

**TITLE 6            PRIMARY AND SECONDARY EDUCATION**  
**CHAPTER 69       SCHOOL PERSONNEL - PERFORMANCE**  
**PART 2            UNSATISFACTORY WORK PERFORMANCE OF CERTIFIED (LICENSED) SCHOOL PERSONNEL**

**6.69.2.1            ISSUING AGENCY:** Public Education Department (PED).  
[6.69.2.1 NMAC - Rp, 6.69.2.1 NMAC, xx/xx/2017]

**6.69.2.2            SCOPE:** This regulation applies to local school boards, governing authorities of state agencies and certified (licensed) school personnel.  
[6.69.2.2 NMAC - Rp, 6.69.2.2 NMAC, xx/xx/2017]

**6.69.2.3            STATUTORY AUTHORITY:** This regulation is adopted pursuant to Section 22-10A-19, 22-10A-27 NMSA 1978.  
[6.69.2.3 NMAC - Rp, 6.69.2.3 NMAC, xx/xx/2017]

**6.69.2.4            DURATION:** Permanent  
[6.69.2.4 NMAC - Rp, 6.69.2.4 NMAC, xx/xx/2017]

**6.69.2.5            EFFECTIVE DATE:** Month Day, 2017 unless a later date is cited at the end of a section.  
[6.69.2.5 NMAC - Rp, 6.69.2.5 NMAC, xx/xx/2017]

**6.69.2.6            OBJECTIVE:** This regulation establishes procedures for supervising and correcting "unsatisfactory work performance" of licensed school personnel before notice of intent to discharge is served upon them or before requesting the secretary [~~of education~~] to suspend a level three teaching license for unsatisfactory work performance at level three licensure, and further to distinguish between the terms "unsatisfactory work performance" and "insubordination".  
[6.69.2.6 NMAC - Rp, 6.69.2.6 NMAC, xx/xx/2017]

**6.69.2.7            DEFINITIONS:**

~~[A.            "Administrative authority" means the superintendent, principal or a person acting under the authority of such superintendent or principal.~~

~~\_\_\_\_\_ B.            "Insubordination" means actual or implied willful refusal to follow written policies, regulations, rules, or procedures established by the public education department (PED), the local school board, or administrative authorities, or the lawful written or oral orders, requests or instructions of administrative authorities.~~

~~\_\_\_\_\_ C.            "Uncorrected unsatisfactory work performance" means unsatisfactory work performance which the licensed school personnel has failed to correct pursuant to the provisions in this regulation; provided, however, that if unsatisfactory work performance is uncorrectable through the evaluation and supervision process, as determined by the local school board policy, the provisions in this regulation shall not apply.~~

~~\_\_\_\_\_ D.            "Unsatisfactory work performance" means the failure by licensed school personnel to satisfactorily perform those tasks which are evaluated by the employee's supervisors, pursuant to the school district's approved plans) for evaluation and supervision of its licensed employees. Furthermore, for the purpose of this regulation unsatisfactory work performance does not include insubordination or conduct deemed to be outside the normal scope of duties of licensed school personnel.]~~

A.            "administrative authority" means the superintendent, principal or a person acting under the authority of such superintendent or principal.

B.            "insubordination" means actual or implied willful refusal to follow written policies, regulations, rules, or procedures established by the department, the local school board, or administrative authorities; or the lawful written or oral orders, requests, or instructions of administrative authorities.

C.            "secretary" means the secretary of education department

D.            "uncorrected unsatisfactory work performance" means unsatisfactory work performance which the licensed school personnel has failed to correct pursuant to the provisions in this regulation; provided, however, that if unsatisfactory work performance is uncorrectable through the evaluation and supervision process, as determined by the local school board policy, the provisions in this regulation shall not apply.

E.            "unsatisfactory work performance" means the failure by licensed school personnel to satisfactorily perform those tasks which are evaluated by the employee's supervisors, pursuant to the school district's approved

plans for evaluation and supervision of its licensed employees. For the purpose of this regulation unsatisfactory work performance does not include insubordination or conduct deemed to be outside the normal scope of duties of licensed school personnel.

[6.69.2.7 NMAC - Rp, 6.69.2.7 NMAC, xx/xx/2017]

**6.69.2.8 UNCORRECTED UNSATISFACTORY WORK PERFORMANCE:**

**A.** Uncorrected unsatisfactory work performance is good cause for discharging licensed school personnel or for requesting the secretary of education to suspend a level three teaching license as provided in Subsection F of 6.69.4.10 NMAC so long as procedures established in Subsection B of Section 6.69.2.8 NMAC herein are followed.

**B.** The following procedures shall be followed by local school boards or governing authorities of state agencies in supervising and correcting unsatisfactory work performance of licensed school personnel before serving them with notice of intent to discharge pursuant to Section 22-10A-27 NMSA 1978 or before requesting the secretary of education to suspend a level three teaching license under Subsection F of 6.69.4.10 NMAC.

