reason for rejection of the request for waiver.
- C. Any waiver granted shall automatically expire at the end of the authority insurance contract for the line of coverage.
- [6.50.7.13 NMAC - Rp, 6 NMAC 50.7.13, 09/01/2014]

6.50.7.14 AUTOMATIC WAIVER ALLOWED: School districts and charter schools are entitled to an automatic waiver for any line of 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, 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]

HISTORY of 6.50.7 NMAC:

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

- NMPSIA 86-101, Risk-Related Minimum Benefits and Risk-Related Financial Standards, filed 10-31-86;
 NMPSIA 86-102, Waiver Of Participation For Risk-Related Coverages, filed 10-31-86;
 NMPSIA 86-203, Waiver of Participation for Employee-Benefit Coverages, filed 10-31-86;
 NMPSIA 88-2, Definitions, filed 11-4-88;
 NMPSIA 93-10, Employee-Benefit and Risk Related Minimum Benefit and Financial Standards Participation Waiver, filed 03-22-93;
 NMPSIA 86-2, Definitions, filed 10/31/86;
 NMPSIA 93-1, Definitions, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.7, Employee-Benefit and Risk-Related Minimum Benefit and Financial Standards Participation Waiver, filed 10/1/97- Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 8 EMPLOYEE-BENEFIT AND RISK-RELATED PREMIUM PAYMENTS

6.50.8.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.8.1 NMAC - Rp, 6 NMAC 50.8.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.8.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body board members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.8.2 NMAC - Rp, 6 NMAC 50.8.2, 09/01/2014]

6.50.8.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.8.3 NMAC - Rp, 6 NMAC 50.8.3, 09/01/2014]

6.50.8.4 DURATION: Permanent.

[6.50.8.4 NMAC - Rp, 6 NMAC 50.8.4, 09/01/2014]

6.50.8.5 EFFECTIVE DATE: September 1, 2014, unless a later date is cited at the end of a section.

[6.50.8.5 NMAC - Rp, 6 NMAC 50.8.5, 09/01/2014]

6.50.8.6 OBJECTIVE: The objective of this part is to set forth the requirements for premium payment by participating entities.

[6.50.8.6 NMAC - Rp, 6 NMAC 50.8.6, 09/01/2014]

6.50.8.7 DEFINITIONS: [RESERVED]

6.50.8.8 PREMIUM PAYMENT FOR RISK RELATED AND DUE PROCESS REIMBURSEMENT COVERAGES:

The authority shall invoice each member for risk-related and due process reimbursement coverages. Payment for risk-related and due process reimbursement coverages is due in full within 30 days after the billing date. Premium payments not received by the 10th day of the month following the due date shall be subject to an interest charge of 1.5% of the premium due for each month they are overdue.

[6.50.8.8 NMAC - Rp, 6 NMAC 50.8.8, 09/01/2014]

6.50.8.9 PREMIUM PAYMENT FOR EMPLOYEE BENEFITS COVERAGES: The authority shall invoice each member, or the individual participant where direct billing is used, for the premiums for employee benefits coverages. Premium payments are due in full within 10 days after billing. Premiums are due no later than the 10th of the month for which coverage is intended.

[6.50.8.9 NMAC - N, 09/01/2014]

6.50.8.10 PREMIUM PAYMENT PLAN: Any member unable to make its premium payment timely and in full must obtain a recommendation from the state secretary of education for any alternate payment schedule, which shall then be submitted to the board for approval. The board may accept or reject the secretary's recommendation.

[6.50.8.10 NMAC - Rp, 6 NMAC 50.8.9, 09/01/2014]

6.50.8.11 FAILURE TO PAY PREMIUMS WHEN DUE: If any member or individual participant responsible for making a premium payment fails to make the premium payments when due, the member or individual participant shall be subject to suspension of coverage or in an extreme case, as determined by the board, to termination of coverage. Notice of suspension or termination of coverage shall be given to the member or to the

individual as appropriate. Where the coverage has been suspended for non-payment of premiums, the authority shall act to protect the stability of the fund in determining whether to reinstate coverage.
[6.50.8.11 NMAC - Rp, 6 NMAC 50.8.10, 09/01/2014]

6.50.8.12 PROCEDURE FOR HANDLING DISPUTED BILLINGS: In the event any member or individual disputes the amount of the authority's billing, the member or individual shall pay the bill and then file a written statement requesting a refund of the disputed amount setting forth the amount and the reasons the member or individual believes the billing constitutes an overcharge. The request shall be filed within 60 days after the submission of the billing. Requests for refunds that are not timely filed shall be deemed to be rejected. The board shall place complaints regarding the amount of the authority's billings that are timely filed on the agenda of one of its meetings and give notice to the affected member or individual so the member or individual may attend and be heard.

[6.50.8.12 NMAC - Rp, 6 NMAC 50.8.11, 09/01/2014]

HISTORY of 6.50.8 NMAC:

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

NMPSIA 86-105, Risk-Related Premium Payments, filed 10-31-86;

NMPSIA 86-205, Employee Benefit Premium Payments, filed 10-31-86;

NMPSIA 93-11, Employee-Benefit and Risk Related Premium Payments, filed 03-22-93.

History of Repealed Material:

6 NMAC 50.8, Employee-Benefit and Risk-Related Premium Payments, filed 10/1/97 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 9 COORDINATION OF BENEFITS REQUIREMENTS - DUPLICATE OR OVERLAPPING
BENEFITS COVERAGES

6.50.9.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.9.1 NMAC - Rp, 6 NMAC 50.9.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.9.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits or risk-related coverages.

[6.50.8.2 NMAC - Rp, 6 NMAC 50.8.2, 09/01/2014]

6.50.9.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.8.3 NMAC - Rp, 6 NMAC 50.8.3, 09/01/2014]

6.50.9.4 DURATION: Permanent.

[6.50.8.4 NMAC - Rp, 6 NMAC 50.8.4, 09/01/2014]

6.50.9.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.8.5 NMAC-Rp, 6 NMAC 50.8.5, 09/01/2014]

6.50.9.6 OBJECTIVE: The objective of this part is to bring Subsection F of Section 22-29-9, NMSA 1978, to the attention of members and provide direction as to what other insurance may be maintained by members and to provide for claims where there is duplicate coverage.

[6.50.8.6 NMAC - Rp, 6 NMAC 50.8.6, 09/01/2014]

6.50.9.7 DEFINITIONS: [RESERVED]

6.50.9.8 SCHOOL DISTRICT AUTHORITY TO MAINTAIN INSURANCE: Each school district, charter school and other educational entity participating in the authority offerings shall not separately offer any competing employee-benefits insurance coverage. However, each member participating in the authority offerings may separately obtain any risk-related insurance coverage in addition to the coverage offered by the authority.

[6.50.8.8 NMAC - Rp, 6 NMAC 50.8.8, 09/01/2014]

6.50.9.9 AUTHORITY'S LIMITATION OF LIABILITY FOR DUPLICATE OR OVERLAPPING PREMIUMS PAID: To the extent that the insurance coverage purchased by the member or individual participant duplicates or overlaps insurance coverage provided by the authority, the authority will not reduce or rebate any portion of its premium nor is the authority liable to the participating entity or to any individual participant for any premiums paid by the participating entity or the individual participant for duplicate or overlapping coverage.

[6.50.8.9 NMAC - Rp, 6 NMAC 50.8.9, 09/01/2014]

6.50.9.10 RISK RELATED OVERLAPPING INSURANCE COVERAGES: Where there is other insurance, no matter how acquired or provided to an insured, the authority shall follow the "guiding principles for overlapping insurance coverages " adopted by the association of casualty and surety companies, the inland marine underwriters association, the national automobile underwriters association, the national board of fire underwriters, the national bureau of casualty underwriters and the surety association of America to determine the obligations of the authority with respect to apportionment of losses with other insurers.

[6.50.8.10 NMAC - Rp, 6 NMAC 50.8.10, 09/01/2014]

6.50.9.11 EMPLOYEE BENEFITS COVERAGE/COORDINATION OF BENEFITS RULES:

Coordination of benefits ("COB") rules of the authority's medical carrier shall prevail in any situation where a conflict exists with any other authority benefits carrier. In the event of a conflict among authority carriers addressed by COB rules, the COB rules of the carrier of coverages wherein the authority is at risk will prevail. In the event of a conflict between an authority carrier and a non-authority carrier addressed by the COB rules of the authority carrier, the authority carrier COB rules will prevail.

[6.50.8.11 NMAC - Rp, 6 NMAC 50.8.11, 09/01/2014]

HISTORY OF 6.50.9 NMAC:

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

NMPSIA 86-104, Participating Entity Maintenance Of Risk-Related Insurance, filed 10/31/86;

NMPSIA 86-202, Employee Benefit Minimum Benefits and Employee-Benefit Financial Standards, filed 10/31/86;

NMPSIA 93-12, Participating Entity Competing Employee Benefits Coverages Duplicate Or Overlapping Coverages and Coordination Of Benefits Rules, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.9, Coordination of Benefits Requirements - Duplicate or Overlapping Benefits Coverages, filed 10/1/97-Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 10 EMPLOYEE BENEFIT COVERAGE ENROLLMENT POLICY

6.50.10.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.10.1 NMAC - Rp, 6.50.10.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.10.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits coverages.

