

This is an amendment to 5.100.7 NMAC Sections 10 and 12 effective 2/11/2025.

**5.100.7.10 APPLICATION REQUIREMENTS:** The institution must provide complete and accurate information to the department. The department may request additional supporting documentation. Upon request of the department, the applicant must supply any missing or requested information to the department. An applicant must respond to the department within deadlines set by the department. The department application will require institutions to supply information described in Subsections A through W of 5.100.7.10 NMAC:

**A.** Evaluation plan: The plan shall include measures of institutional success. The institution shall provide a plan for evaluation of the following:

- (1) the satisfaction of its graduates and shall make available to the department all reports of these satisfaction assessments prepared during the past five years;
- (2) a written plan for keeping courses current;
- (3) a written plan for faculty improvement in terms of content knowledge and relevant instructional techniques and the use of new and applicable technologies to support instruction; and
- (4) if the institution is subject to the Student-Right-to-Know Act, it shall provide the department with copies of all reports submitted to the federal agency.

**B.** Tuition policy: Tuition and fee charges shall be the same for all students admitted to a given program for a given term of instruction. An institution may not discount its tuition and fees charged to individual students as an incentive for quick enrollment or early payment. An institution may negotiate special rates with business, industrial, governmental, or similar groups for group training programs and may establish special rates for students who transfer between programs. An institution may charge a reasonable carrying fee associated with deferred payments or payment plans. All tuition and fees must be comprehensively listed in the institution’s catalog as required in Subsection G of 5.100.7.10 NMAC.

**C.** Tuition refund policy: An institution licensed by the department shall adhere to the following tuition refund policy:

(1) An institution accredited by agencies recognized by the United States department of education shall adhere to the tuition refund schedule established by the institution's accrediting body or the United States department of education. If an institution is required to adopt such refund schedule, it is required to provide proof of adoption and a copy of the refund schedule policy from either the accreditor or the United States department of education.

(2) If an institution is not required to adopt a refund schedule policy by an accreditor or the United States department of education, the following refund schedule policy set out by the department shall be adopted:

Date of student withdrawal as a % of the enrollment period for which the student was obligated	Portion of tuition and fees obligated and paid that are eligible to be retained by the institution
On 1st class day	0%
After 1st day; within 10%	10%
After 10%; within 25%	50%
After 25%; within 50%	75%
50% or thereafter	100%

(3) Any student signing an enrollment agreement or making an initial deposit or payment toward tuition and fees of the institution shall be entitled to a cooling off period as defined in 5.100.7.7 NMAC. During the cooling off period the agreement can be withdrawn and all payments shall be refunded. Evidence of personal appearance at the institution or deposit of a written statement of withdrawal for delivery by mail or other means shall be deemed as meeting the terms of the cooling off period.

(4) Following the cooling off period, but prior to the beginning of instruction, a student may withdraw from enrollment, effective upon personal appearance at the institution or deposit of a written statement of withdrawal for delivery by mail or other means, and the institution shall be entitled to retain no more than \$100 or five percent in tuition or fees, whichever is less, as the institution’s registration charges.

(5) In the case of students enrolling for non-traditional instruction, a student may withdraw from enrollment following the cooling off period, prior to submission by the student of any lesson materials and

effective upon deposit of a written statement of withdrawal for delivery by mail or other means, and the institution shall be entitled to retain no more than \$100 or five percent in tuition or fees, whichever is less, as the institution's registration charges or an alternative amount that the institution can demonstrate to have been expended in preparation for that particular student's enrollment.

(6) Upon request by a student or by the department, the institution shall provide an accounting for such amounts retained under this standard within five work days.

**D.** Record maintenance and retention policy: Each private career school or non-regionally accredited college or university licensed by the department shall provide a records maintenance and retention plan.

(1) The plan shall consist of a records maintenance and disposal schedule that is in compliance with the functional records retention and disposition schedule in 1.21.2 NMAC, the records retention schedule set by the department, regulations of any other authorizing agency, or laws, regulations, and rules of any other authorizing jurisdiction or territory, whichever is longest in time. If another authorizing agency of the institution requires a longer period of retention than that of 1.21.2 NMAC, the longest retention period shall prevail.

(2) Each institution shall submit a certification of compliance with all applicable laws, rules and regulations that govern records management for closed institutions.

(3) Each institution shall report the percentage of all student transcripts since inception of the institution that are not digitalized at the time of application. If there are non-digitalized transcripts, the institution shall submit a plan to the department which describes how the institution will digitalize all student transcripts within a 12-month period.

(4) Each institution shall provide information regarding the custodian of records and the process for obtaining transcript records through the custodian at the time of application.

(5) If the department determines the plan for processing transcripts is not satisfactory, the institution shall:

(a) hire a professional digital credential firm to manage its student transcripts; or

(b) submit all of the student transcripts within a 12-month period to the department in a specified format and agree the department shall become custodian of record upon receipt of the transcripts.

