

6.60.9 NMACTITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 60 SCHOOL PERSONNEL-GENERAL PROVISIONS
PART 9 LICENSURE REQUIREMENTS, CODE OF ETHICAL RESPONSIBILITY OF
THE EDUCATION PROFESSION

6.60.9.1 ISSUING AGENCY: State Board of Education
[6.60.9.1 NMAC - N, 04-30-01]

6.60.9.2 SCOPE: All licensed personnel. The New Mexico state board of education (SBE) hereby sets minimal standards of accepted ethical behavior and professional conduct in education that are applicable to all licensed school personnel, instructional personnel under contract, including any other person who provides instructional services in a school but who does not hold a standard license and whose presence is authorized by the SBE through a waiver, substandard license, substitute license, or an educational plan approved by the SBE.
[6.60.9.2 NMAC - N, 04-30-01]

6.60.9.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, 22-10-9, and 22-10-22, NMSA 1978.
[6.60.9.3 NMAC - N, 04-30-01]

6.60.9.4 DURATION: Permanent
[6.60.9.4 NMAC - N, 04-30-01]

6.60.9.5 EFFECTIVE DATE: April 30, 2001, unless a later date is specified at the end of a section.
[6.60.9.5 NMAC - N, 04-30-01]

6.60.9.6 OBJECTIVE: The SBE seeks to make ethical values and ethical leadership an integral part of the day to day activities of schools, and holds all persons within the scope of this regulation accountable for adhering to minimal standards of accepted professional conduct and ethical behavior. The SBE accepts the recommendations of its professional standards commission and the ethics subcommittee that a code of ethics and standards of professional conduct applicable to the education profession will infuse the learning environment with choices and values designed to assist in shaping young minds into educated, responsible citizens.
[6.60.9.6 NMAC - N, 04-30-01]

6.60.9.7 DEFINITIONS: [Reserved]

6.60.9.8 CODE OF ETHICS: We, professional educators of New Mexico, affirm our belief in the worth and dignity of humanity. We recognize the supreme importance of the pursuit of truth, the encouragement of scholarship, and the promotion of democratic citizenship. We regard as essential to these goals the protection of freedom to learn and to teach with the guarantee of equal educational opportunity for all. We affirm and accept our responsibility to practice our profession according to the highest ethical standards. We acknowledge the magnitude of the profession we have chosen, and engage ourselves, individually and collectively, to judge our colleagues and to be judged by them in accordance with the applicable provisions of this code.

A. Principle I: Commitment to the Student. We measure success by the progress of each student toward achievement of his/her maximum potential. We therefore work to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of

worthy goals. We recognize the importance of cooperative relationships with other community institutions, especially the home. In fulfilling our obligation to the student, we:

- (1) Deal justly and considerately with each student.
- (2) Encourage the student to study and express varying points of view and respect his/her right to form his/her own judgment.
- (3) Conduct conferences with or concerning students in an appropriate place and manner.
- (4) Seek constantly to improve learning facilities and opportunities.

B. Principle II: Commitment to the Community. We believe that patriotism in its highest form requires dedication to the principles of our democratic heritage. We share with all other citizens the responsibility for the development of sound public policy. As educators, we are particularly accountable for participating in the development of educational programs and policies and for interpreting them to the public. In fulfilling our obligations to the community, we:

- (1) Share the responsibility for improving the educational opportunities for all.
- (2) Recognize that each educational institution has a person authorized to interpret its official policies.
- (3) Acknowledge the right and responsibility of the public to participate in the formulation of educational policy.
- (4) Evaluate through appropriate professional procedures conditions within a district or institution of learning, make known serious deficiencies, and take action deemed necessary and proper.
- (5) Assume full political and citizenship responsibilities, but refrain from exploiting the institutional privileges of our professional positions to promote political candidates of partisan activities.
- (6) Protect the educational program against undesirable infringement, and promote academic freedom.