[6.50.10.2 NMAC - Rp, 6.50.10.2 NMAC, 09/01/2014]

6.50.10.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978 directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.10.3 NMAC - Rp, 6.50.10.3 NMAC, 09/01/2014]

6.50.10.4 DURATION: Permanent.

[6.50.10.4 NMAC - Rp, 6.50.10.4 NMAC, 09/01/2014]

6.50.10.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.10.5 NMAC - Rp, 6.50.10.5 NMAC, 09/01/2014]

6.50.10.6 OBJECTIVE: The objective of this part is to establish the enrollment policy for all persons or entities authorized to participate in the authority's employee benefits coverage.

[6.50.10.6 NMAC - Rp, 6.50.10.6 NMAC, 09/01/2014]

6.50.10.7 DEFINITIONS:

A. “Actively at work” means performing the material duties of your own occupation at your employer’s usual place of business. You will also meet the actively at work requirement if you were absent from active work because of a regularly scheduled day off, holiday or vacation day or if you were capable of active work on the day before the scheduled effective date of your insurance or increase in your insurance.

B. “Employee” means full time employee as defined in Subsection Y of 6.50.1.7 NMAC. This definition applies to the rules related to employee benefits coverage contained in 6.50.10 NMAC only.

[6.50.10.7 NMAC - Rp, 6.50.10.7 NMAC, 09/01/2014]

6.50.10.8 REQUIREMENTS FOR ENROLLMENT OF FULL TIME EMPLOYEES:

A. An employee shall be enrolled pursuant to his actual status at the time of enrollment. If a change in status of an employee occurs he must notify the employer within 31 calendar days of the change and complete any enrollment documents required by the authority.

B. An employee may enroll just himself only. However, if the employee chooses to enroll one eligible dependent, the employee shall enroll all eligible dependents unless one or more eligible dependents have other coverage. If the dependent of an eligible employee participant is enrolled in another medical plan, the eligible employee participant may enroll in the authority’s medical plan as a single and in the two-party or family coverage for other lines. Evidence of the other coverage is required.

C. New eligible employees may enroll under the conditions set forth by the authority as follows:

(1) New eligible employees shall enroll within 31 calendar days of hire or within 31calendar days of being upgraded to eligible employee. Evidence of upgrade is required.

(2) A new participating entity governing body member or new participating authority board member shall enroll within 31 days of being sworn in to office.

(3) Coverage is effective on the first day of the month following the day the employee applies, provided the employee authorizes in writing that the premium is to be withheld from his payroll check, subject to the actively-at-work provision, and for self-payers, the first day of the month following receipt of the premium by the authority.

(4) Where an employee is on a 12-month payroll option, the employer shall deduct and remit from each payroll and shall remit the employer's contribution simultaneously.

(5) Where an employee seeks a transfer of benefits:

(a) the employee is covered until the end of the month for which coverage was paid at the school the employee is leaving;

(b) the employee shall enroll within 31 calendar days of hire at the school the employee is moving to; and

(c) participating entities shall coordinate the effective date to ensure duplicate premiums are not paid on behalf of the employee through the outgoing school as well as the incoming school.

(6) Eligible employee or dependents who involuntarily lose benefits coverage have a 31 day window to enroll in the authority. Supporting documentation showing the reason for the involuntary loss of benefits coverage, the date benefits coverage was lost, who was covered and what types of benefits coverage was lost must be submitted within 31 days from the date of loss of coverage. The effective date of new benefits coverage will be the first of the month following receipt by the authority of the documentation required and the necessary application or applications, provide that all enrollment rules of the authority are met.

(7) Eligible employee enrollment after the enrollment period shall be permitted to only in the authority's long-term disability plan and the voluntary life insurance plan upon providing the required evidence of medical insurability. Late enrollments shall not be permitted for medical, dental or vision coverages.

(8) If an eligible employee participant obtains dependent coverage for any eligible dependent from the authority, then the employee is required to enroll all eligible dependents in such coverage unless one or more eligible dependents have other coverage. If an eligible employee participant is divorced, and the divorce decree states that medical coverage will be provided by the ex-spouse for one or more dependents of the eligible employee participant, the employee is permitted to enroll as a single in the medical and in the two party or family coverage for other lines.

(9) An employee is prohibited from having duplicate coverage from the authority for any line of coverage. An employee is also prohibited from having employee coverage and dependent coverage at the same time from the authority for any line of coverage. In the event of duplicate coverage, only one benefit will be paid. In those cases where an employee and his or her spouse or domestic partner are both eligible employees, either one may enroll into the coverage and the other be treated as an eligible dependent.

(10) An eligible employee is not permitted to enroll for a particular line of coverage unless the minimum participation level as determined by the authority is met.

(11) The participant shall only be permitted to switch from one plan to another plan within the same line of coverage during an established switch enrollment period and then only under the terms and conditions permitted by the authority.

(12) An employee may drop any line of coverage at any time at the employee's discretion, provided, however, any provision with respect to prohibition against dropping any lines of coverage shall be enforced. In divorce situations, a divorced eligible employee may not drop eligible dependents based on a change in status until a divorce decree is filed with the authority. When a domestic partnership is terminated, the employee, ex-domestic partner may not drop eligible dependents based on a change in status until the authority receives written notice that the domestic partnership is terminated in the form of an affidavit terminating domestic partnership. If the employee drops the line of coverage(s), the employee cannot re-enroll except as this part permits.

(13) Proper documentation, including evidence of medical insurability where required, must be provided by the eligible employee seeking coverage within 31 calendar days of the qualifying event. Coverage may be rejected where adequate proof and documentation satisfactory to the authority is not submitted in a timely manner.

(14) Eligibility for basic life is 15 hours or more per week.

[6.50.10.8 NMAC - Rp, 6.50.10.8 NMAC, 09/01/2014]

6.50.10.9 REQUIREMENTS FOR ENROLLMENT OF PART-TIME EMPLOYEES:

A. Part-time employees who work less than 20 hours a week but 15 hours per week or more are eligible for employee benefits if the member has passed a part-time resolution agreeing to provide employee benefits to part-time employees. A part-time resolution must be renewed in May of each year by the member in order for its part time employees to remain eligible for employee benefits.

B. Part-time employees who work less than 15 hours per week are not eligible for employee benefits.

C. Part-time employees eligible for employee benefits may also enroll their dependents.

D. The requirements for enrollment for full time employees under 6.50.10.8 NMAC also apply to part-time employees.

E. Eligibility for basic life is 15 hours or more per week.
[6.50.10.9 NMAC - N, 09/01/2014]

6.50.10.10 REQUIREMENTS FOR ENROLLMENT OF EMPLOYEE DEPENDENTS:

A. Eligible employee participants may enroll their eligible dependents during the enrollment period established by the authority. If the employee is enrolled in family medical coverage, a newborn dependent of an employee parent is covered from the date of birth under the same lines of family coverage in which the employee parent is enrolled at the time of the newborn's birth. In cases where the employee is not enrolled in family medical coverage but has family coverage for other lines of employee benefits, the employee parent must enroll the newborn dependent within 31 calendar days from the date of birth to be covered from the date of birth. In cases where there is a change of status in premium (i.e., single to two-party, single to family, or two-party to family) due to the addition of a newborn dependent, the employee parent must enroll the newborn dependent within 31 calendar days from the date of birth to be covered from the date of birth. Certification of information from the official state publicly filed birth certificate or a state-filed birth certificate registration certification must accompany the enrollment form, or if the birth certificate or certification is not available, it must be submitted within 31 calendar days from the first day of the month following the newborn dependent's date of birth. Adopted dependents of an employee are eligible for coverage from the date of placement by a licensed state agency, a governmental agency or a court of competent jurisdiction. Supportive documentation of such placement is required with the change of status application within 31 calendar days of the date of placement.

B. The employee participant shall enroll the new eligible dependent within 31 calendar days of becoming an eligible dependent, except for newborns when family medical coverage is in effect at the time of the newborn's birth. Those persons considered to be a new eligible dependent are a newborn child, a new spouse, a domestic partner newly established by affidavit, a new legally adopted child, legal guardianship and other similar situations where the dependent becomes a new family member and is otherwise an eligible dependent. Supportive documentation in the form of copies of publicly filed marriage certificates, certificate of birth certificate information, guardianships, placement or adoption decrees and affidavits of domestic partnership shall be submitted along with the enrollment application.

C. An eligible dependent has no greater coverage than the eligible employee participant and the eligible dependent can maintain coverage only to the extent that the eligible employee participant maintains his coverage, except as otherwise specifically provided in this rule or to the extent federal law may grant broader rights.

D. An eligible employee participant may drop any line of coverage for their eligible dependent at any time at the employee's discretion. However, any provision with respect to prohibition against dropping any lines of coverage shall be enforced. If the employee drops the line of coverage, that employee cannot re-enroll the eligible dependent except as this rule permits. If the employee drops one dependent, the employee must drop coverage on all eligible dependents except an employee may drop a dependent 18 years or above without dropping the other eligible dependents. In divorce situations, a divorced eligible employee may not drop eligible dependents based on a change in status until a divorce decree is filed with the authority. When a domestic partnership is terminated, the employee's ex-domestic partner may not drop eligible dependents based on a change in status until the authority receives written notice that the domestic partnership is terminated in the form of an affidavit terminating domestic partnership.

E. Proper documentation (together with application for coverage) including evidence of medical insurability where required, must be provided by the person seeking coverage within 31 calendar days of the qualifying event. Coverage may be rejected where adequate proof and documentation satisfactory to the authority is not submitted in a timely manner.