(6) If the department becomes the custodian of record for an institution, it will be at no cost to the institution.

(7) If the department becomes the custodian of record for an institution that is in operation, the institution shall periodically submit updated transcripts to the department in a specified format. The submission schedule shall be based on end dates of programs offered by the institution.

(8) The department may contract with a professional digital credential firm to service the transcripts.

**E.** Materials and information: The department shall regulate the use of deceptive and misleading materials and information. An institution shall not disseminate material or information that is deceptive, misleading or untrue. The institution shall certify compliance with all laws and regulations related to materials and information. The department may request copies of publications, advertisements, agreements, marketing collateral, or contracts in order to regulate the use of deceptive and misleading information. All materials and information shall comply with the following requirements:

(1) Representation of accreditation and state authorization status:

(a) An institution may not make claims to or advertise an accreditation status if the accrediting agency is not recognized by the United States department of education.

(b) An institution not accredited by a United States department of education recognized accreditor shall clearly state that the institution is not accredited.

(c) An institution licensed by the department may not use terms such as "accredited," "endorsed," or "recommended" in reference to its approval by the department.

(2) Enrollment agreement: Before a student begins coursework at an institution, the institution shall execute an enrollment agreement with the student. An enrollment agreement will be binding only when it has been fully completed, signed, and dated by the student and authorized institution representative prior to the beginning of instruction. The institution shall retain the original enrollment agreement and a copy shall be delivered to the student at the time of execution or by mail when the enrollment is solicited by mail. A copy of the blank agreement or contract shall be submitted to the department. Each enrollment contract or agreement shall include at least the following:

(a) information that will clearly and completely define the terms of the agreement between the student and the school;

(b) names and addresses of the school and the student;

(c) the program or course title in which the student is enrolling and the applicable catalog date or version reference;

(d) the program start date and estimated end date;

(e) the number of hours or units of instruction;

(f) the school's cancellation and refund policies;

(g) an itemization of all charges, fees and required purchases being incurred by the student or their sponsor in order to complete the training, e.g., tuition, books, supplies and all other items of expense required by the school;

(h) the method of payment and payment schedule being established; and

(i) when applicable, a statement detailing the institution's academic placement policy.

(3) Advertising, marketing, promotional materials and recruitment: All advertisements and promotional literature must be truthful regarding the content of an institution's educational program(s), the duration of the program(s), student attributes and skills needed for successful completion of the program(s), and costs of the program(s). An institution shall use no advertisements or promotional materials that are false, deceptive, inaccurate, or misleading. Materials must comply with all of the following requirements:

(a) Advertisements and promotional literature shall not contain promises of job placement or employment, either explicitly or implicitly, but may refer to an institution's services to assist students in obtaining employment.

(b) Advertisements shall clearly indicate by their content and location in media that the institution is offering education or training and may not either explicitly or implicitly suggest that the institution is offering employment.

(c) An institution advertising salary ranges or averages for its graduates must have on file and available to inspection by students, the department, or their representatives current and accurate data that includes New Mexico employers and that validates such claims.

(d) An institution shall not advertise the transferability of its courses or programs to another institution unless it has signed transfer or articulation agreements with that institution.

(e) An institution shall not include in its advertising or promotional materials any photograph or other illustration of facilities unless those facilities serve predominantly as sites of instruction or related activities provided by the institution, either in New Mexico or in other states. Photographs or other illustrations must accurately depict the size and condition of any facilities or equipment illustrated.

(f) No person shall for a fee solicit enrollment at an institution who is not employed by and under supervision of the institution. The institution shall be responsible for the representations of its employees.

(g) Prospective students shall not be solicited by any representative of an institution on the sites of any government agency such as motor vehicle division offices, unemployment offices, or public assistance offices. However, leaflets or other promotional material may be made available at such sites.

(h) Prospective students shall not be solicited by any representative of an institution on the site of any public school, except at the invitation of school personnel. No institution shall offer or provide financial inducement to any public school in return for permission to solicit students.

(i) No institution shall solicit the enrollment of any student who is currently attending another institution in New Mexico by using any inducement of greater financial assistance in meeting the costs of education.

(j) On all materials, an institution shall use the full name in which it is licensed and list any other names in which the institution holds other government approvals. Permutations of its name, e.g., initials, or shortened name or nicknames, cannot be employed without prior written permission of the department.

(k) On all materials, the name of an institution shall not be misleading.

F. Name of the institution: The department reserves the right to deny licensure to an institution proposing to operate under a name that the department determines to be misleading or so similar to that of another institution operating within the state that it may result in substantial confusion. Institution names must comply with each of the following regulations:

(1) institutions including the term "college" in their name must offer at least an associate degree and enroll a substantial portion of their students in such degree programs; and

(2) institutions including the term "university" in their name must offer graduate degree programs and must enroll a preponderance of their students in baccalaureate and graduate degree programs.

