



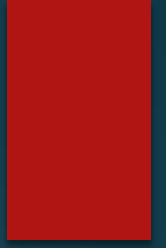
An Inquiry into NM High School Graduation Requirements

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Every conversation about graduation requirements should start with the law...

- ▶ NMSA stands for New Mexico Statute Annotated. This is law as passed by the NM State Legislature.
- ▶ In 2008, the legislature passed a statute which clearly explicated what high school students must do in order to earn a diploma in NM.
- ▶ It included language regarding the 24 required credits, and it had another section about “demonstrating competence”:

NMSA 22-13-1-1-M

Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule.

Notice that this says "or", not "and"

This is why the graduation exam changed from the NMSCE to the SBA

What is the "portfolio of standards-based indicators" which can be used to replace the SBA?

OK, we need to look at the rule which defines the portfolio.

So what is “rule”?

- ▶ “Rule” or “regulation” refers to the New Mexico Administrative Code (NMAC), also known as “State Rules”.
- ▶ “Rules are a special category of law written by state agencies to support, clarify, or implement specific laws enacted by the legislature called statutes”¹.
- ▶ Rules are readily available to read on the NMAC website:
<http://www.nmcpr.state.nm.us/nmac/>
- ▶ This website “is updated once a month before the 15th of the month. All new rules, repeals, and amendments that took effect the previous month are loaded at that time”².

¹ http://www.nmcpr.state.nm.us/nmac/_explanation/whatare.htm

² http://www.nmcpr.state.nm.us/nmac/_explanation/updates.htm

NMAC 6.19.7.1

- ▶ After the legislature passed NMSA 22-13-1-1-M, the PED, which at the time was led by Secretary Garcia, published a rule to clarify the statute.
- ▶ This rule is NMAC 6.19.7.1, which was issued in 2009.
- ▶ Let's take a look at it:

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY
PART 7 HIGH SCHOOL READINESS ASSESSMENT SYSTEM FOR CAREER AND COLLEGE

6.19.7.1 ISSUING AGENCY: Public Education Department
[6.19.7.1 NMAC - N, 1/30/09]

6.19.7.2 SCOPE: This rule shall apply to public schools, state educational institutions except for institutions of higher education and the New Mexico military institute, and state agencies enrolling high school students.
[6.19.7.2 NMAC - N, 1/30/09]

6.19.7.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, 22-2C-4.1, and 22-13-1.1, NMSA 1978.
[6.19.7.3 NMAC - N, 1/30/09]

6.19.7.4 DURATION: Permanent
[6.19.7.4 NMAC - N, 1/30/09]

6.19.7.5 EFFECTIVE DATE: January 30, 2009 unless a later date is cited at the end of a section.
[6.19.7.5 NMAC - N, 1/30/09]

6.19.7.6 OBJECTIVE: The objective of this rule is to establish procedures for implementing the high school readiness assessment system, including: (a) the process for identifying acceptable short-cycle diagnostic type assessment instruments for grades nine and ten; (b) identification of acceptable college placement and workforce readiness assessments; and (c) specific requirements for alternate demonstration of competency in the New Mexico's academic content standards required for high school graduation.
[6.19.7.6 NMAC - N, 1/30/09]

All rules are “subordinate to statutes”. That means that a rule must follow statute, or have statutory authority.

A-ha. Here's the first time we see a reference to the “Alternate Demonstration of Competency, better known as the “ADC”.

The NMAC specifically defines broad language used in statute:

Remember that the statute stated that a “portfolio of standards-based indicators” is required for a student to earn a diploma.