F. An eligible retired employee and eligible dependents shall be permitted to enroll in voluntary life only during the established enrollment period. The retiree shall be responsible for submitting paperwork prior to his retirement date to ensure no break in premium or coverage occurs. The retiree shall be responsible for premium payments for any monthly premiums.

G. The established enrollment period allowed by the authority for active participating entity board members and eligible dependents is 31 calendar days after the board member has taken oath.

[6.50.10.10 NMAC - N, 09/01/2014]

6.50.10.11 SPECIAL EVENTS ENROLLMENT: In cases of "special events" as defined in Subsection GGG of 6.50.1.7 NMAC, enrollment shall be allowed.

[6.50.10.11 NMAC - N, 09/01/2014]

6.50.10.12 REPORTING REQUIREMENT: Authority insurance providers depend on timely reporting of dismissals, resignations, change in status, reports of new employees and eligible dependents and those dropping coverages. The only source of this information is from the participating entity. Participating entities shall report this information on or before the 15th day following notification from the employee of the event. In the event they fail to so timely report, the responsible participating entity shall be liable for any losses an eligible employee or dependent may incur as a result of the failure to timely report.

[6.50.10.12 NMAC - N, 09/01/2014]

6.50.10.13 ENROLLMENT AND ELIGIBILITY CONFLICTS:

A. In the event there is a conflict between a carrier's contract with the authority and this part regarding enrollment and eligibility, the carrier's contract shall prevail.

B. In the event there is a conflict between a carrier's contract with the authority and the policies of a participating entity regarding enrollment and eligibility, the carrier's contract shall prevail.

C. In the event there is a conflict between the policies of a participating entity policy and this part regarding enrollment and eligibility, this part shall prevail.

D. All disputes between a participating entity and an employee or part time employee in determining eligibility shall be resolved at the participating entity level.

E. As to questions of enrollment and eligibility, if miscommunication to an employee or part time employee by the participating entity has allegedly occurred, the participating entity shall provide a written statement to the authority indicating the party or parties who allegedly miscommunicated to the employee or part time employee and the circumstances in which the alleged miscommunication occurred.

F. As to questions of enrollment and eligibility, disputes not resolved between an employee or part time employee, the participating entity and the authority or its contractors shall be resolved according to the procedures of 6.50.16 NMAC of these rules.

G. As to all other conflicts between the authority and carriers, the relevant conflicts provisions of the agreements between them shall control with regard to conflict resolutions.

[6.50.10.13 NMAC - N, 09/01/2014]

HISTORY OF 6.50.10 NMAC:

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

NMPSIA 86-200, Employee Benefit Coverage Enrollment Policy, filed 10/31/86.

NMPSIA 88-200, Employee Benefit Coverage Enrollment Policy, filed 11/4/88.

NMPSIA Rule 93-13, Employee Benefit Coverage Enrollment Policy, filed 3/22/93.

NMPSIA Rule 94-1, Employee Benefit Coverage Enrollment Policy, filed 5/20/94.

History of Repealed Material:

6.50.10 NMAC, Employee Benefit Coverage Enrollment Policy, filed 7/1/2004 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 11 EMPLOYEE BENEFIT SAVINGS PROVISION

6.50.11.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.11.1 NMAC - Rp, 6 NMAC.50.11.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.11.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits coverages.

[6.50.11.2 NMAC - Rp, 6 NMAC 50.11.2, 09/01/2014]

6.50.11.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7, NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.11.3 NMAC - Rp, 6 NMAC 50.11.3, 09/01/2014]

6.50.11.4 DURATION: Permanent.

[6.50.11.4 NMAC - Rp, 6 NMAC 50.11.4, 09/01/2014]

6.50.11.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.11.5 NMAC - Rp, 6 NMAC 50.11.5, 09/01/2014]

6.50.11.6 OBJECTIVE: The objective of this part is to protect those persons that have obtained employee benefits coverage from the authority in the past and may no longer be entitled to coverage under other provisions of this chapter.

[6.50.11.6 NMAC - Rp, 6 NMAC 50.11.6, 09/01/2014]

6.50.11.7 DEFINITIONS: [RESERVED]

6.50.11.8 SAVINGS PROVISION (GRANDFATHER CLAUSE): To the extent the adoption of **Title 6, Chapter 50** purports to withdraw employee benefits coverage from any individual, group or class of persons currently receiving coverage from the authority, the authority intends by this savings clause (grandfather clause) to allow the authority to continue to provide such coverage to the individual, group or class of persons until the coverage lapses or is dropped.

[6.50.11.8 NMAC - Rp, 6 NMAC 50.11.8, 09/01/2014]

History OF 6.50.11 NMAC:

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

NMPSIA 86-208, Employee Benefit Savings Provision, filed 10/31/86.

NMPSIA Rule 93-14, Employee Benefit Savings Provision, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.11, Employee Benefit Savings Provision, filed 10/1/97 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 12 LOSS PREVENTION MANAGEMENT SYSTEM

6.50.12.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.12.1 NMAC - Rp, 6 50.12.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.12.2 SCOPE: This part applies to all school districts, charter schools, other educational entities and persons or entities authorized to participate in the authority's coverage on matters involving risk-related coverages.

[6.50.12.2 NMAC - Rp, 6 50.12.2 NMAC, 09/01/2014]

6.50.12.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.12.3 NMAC - Rp, 6 50.12.3 NMAC, 09/01/2014]

6.50.12.4 DURATION: Permanent.

[6.50.12.4 NMAC - Rp, 6 50.12.4 NMAC, 09/01/2014]

6.50.12.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.12.5 NMAC - Rp, 6 50.12.5 NMAC, 09/01/2014]

6.50.12.6 OBJECTIVE: The objective of this part is to establish a loss control and a loss prevention management system for the purpose of reducing claims and costs.

[6.50.12.6 NMAC - Rp, 6 50.12.6 NMAC, 09/01/2014]

6.50.12.7 DEFINITIONS: [RESERVED]

6.50.12.8 LOSS PREVENTION PROGRAM:

A. The loss prevention program is hereby created to provide a mechanism for the identification and abatement of hazards relating to all lines of coverage provided by the authority.

B. The loss prevention program is a service provided to the member school districts, charter schools and other educational entities in order to protect the insurance fund and its members from claims that could otherwise be prevented. The authority, through the program, provides recommendations for compliance to the members. It is the responsibility of the members to implement the recommendations for abatement.

C. All visits or inspections shall be performed by the loss prevention representative (LPR).

D. The LPR shall conduct evaluations of members. These evaluations shall include, but are not limited to:

- (1) physical inspection of any or all of the members' structures, facilities, vehicles or equipment;
- (2) review of the members' policies and procedures;
- (3) observation of the members' scholastic and non-scholastic activities and operations; and
- (4) interviews with members' administration, teachers, maintenance and other support personnel.

E. Within 25 working days following the LPR's completion of the onsite evaluation of a member, the LPR shall submit recommendations to the member for corrective action to eliminate the hazards or exposures observed.

F. Members shall have 20 working days from receipt of the LPR's report to reply to the LPR outlining their timetable for the implementation of recommendations, except for critical or imminent hazards as explained in Subsections G and H, below. If the hazard is not critical or imminent, upon request by the member, the LPR may grant additional time up to no more than 60 working days from receipt of the LPR's report for the member to reply.

G. Critical hazards are those hazards which have an above average potential for immediate occurrence, but are not immediately life threatening.

(1) The members shall have 10 working days from the receipt of the LPR's report to provide an implementation schedule of recommendations identified by the LPR as representing critical hazards.

(2) The LPR shall make a request to the loss prevention review board (LPRB) that any operation involving the critical hazard be suspended if:

- (a) the member fails to submit a report within 10 working days;
- (b) the member refuses to provide a report within 10 working days; or
- (c) the member does not satisfactorily fix the hazard within the time provided in the

implementation schedule agreed upon or ordered.

H. Imminent hazards are those hazards which require suspension of activities or operations so as to avoid the threat of an occurrence which could reasonably be expected to cause death or serious physical harm before the danger can be eliminated through the recommended abatement.

(1) The LPR shall convey any recommendation involving an imminent hazard immediately to the highest available member official.

(2) The LPR shall require that any operations involving an imminent hazard be suspended pending implementation of the applicable recommendations.

(3) A notification of the imminent hazard, its accompanying recommendations, and any other verbal request made by the LPR to the member shall be conveyed in writing to the executive director, LPRB, and the member within 72 hours.

(4) The member shall have 72 hours from the receipt of the notice of an imminent hazard to respond to the LPR's recommendation and set forth a plan satisfactory to the LPR to immediately abate the imminent hazard.

(5) The LPR shall make a presentation to the chairperson of the LPRB and the executive director of the authority recommending that insurance coverage provided to the specific operation of the member be suspended if the member refuses or fails to submit a report within 72 hours regarding the immediate implementation of the LPR's recommendation for abatement of the imminent hazard.

(6) The executive director and the chairman of the LPRB shall consider the recommendation of the LPR and determine if the insurance coverage should be suspended pending a hearing before the LPRB under 6.50.12.11 NMAC.

I. The LPR shall physically re-inspect the hazard or exposure to ensure adequate abatement compliance.

J. The LPR shall provide loss prevention resource materials and activities where needed. These materials and activities shall include, but are not limited to:

(1) assisting members in the development of a member safety program when size and particular member activities warrant.

