

This rule was filed as 5 NMAC 2.2.

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 2 ESTABLISHMENT OF POST-SECONDARY EDUCATIONAL INSTITUTIONS
PART 2 REQUIREMENTS FOR ESTABLISHING POST-SECONDARY INSTITUTIONS,
LEARNING CENTERS, OR CAMPUSES

5.2.2.1 ISSUING AGENCY: Commission on Higher Education, 1068 Cerrillos Road, Santa Fe, New Mexico, 87501, (505)827-7383.
[3/16/51, 7/1/94; Recompiled 10/31/01]

5.2.2.2 SCOPE: All public post-secondary educational institutions, any local public school board(s), or any community group wishing to establish within their community a learning center or institution, or campus of an existing learning center or institution, whose purpose is to offer post-secondary educational services to citizens within the community. Proposals to establish new campuses of existing two-year institutions within the current taxing district of that two-year institution shall not be subject to the requirements of 5 NMAC 2.2 [now 5.2.2 NMAC]. In addition, any employer wishing to offer services only for the benefit of its employees shall not be subject to the requirements of 5 NMAC 2.2 [now 5.2.2 NMAC]. Any local public school board(s) wishing to join an existing contiguous taxing district of an existing institution or branch campus must follow the requirements of 5 NMAC 2.2 [now 5.2.2 NMAC].
[11/30/96; Recompiled 10/31/01]

5.2.2.3 STATUTORY AUTHORITY: Section 21-2-5 of the Post-Secondary Educational Planning Act authorizes the commission on higher education to identify cases where "establishment of new institutions and programs are needed in order to meet the present and projected needs for post-secondary education on a statewide basis in an effective and efficient manner." Requirement that specific new educational sites receive approval from the commission prior to their operation is established through a pattern of statutory requirements, specifically in Sections 21-13-5, 21-14-2, and 21-14A-3 NMSA 1978 (1996 Repl. Pamph.).
[7/1/73, 7/1/85, 6/18/93; Recompiled 10/31/01]

5.2.2.4 DURATION: Permanent.
[11/30/96; Recompiled 10/31/01]

5.2.2.5 EFFECTIVE DATE: November 30, 1996 [unless a later date is cited at the end of a section].
[11/30/96; Recompiled 10/31/01]

5.2.2.6 OBJECTIVE: The objective of Part 2 of Chapter 2 [now 5.2.2 NMAC] is to delineate standards and procedures required to establish publicly supported institutions, learning centers, or campuses of existing institutions or learning centers, whose purpose is to provide or broker post-secondary educational services in New Mexico. These standards and procedures are intended to summarize statutory guidelines for the establishment of higher education institutions as well as to define procedures for the creation of public post-secondary educational learning centers. It is anticipated that these learning centers will provide for rapid response to community needs and will collaborate with existing institutions, public schools, government agencies and the private sector to share resources in ways that promote efficiency and productivity.
[11/30/96; Recompiled 10/31/01]

5.2.2.7 DEFINITIONS:

- A. Campus: The grounds of an institution or learning center, whether leased or owned, upon which there is a continuous administrative presence, and which is identifiable by the community as belonging to the institution or learning center. The grounds upon which the primary administrative support for the governing board are found shall constitute the main campus of the institution or learning center. Other locations in which there is a continuous administrative presence shall constitute branch campuses.
- B. Commission: The New Mexico commission on higher education.

C. Course provider: A regionally accredited institution that provides a course to an institution or learning center for inclusion in a program leading to a degree or a certificate provided by another institution, or for other educational purposes not associated with a degree or certificate program.

D. Delivery model: The organizational structure for providing access to post-secondary educational services. This can include institutions or learning centers.

E. Extended learning: The full range of available and developing modes for bringing instruction to learners, including live instructor delivery, instructional television, computer conferencing, video conferencing, audio conferencing, etc.

F. Institution: A public post-secondary educational organization whose primary purpose is to provide post-secondary educational services, which is governed by a statutorily or constitutionally created governing board, and which is eligible to receive state support. Institutions can include structures commonly called community colleges, branch community colleges, junior colleges, technical and vocational institutes, area vocational institutes, comprehensive or regional institutions, research institutions, and the statutorily defined instructional centers. Not included are learning centers, which broker services by [sic] which cannot provide services. Institutions can both directly provide and broker post-secondary educational services.