**G.** Information provided to students: Information shall be provided to students prior to their signing an enrollment agreement and the institution shall make reasonable effort to assure and verify that each student understands their academic and financial obligations prior to enrolling in the institution and maintain records of the institution's effort for at least five years after the students enroll at the institution. An institution shall publish and make available to all students a catalog or other materials that clearly describe:

- (1) accurate representation of accreditation and state authorization status as described in Paragraph (1) of Subsection E of 5.100.7.10 NMAC;
- (2) admission policies and procedures that provide criteria and methods used to assess and admit or deny admission;
- (3) admission methods and criteria used to assess student ability to complete program requirement;
- (4) programs offered, the program completion requirements of each program offered, and descriptions of all courses offered;
- (5) requirements and costs for those occupations that require professional or trade licensure and for which the institution is offering preparation;
- (6) tuition, fees and books and supplies, including cost for rental or purchase of equipment or materials required of all students;
- (7) room, board and transportation expenses incurred by a student;
- (8) reasonable costs associated with a program of study abroad approved for credit by a student's home institution, if applicable;
- (9) expenses related to a student's disability, including special services, personal assistance, transportation, equipment and supplies;
- (10) refund policies, consistent with the requirements in Subsection C of 5.100.7.10 NMAC;
- (11) types of financial aid available to students and the procedure for applying for such aid;
- (12) the institution's policy regarding program or course cancellations;
- (13) rules and regulations pertaining to academic progress;
- (14) rules and regulations pertaining to student conduct;
- (15) the procedure to be followed in the instance that a student decides to withdraw from the institution prior to completing a program;
- (16) the institution's policy regarding student complaints and the resources available to students for resolving differences with the institution. The institution must adopt the student complaint process established by the department and published by the department; and
- (17) the institution's policy regarding release of transcripts.

**H.** Financial aid: Prior to a student signing a financial aid agreement, each student must be informed in writing regarding his or her obligations associated with receipt of financial aid and the institution must take reasonable steps to assure that the student understands that obligation. The institution shall provide financial aid resources to students.

**I.** Proof of teach-out agreement: Each institution shall submit a teach-out plan or agreement.

(1) An institution must submit proof of a teach-out agreement with at least one other private or public institution operating in the state or provide a teach-out plan that allows students to complete their program of study at the institution within a timeframe accepted by the department. Proof of such teach-out agreement(s) with another institution must be submitted to the department. The teach-out plan or agreement must address the ability of students to complete programs within a reasonable proximity to the physical location of the institution and shall be arranged at no additional cost to the students beyond that originally agreed to by the students.

(2) The department may determine that a teach-out plan or agreement is not feasible after consideration of evidence submitted to the department. The department may find that teach-out arrangements are not feasible for students in one or more programs offered by the institution, in which case the institution shall plan to refund all tuition and fees paid by the students in question for the current period of enrollment and shall plan to provide appropriate transcripts and evaluations to assist students in transferring their work to another institution.

(3) A teach-out plan or agreement shall be evaluated and updated by the institution annually upon submitting a license renewal application. If an institution closes or has a substantial change in location, the institution is subject to 5.100.8 NMAC. If the teach-out plan or agreement presented to the department during application for licensure becomes impossible or is no longer feasible due to institutional changes, the plan must be updated and submitted to the department within 90 days of the change.

**J.** Adoption of degree standards: Institutions accredited by a recognized United States department of education accreditor shall adopt degree standards governed by their accrediting body. Any non-accredited degree granting institution shall adopt the following degree standards for each credential as listed below:

**(1)** Associate degree program:

**(a)** associate degree programs must include both technical or vocational and general education instruction. Associate degree programs shall consist of 60 credit hours of study or the equivalent;

**(b)** associate of applied science degrees, associate of occupational studies degrees or comparable appellations must be based upon the institution's certification that the recipient is prepared for immediate employment in a specified career field and must be comprised primarily of technical or vocational study; and

**(c)** associate of arts or associate of science degrees must be based upon the institution's certification that the recipient is prepared both for immediate employment in a specified career field and transfer to another institution for more advanced study; associate of arts and associate of science degree programs will normally consist of approximately equal numbers of technical or vocational and general education courses.

**(2)** Baccalaureate degree programs:

**(a)** baccalaureate degree programs must be comparable in quality to those offered by institutions operating in New Mexico that are accredited by agencies recognized by the United States department of education as authorities regarding the quality of such degree programs; award of degrees must be based upon the institution's certification that the recipient has met standards of performance and competency comparable to the standards of institutions so accredited; and

**(b)** at a minimum, issuance of a baccalaureate degree shall require 120 credit hours or the equivalent; the degree program must include 30 credit hours of general education core requirements.

