

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 11:30 a.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 amendments to **5.100.8 NMAC, CLOSURE OR SUBSTANTIAL CHANGE TO LOCATION UNDER THE POST-SECONDARY EDUCATIONAL INSTITUTION ACT.**

Amendments:

5.100.8.2 NMAC, SCOPE

5.100.8.3 NMAC, STATUTORY AUTHORITY

5.100.8.6 NMAC, OBJECTIVES AND GENERAL PRINCIPLES

5.100.8.7 NMAC, DEFINITIONS

5.100.8.9 NMAC, PLAN FOR CLOSURE OR SUBSTANTIAL CHANGE TO LOCATION

5.100.8.10 NMAC, TEACH-OUT AGREEMENTS

5.100.8.11 NMAC, RECORDS MAINTENANCE

Purpose:

The purpose of the proposed rule change is to clarify regulations through additional specificity. The proposed amendment updates the definition of physical presence to provide consistency with the proposed amendments to the definition in 5.100.5 NMAC, 5.100.6 NMAC, and 5.100.7 NMAC. The amendment seeks to delineate the types of records that must be provided to the custodian of records, based upon whether the institution has State Authorization pursuant to 5.100.6 NMAC or 5.100.7 NMAC, been granted express exemption pursuant to Section 21-23-4 NMSA 1978 and 5.100.5 NMAC, or has not operated lawfully pursuant to the Post-Secondary Educational Institution Act. The amendment adds a provision related to records maintenance that grants the department the discretion to request any additional records or information, to help students gain access to transcripts in perpetuity. The amendment makes additional grammatical and stylistic changes throughout the rule.

Summary of proposed changes:

Amendment to Section 5.100.8.2 adds the word private to the scope, which was excluded in error.

Amendment to Section 5.100.8.3 NMAC adds additional statutory authority for the rule.

Amendments to Section 5.100.8.6 NMAC include a non-substantive change to comply with the Legislative Style Manual and the insertion of the word private.

Amendments to Section 5.100.8.7 NMAC updates the definition of “physical presence” in relation to the proposed new language regarding physical presence in Section 5.100.5.6 NMAC, Section 5.100.6.6 NMAC and Section 5.100.7.6 NMAC. The definition of “custodian of records” is updated to increase grammatical clarity. The definition of “Post-secondary educational institution” adds the alternate terms “institution” or “post-secondary institution”, all of which have the same meaning.

Amendments to Section 5.100.8.9 NMAC replace the undefined word “school” with “institution” and eliminates unnecessary words for better clarity.

Amendments to Section 5.100.8.10 NMAC are stylistic changes to increase specificity.

Amendments to Section 5.100.8.11 NMAC seeks to delineate the types of records that must be provided to the custodian of records, based upon whether the institution has State Authorization pursuant to 5.100.6 NMAC or 5.100.7 NMAC, the institution has been granted express exemption pursuant to Section 21-23-4 NMSA 1978 and 5.100.5 NMAC, or if the institution has not operated lawfully pursuant to the Post-Secondary Educational Institution Act. The amendment adds a provision related to records maintenance that grants the department the discretion to request any additional records or information, to help students gain access to transcripts in perpetuity.

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 11:30 a.m. until 12:00 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 21-23-1 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.