G. Learning center: A public organization whose purpose is to broker post-secondary educational services, but which cannot directly employ instructors to provide programs leading to degrees or certificates, which is governed by a community based governing board, and which is eligible to receive state support. Learning centers contract with program providers or course providers to offer services in the community.

H. Program provider: A regionally accredited institution that provides academic or vocational programs leading to degrees or certificates to an institution or a learning center on a contractual basis. [11/30/96; Recompiled 10/31/01]

5.2.2.8 GENERAL PRINCIPLES:

A. The commission believes that extended learning programs from existing institutions can offer high quality post-secondary educational services to underserved communities in an efficient manner. Therefore, communities should collaborate with existing institutions to meet educational needs through extended learning programs. Communities should consider the establishment of a new institution or learning center only after it has been demonstrated that services offered through extended learning programs are not sufficient.

B. As evidence of local support for a new institution, learning center, or campus of an institution or learning center that would be eligible for state support, it must be demonstrated that the community is willing to impose a local tax levy that is appropriate to the nature of the proposed institution, learning center, or campus.

C. The commission believes that learning centers, which contract with institutions to provide services rather than provide those services directly, will be able to respond to rapidly changing educational needs in a community efficiently and effectively. It is anticipated that a learning center would contract with regionally accredited institutions to provide needed educational programs through the learning center for a limited period of time. At the end of the contract, the community based governing board would reassess the contract to determine whether the services called for in the contract were still needed, and if so, whether those services were being provided in an efficient and effective manner. If demand for the program were no longer sufficient, or if services were not being provided efficiently and effectively, then the contract would not be renewed.

D. The commission believes that learning centers can provide a more efficient option for providing access to higher education when extended learning is not sufficient. Therefore, an applicant for a new institution will have to demonstrate that a learning center is inadequate before a proposal to establish that institution will be considered by the commission.

E. It is important to the commission that any programs offered by institutions or through learning centers maintain high standards of quality.

(1) In order to help ensure the quality of programs offered through a learning center, learning centers will only enter into contracts with regionally accredited institutions. In other words, individual programs offered through a learning center need not be accredited, but the providing institution must be regionally accredited. It is also expected that any new institution will be eligible for regional accreditation either directly or through a possible parent campus's accreditation.

(2) Any existing institution that is unable to maintain regional accreditation shall be subject to special review by the commission.

F. Students enrolled in programs through a learning center shall generally be deemed students of the provider institution of the degree or certificate program in which they are enrolled, and any degrees or certificates

shall be awarded by that provider institution and the student's permanent records shall be maintained by that provider institution. Records for students not enrolled in programs leading to degrees or certificates, but enrolled in individual courses, shall generally be maintained by the course provider unless the center has specifically contracted with an accredited institution to provide those record keeping services.

G. The commission believes that significant educational need must be demonstrated before a new institution, learning center, or campus can be endorsed. In addition, it is expected that existing institutions, learning centers, or campuses should continue to be able to demonstrate significant educational need within the community.

(1) The following conditions shall be considered evidence of need for the establishment of a new institution, learning center, or campus:

(a) evidence that efforts to use extended learning programs have been made, and that those efforts have been insufficient;

(b) ability to maintain appropriate enrollment levels;

(c) evidence of collaboration with other institutions, government agencies, and/or private sector organizations;

(d) indication from employers in the community that the programs provided will be useful, and evidence that employment opportunities will be available for graduates if the mission of the institution, center, or campus is to prepare students for the workforce.

(2) Existing institutions, learning centers, or branch campuses of institutions or learning centers that can no longer provide the minimum evidence of need required for establishment will be subject to special review by the commission.

H. It is the expectation of the commission that a preliminary plan for creating an institution, learning center, or campus of an existing institution or learning center, shall demonstrate that there is evidence of community need for post-secondary educational services sufficient to justify further detailed planning and analysis needed for state approval or disapproval of the establishment of institution, learning center, or campus. Therefore, all proposals for the establishment of an institution, learning center, or campus must contain a preliminary plan following the guidelines in 5 NMAC 2.2.9 [now 5.2.2.9 NMAC]. If the commission determines that there is sufficient evidence of need, the commission shall accept the preliminary plan, and a detailed plan and survey will be prepared. The detailed plan and survey shall provide information sufficient for the commission to verify that there is significant need for establishing a new post-secondary entity that cannot be met by existing post-secondary institutions, that the community is fully ready and equipped to support the institution or learning center, and that there is a high expectation that the proposed institution or learning center will succeed in its mission at a cost acceptable to the state.