6.19.7.7

DEFINITIONS:

- A. “**Academic content standard**” means a statement about performance that describes what students should know and be able to do in the content areas at each grade level and for high school. The purpose of content standards is to create a common curriculum so that students who move from school to school or from district to district have access to the same curriculum, and so that teachers know what they are supposed to teach.
- B. “**Artifacts**” means works independently created by students that serve as evidence addressing the standards-based indicators.
- C. “**Career cluster**” means a grouping of occupations in industry sectors based on recognized commonalities. Career clusters provide an organizing tool for developing instruction within the educational system.
- D. “**College placement assessment**” means a nationally-normed exam used for placement into postsecondary courses.
- E. “**Department**” means the public education department (“PED”).
- F. “**District**” means the geographic boundary in which a K-12 set of schools resides, under the supervision of a locally-elected board of education.
- G. “**Electronic student management system**” means an individual student-based, interactive system for personal management and review of requirements associated with graduation and being ready for college or the workforce.
- H. “**End-of-course examination**” means an exam administered to assess student content knowledge upon completion of a course.
- I. “**Performance standard**” means a statement describing the specific level of mastery expected in achieving the content standards.
- J. “**Portfolio**” means a collection of student produced artifacts that demonstrate competence of standards using standards-based indicators in a set electronic format with fixed categories of student information and artifacts.
- K. “**Postsecondary school**” means a public postsecondary educational institution operating in the state, including a community college, branch community college, and four-year educational institutions.
- L. “**School administrator**” means the superintendents, and administrators of public schools, state educational institutions, and state agencies.
- M. “**Short-cycle diagnostic type assessment**” means a formative measure that is regularly used to assess student performance over a short time period.
- N. “**Standards-based indicators**” means multiple and varied measures that are aligned to the state content and performance standards and that demonstrate student competency in the subject areas required for graduation.
- O. “**State educational institutions**” means those institutions enumerated under Article 12, Section 11 of the New Mexico State Constitution, except for institutions of higher education and the New Mexico military institute.
- P. “**Workforce readiness assessment**” means a criterion referenced assessment developed for the purposes of assessing skill levels needed for clusters or categories of related jobs or for employment in a specific field of work. Workforce readiness assessments may include standardized assessments, industry certifications or licensure.

[6.19.7.7 NMAC - N, 1/30/09]

Here is the explicit legal definition of the ADC:

6.19.7.10 ALTERNATE DEMONSTRATION OF COMPETENCY USING STANDARDS-BASED INDICATORS

A. Alternate demonstration of competency of high school exit requirements using standards-based indicators may include, but is not limited to the following:

- (1) results from post-secondary nationally-normed assessments;
- (2) results from workforce readiness assessments;
- (3) results from end-of-course examinations;
- (4) school-based projects such as extended papers, themes, theses, or research projects;
- (5) performances or works of art that can be recorded in an electronic format; and
- (6) community-based projects such as internships, service learning, pre-apprenticeship, or after-school job performance.

B. The alternate demonstration of competency must not contain the following:

- (1) products not the result of the student's independent work;
- (2) projects that involve vertebrate animal subjects;
- (3) collaborations where an individual student's contributions cannot be distinguished;
- (4) course grades, teacher or employer recommendations or testimonials;
- (5) artifacts that are not related to the content standards required for graduation;
- (6) material that is inflammatory, derogatory, or humiliating.

Here's what makes students eligible to use an ADC for graduation:

OK, these are the short tests students take 3 times per year in reading and math. They need to do these anyway, and teachers use these to inform their instruction. The PED has approved 4 different tests for schools to use, and schools can also apply to use a test not included in those 4.

D. Requirements for alternate demonstration of competency using standards-based indicators:

- (1) Students must have participated in the short-cycle diagnostic type assessments at ninth and tenth grades in the required subject areas at least once and before submitting artifacts to be considered for alternate demonstration of competency.
- (2) Students who have participated in a college placement or workplace readiness assessment may create a portfolio of artifacts as further evidence of competency or to submit to postsecondary institutions, potential employers, businesses, community organizations, or any institution that requires educational credentials for admission, scholarships, employment, partnerships, internships, apprenticeships, or any opportunity for advancement in learning, earning potential, military service, and citizenship.

So according to this, students “participate” (not necessarily meet a cut score) in either a college placement or workforce readiness assessment, and can then use the portfolio for graduation. These 2 assessment types are defined in the “Definitions” section of the rule.

