

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 2 ESTABLISHMENT OF POST-SECONDARY EDUCATIONAL INSTITUTIONS
PART 4 GEOGRAPHIC AREAS OF RESPONSIBILITY

5.2.4.1 ISSUING AGENCY: State of New Mexico Higher Education Department

[5.2.4.1 NMAC - N, 05/01/07]

5.2.4.2 SCOPE: All public two-year postsecondary institutions operating within and receiving financial support from the state of New Mexico, offering associate degree and certificate programs.

[5.2.4.2 NMAC - N, 05/01/07]

5.2.4.3 STATUTORY AUTHORITY: Authority for 5.2.4 NMAC is found in NMSA 1978 Sections 21-1-26, 21-1-26.3, 21-2-5, and 21-2A-11 (1996 Repl. Pamph.).

[5.2.4.3 NMAC - N, 05/01/07]

5.2.4.4 DURATION: Permanent.

[5.2.4.4 NMAC - N, 05/01/07]

5.2.4.5 EFFECTIVE DATE: May 1, 2007, unless a later date is cited at the end of a section.

[5.2.4.5 NMAC - N, 05/01/07]

5.2.4.6 OBJECTIVE:

A. The objective of 5.2.4 NMAC is to establish geographic areas of responsibility encompassing the entire state to facilitate the effective planning and delivery of public two-year postsecondary educational programs and services throughout New Mexico, with due regard for economy and efficiency of delivery and the avoidance of unnecessary program duplication.

B. This policy acknowledges that New Mexico is a diverse state and flexibility in serving different regions must be embedded and honored in the implementation of this policy. Since state resources are limited, the purpose of 5.2.4 NMAC is to create a more efficient structure for the delivery of programs and services.

[5.2.4.6 NMAC - N, 05/01/07]

5.2.4.7 DEFINITIONS:

A. **“Department”** means the New Mexico higher education department.

B. **“Existing programs”** means academic, career-technical, and remedial programs leading to a certificate or associate degree that was offered by a two-year public postsecondary institution within a geographic area of responsibility as of January 1, 2006.

C. **“Geographic area of responsibility (GAR)”** is an assigned geographic region encompassing one or more public school districts where a public postsecondary educational institution has the exclusive right to meet the lower division postsecondary educational needs of the area, subject only to the limitations imposed by its enabling legislation and consistent with the provisions of this policy.

D. **“Two-year postsecondary institution”** is a publicly supported postsecondary educational institution that has the exclusive right to meet the lower division postsecondary educational needs of this assigned geographic region, subject only to limitations imposed by its enabling legislation and consistent with the provisions of this policy, including the two-year programs of western New Mexico university and northern New Mexico college.

E. **“Host institution”** means the public postsecondary educational institution that has been assigned to a geographic area of responsibility.

F. **“Partner institution”** means a public two-year postsecondary educational institution that agrees through a formal memorandum of understanding to provide educational programs and services within a geographic area of responsibility assigned to another public two-year postsecondary educational institution.

G. **“Right of first refusal”** means that an institution assigned to a geographic area of responsibility must first decline, in writing, to the New Mexico higher education department within 60 days, to provide requested educational services before another New Mexico public postsecondary institution may offer those services in that service area. This provision shall not apply to existing programs as defined in this policy.

[5.2.4.7 NMAC - N, 05/01/07]

5.2.4.8 ESTABLISHMENT OF GEOGRAPHIC AREAS OF RESPONSIBILITY:

A. By April 16, 2007, each public postsecondary institution offering associate degrees and certificate programs, upon approval of its governing board, shall petition the department to establish a GAR for the institution. The proposed GAR shall consist of all public school districts or portions thereof which are currently part of the local taxing district that supports the institution, or areas outside of its taxing district which the institution has historically served (grandfather clause).

B. By May 1, 2007, the department shall assign GARs to each public postsecondary educational institution offering associate degrees and certificate programs in such a manner that all geographic areas of the state are included.