C. Principle III: Commitment to the Profession. We believe that the quality of the services of the education profession directly influence the future of the nation and its citizens. We therefore exert every effort to raise educational standards, to improve our service, to promote a climate in which the exercise of professional judgment is encouraged, to demonstrate integrity in all work-related activities and interactions in the school setting, and to achieve conditions which attract persons worthy of the trust to careers in education. Aware of the value of united effort, we contribute actively to the support, planning, and programs of our professional organizations. In fulfilling our obligations to the profession, we:

- (1) Recognize that a profession must accept responsibility for the conduct of its members and understand that our own conduct may be regarded as representative of our profession.
- (2) Participate and conduct ourselves in a responsible manner in the development and implementation of policies affecting education.
- (3) Cooperate in the selective recruitment of prospective teachers and in the orientation of student teachers, interns, and those colleagues new to their positions.
- (4) Accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities.
- (5) Refrain from assigning professional duties to nonprofessional personnel when such assignment is not in the best interest of the student.
- (6) Refrain from exerting undue influence based on the

authority of our positions in the determination of professional decisions by colleagues.

(7) Keep the trust under which confidential information is exchanged.

(8) Make appropriate use of the time granted for professional purposes.

(9) Interpret and use the writings of others and the findings of educational research with intellectual honesty.

(10) Maintain our integrity when dissenting by basing our public criticism of education on valid assumptions as established by careful evaluation of facts.

(11) Respond accurately to requests for evaluation of colleagues seeking professional positions.

(12) Provide applicants seeking information about a position with an honest description of the assignment, the conditions of work and related matters.

D. Principle IV - Commitment to Professional Employment Practices. We regard the employment agreement as a solemn pledge to be executed both in spirit and in fact in a manner consistent with the highest ideals of professional service. Sound professional personnel relationships with governing boards are built upon integrity, dignity, and mutual respect between employees, administrators, and local school boards. In fulfilling our obligations to professional employment practices, we:

(1) Apply for or offer a position on the basis of professional and legal qualifications.

(2) Apply for a specific position only when it is known to be vacant and refrain from such practices as underbidding or commenting adversely about other candidates.

(3) Fill no vacancy except where the terms, conditions, and policies are known.

(4) Adhere to and respect the conditions of a contract or to the terms of an appointment until either has been terminated legally or by mutual consent.

(5) Give prompt notice of any change in availability of service, in status of applications, or in change in position.

(6) Conduct professional business through recognized educational and professional channels.

[6.60.9.8 NMAC - N, 04-30-01]

6.60.9.9 STANDARDS OF PROFESSIONAL CONDUCT

A. Preamble

(1) We, licensed New Mexico educators acknowledge that ethical values in our schools cannot exist without ethical leadership. It is our ultimate goal to educate children so that they may become productive citizens; we understand that our guidance and ability to provide choices has a profound effect on reaching this goal. In affording students and each other choices, we agree to consider the consequence of each choice, the moral value best exemplified by the recommended choice, and a reflection on how we would view the choice if it were applied to us. These principles apply equally to all licensed educators in all schools except where they are uniquely applicable to public schools or where they conflict with principles of religious freedom.

(2) Moral values are to ethical leadership what years of experience are to a successful educator. The former sets the stage for success of the latter. Abstract principles that espouse excellence do not easily equate into simple behavioral maxims. We are certain that some foundational concepts can be embraced because they truly celebrate desirable moral values. These concepts are: respect for one's self and others, honesty and openness, the

delicate balance between absolute freedom and safety, the equally delicate balance between confidentiality and the right to know, equality of opportunity, fairness to all, and personal integrity.

(3) In the final analysis it is our consistent ethical leadership that wins the most allies and produces the best results. Not only does this code highlight our professional responsibilities, it stimulates us into discussing the professional implications of our ethical choices and ethical recommendations, causes us to assess and reassess our application of moral values, and sets forth concrete behaviors appropriate for education professionals. We are committed to this code and understand that it provides minimally accepted standards of professional conduct in education.