~~[(1) Two or more conferences shall have been held with licensed school personnel charged with unsatisfactory work performance by a local school board or governing authorities of state agencies before notice of intent to discharge is served upon him or her. Such conferences shall be held with the individual's immediate supervisor and such other persons as the local board or governing authorities of state agencies may designate. For purposes of this regulation, the conference at which the supervisor first identifies unsatisfactory work performance shall be counted as one of the required conferences. Sufficient time shall have elapsed between the conferences to allow the licensed school personnel to correct the unsatisfactory work performance and to have been observed for an adequate time in the discharge of his or her duties.~~

~~(2) A written record of all conferences shall be made, specifying the areas of uncorrected unsatisfactory work performance, all action suggested by the school or agency administration which might improve such performance, and all improvements made. Each written record shall be signed by all parties to the conference. In the event of a refusal to sign, a notation shall be made of the refusal. A copy of each record shall be given to the person charged with unsatisfactory work performance. The local board or governing authority of a state agency shall retain a copy of the record to be introduced at any hearing for the person charged with unsatisfactory work performance.~~

~~(3) In addition to the requirements in Subsection B of 6.69.2.8 NMAC, before requesting the secretary of education to suspend a level three teaching license as provided in Subsection F of 6.69.4.10 NMAC a local school district or governing authorities of state agencies shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary.]~~

**C.** Every person who evaluates a licensed school employee under this rule shall submit an original written report to the school district superintendent, and an exact copy to the licensed school employee being evaluated. The effectiveness evaluation shall not be changed once each component is completed and delivered to either the school district superintendent or the licensed school employee being evaluated. In addition to the requirements in Subsection B of 6.69.2.8 NMAC, before requesting the secretary to suspend a level three teaching license as provided in Subsection F of 6.69.4.10 NMAC a local school district or governing authority of state agencies shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary.

**D.** A licensed school employee rated minimally effective or ineffective may provide a written statement in response to their effectiveness evaluation, and that statement shall become a permanent attachment to that employee's evaluation file.

**E.** Every person who rates a licensed school employee minimally effective or ineffective shall describe in detail the minimally effective or ineffective performance and, in writing, inform the licensee of the following:

(1) the right to a post-evaluation conference which the evaluator must convene and which shall occur no later than ten days after the evaluation is completed unless the employee agrees to an extension;

(2) that during the conference the evaluator will make recommendations to the employee with respect to specific areas of unsatisfactory performance and provide feedback that establishes the initial framework for an individual professional growth plan;

(3) that the evaluator will provide assistance in helping the employee correct unsatisfactory performance and the district will extend strategic support aligned to best practices identified by the department to assist the employee in correction of the unsatisfactory performance;

(4) that if the employee has an employment contract, the employee shall be placed on a performance growth plan for 90 school days from receipt of the notice of minimally effective or ineffective performance, provided that:

(a) the 90 days shall not include weekends, school holidays or school vacation periods, declared snow days, and approved employee leave days;

(b) during the 90 days the licensed school employee shall be observed and evaluated more than four times in writing and shall be informed of the results of those observations; and

(c) the evaluator shall maintain documentation of having provided assistance and notification of in-service training opportunities to help correct the performance deficiencies noted of the licensed school employee; and

(5) that receipt of the notice shall constitute notice of uncorrected unsatisfactory work performance pursuant to Section 22-10A-3 NMSA 1978 and 6.69.2 NMAC.

F. Within five school days after the expiration of the 90-day performance growth plan, the evaluator shall determine whether the performance deficiencies have been corrected and forward a written recommendation to the school district superintendent.

G. Within 10 school days after receipt of that written recommendation, the school district superintendent or charter school head administrator shall provide the licensed school employee who has an employment contract with the school district written notification expressing whether the performance deficiencies have been satisfactorily corrected. A copy of the evaluator's recommendation shall accompany that notice.

H. If satisfactory progress has not been made, the local superintendent or charter school head administrator shall determine whether to discharge or terminate the employee pursuant to Sections 22-10A-27 or 22-10A-24, NMSA 1978.

I. An employee who has been placed on a 90-day performance growth plan because of minimally effective or ineffective performance, and who has not been employed by a school district for three consecutive years shall have no reasonable expectation of continued employment beyond the end of the contract year by reason of being on a performance growth plan.

J. The school district superintendent or charter school head administrator shall provide written notice to the educator quality division with the name and licensure file number of all licensed school employees who have received two consecutive minimally effective or ineffective performance ratings and who have been given a written notice of proposed discharge or of proposed termination, or who have resigned their employment after receiving either of these ratings.

[6.69.2.8 NMAC - Rp, 6.69.2.8 NMAC, xx/xx/2017]

#### **HISTORY OF 6.69.2 NMAC:**

**PRE-NMAC HISTORY:** The material in this regulation is derived from that previously filed with the State Records Center and Archives under:

State Board of Education Regulation No. 74-6, Regulation Governing Procedures to be Followed by Local School Boards in Supervising and Correcting Unsatisfactory Work Performance of Certified School Personnel, filed March 14, 1974;

State Board of Education Regulation No. 75-8, Regulation Governing Procedures to be Followed by Local School Boards in Supervising and Correcting Unsatisfactory Work Performance of Certified School Personnel, filed July 14, 1975;

State Board of Education Regulation No. 76-24, Insubordination and Unsatisfactory Work Performance of Certified School Personnel, filed December 16, 1976;

State Board of Education Regulation No. 77-1, Insubordination and Unsatisfactory Work Performance of Certified School Personnel, filed February 2, 1977; and

State Board of Education Regulation No. 89-1, Unsatisfactory Work Performance of (Certified) Licensed School Personnel, filed February 10, 1989.

**HISTORY OF REPEALED MATERIAL:** 6.69.2 NMAC, Unsatisfactory Work Performance of Certified (Licensed) School Personnel, filed 12-31-1998 - Repealed effective xx-xx-2017.