[9/21/84, 11/30/96; Recompiled 10/31/01]

5.2.2.9 PRELIMINARY PLAN: A sponsoring institution(s), board(s) of education, or community group shall present to the commission a preliminary plan meeting the specifications described below. The commission shall invite public comment on the preliminary plan prior to reaching its decision regarding the justification for further detailed planning and analysis of need.

A. The preliminary plan shall identify the organizing group, the entities that have been involved in the preparation of the preliminary plan, and the individuals primarily responsible for developing and advancing the request.

B. The preliminary plan shall indicate the post-secondary delivery model that the organizing group wishes to create. If the organizing group wishes to establish an institution by following one of the various statutes for creating a post-secondary institution, then that statute must be clearly identified.

C. The preliminary plan shall describe the rationale for establishing a new institution, learning center, or campus, including the principal arguments why existing institutions cannot meet the educational needs to be addressed by the proposed institution, learning center or campus. It shall describe existing post-secondary educational opportunities offered by both public and private institutions that may be available in the community including but not limited to: degree/certificate programs offered; courses offered leading to a degree or certificate but not a part of a degree or certificate program available in the community, and continuing education courses offered. For any programs or courses that are available, the plan should include a description of which post-secondary institution is offering those courses, the accreditation status of the offering institution, how those programs/courses are being delivered, why those offerings are insufficient, and why additional post-secondary education opportunities are needed in the community.

D. The preliminary plan shall describe the proposed governance structure for an institution or learning center.

E. The preliminary plan shall indicate the nature and level of educational programs to be provided. This should include a description of the rationale for choosing the proposed program(s).

F. The preliminary plan shall describe the population(s) and numbers of students to be served.

G. The preliminary plan shall describe the geographic area from which students are primarily expected to be enrolled.

[9/21/84; Recompiled 10/31/01]

5.2.2.10 LETTER(S) OF SUPPORT: The organizing group must submit, along with the preliminary plan, letters of support from existing community organizations or agencies indicating their willingness to develop agreements to share facilities, equipment, or other resources with the new institution, learning center, or campus. If the proposal is to create a branch campus of an existing institution or learning center, then a letter of endorsement from the governing board of the institution or learning center must be included.

[11/30/96; Recompiled 10/31/01]

5.2.2.11 PETITION: In addition to the preliminary plan and letter(s) of support, local board(s) of education or interested community groups wishing to establish either an independent community college or a technical-vocational institute must also present a petition as required by Sections 21-13-4, 21-13-5, 21-16-3, 21-16-14, and 21-16-15 NMSA 1978.

[9/21/84; Recompiled 10/31/01]

5.2.2.12 DETAILED PLAN AND SURVEY: After reviewing the preliminary plan, if the commission determines that there is sufficient need for post-secondary educational services that cannot be met by existing institutions, that the proposed model promotes efficiency and effectiveness through the sharing of all types of resources among existing institutions, public schools, government agencies, communities, and/or the private sector, that the proposed model allows for rapid response to changing educational needs in the community, and that the community and organizing group are prepared to fully accomplish the goals of the proposed post-secondary entity, then the commission shall act to accept the preliminary plan. If the decision of the commission is to accept the preliminary plan, then the commission shall request a detailed plan and survey. The purpose of the detailed plan and survey shall be to document sound and verifiable evidence of significant need for the proposed post-secondary educational services, and to provide strong evidence that the proposed delivery model will be successful in addressing that need in an efficient and effective manner. The advocates shall meet with commission staff to agree upon a procedure and schedule for development and presentation of the detailed plan for consideration by the commission. It shall be the responsibility of the organizing group to prepare a detailed plan and survey of need consistent with specifications agreed upon between the commission and the organizing group. At a minimum, the detailed plan and survey shall include the components described below.

A. An objective survey of need for and support for establishment of the institution, learning center, or campus should be conducted. The survey shall be sufficient in its scope and methodology to provide reliable information about the extent of community endorsement for the project, and the likelihood of residents to enroll in courses.