B. Standard I: Duty to the Student. We endeavor to stimulate students to think and to learn while at the same time we seek to protect them from any harm. Ethical leadership requires licensed educators to teach not only by use of pedagogical tools, but by consistent and justifiable personal example. To satisfy this obligation, we:

(1) shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 et seq., 34 C.F.R. Part 300), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 et seq., NMSA 1978), the Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-3, NMSA 1978), withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law.

(2) shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition.

(3) shall avoid using our position as a licensed school employee to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior.

(4) shall tutor students only in accordance with local board policies if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian.

(5) shall not give a gift to any one student unless all students situated similarly receive or are offered gifts of equal value for the same reason.

(6) shall not lend a student money except in clear and occasional circumstances as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance.

(7) shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:

(a) all forms of sexual touching, sexual relations or romantic relations;

(b) inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;

(c) any open displays of affection toward mostly-boys or mostly-girls;

(d) offering or giving a ride to a student

unless absolutely unavoidable as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements.

(8) shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:

(a) making any sexual advances, requests for sexual favors, repeated sexual references, and any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them;

(b) creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at paragraph 7 or subparagraph a of paragraph 8, subsection B of 6.60.9.9 NMAC, above.

C. Standard II: Duty to the Profession. The education profession has been vested by the public with an awesome trust and responsibility. To live up to that lofty expectation, we must continually engender public confidence in the integrity of our profession, and must strive consistently in educating the children all of whom will one-day shape the future. To satisfy this obligation, we:

(1) shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure.

(2) shall not orally or in writing misrepresent our professional qualifications.

(3) shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history.

(4) shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education.

(5) shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school.

(6) shall not disclose personal, medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law.

(7) shall not knowingly make false or derogatory personal comments about an educational colleague, although First Amendment protected comments on or off campus are not prohibited.

(8) shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds \$100 and which compromises the integrity of the licensed educator, excluding approved educational awards, honoraria, plaques, trophies, and prizes.

(9) shall avoid conduct connected with official duties that is unfair or is improper, illegal or gives the appearance of being improper or illegal.

(10) shall not sexually harass any school employee, any school visitor or anyone else we might encounter in the course of our official duties, which includes:

(a) making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above;

(b) making any other verbal or physical

conduct with any of the above-named individuals even where the licensed educator believes they consent or they actually initiate the activity;

(c) displaying or distributing any sexually oriented materials where the above-named individuals can see them;

(d) creating an intimidating, hostile, or offensive work/school environment by at a minimum not engaging in any of the prohibited behaviors set forth at subparagraphs a, b or c, paragraph 10, subsection C of 6.60.9.9 NMAC, above.

(11) shall educate oneself at least annually about avoiding sexual harassment by either attending periodic training, reviewing sexual harassment literature or the EEOC guidelines found at Title 29 Code of Federal Regulations Part 1604 (29 C.F.R. Section 1604.1 et seq.), or contacting appropriate school human resources personnel.

(12) shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus.

(13) shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs.

(14) shall use educational facilities and property only for educational purposes or purposes for which they are intended consistent with applicable policy, law and regulation.

(15) shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition.

(16) shall not engage in any outside employment:

(a) the performance of which conflicts with our public school duties as where a licensed educator takes a private job that would require performance in the very school district where he/she is employed;

(b) where we use confidential/privileged information obtained from our public school employment as part or all of our private employment duties;

(c) that impairs our physical ability to perform our school duties.

(17) shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:

(a) in connection with our official school duties;

(b) in connection with another licensed person's official school duties;

(c) in connection with any standardized or non-standardized testing;

(d) in connection with any school application or disclosure process;

(e) in connection with any writing submitted to the Department of Education related to our initial or continued licensure, including endorsements.

(18) shall not in connection with any State Board-approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering.

