

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 May 28, 2026. The hearing will begin at 9:30 AM and will be held via Microsoft Teams and in person at the New Mexico Higher Education Department. The purpose of the hearing is to take public comment regarding the proposed amendment of **5.100.8 NMAC, CLOSURE OR SUBSTANTIAL CHANGE TO LOCATION UNDER THE POST-SECONDARY EDUCATIONAL INSTITUTION ACT.**

Join via Microsoft Teams:

<https://teams.microsoft.com/meet/212494459731280?p=NRGbaHzc6CTnAU7flp>

Or call in (audio only):

+ 1 (505) 312-4308

Phone Conference ID: 221 600 42#

Purpose:

The purpose of the proposed amendment is to update procedures governing the maintenance of student records when an institution ceases operations, discontinues a program with enrolled students, or makes a substantial change in location. The amendment applies to private post-secondary educational institutions with a physical presence and state authorization under 5.100.6 NMAC or 5.100.7 NMAC. The proposed amendment removes existing requirements for institutions to file student records with a designated custodian of record and instead requires submission of those records to the Department. The amendment is intended to proactively address long-term challenges associated with perpetual record maintenance by transferring responsibility for the preservation of student records to the Department.

Amendments:

5.100.8.2 NMAC, SCOPE

5.100.8.6 NMAC, OBJECTIVE

5.100.8.7 NMAC, DEFINITIONS

5.100.8.9 NMAC, PLAN

5.100.8.11 NMAC, RECORDS MAINTENANCE

Summary of Proposed Rule:

The proposed amendment clarifies the scope and purpose of the rule and adds a definition for “custodian of record,” along with a minor, non-substantive correction to the definition of “post-secondary educational institution.” The amendment updates the plan requirements in Section 9 of 5.100.8 NMAC for institutions that cease operations, discontinue programs with enrolled students, or make a substantial change, aligning those requirements with the new process for submitting student records to the Department. Significant revisions to Section 11 remove procedures related to filing records with a custodian other than the Department and establish new requirements for the format, minimum content, and submission timelines for student records provided to the Department. Subsections are added, removed, and renumbered as necessary to implement these changes.

Details for Obtaining a Copy, Public Hearing and Comments:

The proposed rule is posted on the NMHED website and may be accessed at <https://hed.nm.gov/> under the “Data, Reports & Rules” section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact HigherEd.Info@hed.nm.gov or (505)476-8411.

A public hearing will be held on May 28, 2026, from 9:30 AM until 10:30 AM via Microsoft Teams and in person at the NMHED Office located at **2044 Galisteo Street, Suite 4, Santa Fe, NM 87505**. Any person who is or may be affected by this proposed rule may participate. Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or HigherEd.Info@hed.nm.gov. **Written comments must be received no later than 4:00 p.m. on May 22, 2026.** Please note that any written or verbal 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@hed.nm.gov ten (10) business days prior to the hearing.