B. A written statement of support for the establishment of the institution, learning center, or campus should be provided by the governing board of the sponsoring institution, if applicable, and by each local school board within the area to be served by the proposed institution or learning center. Each local school board within the proposed taxing district should indicate its support or objection to local taxation for support of the institution, learning center, or campus.

C. A statement of the educational mission of the proposed institution, learning center, or campus and a list of educational programs that will initially be available, including for each: a brief description of its purpose and content; the certificate or degree to be awarded; a draft of request for proposals for programs to be offered through learning centers or an objective analysis of available staff and qualifications of key faculty if the institution will provide programs directly; the method(s) for course delivery; and the number of students expected to enroll during each of the first three years.

D. The plan should include an analysis of the local economy which provides evidence that the proposed programs are needed in the community and will contribute to the community's economic growth.

E. A description of the nearest similar program(s), and the distance to those programs should be provided. This analysis should include a description of the nearest similar programs available through extended learning programs by other institutions.

F. The plan must identify all efforts made by the organizing group to work with existing institutions to address the educational need of the community by using extended learning methods.

G. The plan shall include detailed evidence that the physical facilities, equipment, and support services available through collaboration with other institutions, government agencies, or private sector entities or those provided directly by the new institution or learning center are sufficient to provide high quality educational programs. This analysis shall include information about academic support services, including library and electronic information resources and access to experiential education opportunities, and student support services, including academic and career advisement and financial assistance.

H. The plan must provide evidence that a proposed institution or campus of an institution will be of sufficient quality to receive regional accreditation either directly or through a possible parent campus's accreditation.

I. The plan shall include a detailed analysis of the financial need of the proposed institution, learning center, or campus over at least a five year period and how that need will be met. The financial plan operating revenue shall address all potential sources of revenue, including tuition and fees, local support, federal support, and the projected need for state general fund revenue. A proposed budget for the first two years of operation should be included.

J. The plan shall include enrollment projections for the next ten years.

K. The plan shall include a general plan for proposed construction for the next ten years.

L. For proposals that would establish an institution following guidelines found in existing statutes, the proposal must also include any additional requirements specified in the appropriate statute but not detailed here. [11/30/96; Recompiled 10/31/01]

5.2.2.13 ENDORSEMENT OF THE DETAILED PLAN AND SURVEY: Upon receipt of the detailed plan and survey, the commission shall determine whether there is sound and verifiable empirical evidence of significant need for establishing a new post-secondary entity that cannot be met by existing post-secondary institutions, whether the proposed model demonstrates a commitment to promoting innovation, collaboration, and cooperation among institutions, government agencies, public schools, business, and communities, whether the model will allow for rapid response to changing community needs and allow for the easy elimination of programs that are no longer necessary, whether the proposed model is the most efficient and effective option for the community, whether the community is ready and equipped to support the institution, learning center, or campus, and whether there is a sufficiently high expectation that the proposed institution, learning center, or campus will succeed in its mission at a cost acceptable to the state. If so, the commission will endorse the creation of the new institution, learning center or campus.

[11/30/96; Recompiled 10/31/01]

5.2.2.14 ELECTION: If the commission decides to endorse the establishment of the institution, learning center or campus, the commission shall authorize an election as required by the appropriate statute.

[9/21/84; Recompiled 10/31/01]

HISTORY OF 5.2.2 NMAC:

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

BEF Rule 510, Branch Community College and Junior College District - Approved by BEF, 2/27/85.

BEF Rule 520, Branch Community College - Guidelines for Establishment, 2/27/85.

BEF Rule 230, Instructional Centers - Off-Campus Creation, 2/26/85.

BEF Rule 530, Junior College District Organization Options, 2/27/85.

BEF Rule 540, Junior College District Froam A Branch Community College - Guidelines for Establishment, 2/27/85.

History of Repealed Material:

BEF Rule 510, Branch Community College and Junior College District - Approved by BEF, Repealed 11/30/96.

BEF Rule 520, Branch Community College - Guidelines for Establishment, Repealed 11/30/96.

BEF Rule 230, Instructional Centers - Off-Campus Creation, Repealed 11/30/96.
BEF Rule 530, Junior College District Organization Options, Repealed 11/30/96.
BEF Rule 540, Junior College District Froam A Branch Community College - Guidelines for Establishment, Repealed 11/30/96.