**(3)** Master's degree programs:

**(a)** master's degree programs must be comparable in quality to those offered by institutions operating in New Mexico that are accredited by agencies recognized by the United States department of education as authorities regarding the quality of such degree programs; award of degrees must be based upon the institution's certification that the recipient has met standards of performance and competency comparable to the standards of institutions so accredited; and

**(b)** at a minimum, issuance of a master's degree shall require 30 credit hours of academic credit or the equivalent beyond a baccalaureate degree.

**(4)** Doctoral degree programs:

**(a)** at a minimum, issuance of a doctoral degree shall require 90 credit hours of academic credit or the equivalent beyond a baccalaureate degree or 60 credit hours or the equivalent beyond the master's degree and shall require successful completion and defense of a major independent project, involving original research or application of knowledge. The research component shall provide no more than thirty percent of the degree credit requirement;

**(b)** research or project committees composed of no fewer than three qualified readers shall review the project at various stages of development; documentation shall be provided to support this requirement. The final version of the research or project shall be accompanied by the original signature of each committee member; and

**(c)** the institution shall maintain a copy of the final report of the research or project and make it available upon request.

**(5)** Honorary degree or certificate: Licensed, private degree-granting institutions may issue honorary degrees or certificates. An honorary degree or certificate shall identify in its title or name that it is an honorary degree or certificate and shall bear such on its face.

**(6)** Credit for life experience: If an institution offers academic credit for life experience or employment related experience, the institution must have and adhere to the following requirements:

**(a)** applicable life experience shall be limited to work experience, military experience or a combination of the two;

**(b)** no more than thirty percent of the credit in a student's degree program may be awarded for life or work experience;

**(c)** the institution shall utilize the methodologies outlined by the council for adult and experimental learning (CAEL) for evaluating life experience or shall have in place a comparable plan which describes procedures and requirements for the assessment of experiential learning;

**(d)** the institution shall maintain documentation for at least three years of all materials used to assess and award credit for experiential learning;

(e) the institution shall clearly indicate on the student degree plan the course(s) for which the experiential learning is being substituted;

(f) the institution shall evaluate extra-institutional learning only in subject areas in which it has or can arrange for faculty expertise or where it can rely on nationally validated examinations or other procedures for establishing credit equivalencies; and

(g) no life experience credit shall be awarded toward the doctorate degree beyond master's level study.

**K. Accreditation:**

(1) Accredited institutions shall be governed by their accrediting agencies in establishing degree and program standards. Accredited institutions shall submit:

(a) formal documentation from the accreditor listing all approved campuses, degrees and programs; and

(b) written notification of any changes related to accreditation.

(2) Institutions proposing to change or add programs must formally notify the department. If the change or addition of the program requires the accreditor's approval, the institution must provide written proof of the approval. If the change or addition does not require approval by the accreditor, the institution shall provide proof that the accreditor was notified of the change or addition. The department shall review proposed changes. The department may review proposed changes on a set schedule defined by the department and charge an administrative fee for the processing of such requests. Upon final review, the department will provide a formal acknowledgment of the approved new degrees and programs. The institution may begin to advertise the program based on the department's letter of acknowledgement. The complete list of programs offered by an institution will be listed on the license issued to the institution.

**L. Accreditation for new degree-granting institutions or degree-granting institution seeking accreditation:** New degree-granting institutions making application with the department will be required to obtain accreditation with an accrediting agency recognized by the United States department of education within three years of submitting the initial application. Non-accredited degree-granting institutions must submit a written accreditation plan, which shall include:

(1) the United States department of education recognized accrediting agency with which the applicant intends to apply for institutional accreditation;

(2) the planned timeline for application with and approval by the United States department of education recognized accrediting agency;

(3) any contracts already made with the United States department of education recognized accrediting agency, including supporting documents;

(4) certification that the institution will complete the accreditation process within the planned timeline provided to the department;

(5) submit all documents as required for non-accredited non-degree granting institutions; and

(6) any additional information which the department may request.

**M. Non-accredited non-degree granting institutions:** Applications for non-accredited non-degree granting institutions shall be evaluated by a department review committee described in 5.100.7.11 NMAC. A new non-accredited non-degree granting institution applying for licensure will be approved to offer no more than six degree programs during the first two years of operation. Non-accredited non-degree granting institutions shall submit the following for review:

(1) Institution curriculum requirements: For each program and course of instruction offered by an institution, the institution shall submit:

(a) program outline, syllabus and curriculum materials that accurately describe the objectives, content, and methods of the program or course;

(b) objectives, content, and methods of each program and course of instruction which demonstrate curriculum quality;

(c) details of equipment and facilities utilized by a program which shall be sufficient for the number of students using them, and shall be applicable to the objectives set for the program; and

(d) a report that demonstrates that each program is designed to provide training for an occupation that is recognized in New Mexico and that the training provided is sufficient in length and quality to prepare students for immediate employment in the occupation(s) or prepare students to complete licensing assessments.