C. The department shall consider the following factors, while determining which public school districts are to be assigned to the GAR for each public postsecondary institution:

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- (1) boundaries of the current local taxing district, if applicable;
- (2) market share of existing educational services within the proposed GAR as determined through an analysis conducted by the department;
- (3) county boundaries, public K-12 districts or portions thereof that have provided courses and/or programs prior to the implementation of this policy by a two-year institution, i.e. the “grandfathering in” of areas served by a two-year institution outside of its taxing district;
- (4) boundaries of the local small business development center (SBDC) service area shall be given consideration if college level coursework has historically been provided within the assigned SBDC region;
- (5) requested boundaries of the proposed service area outside of the current taxing district; this could include areas in which more than one institution is currently providing services, as well as areas where no services are currently provided.

[5.2.4.8 NMAC - N, 05/01/07]

5.2.4.9 RESPONSIBILITIES OF HOST INSTITUTION: Upon assignment of a GAR by the department, the host institution shall assume the following responsibilities.

- A. Coordinate a needs assessment to determine the programs needed to support current and future workforce demands within the GAR.
- B. Provide educational services to address identified needs in a cost-effective and efficient manner. These services may include lower-division course work offered for academic credit, dual-credit programs, developmental education services, adult basic education and literacy programs, and non-credit workforce training and community education programs.
- C. Partner with other two-year postsecondary educational institutions to serve the needs of the GAR by serving as a broker to bring in appropriate programs not offered by the host institution.
- D. Maintain the facility and support services, unless otherwise negotiated with partnering institutions.
- E. Assume the leadership role in providing library services.
- F. Provide leadership in the crafting of a memorandum of understanding (MOU) with partnering institutions, which shall define the programs and services to be provided by each party and provide for a fair and equitable distribution of tuition and formula revenue resources.

At a minimum, each MOU must address the following issues:

- (1) cost and revenue sharing arrangements;
- (2) student credit hour reporting arrangements;
- (3) accommodations for alternative delivery methods at the receive site;
- (4) arrangements and responsibilities for evaluating the effectiveness of the joint venture;
- (5) provision of student support services;
- (6) provision of academic support services; and
- (7) provision for termination in the event necessary.

G. Upon approval by the governing boards, all MOU’s will be submitted to the department for its records and use in developing formula funding recommendations.

[5.2.4.9 NMAC - N, 05/01/07]

5.2.4.10 DISTRIBUTION OF REVENUES:

- A. Revenues generated by programs offered within the GAR by the host institution shall belong to the host institution. The host institution may assess tuition and fees as necessary to cover the cost of all programs and services offered within the GAR, including appropriate surcharges for services provided outside of the institution’s taxing district.
- B. Distribution of revenues generated as a result of programs offered by a partner institution within the geographic area of responsibility of a host institution shall be divided between the institutions based on the MOU approved by the governing boards of the institutions.

[5.2.4.10 NMAC - N, 05/01/07]

5.2.4.11 IMPLEMENTATION OF POLICY: The department recognizes that implementation of this policy must recognize the current status of state-supported postsecondary educational services within newly-defined GARs.

- A. The provisions of this policy do not apply to existing programs as defined in 5.2.4.7 NMAC. Existing programs offered within any GAR shall continue to be eligible for formula funding as provided in 5.3.12 NMAC.
- B. A governing board has the authority to approve and offer a new competing program in a GAR to which their institution is not designated. However, the competing program will not receive state formula funding support through the higher education funding formula.
- C. The provisions of this policy do not apply to programs or courses delivered via instructional television or web-based instruction.
- D. The provisions of this policy do not apply to tribal governments or schools which may broker educational services from any public or private postsecondary educational institution.

[5.2.4.11 NMAC - N, 05/01/07]

5.2.4.12 TEMPORARY PROVISION: Until such time as the department approves a network of GARs encompassing the entire state, the department maintains that each two-year institution’s local taxing district shall constitute its GAR for the direct provision of lower division instruction, subject only to limitations imposed by its enabling legislation, and otherwise consistent with the provisions of this policy.

[5.2.4.12 NMAC - N, 05/01/07]

HISTORY OF 5.2.4 NMAC: [RESERVED]