

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 3 POST-SECONDARY EDUCATION INSTITUTION FINANCES
PART 13 ALLOCATION AND DISTRIBUTION OF THE ADULT BASIC EDUCATION FUND

5.3.13.1 ISSUING AGENCY: New Mexico Higher Education Department
[5.3.13.1 NMAC - Rp, 6 NMAC 8.2.1.1, 6/30/2003; A, 7/31/2005]

5.3.13.2 SCOPE: 5.3.13 NMAC applies to the allocation and distribution of money appropriated to the adult basic education fund including funding for instructional materials for adult basic education students by the legislature for use in a given fiscal year and further applies to the allocation and distribution of those monies made available to the state of New Mexico for basic education of adults and available for formula allocation and distribution to pay for the establishment or expansion of adult education programs to be carried out by public schools and school districts, universities, community based organizations of demonstrated effectiveness, community colleges as defined by Section 21-13-2 NMSA 1978, branch community colleges as defined by Section 21-14-1 NMSA 1978, technical and vocational institutes as defined by Section 21-16-2 NMSA 1978, learning centers established pursuant to Section 21-16A NMSA 1978, state-supported educational programs, postsecondary educational institutions operated by tribal entities, and bureau of Indian affairs controlled postsecondary schools located in New Mexico.
[5.3.13.2 NMAC - Rp, 6 NMAC 8.2.1.2, 6/30/2003; A, 12/30/2004; A, 7/31/2005; A, 3/31/2008; A, 7/1/2010]

5.3.13.3 STATUTORY AUTHORITY: Section 21-1-27.5, 21-1-27.6 NMSA 1978.
[5.3.13.3 NMAC - Rp, 6 NMAC 8.2.1.3, 6/30/2003, A, 7/31/2005]

5.3.13.4 DURATION: Permanent
[5.3.13.4 NMAC - Rp, 6 NMAC 8.2.1.4, 6/30/2003]

5.3.13.5 EFFECTIVE DATE: June 30, 2003 unless a different date is cited at the end of a section.
[5.3.13.5 NMAC - Rp, 6 NMAC 8.2.1.5, 6/30/2003]

5.3.13.6 OBJECTIVE: This regulation establishes a formula funding process whereby monies appropriated by the New Mexico legislature to the adult basic education fund including funding for instructional materials for adult basic education students and monies made available to the state of New Mexico for basic education of adults and available for formula allocation and distribution to pay for the establishment or expansion of adult education programs are allocated and distributed.
[5.3.13.6 NMAC - Rp, 6 NMAC 8.2.1.6, 6/30/2003; A, 12/30/2004, A, 7/31/2005; A, 7/1/2010]

5.3.13.7 DEFINITIONS:

- A. "Adult basic education" (ABE) means adult education as defined by 20 U.S.C. Section 9202(1).
- B. "Adult basic education fund" means that fund established pursuant to Section 21-1-27.5 NMSA 1978 for the purpose of funding adult basic education programs for educationally disadvantaged adults.
- C. "Department" means the higher education department.
- D. "Educational media" means a system of instructional materials, computer software, interactive videodisc, magnetic media, CD-ROM, DVD, computer courseware, on-line services, an electronic medium, or other means of conveying information to the student or otherwise containing intellectual content and contributing to the learning process.
- E. "Instructional material" means school textbooks and other educational media that are used as the basis for instruction, including combinations of textbooks, learning kits, assessments, supplementary material and electronic media.
- F. "Instructional material fund" means that fund established pursuant to Section 22-15-9 NMSA 2009 for the purpose of funding adult basic education student instructional materials.
- G. "State administrative site" means an entity submitting a proposal meeting the criteria established by the higher education department and approved for formula funding through the adult basic education fund for a given fiscal year, including public schools and school districts, universities, community based organizations of demonstrated effectiveness, community colleges as defined by Section 21-13-2 NMSA 1978, branch community colleges as defined by Section 21-14 -1 NMSA 1978, technical and vocational institutes as defined by Section 21-16-2 NMSA 1978, learning centers established pursuant to Section 21-16A NMSA 1978, state-supported

educational programs, postsecondary educational institutions operated by tribal entities, and bureau of Indian affairs controlled postsecondary schools located in New Mexico.

[5.3.13.7 NMAC - Rp, 6 NMAC 8.2.1.7, 6/30/2003; A, 12/30/2004; A, 7/31/2005; A, 3/31/2008; A, 7/1/2010]

5.3.13.8 RESPONSIBILITIES OF DEPARTMENT AND STATE ADMINISTRATIVE SITES:

A. The higher education department will convene a task force on ABE formula funding with members representing ABE programs, post-secondary institution fiscal offices, and the association of community colleges to make recommendations on changes to the funding formula as appropriate.

B. The department shall review the formula and any proposed changes with the adult basic education administrative sites prior to adoption or amendment.

C. The department shall develop, implement and maintain procedures and training to address the purchase and reporting of instructional materials for the free use by adult basic education students.

D. Each state administrative site may purchase items of instructional material by issuing a purchase order to the publisher or the publisher's authorized agent. The entity is responsible for payment to the vendor/publisher, etc. The cost of the items, plus transportation charges, will be charged against the instructional material allocation.

E. Annually, at a time specified by the department, each state administrative site acquiring instructional material pursuant to the Instructional Material Law (22-15-1 to 22-15-14 NMSA 1978) shall file a report with the department.

F. If closure of a site is imminent, the site shall contact the department in writing within 30 days of closure to obtain approval to dispose of materials.

[5.3.13.8 NMAC - Rp, 6 NMAC 8.2.1.8, 6/30/2003; A, 12/30/2004; A, 7/31/2005; A, 7/1/2010]

5.3.13.9 BUDGET:

A. The higher education department will notify each state administrative site of its program allocation no later than June 15 of the fiscal year immediately preceding the fiscal year for which the allocation is being made.

B. State administrative sites will submit to the higher education department budgets based upon program allocations, together with executed written agreements as required by the higher education department, no later than June 30 of the fiscal year immediately preceding the fiscal year for which the allocations are made.

C. State administrative sites will comply with reporting dates and reporting requirements established by the higher education department.

[5.3.13.9 NMAC - Rp, 6 NMAC 8.2.1.9, 6/30/2003; A, 12/30/2004; A, 7/31/2005]

5.3.13.10 DISTRIBUTIONS:

A. Adult basic education program fund

(1) Distributions will be made to state administrative sites upon timely submission of expenditure and program reports in accordance with procedures established by the higher education department. Distributions may be requested on a monthly basis.

(2) Distributions will be made solely on a reimbursement basis.

(3) Unless otherwise provided by law, reimbursement will not be made for expenditures not obligated on or before June 30 of the fiscal year for which the allocation is being made.

(4) Performance based funding components will be used to distribute the adult basic education program allocations.

B. Instructional material fund

(1) Distributions will be made to state administrative sites according to New Mexico department of finance and administration rules.

(2) A state administrative site that has funds remaining for the purchase of instructional material at the end of the fiscal year shall retain those funds for expenditure in subsequent years.

[5.3.13.10 NMAC - Rp, 6 NMAC 8.2.1.10, 6/30/2003; A, 7/31/2005; A, 7/1/2010]

HISTORY OF 5.3.13 NMAC:

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

SBE Regulation No. 95-8, Interim Regulation: Distribution of Money in the Adult Basic Education Fund, 7/18/95.

History of Repealed Material:

6 NMAC 8.2.1, Allocation and Distribution of the Adult Basic Education Fund and Monies Made Available through the Adult Education Act, filed 1/4/99 - Repealed.