

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Higher Education Department (NMHED or department) will hold a public rulemaking hearing on November 16, 2018. The hearing will begin at 1:00 p.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed repeal and replace of **5.99.1 NMAC, PUBLIC AND PRIVATE POST-SECONDARY INSTITUTIONS OPERATING UNDER THE INTERSTATE DISTANCE EDUCATION ACT**.

Purpose:

Whereas by statute the department is charged with oversight of public and private post-secondary institutions operating under the Interstate Distance Education Act, the department proposes to repeal and replace 5.99.1 NMAC. The department, having initially enacted 5.99.1 NMAC in 2017, has reorganized sections and titles, modified and updated sections, and added new provisions to increase clarity and specificity. The proposed replacement further addresses regulation of public and private post-secondary institutions offering distance education to any student within New Mexico and the provision of distance education by participating New Mexico post-secondary educational institutions to students in other states. New provisions are proposed to address supervised field experience and physical presence activities.

Summary of proposed rule:

The proposed rule replacement applies to public and private post-secondary institutions offering distance education to any student within New Mexico and the provision of distance education by participating New Mexico post-secondary educational institutions to students in other states, unless the institution is expressly exempted by the department. The rule provides oversight, general standards and application requirements for distance education authorization. Every post-secondary educational institution offering distance education from New Mexico or to student in New Mexico shall be subject to the oversight, standards and applications requirements set out in the proposed rule.

The proposed rule replacement provides a list which clarifies activities that trigger a post-secondary institution to have a physical presence under the Post-Secondary Educational Institution Act, which may require the institution to obtain additional or alternate authorization, beyond distance education authorization. The proposed rule replacement also provides a list of activities that do not trigger a physical presence in New Mexico. Provisions regarding supervised field experience under distance education authorization have been included to address regulation of students participating in learning activity through practica, student teaching, clinical placements, research, internships, or other similar placements. Additional provisions related to complaint procedures have been included. The proposed rule replacement retains many provisions from the proposed repeal version of 5.99.1 NMAC, however seeks to provide clarification through changes in definitions, section reorganization, and addition of new provisions.

Details for Obtaining a Copy, Public Hearing and Comments: The proposed rule is available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed rule is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the “Events” section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact HigherEd.Info@state.nm.us or (505) 476-8411.

A public hearing will be held from 1:00 p.m. until 2:00 p.m. at NMHED on November 16, 2018. Any person who is or may be affected by this proposed rule may appear and testify. **Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or HigherEd.Info@state.nm.us. Written comments must be received no later than 4:00 p.m. on November 15, 2018.** Please note that any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line

the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-1 et seq. NMSA 1978, Section 21-1-26 NMSA 1978 and Section 21-23B-1 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 476-8411 or email HigherEd.Info@state.nm.us ten (10) business days prior to the hearing.