(2) Faculty qualifications: The institution must demonstrate the following:

(a) each member of the teaching faculty has an educational background, including licensure or occupational or credential, and experience applicable to teaching assignments;

(b) faculty degrees, licensure, certification, and credentials are in the applicable field of instruction unless the institution demonstrates to the satisfaction of the department and review committee, on an individual basis, that alternative qualifications are sufficient;

(c) for degree-granting institutions faculty must hold degrees in the field of instruction from an accredited institution at a minimum of one degree level higher than the level of instruction, and in no case less than a baccalaureate unless the institution demonstrates to the satisfaction of the department that alternative qualifications are sufficient;

(d) for degree-granting institutions no more than twenty percent of the faculty of an institution may be employed under alternative qualifications;

(e) for each proposed credential offering, the institution employs at least one faculty member with the applicable training who shall have the responsibility for providing oversight of the instructional program; and

(f) faculty are sufficient in number to provide instruction and attention to the work of students of the institution.

(3) Student outcomes: New institutions submitting first time application shall provide a plan for tracking program completion rates, withdrawal rates and satisfaction of students, and employers. Institutions renewing application with the department must submit required reporting for program completion rates, withdrawal rates, and satisfaction of students and employers.

(4) Non-accredited non-degree institutions proposing to change existing programs or add new degree programs to their curriculum shall submit application on a form acceptable to the department, for review committee approval prior to marketing the program and enrolling students in the proposed program.

**N.** Maintenance of records certification: Each institution must submit a certification of compliance with all applicable laws, rules and regulations that govern records management for closed institutions.

**O.** Surety bond: Each institution licensed by the department shall maintain in force a surety bond or alternative surety accepted by the department, in an amount set by the department, and payable to the department. The institution must have and adhere to the following requirements:

(1) the amount of the bond or alternative surety shall be sufficient to indemnify any student damaged as a result of fraud or misrepresentation by a licensed institution or as a result of the institution ceasing operation prior to its students having completed the programs for which they have contracted. If a licensed institution closes, the department may draw upon the bond to pay costs associated with preservation of student records. The bond must also meet the following criteria:

(a) the bond required for each institution shall be twenty percent of the institution's projected or actual gross annual tuition and fee revenue in New Mexico, which takes into consideration the size, number of students and total income and assets of an institution. In no case shall the bond be less than \$5,000; and

(b) bonds provided by institutions must be accompanied by the name, office address and phone number of the issuing company representative.

(2) If an institution seeks to cancel a surety bond, written notice must be delivered to the department. The institution may not cancel the surety bond until provided with written release by the department. The institution shall provide the department with a like surety or acceptable alternative in order to maintain licensure.

(3) Alternative forms of surety: An institution may request a waiver from the bond requirement and provide to the department an explanation of the alternative form for which they are seeking approval. The department has the authority to accept or reject any request. Such alternative may be a cash deposit escrow account, irrevocable letter of credit, or similar alternative payable to the department in the amount equal to the bond requirement.

**P.** Proof of financial stability: Standards for reviewing and analyzing financial stability are a critical component of the institution's overall assessment. The institution's financial stability will be reviewed by the department to assess the institution's ability to meet financial obligations including, but not limited to, obligations to enrolled students. In determining financial stability of the institution the department shall review the following requirements:

(1) Insurance: Institutions licensed by the department shall maintain valid standard, commercial liability insurance, worker's compensation insurance, and property insurance sufficient to protect students, employees, and other citizens from hazards in the institution's facilities. Where applicable, institutions

shall have liability insurance covering students involved in internships at sites and locations other than the institution.

**(2)** Financial statement analysis: The department shall consider an institution's financial history when reviewing an application for licensure. In the case where an institution submits an audit report and management letter provided by a certified public accountant, the department shall normally accept the report as accurate and rely on the auditor's professional responsibility to evaluate and to make known their professional opinion.

**(3)** New institutions not previously operating in any capacity in any state or jurisdiction shall demonstrate liquid assets sufficient to operate the institution for a period of one year exclusive of anticipated revenue from tuition and fees. These assets shall be sufficient to pay all projected salary and benefits of employees and the rent, utilities, insurance and other costs of operating the institution's facilities for a period of one year. If an institution has audited financials available for the year prior to that of the application, such audited financials shall be submitted for review. Any new institution shall submit the following:

**(a)** bank statements, investor agreements, any other financial donations or gifts used to develop the institution;

**(b)** the institution's projected income statement certified as accurate by the institution. The income statement must include details of projected salaries and benefits of employees, rent, utilities, insurance, any financial obligations made by the institution, and any other operating costs; and

**(c)** any additional information which the department may request.

**(4)** Existing institutions: If an institution has previously operated in any capacity in any jurisdiction, it must submit documents based on the following thresholds:

**(a)** An institution with seven hundred fifty thousand dollars (\$750,000) or more in gross annual tuition revenue and all federal Title IV financial aid institutions shall submit, on a schedule set by the department, an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, Section 61-28B-1 et seq. NMSA 1978 as amended. If the institution has been required to obtain a financial responsibility composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