(2) providing sources for the procurement of safety related literature, materials or services.
[6.50.12.8 NMAC - Rp, 6 50.12.8 NMAC, 09/01/2014]

6.50.12.9 LOSS PREVENTION REVIEW BOARD:

A. The LPRB is hereby created to provide a mechanism for the review of loss prevention activities within the authority's jurisdiction. The LPRB is appointed by the board and, except as provided in Subsection B of this section, its membership shall be made up of the risk advisory committee.

B. In the event an LPRB is appointed in place of the risk advisory committee, it shall consist of five members, four of whom are appointed by the president of the authority board with the board's advice and consent. The risk advisory committee chairman shall be the fifth member of the LPRB and shall serve as the LPRB chairman.

C. The LPRB shall meet as required and as scheduled from time to time.

D. Special meetings may be called by the LPRB chairman, if he determines the need for a special meeting is justified, upon the request of any LPRB or authority board member, any chief executive officer of any member, or the LPR.

E. Notice of special meetings of the LPRB shall be sent to all LPRB members, the individual requesting the special meeting, and the LPR.

F. The notice required in Subsection E above shall indicate the date, time and place of the special meeting. It shall also clearly set forth the purpose for which the meeting is being called, said purpose being the only matter the LPRB may consider and act upon at the special meeting.

[6.50.12.9 NMAC - Rp, 6 50.12.9 NMAC, 09/01/2014]

6.50.12.10 LOSS PREVENTION REVIEW BOARD DUTIES:

A. The LPRB shall consider and act upon:

- (1) requests by the LPR that a member be required to implement a specific recommendation;
- (2) requests by a member that a recommendation by the LPR be vacated;

(3) any other matter with regard to the enforcement of the authority's loss prevention management system not specifically covered in this part.

B. The LPRB shall recommend to the authority board claims management and claims adjusting procedures as they relate to abatement recommendations. Such procedures shall address documentation and management of claims files.

[6.50.12.10 NMAC - Rp, 6 50.12.10 NMAC, 09/01/2014]

6.50.12.11 LOSS PREVENTION REVIEW BOARD PROCEEDINGS: When considering a request as specified above, the LPRB chairman shall:

A. provide notification to all LPRB members, the LPR, and the affected member;

B. conduct the meeting allowing the LPR and the member representative the opportunity to present arguments and justifications for their respective requests, and permit members of the LPRB to ask questions of either party;

C. issue the decision of the LPRB within five days and:

(1) if the decision of the LPRB is in agreement with the member, the LPR's recommendation shall be vacated;

(2) if the decision of the LPRB is in agreement with the LPR, the recommendation shall be affirmed and the member directed to implement the recommendation;

(3) if the affirmed recommendation is not implemented as specified by the member, the LPR shall refer the matter to the authority board for action.

[6.50.12.11 NMAC - Rp, 6 50.12.11 NMAC, 09/01/2014]

6.50.12.12 ENFORCEMENT: The responsibility for enforcement of LPRB decisions shall be vested in the authority board which may act as it sees fit to protect the integrity of the authority. These actions may include, but are not limited to issuing a notice of no coverage to the participating member. This notice shall state the specific circumstances for which coverage shall not be in effect, the reason for issuing the notice that no coverage is in effect and the date and time of inception of the no coverage notice. The notice of no coverage shall not affect any other area of coverage for the member. It shall only affect those specific circumstances stated in the notice of no coverage. Upon verification by the LPR to the authority board in writing that a hazard giving rise to a notice of no coverage has been abated, the authority board shall cancel the notice of no coverage.

[6.50.12.12 NMAC - Rp, 6 50.12.12 NMAC, 09/01/2014]

6.50.12.13 PROCEDURE FOR APPEAL OF AGENCY DECISIONS UNDER THIS PART: An aggrieved member may appeal any final determination of the authority under this part by following the procedures specified in 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations. Review of any final decision or order of the authority under this part can only be sought as provided by 6.50.16 NMAC, by statute or by rules promulgated by the supreme court for appeal of state agency decisions.

[6.50.12.13 NMAC - Rp, 6 50.12.13 NMAC, 09/01/2014]

HISTORY of 6.50.12 NMAC:

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

NMPSIA 86-2, Definitions, filed 10-31-86;

NMPSIA 88-2, Definitions, filed 11-04-88;

NMPSIA Rule 93-1, Definitions, filed 03-22-93;

NMPSIA 93-15, Loss Prevention Management System, filed 03-22-93.

History of the Repealed Material:

6.50.12 NMAC, Loss Prevention Management System, filed 6/27/2000 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 13 CLAIMS SETTLEMENT POLICY

6.50.13.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.13.1 NMAC - Rp, 6 NMAC 50.13.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.13.2 SCOPE: This part applies to all school districts, charter schools, other educational entities and persons or entities authorized to participate in the authority's risk-related coverages.

[6.50.13.2 NMAC - Rp, 6 NMAC 50.13.2, 09/01/2014]

6.50.13.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.13.3 NMAC - Rp, 6 NMAC 50.13.3, 09/01/2014]

6.50.13.4 DURATION: Permanent.

[6.50.13.4 NMAC - Rp, 6 NMAC 50.13.4, 09/01/2014]

6.50.13.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.13.5 NMAC - Rp, 6 NMAC 50.13.5, 09/01/2014]

6.50.13.6 OBJECTIVE: The objective of this part is to establish a policy for settling claims against authority insureds.

[6.50.13.6 NMAC - Rp, 6 NMAC 50.13.6, 09/01/2014]

6.50.13.7 DEFINITIONS: [RESERVED]

6.50.13.8 SETTLEMENT POLICIES: The authority retains the right at its sole discretion to decide the terms and conditions of settlement of any claim against any authority insured. The authority will not settle a claim against an authority insured for an amount in excess of \$25,000 without first notifying the insured of the proposed settlement and the rationale supporting the proposed settlement. After the authority has notified an insured of a proposed settlement, the authority retains the power to proceed to settle the claim as the authority deems in the best interest of the authority. Should the insured object to the proposed settlement by the authority, the insured shall (if the proposed settlement is a payment of money damages) be offered a payment in an amount equal to the money damages proposed to be paid by the authority under the settlement. The offer to the insured shall be made on condition that the insured release the authority from any further liability on the claim. If the insured accepts the offer, the authority will not consummate the proposed settlement with the claimant. The insured shall then be responsible for defense and settlement or payment of any judgment with regard to the claim and the authority on payment of the settlement amount to the insured shall be released by the insured from all further responsibility for the claim.

[6.50.13.8 NMAC - Rp, 6 NMAC 50.13.8, 09/01/2014]

HISTORY OF 6.50.13 NMAC:

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

NMPSIA Rule 93-16, Claims Settlement Policy, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.13, Claims Settlement Policy, filed 10/1/97 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 14 PARTICIPATING ENTITY WORKERS' COMPENSATION POLICY STATEMENT

6.50.14.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.14.1 NMAC - Rp, 6 NMAC 50.14.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.14.2 SCOPE: This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's workers' compensation program.

[6.50.14.2 NMAC - Rp, 6 NMAC 50.14.2, 09/01/2014]

6.50.14.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.14.3 NMAC - Rp, 6 NMAC 50.14.3, 09/01/2014]

6.50.14.4 DURATION: Permanent.

[6.50.14.4 NMAC - Rp, 6 NMAC 50.14.4, 09/01/2014]

6.50.14.5 EFFECTIVE DATE: September 14, 2014 unless a later date is cited at the end of a section.

[6.50.14.5 NMAC - Rp, 6 NMAC 50.14.5, 09/01/2014]

6.50.14.6 OBJECTIVE: The objective of this part is to direct school districts, charter schools and other educational entities to adopt a policy in order to establish the particular entity's procedure for the selection of health care providers, for use of sick leave and for payment of insurance premiums when a worker has filed a workers' compensation claim.

[6.50.14.6 NMAC - Rp, 6 NMAC 50.14.6, 09/01/2014]

6.50.14.7 DEFINITIONS: [RESERVED]

6.50.14.8 WORKERS' COMPENSATION CLAIM POLICY: All school districts, charter schools, other educational entities and any other entities participating in the authority's workers' compensation coverages shall adopt a workers' compensation claim policy for its employees substantially in the form as set forth in Subsections A through I of 6.50.14.9 NMAC, selecting one of two options available for the selection of health care providers, for use of sick leave and for payment of insurance premiums while an employee is disabled from work. The form policy is also downloadable from the authority's website at: <https://nmopsia.com> and will be updated from time to time.

[6.50.14.8 NMAC - Rp, 6 NMAC 50.14.8, 09/01/2014]

6.50.14.9 WORKERS' COMPENSATION FORM POLICY FOR SCHOOL DISTRICTS, CHARTER SCHOOLS, OTHER EDUCATIONAL ENTITIES AND OTHER ENTITIES PARTICIPATING IN

AUTHORITY WORKERS' COMPENSATION INSURANCE PROGRAM: All entities participating in the authority workers' compensation coverage shall adopt a policy substantially in the following form, selecting one of two options available for the selection of health care providers, for use of sick leave and for payment of insurance premiums while an employee is disabled from work.

A. Workers' compensation eligibility. In accordance with applicable workers' compensation statutes, all employees of (*insert name of participating entity*) who have a work-related injury are eligible for coverage.

