

NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Early Childhood Education and Care Department (ECECD) hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rule regarding SOCIAL SERVICES CHILD CARE ASSISTANCE; REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENT AND CHILD CARE PROVIDERS as authorized by the Child Care Assistance Program Act and Subsection A of Section 32A-32-3 NMSA 1978; the Early Childhood Education and Care Department Act and Subsection E of Section 9-29-6 NMSA 1978; and the Public Health Act, Sections 24-1-1 to 24-1-22 NMSA 1978, Subsection D of Section 24-1-2 NMSA 1978, Subsection I of Section 24-1-3 NMSA 1978, and Section 24-1-5 NMSA 1978.

8.9.3 NMAC - CHILD CARE ASSISTANCE; REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS

ECECD is also proposing to adopt amendments to CHILD CARE LICENSING; CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS as authorized by the Early Childhood Education and Care Department Act and Subsection E of Section 9-29-6 NMSA 1978; and the Public Health Act, Sections 24-1-1 to 24-1-22 NMSA 1978, Subsection D of Section 24-1-2 NMSA 1978, Subsection I of Section 24-1-3 NMSA 1978, and Section 24-1-5 NMSA 1978.

8.9.4 NMAC - CHILD CARE LICENSING; CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: ECECD is proposing amendments to 8.9.3 NMAC to update the Child Care Assistance Program to reflect current statutory and federal requirements, including the requirements of the Child Care Assistance Program Act. ECECD is proposing amendments to 8.9.4 NMAC to update military-licensed child care centers to align with federal law, update out of school program requirements to align with other funding streams that support school-age children, and update and align ratios and group sizes for certain accredited child care centers.

Summary of proposed rules: In summary, ECECD proposes revisions to 8.9.3 NMAC to align definitions and program structure with statutory requirements and to reorganize sections for clarity. The amendments refine the application process and eligibility criteria for the Child Care Assistance Program, including updates to eligibility documentation requirements, qualifying activities, hours-of-care criteria, and limitations on eligibility. The amendments also include: a new copayment section and fiscal control provisions to guide implementation of copayments and waitlist measures; provider requirements; provider billing restrictions; provider compensation expectations and requirements; at-risk child referral and training requirements; reporting obligations for providers; and, prohibitions on supplanting funds or requesting unauthorized payments with corresponding sanctions for noncompliance. Additionally, the amendments clarify departmental responsibilities, including for fund usage, service caps, and establishing payment rates through a cost-estimation model. Finally, the amendments update sanctions and enforcement provisions, including reporting requirements for any suspected intentional misuse of funds.

ECECD is also proposing amendments to 8.9.4 NMAC to update military-licensed child care centers to align with federal law, update out of school program requirements to align with other funding streams that support school-age children, and update and align ratios and group sizes for certain accredited child care centers.

Amended NMAC Sections for 8.9.3: 8.9.3.3, 8.9.3.6, 8.9.3.7, 8.9.3.8, 8.9.3.9, 8.9.3.10, 8.9.3.11, 8.9.3.12, 8.9.3.13, 8.9.3.14, 8.9.3.15, 8.9.3.16, 8.9.3.17, 8.9.3.18, 8.9.3.19, 8.9.3.20, 8.9.3.21, 8.9.3.22, 8.9.3.23, 8.9.3.24, 8.9.3.25.

New NMAC Sections for 8.9.3: 8.9.3.26, 8.9.3.27, 8.9.3.28.

Amended NMAC Sections for 8.9.4: 8.9.4.6, 8.9.4.7, 8.9.4.11, 8.9.4.17, 8.9.4.23, 8.9.4.32, 8.9.4.39, 8.9.4.40, 8.9.4.41, 8.9.4.42, 8.9.4.43, 8.9.4.44, 8.9.4.45, 8.9.4.46, 8.9.4.47.

Copies of the proposed amended rules may be found at ECECD's website at www.nmeccd.org/regulation-changes/ 30 days prior to the public rule hearing.

Notice of public rule hearing: A public rule hearing will be held on July 9, 2026, from 9:00 a.m. to 1:00 p.m. for proposed amendments to 8.9.3 NMAC and 8.9.4 NMAC. The hearing will take place in Apodaca Hall of the PERA Building at 1120 Paseo de Peralta, Santa Fe, New Mexico 87502, and will also be accessible via virtual web platform (Zoom) and by telephone. The hearing will be conducted in a fair and equitable manner by an ECECD agency representative or hearing officer and will be recorded. Any interested member of the public may attend in person, by Zoom, or by telephone and will be provided a reasonable opportunity to offer public comment on the proposed rules during the hearing, either orally or in writing, including presentation of data, views, or arguments. Members of the public will have two minutes to provide oral comments. To attend by telephone, dial 1-719-359-4580, Webinar ID: 880 8515 4919; callers will be able to hear the full hearing, and comments made by telephone will be recorded. To attend via the internet, go to <https://nmeccdorg.zoom.us/j/88085154919> and follow the on-screen instructions using Webinar ID: 880 8515 4919. The hearing will be livestreamed, and comments may also be submitted via the platform's chat feature.

Notice of acceptance of written public comment: Written public comments, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public may be submitted by email to ECECD-ECS-PublicComment@ECECD.NM.Gov with the subject line "8.9.3 NMAC / 8.9.4 NMAC Public Comment," or by first class mail to PO. Drawer 5619, Santa Fe, New Mexico 87502-5619. Written comments may also be delivered in person at the PERA Building located at 1120 Paseo De Peralta in Santa Fe, New Mexico, on July 9, 2026, between 9:00 a.m. and 1:00 p.m. Written comments will be accepted from the date this notice is published until the conclusion of the public rule hearing on July 9, 2026.

If you are a person with a disability and would like to request accommodations, or a person with limited English proficiency and need interpretation, please contact the Early Childhood Education and Care Department a ECECD-ECS-PublicComment@ECECD.NM.Gov or call 505-670-8993 at least ten calendar days before the scheduled public rule hearing.