**(b)** An institution with gross annual tuition revenue of two hundred fifty thousand dollars (\$250,000) or more but less than seven hundred forty nine thousand nine hundred ninety-nine dollars (\$749,999) shall submit, on a schedule set by the department, either an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, Section 61-28B-1 et seq. NMSA 1978 as amended or a review of financial statements prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act. If the institution has been required to obtain a financial responsibility composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

**(c)** An institution with gross annual tuition revenue of less than two hundred forty nine thousand nine hundred ninety-nine dollars (\$249,999) shall submit on a schedule set by the department either an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, 61-28B-1 et seq. NMSA 1978 as amended, a review of financial statements prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, or an income statement and balance sheet certified as accurate by the institution. In addition to the audit report and management letter, the review of financial statements, or the income statement and balance sheet as described in this paragraph, the institution shall submit copies of business tax returns and bank statements for the most current year. If the institution has been required to obtain a financial responsibility composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United



States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

(5) Failure to satisfactorily meet financial requirements: If considerable concern is established as to the institution's ability to maintain its operation, department staff may contact the school to request additional information regarding the institution's financial picture. If concerns are not addressed through the additional information provided to the department, a department financial analyst may conduct a second financial review. If after the second review, substantial doubt remains about the institution's ability to continue, the department may contract for further independent review of the records. All costs associated with contracting a third party independent reviewer will be charged to the institution. Following review and based on the determination of the department

(a) the institution may be authorized for operation; or  
(b) the institution may be placed on probationary status and required to submit a management plan of action; and  
(c) the department may report the failure to satisfactorily meet financial requirements to the United States department of education and the institution's accreditor. If the issue is not resolved, the department may take action to forward the file to the attorney general's office for issuance of a notice of contemplated action to deny licensure.

Q. Procedure for resolution of student complaints: An institution shall provide proof of an adopted complaint procedure that complies with the minimum requirements set by the department. Institutions shall retain records that make available the student complaint received and record of the institution's processing the complaint (that comports with the institution's policies and procedures for handling grievances or complaints) as required by law. The institution shall have and make available to all students, the adopted complaint procedure that describes, in detail, how students or other parties may register a complaint or grievance, how the institution will investigate the complaint, and how the institution will attempt to resolve the complaint. Such policies shall at a minimum include the following components:

(1) requirement that students or other parties with complaints or grievances against an institution first seek to resolve their complaint or grievance directly with the institution;  
(2) a time frame within which the institution will investigate the complaint and respond to the complainant;  
(3) assurance of the involvement of a person who will serve as an impartial representative of the institution but not be directly involved in the area of the complaint;  
(4) assurance that no adverse action will be taken against the complainant for registering the complaint; and  
(5) identification of the ~~[higher education]~~ department as the agency to be contacted in cases where a complaint cannot be resolved and include the mailing address, website and phone number for the department.

R. Student Services: The institution shall certify that it will provide the following:

(1) Financial aid counseling: Institutions offering financial aid to students shall provide adequate personnel qualified to administer the financial aid programs according to the regulations of all applicable agencies;

(2) Academic counseling and progress: Institutions shall provide adequate counseling for students regarding their academic progress. An institution shall have a clear policy and procedure for assessing the progress of students toward their program objectives and to inform student of progress. Students shall receive warning when their academic status is at risk and shall be given clear information about their academic status and whatever actions are needed to maintain satisfactory progress. The institution shall have a policy for terminating enrollment in manner that minimizes the financial cost to the student, when the student fails to meet the standards for academic progress. Records of the institution, including individual student records, shall reflect consistent application of such policy and procedure. The institution's catalog and other publications shall clearly inform students about the institution's standards for academic progress and any academic counseling and support services available to students.

(3) Employment counseling and placement: Institutions shall provide services that assist students in locating and qualifying for employment opportunities. Employment counseling and placement services must be provided at no additional charge to students. No institution shall be expected to provide employment counseling and placement services beyond providing academic and financial aid transcripts for more than one year

following a student's receipt of a diploma, certificate, or degree, except by such policy of the institution. An institution offering placement services for its students and graduates shall maintain records listing, for each student who has been assisted, each placement conference held with the student and each placement contact made in behalf of the student.

**S. Records standards and access:**

(1) Transcript standards: An institution shall prepare for students a transcript of record. A sample transcript shall be submitted and include at minimum the following:

- (a) designation of the program(s) of study for which the student has been enrolled;
- (b) each course completed by the student and the grade or other indication of performance assigned; and
- (c) a dated statement of completion of the program and award of any certificate, diploma, or degree earned by the student.

(2) The method by which students and graduates may obtain transcripts and financial aid documents and applicable fees shall be described clearly in the institution's catalog or in other documents provided to students. All documents with reference to the method for obtaining transcripts and financial aid documents and fees must be submitted to the department for review.