B. Reporting accidents. An injured worker must report all work-related accidents or injuries immediately to his immediate supervisor by completing and submitting the notice of accident form, whether or not medical care is needed. The worker's supervisor must then complete the supervisor's accident investigation report form. Both documents must be submitted to the employer's designated workers' compensation administrator within 24 hours from the time the supervisor is informed of the accident. The workers' compensation administrator then must complete the employer's first report of accident form and forward all three forms to the third party

administrator within 72 hours from the employer's first knowledge of the accident. The forms are available to download on the authority's website at: <https://nmpsia.com>.

C. Emergency medical treatment. When an injury or illness is life threatening in nature, the injured worker shall seek emergency treatment at the nearest emergency facility or by calling 911. After the emergency has abated, the injured worker will notify the employer in writing of the work related injury and present any disability or return to work notices.

D. Selection of health care provider policy options.

(1) Each employer shall determine as a matter of policy whether it elects to initially select the health care provider or whether the injured worker is permitted to make the initial selection. Each employer shall also provide at the time of hiring or during employee orientation the following information in writing:

(a) Option 1 for selection of health care provider: (name of participating entity) elects to have injured workers treated at (insert name and location of facility); or

(b) Option 2 for selection of health care provider: (name of participating entity) permits the injured worker to initially select the health care provided as provided by Subsection B of Section 52-1-49 NMSA 1978.

(2) Upon notice of an accident or injury, the employer shall notify the injured worker in writing whether the employer's policy directs that medical care shall be provided by health care provider selected by the employer or whether the policy permits the worker to initially select the health care provider. The party who did not select the initial health care provider has the right to change to a different health care provider 60 days from the date the worker receives treatment from the selected provider.

E. Workers' compensation benefits.

(1) Medical benefits include all medical, surgical, and drug expenses that are reasonable, necessary and related to the work injury.

(2) Lost wage benefits are payments to a worker who is disabled from work in the opinion of an authorized health care provider and cannot earn wages. Lost wage benefits are based on a portion of his average weekly wage up to a maximum limit set by the Workers' Compensation Act, Sections 52-1-1 et seq. NMSA 1978. The first 7 days (consecutive or non-consecutive) is the statutory waiting period when no disability benefits are paid.

F. Sick leave and insurance premium payment options. Each employer shall determine as a matter of policy whether it elects to allow an injured worker to use paid time off during the initial 7 days of the statutory waiting period and how his insurance premiums will be paid while he is disabled. There are only two options as follows:

(1) Employer Option #1:

(a) Use of sick leave: The initial 7 day period that a worker is absent due to a work related occurrence is the statutory waiting period in which no lost wage benefits are paid under the workers' compensation claim. The initial 7 day period can be consecutive or non-consecutive days and must be charged to paid time off. If the worker continues to be disabled after the 7 day waiting period, he will be entitled to lost wage benefits equal to 66 2/3% of his average weekly wage up to the statutory maximum allowed at the time of his injury. The worker is not permitted to use paid time off leave after the 7 day waiting period. If the disability persists past 28 days, the worker will then be paid the lost wage benefits for the initial 7 day waiting period and the worker is required to reimburse their paid time off bank;

(b) Payment of Insurance premiums: When an absence is due to a work related occurrence, the worker does not receive wages from the employer. During the period of disability, the worker shall pay his portion of any insurance premiums for employer provided insurance directly to the employer. The employer will continue payment of its matching portion of the insurance premiums until the employee returns to work from the qualifying disability, through the end of the current fiscal year or for as long as the worker continues to pay his portion of the premiums, whichever occurs first.

(2) Employer Option #2:

(a) Use of sick leave: The initial 7 day period that a worker is absent due to a work related occurrence is the statutory waiting period in which no lost wage benefits are paid under the workers' compensation claim. The initial 7 day period can be consecutive or non-consecutive days and must be charged to paid time off. If the worker continues to be disabled after the 7 day waiting period, he will be entitled to lost wage benefits equal to 66 2/3% of his average weekly wage up to the statutory maximum allowed at the time of his injury. In order to allow the worker to maintain other employment benefits such as 401(k) contributions and health insurance premiums for family members and dependents, the worker is permitted to use paid time off leave in addition to workers' compensation benefits to equate to 100% of the worker's gross wage. The worker will not be paid in excess of 100% of his gross wages when both paid time off leave and compensation benefits are combined. The worker will not be entitled to any advancement of additional paid time off that the worker might potentially accrue during the balance of the fiscal

year. If the disability persists past 28 days, the worker will then be paid the lost wage benefits for the initial 7 day waiting period and the worker is required notify the employer in writing for proper reimbursement their paid time off bank;

(b) **Payment of Insurance premiums:** When an absence is due to a work related occurrence, the worker does not receive wages from the employer. During the period of disability, the worker shall pay his portion of any insurance premiums for employer provided insurance directly to the employer or if the worker uses paid time off leave, the worker's portion of the insurance premiums will continue to be deducted from the checks issued by the employer. The employer will continue payment of its matching portion of the insurance premiums until the employer returns to work from the qualifying disability, through the end of the current fiscal year or for as long as the worker continues to pay his portion of the premiums, whichever occurs first.

G. Family medical leave act. Family medical leave act benefits will run concurrently with the worker's time off for a work related injury.

H. Returning to work. Employees returning to work from a work related disability shall:

(1) submit a written medical statement from the treating physician to the workers' compensation administrator that they are physically able to return to perform the essential job functions of the original position; and

(2) if physically unable to return to performance of the essential job functions of the original position, the worker shall submit a written medical statement from the treating physician for review by his supervisor, human resources and the workers' compensation administrator detailing which specific functions of the original position that he is physically able to perform and which he cannot; such written medical statement shall specify the employee's physical capacity in the terms outlined in Section 52-1-26.4, NMSA 1978; within five days of receiving this written notification, the employer shall advise the worker in writing of the availability of accommodating work and the start date on which the employee is expected to fill the accommodating position.

(3) If physically unable to perform even marginal job duties, the worker shall submit a written medical statement from the treating physician to the workers' compensation administrator to that effect for review by his supervisor, human resources and the workers' compensation administrator; and

(4) present himself for work within 1 working day after being released to return to work by his treating physician or of being notified of accommodating work by the employer.

I. Workers' compensation assessment fee. Workers covered by workers' compensation under the New Mexico Workers' Compensation Act, Sections 52-1-1 et seq., NMSA 1978 are required to pay a quarterly fee. The worker's contribution is taken as a quarterly payroll deduction.
[6.50.14.9 NMAC - Rp, 6 NMAC 50.14.9, 09/01/2014]

6.50.14.10 CONFLICT WITH STATUTE: In the event of a conflict between this part and the Workers' Compensation Act, Sections 52-1-1 et seq. NMSA 1978, the provisions of the act shall prevail.
[6.50.14.10 NMAC - Rp, 6 NMAC 50.14.10, 09/01/2014]

6.50.14.11 CLAIMS DETERMINATION: No school district, charter school or educational entity has the authority to accept or acknowledge liability for any workers' compensation claim. There is no liability for a workers' compensation claim until liability is acknowledged in writing by an authorized employee of the authority's third party administrator.

[6.50.14.11 NMAC - Rp, 6 NMAC 50.14.11, 09/01/2014]

6.50.14.12 WORKERS' COMPENSATION IS THE EXCLUSIVE REMEDY: In any case where an insured under the authority's workers' compensation program is eligible to receive workers' compensation benefits for an injury, the exclusive remedy for such injury is workers' compensation benefits. Such injured insured shall have no claim for additional benefits under either the authority benefits or risk programs, including but not limited to underinsured, uninsured and unknown motorist coverages. Provided, however, this does not prohibit an insured from claiming benefits (in addition to workers' compensation) if provided under a short or long-term disability policy, life insurance policy or medical benefits policy (so long as an insured is limited to one recovery for medical expenses).
[6.50.14.2 NMAC - Rp, 6 NMAC 50.14.12, 09/01/2014]

HISTORY OF 6.50.14 NMAC:

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

NMPSIA Rule 93-17, Participating Entity Workers' Compensation Policy, filed 3/22/93.

NMPSIA Rule 93-18, Workers' Compensation is the Exclusive Remedy, filed 3/22/93.

History of Repealed Material:

6 NMAC 50.14, Participating Entity Workers Compensation Policy, filed 10/1/97 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 15 INSURANCE FRAUD

6.50.15.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.15.1 NMAC - Rp, 6 NMAC 50.15.1, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.15.2 SCOPE: This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.15.2 NMAC - Rp, 6 NMAC 50.15.2, 09/01/2014]

6.50.15.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.15.3 NMAC - Rp, 6 NMAC 50.15.3, 09/01/2014]

6.50.15.4 DURATION: Permanent.

[6.50.15.4 NMAC - Rp, 6 NMAC 50.15.4, 09/01/2014]

6.50.15.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.15.5 NMAC - Rp, 6 NMAC 50.15.5, 09/01/2014]

6.50.15.6 OBJECTIVE: The objective of this part is to establish appropriate penalties for insurance fraud in order to deter fraudulent conduct and thus minimize unnecessary expense to the authority and its participating members.