D. “College placement assessment” means a nationally-normed exam used for placement into postsecondary courses.

P. “Workforce readiness assessment” means a criterion referenced assessment developed for the purposes of assessing skill levels needed for clusters or categories of related jobs or for employment in a specific field of work. Workforce readiness assessments may include standardized assessments, industry certifications or licensure.
[6.19.7.7 NMAC - N, 1/30/09]

So if a student has met the requirements to use the ADC, how does a student create an ADC?

We will get back to this in a minute.

- (3) Assembly of the portfolio may incorporate artifacts from as early as grade nine.
 - (4) Students may submit a portfolio in English, Spanish, or in a Native American language of an Indian nation, tribe or pueblo located in New Mexico as per conditions of a tribal/public education department memorandum of agreement.
 - (5) Alternate demonstrations of competency shall not be used for federal accountability requirements and will not be included in adequate yearly progress (AYP) calculations. Students who receive a New Mexico diploma of excellence and who have demonstrated competency through the compilation of a portfolio shall be considered to have graduated and shall count as high school graduates.
 - (6) Students may provide alternate demonstrations of competency using standards-based indicators within five years of exiting a public school or state educational institution in order to satisfy competency in required subject areas and receive a New Mexico diploma of excellence.
 - (7) Unless special accommodations are required, portfolios shall be submitted to school authorities electronically, use uniform templates, and follow procedures established by the department.
 - (8) School administrators shall establish local procedures for determining whether the alternate demonstration of competency:
 - (a) is complete and scorable;
 - (b) addresses the appropriate academic content standards; and
 - (c) be determined as adequately showing competency.
 - (9) Electronic documentation of alternate demonstrations of competency shall be stored electronically by the district for five years from the time of submission.
 - (10) If at the end of grade twelve a student has not demonstrated competency in the required subject areas on standards-based indicators, the student will be issued a certificate indicating course credits earned and grade level completed.
- [6.19.7.10 NMAC - N, 1/30/09]

This is HUGE! This means that the educators who know their students best can decide on appropriate procedures! The ADC is a district-specific or charter-specific procedure, not a PED procedure.

Wait a minute...that doesn't sound anything like what I've heard about the ADC.


- ▶ The PED has published a document called the ADC Manual, which is available on the PED website.
- ▶ In a nutshell, the ADC Manual says:
 - ▶ The Primary Demonstration of Competency is defined as reaching a cut score on the SBA or PARCC for Reading, Writing, Math, and Science, and a cut score on End of Course exams (EoCs) for Social Studies.
 - ▶ Students must exhaust a certain number of administrations of the SBA, PARCC, or EoC before attempting an ADC.
 - ▶ The ADC is a list of additional tests which includes: AP Exams, IB Exams, PSAT, SAT, ACT, Accuplacer, Compass, PLAN, and SUBSAT.
 - ▶ If a school is a SAM (Supplemental Accountability Model, designed for schools where 20% or more students qualify for Special Education, or where 10% or more of students are 19 or older), they can use additional tests such as TABE and WorkKeys.

What's the problem with the ADC that is defined in the ADC Manual?

- ▶ The spirit of law which governs the NMSA and related NMAC is this:
 - ▶ Not all students perform well on standardized tests. Some perform much better on other types of assessments.
 - ▶ Portfolio assessments are created by educators who work directly with students and can be individualized to showcase a student's unique talent and learning style.
 - ▶ Although we have a Statewide Assessment Program which includes tests like the SBA and PARCC, local district or charter personnel understand the unique needs of their students and can create a customized ADC which meets those needs.

What's the problem with the ADC that is defined in the ADC Manual? (cont.)