(3) The institution shall certify that an official student file will be kept for each student and include at a minimum the following:

- (a) admission application and enrollment agreement;
- (b) official transcripts indicating qualification for admission;
- (c) when applicable actual test and scores from an ability-to-benefit assessment;
- (d) grades received (up-dated transcript);
- (e) all obligations incurred and all funds paid by the student to the institution;
- (f) student attendance information;
- (g) academic counseling and employment counseling records; and
- (h) financial aid records.

**T. Academic support resources:** The institution shall provide or otherwise assist students in gaining access to learning resources needed for completion of their programs, including library materials, laboratories, facilities, equipment and materials, and relevant experiences needed to meet program requirements. No institution shall absolve itself from this requirement solely by referring students to the resources of other private or public institutions or facilities, except by written agreement with such institutions or facilities. The institution will certify that:

- (1) students have access to learning resources;
- (2) resources are adequate to support the programs;
- (3) students are adequately informed about learning resources available to them and how to access such resources and services;
- (4) training is made available for accessing learning resources;
- (5) resources are delivered within a reasonable period of time;
- (6) the facilities have satisfactorily met all applicable health and fire inspections; and
- (7) compliance with regulations pursuant to the American with Disabilities Act (ADA).

**U. Admission policy:** Each institution shall adopt an admission policy that includes the following standards:

(1) No student shall begin a certificate or diploma program who has not received a high school diploma or the equivalent or who has not demonstrated ability to benefit from the program through a process of assessment that meets standards of the United States department of education or the department or who is participating in a concurrent enrollment program with a secondary school.

(2) Institutions enrolling students who are of compulsory school age or who are concurrently attending an elementary or secondary school shall have in their possession a signature or other written acknowledgement by elementary or secondary officials and by the student's parent or guardian.

(3) Institutions using an ability-to-benefit admission option shall provide the department with a clear and detailed statement describing their ability-to-benefit assessment programs (including cut off scores and validity data for any test used) and shall be able to demonstrate that ability-to-benefit assessment is performed in a consistent and valid manner.

(4) No student shall be admitted to an associate degree or baccalaureate degree program who has not received a high school diploma or the equivalent.

(5) No student shall be admitted to a graduate degree program who has not received a baccalaureate degree from an institution accredited by an agency recognized by the United States department of education, or received a baccalaureate degree from a non-accredited institution licensed by the department or by the cognizant state agency in another state, or qualified in an alternative manner approved by the department.

V. Cooperation: The institution shall provide copies of valid certificates from other federal, state and municipal agencies, and any other higher education authorities as proof of compliance with applicable bodies. At minimum the application submission must include:

- (1) a copy of the notification of good standing and ability to do business in New Mexico issued by the New Mexico secretary of state's office;
- (2) a copy of the New Mexico taxation and revenue department registration;
- (3) as applicable, a copy of the national council of state authorization reciprocity agreements (NC-SARA) welcome letter;
- (4) as applicable, a list and copy of authorizations granted by other jurisdictions;
- (5) as applicable, a list and copy of authorizations granted by other New Mexico boards, commission or agencies.

W. Ownership and administration: The institution shall provide the department with information about ownership, owners, and managers. An institution shall notify the department in writing within 10 working days whenever the institution changes ownership, whenever there is a change in control of the institution, or whenever changes are made to managers. No institution will be licensed in the state of New Mexico without completion certifications required by the department. Any changes or events that may trigger any certification to be untrue, must be immediately reported to the department, and shall be reported in no less than 10 working days.

- (1) The institution shall provide a list of principal owners and provide a list of managers.
- (2) The institution shall certify that no owner of the institution has:
  - (a) been convicted of or has pled no contest or guilty to a crime involving abuse of public funds;
  - (b) been convicted of or has pled no contest or guilty to a crime of dishonesty or felony within the last five years;
  - (c) controlled or managed an institution that has ceased operation during the past five years without providing for the completion of programs by its students; or
  - (d) filed bankruptcy associated with the operation of an educational institution during the past five years.
- (3) The institution shall certify that no manager of the institution has:
  - (a) been convicted of or has pled no contest or guilty to a crime involving abuse of public funds;
  - (b) been convicted of or has pled no contest or guilty to a crime of dishonesty or felony within the last five years;
  - (c) controlled or managed an institution that has ceased operation during the past five years without providing for the completion of programs by its students; or
  - (d) filed bankruptcy associated with the operation of an educational institution during the past five years.
- (4) The institution shall certify it:
  - (a) has not filed bankruptcy during the past five years;
  - (b) is not under the ownership of any person who has filed bankruptcy associated with the operation of an educational institution during the past five years;
  - (c) is not managed by any person who has filed bankruptcy associated with the operation of an educational institution during the past five years;
  - (d) has not been found to be operating illegally in another state for a least five years.