[6.50.15.6 NMAC - Rp, 6 NMAC 50.15.6, 09/01/2014]

6.50.15.7 DEFINITIONS: [RESERVED]

6.50.15.8 INSURANCE FRAUD:

A. Forfeiture of rights to coverage and benefits. Anyone who knowingly or willfully:

(1) makes any false or fraudulent statement or representation as to any material fact in or with reference to any application for insurance or other coverage; or

(2) for the purpose of obtaining any money or benefit, presents or causes to be presented a false or fraudulent claim, or any proof in support of such a claim for payment of loss under a policy; or

(3) prepares, makes or subscribes to a false or fraudulent account, certificate, affidavit or proof of loss, or other document, with intent that the same may be presented or used in support of such a claim; or

(4) makes any false or fraudulent statements or representations on or relative to any application for a policy, for the purpose of obtaining any benefit.

shall forfeit all employee and dependent rights to coverage or benefits.

B. Termination of coverage: In the event an official or employee of a participating school district, charter school or other educational entity knowingly or willfully engages in any of the actions listed in Subsection A of 6.50.15.8 NMAC, the employer shall take the appropriate disciplinary action against the offending official or employee. If such appropriate disciplinary action is not taken, the authority reserves the right to terminate coverage for the participating school district, charter school or other educational entity.

[6.50.15.8 NMAC - Rp, 6 NMAC 50.15.8, 09/01/2014]

History of 6.50.15 NMAC:

History of Repealed Material:

6 NMAC 50.15, Insurance Fraud, filed 10/1/97 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 16 ADMINISTRATIVE APPEAL OF AUTHORITY COVERAGE DETERMINATIONS

6.50.16.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.16.1 NMAC - Rp, 6.50.16.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.16.2 SCOPE: This part applies to all appeals of authority coverage determinations by school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's programs.

[6.50.16.2 NMAC - Rp, 6.50.16.2 NMAC, 09/01/2014]

6.50.16.3 STATUTORY AUTHORITY: Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.16.3 NMAC - Rp, 6.50.16.3 NMAC, 09/01/2014]

6.50.16.4 DURATION: Permanent.

[6.50.16.4 NMAC - Rp, 6.50.16.4 NMAC, 09/01/2014]

6.50.16.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.16.5 NMAC - Rp, 6.50.16.5 NMAC, 09/01/2014]

6.50.16.6 OBJECTIVE: The objective of this rule is to clarify the relationship between the authority and its members and to establish a fair and uniform procedure for school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members and persons or entities authorized to participate in the authority's programs to appeal authority coverage determinations.

[6.50.16.6 NMAC - Rp, 6.50.16.6 NMAC, 09/01/2014]

6.50.16.7 DEFINITIONS: As used in this rule:

A. "Authority" means the New Mexico public school insurance authority or its authorized representatives.

B. "Authority board" or "board" means the board of directors of the New Mexico public school insurance authority.

C. "Appellant" means any party who complains that a coverage determination may be in violation of any law, rule, regulation, or order administered or promulgated by the authority and who initiates a proceeding under this rule by filing a petition for review with the authority.

D. "Coverage determination" and "determination" mean any decision, order or disposition by the authority denying coverage, limiting the scope of coverage or limiting the amount of payment of a claim of a member or employee, except for workman's compensation claims.

E. "Document" means, except as otherwise used in the provisions of this rule governing discovery, any written submission in a formal proceeding which is not a pleading or which is required to be filed by authority rule or order outside a formal pleading; this includes items such as reports, exhibits, and studies; at the option of the party or staff making a filing, any document may additionally be presented in a form the hearing officer so orders.

F. "Employee" means a person employed by a member school district, charter school or other educational entity, or an employee's representatives in the event of legal incapacity, and includes volunteers or officials entitled to authority liability coverage pursuant to the Tort Claims Act, Subsection F of Section 41-4-3 NMSA 1978.

G. "Final coverage determination by the authority" with respect to a member means a coverage letter from the authority's contracted general counsel or contracted claims adjuster or with respect to an employee means a coverage letter from the authority's contracted third party benefits administrator or authorized authority staff member.

H. “Hearing” means any proceeding that is noticed for “hearing” by the authority or hearing officer and shall include an opportunity for the parties to present such evidence, argument, or other appropriate matters as the presiding officer shall deem relevant and material to the issues; hearings may be conducted by telephone conference call at the discretion of the presiding officer.

I. “Hearing officer” means a person appointed by the authority as a hearing examiner, who is designated by the authority to conduct any hearing or investigation which the authority is authorized to conduct, to take testimony in respect to the subject under investigation, report such testimony and provide to the authority a proposed decision with regard to the issues.

J. “Member school districts, charter schools and other participating entities” herein referred to collectively as “members” means all public school districts and charter schools mandated by the act to be members of the authority and all other educational entities voluntarily participating in the authority.

K. “Party” means any person or entity that initiates or responds to an authority proceeding by filing a petition for review with the authority and includes the authority; unless the context indicates otherwise, the term “party” may also refer to counsel of record for the party.
[6.50.16.7 NMAC - Rp, 6.50.16.7 NMAC, 09/01/2014]

6.50.16.8 RELATIONSHIP BETWEEN THE AUTHORITY, ITS MEMBERS AND COVERED EMPLOYEES: These findings and policy considerations guide the authority in adopting the following regulations and providing a procedure for administrative appeal of authority coverage determinations:

A. The authority is an agency of the state of New Mexico and is endowed only with those powers and duties stated in the New Mexico Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978 (“act”). The relationship between the authority and its members or employees, and any coverage provided by the authority to them, is defined and constrained by the act and by authority rules, regulations and procedures lawfully promulgated under the act.

B. The members of the authority participate pursuant to Section 22-29-9, NMSA 1978 of the act, which provides that school districts and charter schools shall participate in the authority unless they are granted a waiver of participation pursuant to the procedures provided in that section of the act. Section 22-2-9 NMSA 1978 also provides that other educational entities may participate in the authority.

C. The act does not empower the authority to contract with its members or employees. There is no relationship between the authority and its members or employees based upon or arising out of any contract between the authority and its members or employees.

D. The insurance protection provided by the authority to its members is provided either by insurance policies contracted through private insurers or through the statutory self-insurance program administered by the authority.

E. For the benefit of the authority and its members and their employees, the following regulations provide a formal procedure for members and employees to appeal authority coverage determinations. Therefore, the following procedures for appeal from any coverage determination or ruling of the authority are provided as the exclusive remedy for any person or entity challenging a coverage determination of the authority.

[6.50.16.8 NMAC - Rp, 6.50.16.8 NMAC, 09/01/2014]

6.50.16.9 PROCEDURE FOR APPEAL OF A FINAL COVERAGE DETERMINATION OF THE AUTHORITY: An aggrieved member or employee may appeal any final coverage determination of the authority by following the procedures specified herein. Review of any final decision or order of the authority can only be sought as provided by statute or by rules promulgated by the supreme court for appeal of state agency decisions.
[6.50.16.9 NMAC - Rp, 6.50.16.9 NMAC, 09/01/2014]

6.50.16.10 PETITION FOR REVIEW: Every appeal of a coverage determination of the authority shall be initiated by mailing a petition for review, within 30 days of the mailing date of the determination, to the executive director of the New Mexico Public School Insurance authority by certified mail.

A. A petition for review must specify and include:

(1) the name of the employee or member appealing, and, for institutional parties, the name, position, address and phone number of a person who will be responsible for receiving communications from the authority;

(2) a full description of the coverage determination being appealed, including the date of the determination and, specifically, the substance of the determination that is being appealed;

(3) a short, concise statement of the grounds for the appeal;

(4) if the authority determination is in a writing, a copy of the writing must be attached to the notice;

(5) copies of all documents, photographs or other tangible evidence that appellant contends provides support for appellant's position; and

(6) a memorandum stating the complete argument for overturning the determination of the authority, including a statement of relevant facts, an outline of controlling law, and the appellant's argument.

B. An extension of up to 14 days to provide the items specified in Paragraphs (5) and (6) of Subsection A of 6.50.16.10 NMAC may be granted at the discretion of the authority upon written request of the appellant.

[6.50.16.10 NMAC - Rp, 6.50.16.10 NMAC, 09/01/2014]

6.50.16.11 FINAL DECISION OF THE AUTHORITY BASED ON PETITION FOR REVIEW:

A. Within 30 days following receipt of the completed petition for review, including all supporting documents, the board shall either:

(1) issue a final decision vacating or modifying the coverage determination of the authority consistent with appellant's argument; or

(2) issue a notice of hearing setting, such hearing to be held no less than 30 days and no more than 45 days after the date the notice of setting is mailed to appellant.

B. Either the final decision in conformity with appellant's argument or the notice of hearing setting shall be mailed to appellant by first-class mail. A notice of hearing setting shall specify the date, time, location and subject matter of the hearing.

[6.50.16.11 NMAC - Rp, 6.50.16.11 NMAC, 09/01/2014]

6.50.16.12 SETTLEMENT OF APPEAL: The appellant and the authority may, at any time, either prior to or during a proceeding under this rule, informally settle a dispute by the consent of the parties.

[6.50.16.12 NMAC - Rp, 6.50.16.12 NMAC, 09/01/2014]

6.50.16.13 PRE-HEARING PROCEDURE:

A. Hearing officer. The board shall appoint a hearing officer for an appeal within 7 days after mailing the notice of setting. The board shall provide appropriate clerical support and space for any hearings conducted. Venue for any hearings shall be Santa Fe county unless the hearing officer in view of convenience to parties and witnesses orders that another location is more appropriate. The hearing officer shall oversee all proceedings after the hearing is set. The hearing officer will also provide written findings of fact and a disposition recommendation to the board within 14 days after completion of a hearing. The board shall make a final decision, after review of the recommendations of the hearing officer, and mail a notice of final decision to appellant within 30 days of receipt of the hearing officer's recommendations.