(19) shall not, engage in any conduct or make any statement:

(a) that would breach the security of any standardized or non-standardized tests;

(b) that would ignore administering portions

or the entirety of any standardized or non-standardized testing instructions;

(c) that would give students an unfair advantage in taking a standardized or non-standardized test;

(d) that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test;

(e) that would assist students in obtaining services or benefits to which they do not qualify or are not entitled.

(20) shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace.

[6.60.9.9 NMAC - N, 04-30-01]

6.60.9.10 FAILURE TO COMPLY WITH THIS CODE The SBE finds that adherence to this Code of Ethical Responsibility has a significant bearing on licensed personnel's competence, turpitude or the proper performance of their duties. It makes the same finding for any other person providing instructional services in a school who does not hold a standard license but whose presence is authorized by the SBE through a waiver, substandard license, substitute license, or an educational plan approved by the SBE. Both the Code of Ethics and Standards of Professional Conduct are intended to provide a valuable framework of personal ethics to assist educators and administrators in their interaction with colleagues, students and parents. However, the Standards of Professional Conduct establish minimal standards of accepted professional conduct with which all educators and administrators are required to comply. Therefore, the SBE through the professional licensure unit ("licensure unit") of the state department of public education (SDE), may revoke or suspend the licensure of any person, or may deny applications for licensure or relicensure to any person, who is within the scope of this regulation, and who after hearing, is found to have failed to comply with one or more of the enumerated provisions of the Standards of Professional Conduct set forth in 6.60.9.9 NMAC, above, exclusive of the Preamble. All hearings and attendant notices shall be conducted and served pursuant to either 6 NMAC 4.2.4.4 or 6 NMAC 4.2.4.5.

[6.60.9.10 NMAC - N, 04-30-01]

6.60.9.11 DISSEMINATION OF THIS CODE The licensure unit shall adopt measures to ensure that this Code of Ethical Responsibility receives the widest possible dissemination to all persons falling within its scope. Such measures include but are not be limited to:

A. Providing information about the Code of Ethical Responsibility directly through the licensure unit's application process;

B. Providing information about the Code of Ethical Responsibility to all school districts, charter schools, and non-public schools accredited by the SBE;

C. Notifying any school district, charter school or private school accredited by the SBE of the decision and order of the SBE after the SBE has taken final licensure action against one of their employees based in whole or in part on a failure to comply with the Standards of Professional Conduct;

D. Any other reasonable measure that is calculated to result in the widest dissemination of the SBE's Code of Ethics and notification of the consequences of failure to comply with the Standards of Professional Conduct.

[6.60.9.11 NMAC - N, 04-30-01]

6.60.9.12 REPORTING REQUIREMENT It is the duty of each school superintendent to provide written notification to the director of the licensure unit after taking final action to discharge or terminate the employment, based

in whole or part on a violation of the Standards of Professional Conduct, of any certified school employee, or any other person providing instructional services in a school who does not hold a standard license but whose presence was authorized by the SBE through a waiver, substandard license, substitute license, or an educational plan approved by the SBE.

[6.60.9.12 NMAC - N, 04-30-01]

PRE-NMAC REGULATORY FILING HISTORY: The material in this Part was derived from that previously filed with the State Records Center and Archives under: SBE Regulation No. 90-4, Professional Licensure Unit Operational Bylaws of the Professional Standards Commission including Code of Ethics of the Education profession, filed November 21, 1990; SBE Regulation 90-4 Amendment 1, Professional Licensure Unit Operational Bylaws of the Professional Standards Commission including Code of Ethics of the Education Profession, filed February 5, 1992; SBE Regulation No. 93-16, Professional Licensure Unit Operational Bylaws of the Professional Standards Commission including Code of Ethics of the Education Profession, filed July 20, 1993; and 6 NMAC 4.2.1.1, Operational Bylaws of the Professional Standards Commission Including Code of Ethics of the Education Profession.