[5.100.7.10 NMAC - N, 12/26/2017; A, 12/11/2018; A, 12/29/2020; A, 10/24/2023; A, 2/11/2025]

#### **5.100.7.12 COMPLAINT TO THE DEPARTMENT:**

~~A. — A student not satisfied with an institution's resolution of a complaint may submit a complaint to the department in writing on a form provided by the department. A student must file a complaint with the department within three years of their last date of enrollment.~~

~~B. — Upon receipt of a written complaint, the department or its authorized representative shall verify that the complaint involves one or more standards for licensure of the institution and is therefore a legitimate subject of complaint to the department. If the complaint is determined to be legitimate, the department or its authorized~~

representative shall forward the complaint to the institution for a written response and shall facilitate possible resolution of the complaint between the student and the institution. The institution shall have 10 days to forward its response to the department. A copy of the institution's response will be forwarded to the student with a request that the student indicate satisfaction or dissatisfaction with the response.

C. In attempting to resolve a complaint, the department or its authorized representative may, but is not obliged to, convene a hearing or meetings and shall give written notice to the institution and to all persons involved, regarding the time, date, and place of the hearing or meeting. Such hearings or meetings, if held, shall be informal and for the purpose of determining the facts surrounding the claim and whether the parties can come to a resolution or compromise.

D. In the event that the institution refuses to respond or refuses to attend a hearing or meeting:

(1) the department shall make three attempts to contact the institution including at least one attempt through certified mail, to notify the institution of the complaint, request, action, hearing or meeting;

(2) if the institution does not respond or fails to attend the hearing or meeting after three attempts to contact the institution by the department have been made, the department may invoke its powers to take such action as shall be necessary for the indemnification of the claimant.]

A. Upon receipt of a student complaint, the department shall determine whether the complaint meets initial criteria to permit use of the department's complaint procedure. The following initial complaint criteria must be satisfied:

(1) A student must file a complaint with the department within three years of the student's last date of enrollment.

(2) The complaint must be made to the department in writing utilizing the designated complaint form published by the department. The student may include supporting documentation or evidence related to the complaint. The department may request additional documentation from the student, as needed, to conduct an initial assessment.

(3) The complaint must detail and provide evidence that the student has exhausted all complaint procedures at the institution.

(4) The complaint must contain a question of fact or question regarding potential violation of or deviation from policy, regulation, or law.

B. If the department determines the complaint meets the initial complaint criteria, it shall serve as an intermediary in attempting to facilitate a resolution or to obtain information from the institution to eliminate questions of fact or possible violations or deviations from policy, regulation or law raised by the complaint. Satisfaction of initial complaint criteria, in no way means the department has assigned greater weight to the student's allegations. If the department finds that the subject matter of the complaint falls within the investigatory purview of another entity, it may forward the complaint and cease further review (for example the office for civil rights).

(1) Acting as an intermediary, the department shall request a response from the institution addressing the student's complaint. The complaint and any documentation provided by the student shall be sent to the institution with a request for a written response. The institution shall have 10 days to forward its response to the department. The institution may request additional response time, if inquiry into the complaint requires greater than 10 days. The institution may provide any supporting documentation or evidence to address questions or concerns raised by the complaint with the response.

(2) After considering the institution's response and any documentation or evidence supplied by the institution, the department may conduct further inquiry of the parties or may continue to serve as an intermediary for possible compromise between the parties. The department may seek additional clarifying information or supporting documentation from either party and may request additional response from either party.

(3) If the institution accepts the desired outcome proposed by the student in the complaint, the department shall inform the student. If the institution proposes an alternate desired outcome, the department shall convey such information to the student and the student shall indicate acceptance or denial of the alternate proposed outcome, or create a different proposed outcome, to allow for compromise. If at any point, the student and the institution reach an agreed upon outcome, the department may help facilitate fulfillment of the outcome, as necessary.

(4) If the parties are unable to reach a mutually agreeable outcome, the department may, but is not obligated to, convene a meeting between the parties. Such meetings, if held, shall be informal and for the purpose of clarifying the facts surrounding the complaint and to facilitate the parties reaching a resolution or compromise, if possible. If a meeting is convened, the department shall give written notice to the institution and to the student, regarding the time, date, and place of the meeting.

C. The department may help facilitate a compromised resolution between the parties. However, the department shall not impose an outcome and shall not act as an adjudicatory entity. If the department has received evidence to support potential violation of or a deviation from policy, regulation, or law through the department's inquiry, the department may refer the complaint to either law enforcement, the United States department of education, the institution's accreditor, or any other applicable oversight entities for further investigation, as applicable to the type of potential violation or deviation. If the department determines, at any time, that questions raised by the complaint are alleviated or the complaint relates to grades or student conduct violations, it shall cease further inquiry into the complaint and inform the student that the complaint will be closed with no further action by the department.

[5.100.7.12 NMAC - N, 12/26/2017; A, 2/11/2025]