B. Representation of parties:

(1) The authority shall be represented in proceedings under this rule by its general counsel or a staff member of the authority appointed by the executive director for this purpose.

(2) The appellant may appear pro se, if appellant is an individual, or by an administrator of an institutional appellant who has been appointed for that purpose by the governing body of the institution. Any appellant may be represented by legal counsel licensed to practice law in the state of New Mexico.

C. Production of authority documents:

(1) Should a hearing be set by the board, the authority shall make available for copying and inspection all documents that the authority determines to be relevant to the initial determination being appealed within seven days of the date the hearing setting is issued. "Relevance," in this context is to be construed liberally in favor of production.

(2) Documents may be withheld or redacted by the authority only when the relevant material is protected from disclosure or otherwise privileged under New Mexico law. In the interest of complete disclosure, redaction shall be favored over withholding the document.

(3) Should any documents be withheld pursuant to New Mexico law, a list or privilege log generally identifying each document, its contents and the claimed privilege shall be provided to the appellant at the time of production.

(4) Documents produced shall be made available for inspection and copying at the offices of the authority.

D. Production of appellant or other party documents: The hearing officer for good cause shown may order inspection, production and copying of documents deemed relevant that are in the possession, custody or control of the appellant member, employee or other party.

E. Authority, appellant, member and employee arguments: At least 14 days before the date set for the hearing, all parties shall file simultaneously memorandums stating their complete arguments for or against the authority determination, including a statement of relevant facts, an outline of controlling law and the relief requested. Each party must mail or deliver the original memorandum and one copy to the hearing officer and one copy to the representative of each other party.

F. Witness and exhibit lists: Each party must file witness and exhibit lists at least 14 days before the date set for the hearing by mailing or delivering the original to the hearing officer and one copy to the representative of each other party. Witnesses must be identified with particularity. The party calling a witness must provide the witness's name and address and must describe the subject matter of the testimony expected to be elicited from each witness. Each document or object identified in the exhibit list must be immediately made available for inspection and copying. Only witnesses properly identified in the witness list will be permitted to testify in the hearing and only exhibits properly identified in the exhibit list will be admissible in the hearing unless upon good cause being shown the hearing officer determines otherwise.

[6.50.16.13 NMAC - Rp, 6.50.16.13 NMAC, 09/01/2014]

6.50.16.14 HEARINGS:

A. Rights of parties and those offering comment. At any hearing, all parties shall be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the hearing. Non-parties wishing to make comments shall be entitled to make an oral or written statement for the record but such statement shall not be considered as evidence. Non-parties making comment shall not have the right to introduce evidence or examine or cross-examine witnesses, to receive copies of pleadings or documents, to appeal from any decision or order, or to otherwise participate in the hearing other than by making their comments.

B. Continuance. Any party who desires a continuance shall request a continuance immediately upon receipt of notice of hearing or as soon thereafter as facts requiring such continuance come to the party's knowledge. The hearing officer may grant a request for continuance if timely made and supported by reasonable cause. The hearing officer may also grant a continuance at any time in the hearing officer's sound discretion.

C. Order of presentation. The hearing officer shall determine the order of presentation of the evidence and shall be guided in this matter by the interests of fairness and justice.

D. Rules of evidence.

(1) All relevant evidence is admissible which, in the opinion of the hearing officer, is the best evidence most reasonably obtainable, having due regard to its necessity, competence, availability and trustworthiness.

(2) In passing upon the admissibility of evidence, the hearing officer shall give consideration to, but shall not be bound by, the New Mexico rules of evidence which govern proceedings in New Mexico district courts. The hearing officer shall also give consideration to the legal requirement that any final decision on the merits be supported by competent evidence.

(3) All testimony to be considered as evidence in a hearing shall be made under oath.

(4) The parties may agree to submit written stipulations of fact or law or both to the hearing officer and such stipulations shall be binding upon the parties entering into the stipulation.

(5) A hearing officer may take administrative notice of the following matters if otherwise admissible under this rule: rules, regulations and procedures of the authority and other government agencies; decisions, records and transcripts in other authority proceedings; state and federal statutes; decisions of state and federal courts; and matters of which the courts of this state may take judicial notice. Matters noticed are admitted into evidence to the same extent as other relevant evidence.

E. Proposed findings. The hearing officer may require all parties of record to file proposed forms of order, including proposed findings of fact and conclusions of law, at the close of testimony in the proceeding.

[6.50.16.14 NMAC - Rp, 6.50.16.14 NMAC, 09/01/2014]

6.50.16.15 CONFLICTS: If an employee or official of an aggrieved member is on the authority board, that authority board member shall abstain from any participation, discussion, action or voting with respect to the petition for review. In the event an aggrieved authority employee files a petition for review he or she shall abstain from any participation, discussion, action or communication with regard to the petition other than in his or her normal role as a petitioner.

[6.50.16.15 NMAC - Rp, 6.50.16.15 NMAC, 09/01/2014]

6.50.16.16 PROCEDURE FOR REVIEW OF A FINAL DECISION OF THE AUTHORITY: Final decisions of the authority, whether based upon a notice of appeal or the written findings of fact and disposition recommendations of a hearing officer, may be reviewed in the New Mexico district courts pursuant to the provisions of Rule 1-075 of the Rules of Civil Procedure for the district courts, governing issuance of writs of certiorari for constitutional review of agency decisions. It is important that an appellant wishing to seek district court review of a final decision of the authority immediately examine the most recent publication of Rule 1-075 to determine its requirements. Pursuant to Rule 1-075, a petition for writ of certiorari must be filed in the district court within 30 days after the date of the final decision of the authority.
[6.50.16.16 NMAC-Rp, 6.50.16.16 NMAC, 09/01/2014]

HISTORY of 6.50.16 NMAC:

History of Repealed Material:

6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations, filed 6/16/2000 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 17 USE OF SCHOOL FACILITIES BY PRIVATE PERSONS

6.50.17.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.17.1 NMAC - Rp, 6.50.17.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.17.2 SCOPE: This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's risk related coverages.

[6.50.17.2 NMAC - Rp, 6.50.17.2 NMAC, 09/01/2014]

6.50.17.3 STATUTORY AUTHORITY: Subsection F of Section 22-29-7 NMSA 1978 directs the authority to establish a policy to be followed by participating members relating to the use of school facilities by private persons provided that the policy relates only to liability and risk issues. This policy shall not affect the rights and responsibilities of local school boards to determine how, when and by whom school district facilities are used. The policy shall be distributed to participating members and posted upon the authority's web site.

[6.50.17.3 NMAC - Rp, 6.50.17.3 NMAC, 09/01/2014]

6.50.17.4 DURATION: Permanent.

[6.50.17.4 NMAC - Rp, 6.50.17.4 NMAC, 09/01/2014]

6.50.17.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.17.5 NMAC - Rp, 6.50.17.5 NMAC, 09/01/2014]

6.50.17.6 OBJECTIVE: To establish a policy to be followed by participating members relating to the use of school facilities by private persons. This policy relates only to liability and risk issues.

[6.50.17.6 NMAC - Rp, 6.50.17.6 NMAC, 09/01/2014]

6.50.17.7 DEFINITIONS: [RESERVED]

6.50.17.8 POLICY ON USE OF SCHOOL FACILITIES BY PRIVATE PERSONS:

A. The representative of the requesting group shall contact the facilities manager or other designated school official of the desired site regarding the proposed usage within a time frame required by the site manager or official. The school or school district shall provide the requesting group with a site use agreement which sets forth the terms and conditions of use of the premises. Site use agreements shall at minimum include a copy of the school's safety rules or safety rules provided by the authority's risk management provider. The requesting group shall agree to follow the safety rules included with the site use agreement and also agree to follow the liability and risk related rules contained in Subsection G of 6.50.17.8 NMAC prior to use of the school facilities. The school facility use shall be conducted in compliance with all federal, state and municipal statutes, ordinances, rules and regulations including those with regard to discrimination. School facilities shall not be used for any unlawful purpose.

B. All groups shall also agree that the schools will not be liable for injury to the property of the group itself or participants in the group's activities resulting from their participation in the group's activities. Groups and their individual participants shall be required to give waivers of liability and releases for personal injury or property damage on forms provided by the school or the authority.

C. Liability insurance provided through the authority shall be excess over any valid and collectible insurance carried by any group permitted to use school facilities. Liability insurance provided by the authority for use of school facilities by private persons is limited to \$1,000,000 per occurrence. Schools or school districts shall not warrant the suitability of the facility or of the facility's contents for the uses intended by the requesting group.

D. Commercial groups shall provide a copy of a current business license. Commercial groups shall inform participants that the activity is not sponsored by the school whose facilities are being used.

E. All districts shall include within their site use agreement a statement clearly indicating that the approved activity sponsor must assure that activity participants, guests and spectators only access those site areas

designated for the activity. District superintendents shall also designate in the site use agreement an individual who shall verify that all the areas utilized were properly checked and secured upon departure from the facility.

F. Schools and school districts shall make their own arrangements regarding any payments required for use of the facilities, for reimbursement for special services such as setting up tables and chairs, use of school equipment such as projectors or video equipment or abnormal wear and tear on the facilities. All fees shall be made by check or money order and shall be made payable to the school or school board. It is inappropriate for users of school facilities to pay school employees directly for services in kind or in cash.