- ▶ The PED definition of the ADC doesn't follow the legal definition of the ADC. It doesn't include any standards-based indicators other than tests. Remember that the NMAC definition includes a portfolio of several types of classwork completed as early as grade 9.
- ▶ Also, according to a 10/3/14 memo prepared by Attorney Patricia Matthews, "neither New Mexico statutes nor federal law require a student to take the state accountability assessments for purposes of demonstrating competency for purposes of graduation...It is very clear that the SBA (now PARCC) used for assessment and accountability of all students and schools across the state for purposes of compliance with NCLB, *can* be used as the standards-based assessment for purpose of demonstrating competency (as the High School Graduation Assessment), but that it is not required to be. Moreover there is nothing in the law or regulation that requires that a student exhausts his/her opportunities to retake the SBA (PARCC) before he/she pursues the portfolio of standards-based indicators to establish competency."



That makes sense, but I'm being told that the PED can create new rules with which districts and charters must comply.

Doesn't that mean we need to follow the ADC Manual and other PED Mandates instead of following the published rule?

NO. PED MANDATES DO NOT TRUMP NMAC.

- ▶ Here is the truth: NM law grants the PED the right to create rule (NMAC) which is not subject to the State Rules Act, which describes the formal procedure which other state agencies must use in order to amend NMAC, which includes a hearing and an opportunity for appeal.
- ▶ HOWEVER, any rule created by the PED must still:
 - ▶ Follow the proper NMAC citation process
 - ▶ Have statutory authority as determined by PED counsel,
 - ▶ Be submitted to the Administrative Law Division, be filed by the Commission of Public Records, and be published in the New Mexico Register ¹.

¹ http://www.nmcpr.state.nm.us/nmac/_explanation/whatare.htm

So why can't students use a district-created or charter-created portfolio ADC instead of taking all of these other ADC tests?

▶ **THEY CAN.**

- ▶ Not only is this supported by law, as cited in the 10/3/14 Patricia Matthews memo, it also appears in the new edition of the ADC manual (see next slide).
- ▶ Although the PED has announced several times that they plan to amend the rule which governs the ADC and take control away from local educators, they have not yet done so.
- ▶ This is supported in page 5 of a 9/22/14 memo from Travis Dulany, a Senior Research Analyst on the NM LESC (Legislative Education Study Committee), which can be found here:
 - ▶ <http://www.nmlegis.gov/lcs/handouts/ALESC%20092214%20Item%205%20Gr%20aduation%20Requirements%20Update.pdf>

Additional information in the 15-16 ADC Manual

- ▶ This presentation was originally created in October of 2014.
- ▶ At the time of the last revision of this presentation (11/24/15), the 15-16 ADC Manual had just been just released.*
- ▶ For the first time, the PED recognized ADC law in the ADC manual. Here's an excerpt from page 1:

Students may use state-developed End of Course (EoC) exams or standardized college and career readiness (CCR) assessments to demonstrate their academic competency. At the local level, ADC may be accomplished through school-based projects such as extended papers, theses, or research; performances or works of art that can be recorded electronically; or community-based projects such as internships, service learning, or after-school job performance.

* <http://www.ped.state.nm.us/ped/PEDDocs/AA%20-%20Final%20ADC%20Manual%202015-16%20-%20REVISED%202.pdf>


WHY DOESN'T MY DISTRICT OR CHARTER HAVE A PORTFOLIO ADC IN PLACE?

- ▶ I can't answer that question, but I can tell you that each district/charter must, by statute, offer a locally-created portfolio ADC which is scored by local district/charter personnel and which follows the description in the NMAC:

- (1) results from post-secondary nationally-normed assessments;
 - (2) results from workforce readiness assessments;
 - (3) results from end-of-course examinations;
 - (4) school-based projects such as extended papers, themes, theses, or research projects;
 - (5) performances or works of art that can be recorded in an electronic format; and
 - (6) community-based projects such as internships, service learning, pre-apprenticeship, or after-school job performance.
- These EoCs, by rule, do not need to be PED-created or PED-approved.

That's all great, but what if my child isn't a senior this year?

