

Armijo, Alicia, HED

From: Jackson, Michael <michael.jackson@nmt.edu>
Sent: Sunday, May 17, 2026 12:31 PM
To: Info, HigherEd, HED
Cc: Delilah Walsh; Vanessa Grain; Alexander Garcia
Subject: [EXTERNAL] Feedback on 5.3.9.8: NOTICE OF RULEMAKING - New Mexico Higher Education Department

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Dear Reviewers,

Below please find feedback from New Mexico Tech regarding 5.3.9 NMAC.

1. From 5.3.9.8, section C(1), New Mexico Tech's athletics programs (which would be part of our wellness center) would be ineligible as they are in non-NCAA conferences and/or at the Division-3 level (even if included as part of a multi-use facility as outlined in 5.3.9.8.B.7).
 - To address this, we recommend the definitions in 5.3.9.7 NMAC explicitly include specialized athletic (non-Division I or Division II programs), recreational, and intramural facilities for universities with less than 2,500 student FTE. Our athletics programs are housed within the physical recreation department and include unique needs such as climbing and bouldering structures and specialized infrastructure for eSports.
2. In 5.3.9.8, section A, the rule should account for high-intensity infrastructure needs (e.g., specialized HVAC for heat mitigation, high-end computing, high-speed data connectivity) as part of the review criteria for capital projects for specialized spaces like eSports.
3. Changes regarding matching requirements should be reviewed to ensure they do not disproportionately burden smaller, specialized research institutions like NMT. There should be flexibility in how matching is defined, potentially allowing for the inclusion of non-recurring outside support or in-kind contributions that New Mexico Tech often relies on for these programs.
4. Substantial matching funds from sources other than the state may be required for 'major projects' — 25% for design and 10% for construction phases of I&G projects, and even higher matches for student housing and student life projects. Small rural institutions typically have limited access to such funds, making it difficult to meet these requirements.
 - For 5.3.9.8, section F.1.A it mentions "For design phase funding the match must be at least twenty-five percent for research and instruction and general purposes and at least fifty percent for student housing and student life projects." For calculation purposes, what funding is being used – the cost of the design phase or the total cost of the project? For example, for research and instruction and general purposes projects: is it 25% of the cost for the design phase or 25% of the cost for the total project?
 - Related to this, projects that are phased over multiple fiscal years are not addressed. For example, is each phase independent of one another or would they be combined for consideration as a 'major project'. This could affect how matching funds are required for the project and whether they need to be applied to each phase of its design and construction.

- For Section 5.3.9.8.F, we recommend the Department consider the proportional financial impact of the required match on the institution's total annual operating budget. For institutions located in rural areas or those with limited bonding capacity, the Department may recommend a sliding scale match or a full waiver if the required match exceeds five percent (5%) of the institution's unrestricted year-end fund balance.
 - By requiring matching funds, larger institutions with more resources are likely to dominate the available funds, making it harder for smaller rural institutions to compete. Therefore, would it be worth identifying a percentage of funding that could be directed to smaller institutions? For example, “Of the total funds transferred to 5.3.9, not less than <insert an appropriate percentage here, e.g., 30%?> shall be reserved for capital outlay projects at four-year public educational institutions with a total student headcount of fewer than <insert an appropriate size here, e.g., 2,500 FTE students?>. If the Department determines that there are insufficient qualifying applications in a given fiscal year, any unexpended balance may be carried forward to the following fiscal year for the same purpose.
 - For 5.3.9.8, Section A.9 prohibits construction funding until 50% of the design phase is complete. This requires NMT to risk significant up-front capital (the 25% match) without a guarantee of construction funding. Establishing a ‘Pre-Recommendation Consultation Process’ would allow institutions to receive a ‘Preliminary Finding of Support’ for a project concept before expending the full capital required to hit the 50% design benchmark.
5. Finally, the current draft requires extensive data on historic on-campus populations and project compliance. Smaller institutions have limited staff to manage ‘comprehensive’ reporting.

If there is any additional information or clarification needed, please let me know.

Sincerely,

Mike Jackson
President, New Mexico Institute of Mining and Technology