G. In addition to the safety rules included in the site use agreement, any user of school or school district facilities must agree to the following liability and risk related rules.

(1) The use of alcohol, illegal drugs and tobacco are prohibited on all school property at all times.

(2) Guns are not permitted on school property except for those in the possession of authorized law enforcement personnel.

(3) Users of the facility shall be responsible for providing security as required by the member school or school district for the type of function they have planned.

(4) Users of swimming pool facilities must have a certified life guard on duty at all times.

(5) For events that involve animals, including dogs, all must be leashed, caged or otherwise properly contained, constrained or under supervision and control at all times. Animals or pets not properly contained, constrained or under supervision and control at all times are prohibited.

(6) Open fires including candles, torches, and bonfires shall not be allowed except pursuant to prior approval and permit by the appropriate authorities.

(7) Building exits shall never be blocked for any reason.

(8) Parking shall be in designated areas only.

(9) Every effort shall be made to provide vehicle and pedestrian traffic management in order to insure safe and orderly movement of vehicles and people.

(10) All care shall be taken in the design, placement and construction of booths, displays, viewing stands, platforms, theater sets, temporary stages or any other structures to safeguard the safety of those building, using and disassembling such structures.

(11) Decorations shall be fire resistant whenever possible, cover no more than 20 percent of the wall area and never be placed within close proximity to incendiary sources.

(12) Care shall be taken at all times to avoid the creation of tripping hazards or if unavoidable to warn participants of obstacles.

(13) No hazardous materials, including pyrotechnic devices, fireworks, explosives flammable materials or liquids, poisonous materials or plants, strong acids or caustics shall be brought onto the premises or used in any way while occupying the premises except with the approval prior to use by the fire marshal or other authority having jurisdiction.

(14) No amusement rides or attractions, including but not limited to, trampolines of any type, enclosed or air supported structures of any type, climbing walls, climbing ropes, bow and arrow shooting activity or equipment or devices related thereto shall be brought onto the premises or used in any way while occupying the premises except with the express permission of school authorities and on proof of insurance by the user of the facility of at least \$1,000,000 per occurrence naming the school or school district and the authority as additional insureds. All such activities shall be operated and overseen by persons experienced and, if possible, certified to do so.

(15) All users of school facilities shall give written notice to the school of any accident resulting in bodily injury or property damage to property of the school occurring on school premises or in any way connected with the use of the school premises within 24 hours of the accident. The notice shall include details of the time, place and circumstances of the accident and the names and addresses and phone numbers of any persons witnessing the accident.

(16) If playground equipment is to be used, the user of the facility shall provide at least one adult supervisor for every 15 children.

(17) The user of the facility shall provide the appropriate signage to inform participants of the safety rules. A list of emergency agencies and phone numbers shall also be posted.

(18) Access to school facilities by the users of the facility shall be limited to those areas specified in the site use agreement.

H. All users of school facilities shall agree to provide prompt and thorough clean-up and removal or storage of all special structures within no more than 24 hours after the end of the event, but in no case later than the

beginning of the next school day or if school is out no later than prior to use of the area by school personnel. Users shall ensure that any furniture and equipment moved during the use of the facilities is replaced.
[6.50.17.8 NMAC - Rp, 6.50.17.8 NMAC, 09/01/2014]

HISTORY of 6.50.17 NMAC:

History of Repealed Material:

6.50.17 NMAC, Use of School Facilities by Private Persons, filed 2/9/2010 - Repealed effective 09/01/2014.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 18 USE OF VOLUNTEERS IN SCHOOLS AND SCHOOL DISTRICTS

6.50.18.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.18.1 NMAC - Rp, 6.50.18.1 NMAC, 09/01/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.18.2 SCOPE: This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's risk related coverages.

[6.50.18.2 NMAC - Rp, 6.50.18.2 NMAC, 09/01/2014]

6.50.18.3 STATUTORY AUTHORITY: Subsection E of Section 22-29-7 NMSA 1978 directs the authority to establish a policy to be followed by participating members relating to the use of volunteers, distribute the policy to participating members and post the policy upon the authority's web site.

[6.50.18.3 NMAC - Rp, 6.50.18.3 NMAC, 09/01/2014]

6.50.18.4 DURATION: Permanent.

[6.50.18.4 NMAC - Rp, 6.50.18.4 NMAC, 09/01/2014]

6.50.18.5 EFFECTIVE DATE: September 1, 2014 unless a later date is cited at the end of a section.

[6.50.18.5 NMAC - Rp, 6.50.18.5 NMAC, 09/01/2014]

6.50.18.6 OBJECTIVE: To establish a policy to be followed by participating members relating to the use of volunteers.

[6.50.18.6 NMAC - Rp, 6.50.18.6 NMAC, 09/01/2014]

6.50.18.7 DEFINITIONS:

A. "Regular volunteers" means those persons, including relatives of students, who commit to serve on a regular basis at a school district, charter school or other educational entity without compensation.

B. "Spontaneous volunteers" means those persons who agree to fill an urgent, temporary need for a school district, charter school or other educational entity without compensation and who are not pre-registered as a regular volunteer.

[6.50.18.7 NMAC - Rp, 6.50.18.7 NMAC, 09/01/2014]

6.50.18.8 POLICY FOR REGULAR VOLUNTEERS IN SCHOOLS AND SCHOOL DISTRICTS:

A. Participating member schools and school districts make extensive use of regular volunteers for many of their programs. In seeking and accepting the voluntary services of qualified, interested individuals, the participating members recognize that they have basic responsibilities to the regular volunteers as well as to the students and to themselves.

B. Each participating member shall be responsible for organizing and managing its own regular volunteer program subject to the following rules. Participating member schools, school districts and other educational entities shall have in place policies clearly establishing how and by whom regular volunteers are appointed and the policies at minimum shall require:

(1) interviewing all prospective regular volunteers and doing a background check including, but not limited to any history of drug abuse or drug dealing, domestic violence, DUI offenses, and sex crimes;

(2) providing all regular volunteers with a job description, outlining specific duties, time commitment and qualifications for acceptance as a regular volunteer;

(3) providing appropriate training, supervision and evaluation of regular volunteers; and

(4) instructing all regular volunteers to understand that failure to obey the code of ethics and standards of professional conduct as provided in 6.60.9.8 NMAC and 6.60.9.9 NMAC concerning the obligations of school personnel is grounds for dismissal.

C. Regular volunteers shall not be allowed to begin their service until after their duties are explained to them and they have accepted in writing the following volunteer pledge. It is my duty:

(1) to deal justly and considerately with each student, school employee or other volunteer;

- (2) to share the responsibility for improving educational opportunities for all;
- (3) to stimulate students to think and learn, but at the same time protect them from harm;
- (4) to respect the confidentiality of student records and information about students, their personal or family life;
- (5) not to discriminate or to permit discrimination on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion or serious medical condition against any person while I am on duty as a volunteer;
- (6) to avoid exploiting or unduly influencing a student into engaging in an illegal or immoral act or any other behavior that would subject the student to discipline for misconduct, whether or not the student actually engages in the behavior;
- (7) to avoid giving gifts to any one student unless all students similarly situated receive or are offered gifts of equal value for the same reason;
- (8) to avoid lending money to students;
- (9) to avoid having inappropriate contact with any student, whether or not on school property, which includes all forms of sexual touching, sexual relations or romantic relations, any touching which is unwelcome by the student or inappropriate given the age, sex and maturity of the student;
- (10) to avoid giving a ride to a student;
- (11) not to engage in sexual harassment of students, other volunteers or school employees;
- (12) not to engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off premises;
- (13) not to possess or use tobacco, alcohol or illegal drugs while on school property or during school events off premises;
- (14) to use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable law, policies and rules;
- (15) to avoid any violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct when on school property or off campus at school functions;
- (16) to refrain from using school information technology equipment, hardware, software or internet access for other than a school related purpose;
- (17) to refrain from striking, assaulting or restraining students unless necessary in the defense of self or others;
- (18) to refrain from using inflammatory, derogatory or profane language while on school property or while attending school events off premises;
- (19) to refrain from bringing or possessing firearms or other weapons on school property except with proper authorization;
- (20) not to be under the influence of alcohol or illegal drugs on school property or at school events off premises; and
- (21) to report, as appropriate under the circumstances, violations of this pledge by other regular volunteers or school employees.

D. For the mutual protection of regular volunteers and the participating members, personnel administering regular volunteer programs shall provide a safe place to work and clear project organization or direction, establish and inform regular volunteers of emergency procedures, ensure that regular volunteers understand that their activities create participating member's liability, and that ethical standards apply to them as well as to regular school employees. Participating member personnel shall inform each regular volunteer in writing of the reserved right to dismiss unsatisfactory regular volunteers and of the established procedures for doing so.

E. Spontaneous volunteers are not subject to these rules, but spontaneous volunteers must be supervised at all times by an employee or regular volunteer of the school district, charter school or other educational entity.

[6.50.18.8 NMAC - Rp, 6.50.18.8 NMAC, 09/01/2014]

HISTORY of 6.50.18 NMAC:

History of Repealed Material:

6.50.18 NMAC, Use of Volunteers in Schools and School Districts, filed 2/9/2010 - Repealed effective 09/01/2014.