- ▶ The PED has announced on several occasions that its legislative priority is to amend NMSA 22-13-1.1 and NMAC 6.19.7.1.
- ▶ The SINGLE MOST IMPORTANT THING that parents and educators must do is work together to protect this legislation.
- ▶ It is the only legal boundary at this point between a NM public school education and for-profit testing corporations.



Doesn't this mean that I can opt my child out of all state-mandated testing, including 11th grade testing, and my child can still earn a Diploma of Excellence using an ADC?

YES. Students who opt out CAN graduate with a full diploma using an ADC.

- ▶ According to statute and rule, if your child “participates in a college placement or workplace readiness assessment”, he/she can graduate using the ADC without ever taking the SBA or PARCC.
- ▶ The “college placement or workplace readiness assessment” can be any number of assessments that students take to meet college and career entrance requirements. The SBA/PARCC, ironically, DO NOT fall into that category (despite numerous claims that they do). I know of zero colleges or vocational certification programs which recognize those tests.
- ▶ Patricia Matthews explains: “As the law is currently written, there is no direct consequence to a student for not participating in the academic assessments as “required” by Section 22-2C-4 as suggested by the Albuquerque Public School policy. The only consequence is potential loss of federal funding for a public school that refuses to participate or to mandate the testing.”

YES. Students who opt out CAN graduate with a full diploma using an ADC (con't).

- ▶ In fact, page 4 of the 15-16 ADC Manual recognizes that students who don't ever attempt the SBA/PARCC can use the ADC:

ADC Implementation Application

If students do not meet the number of assessment attempt requirements listed above for any of the three graduation options, they may use the ADC with an ADC Implementation Application approved by the state.

- ▶ This “implementation application” is not required by law. The right of a student to use an ADC is not subject to state approval.
- ▶ Whether or not a district or charter uses the Implementation Application is a local decision. However, a district or charter cannot legally deny a diploma to a student who has opted out, regardless of whether or not the application is used.

However, keep this in mind...

- ▶ Since the PED may change the current statute and rule, unless your child is a senior, there is no guarantee at this point that opting out of testing won't have a negative affect on graduation status.
- ▶ Additionally, this decision has potentially negative consequences for your child's school.
- ▶ In 2011, the PED published NMAC 6.19.8.1, the Grading of Public Schools rule.
- ▶ This rule states that part of school's grade is based on participation in state-mandated testing. If a school falls below 95% participation, the school grade is lowered by one grade.
- ▶ If you choose to opt your child out of 11th grade testing, you may contribute to bringing your school below 95% participation.
- ▶ A lower school grade may result in a negative public perception of the school, and various administrative actions the PED can take in remediating the school and improving the school grade. These actions may have very real consequences for your child, including a change in personnel, a change in curriculum, and many more.

So, what do I do now?

▶ In my opinion:

- ▶ Parents and local districts/charters need to work closely together to create a portfolio-based, locally-scored ADC.
- ▶ As far as opting out, I think that's a personal decision. No one can tell you not to opt out of any testing. However, it's important for families to understand that your school district/charter school has no choice but to mandate the Statewide Assessment Program. They are required under federal law to do so. (Remember that the 9th and 10th grade SCAs are a legal requirement for using an ADC, so don't opt out of those.)
- ▶ Families and educators need to keep a very close eye on statute and rule this year, and work to protect the current definition of the ADC.
 - ▶ The School Grading rule is an example of how a rule can give state officials broad authority over local districts/charters and evaluate teachers and students in ways that many consider to be invalid and unfair.
 - ▶ The ADC rule is an example of the sentiments of an earlier administration which was trying to move control to local districts/charters and rely on the professionalism and qualifications of local educators.
 - ▶ If the ADC rule or its guiding statute is overturned or amended to take control away from local districts/charters, this will set a powerful precedent regarding the decision-making power of local educators.
 - ▶ **If the opposite happens, and the ADC remains under the control of local districts/charters, this sets a powerful precedent which reinforces the idea that the people who know your children are better equipped to assess them than standardized tests are.**

How do I find out about my district/charter's progress in creating a local ADC?

- ▶ My perception is that districts and charters are in different stages in this process.
- ▶ You may start by contacting the Test Coordinator of your school or district and asking for the locally-created ADC.
- ▶ Keep in mind that most administrators and Test Coordinators are not aware that schools must offer an ADC which follows statute. Most are only aware of the PED version of the ADC (the matrix of additional standardized tests).
- ▶ Therefore, many have simply adopted the PED version without allowing for the inclusion of projects and classwork. Even though that version of the ADC doesn't follow the law, it *appears* to be legit because it appears in an official document. Plus, it's easier to adopt that version than it is to create a portfolio ADC.
- ▶ If this is the case, you can use the 15-16 ADC Manual to start a new ADC conversation.

The 15-16 ADC Manual places the responsibility for creating a legally compliant ADC on the districts:

Roles and Responsibilities of Stakeholders

The roles and responsibilities of all stakeholders are essential factors in ensuring students have the opportunity to be successful.

	ELEMENTS	PED	LEAs	SCHOOLS	STUDENTS
PLAN	Eligibility	<ul style="list-style-type: none"> Establish eligibility criteria Clarify options 	<ul style="list-style-type: none"> Publicize options Communicate eligibility information Promote ADC as early as 9th grade 	<ul style="list-style-type: none"> Identify eligible students Discuss options and assist students in selecting the best ones 	<ul style="list-style-type: none"> Understand eligibility and ADC options and pursue as appropriate
	Requirements	<ul style="list-style-type: none"> Determine expectations, acceptable evidence, and timelines Establish clear performance standards Align with statute and rule, including the Indian Education and Hispanic Education Acts 	<ul style="list-style-type: none"> Review guidelines Establish and communicate local policy and procedures Ensure adherence to statute and rule, including the Indian Education and Hispanic Education Acts 	<ul style="list-style-type: none"> Implement all requirements in accordance with state and district policies Establish an electronic submissions and storage system 	<ul style="list-style-type: none"> Understand and meet all requirements
IMPLEMENT	Development	<ul style="list-style-type: none"> Post suggestions and/or tools for districts on the state website 	<ul style="list-style-type: none"> Ensure transparency and equitable access Share exemplars 	<ul style="list-style-type: none"> Help students identify appropriate courses and create work plans 	<ul style="list-style-type: none"> Select appropriate courses Create a work plan Perform tasks independently
	Support	<ul style="list-style-type: none"> Ensure development and maintenance Provide training and technical assistance 	<ul style="list-style-type: none"> Assume costs for implementation Publicize available training and resources 	<ul style="list-style-type: none"> Supervise, support, and monitor students Seek assistance as needed 	<ul style="list-style-type: none"> Seek assistance as needed with no cost to students
	Management	<ul style="list-style-type: none"> Recommend needed equipment, facilities, maintenance, and supplies Establish access, storage, submission, and archiving procedures 	<ul style="list-style-type: none"> Secure needed equipment and supplies Ensure access to facilities Follow documenting and storage procedures 	<ul style="list-style-type: none"> Help students access, organize, manage, and store evidence 	<ul style="list-style-type: none"> Collect, select, and enter evidence

What should the ADC look like?

- ▶ If your district/charter has not created an ADC which complies with law, they are obligated to do so.
- ▶ This may seem like a daunting process to some. However, teachers measure progress toward standards every day. This is nothing new. Most class projects and research papers can be used as ADC artifacts as long as they are explicitly aligned to standards.
- ▶ I would suggest that a workgroup of educators, parents, and students come together to create standards-aligned ADC options, present those to the district/charter board for approval, and upon approval, make them widely available to stakeholders.
- ▶ As far as aligning to standards, teachers in my (very small) school are required to submit a document which aligns all of their coursework to state and Common Core standards. Therefore, final projects and teacher-created EoCs in their courses all count as ADC artifacts. This may be an option for your district/charter as well.
- ▶ If you or your district/charter leaders have specific questions or are looking for direction, I am available to answer questions at sandyroth@msn.com.