Date: April 20, 2015
To: W-SARA Steering Committee
From: John Lopez and Alan Contreras
Subject: Staff Analysis for New Mexico SARA Application

Recommendation:

W-SARA staff has reviewed the New Mexico application and recommends it for conditional approval. New Mexico has established the legal authority to enter the SARA and has in place complaint processes and other required processes and procedures. In our opinion, it meets the standards for membership.

Comments:

With the passage of SB 446 in the 2015 legislative session, New Mexico gained the legal authority to participate in SARA. The New Mexico Department of Higher Education has been designated as the state portal agency.

A review of the state’s application materials revealed that all necessary elements were enclosed and an existing structure to participate in SARA was already in place. The legislation, contents of the application and department letter certifying necessary acknowledgments related to the application virtually eliminated the need for substantive changes; consequently, W-SARA staff provided editorial feedback with regard to application materials.

Continued discussion was required concerning the state’s compliance with SARA requirements regarding student records in case of catastrophic events. New Mexico department rules apply only to private institutions while SARA requires coverage for all institutions. In response the department indicated many New Mexico institutions are eagerly awaiting the opportunity to participate in SARA, therefore the department requested conditional approval pending passage of appropriate rules. To support its case for conditional approval the department provided examples of its appropriate performance related to this issue with two private institutions within the last few years.
The department has indicated that although rule changes typically require 60 days, essentially including "public" into existing language is a minor enough change that the department will provide draft language no later than May 12th and include language making clear that no NM institution could be approved for SARA participation before the needed rule changes are in place.

Having secured all application materials satisfying SARA requirements, W-SARA staff recommends conditional approval of New Mexico's application to be recognized as a SARA state pending receipt of satisfactory draft rules no later than May 12, 2015.
Appendix B

National Council
for State Authorization
Reciprocity Agreements

Indicate Regional Compact:
- Midwestern Higher Education Compact
- New England Board of Higher Education
- Southern Regional Education Board
- Western Interstate Commission for Higher Education

Application and Evaluation Form
for State Membership in SARA

A state that wants to apply for membership in the State Authorization Reciprocity Agreement (SARA) must submit this form and required documentation to its Regional education compact’s SARA office.

A state may wish to include a cover letter and/or additional documentation to supplement the application and to strengthen the case for a state becoming a member of SARA.

To be accepted into a regional State Authorization Reciprocity Agreement, a state must agree that it can and will operate under the criteria for state membership established in the Regional agreements. The requirements for state membership are set forth below. For purposes of SARA, the term “state” includes the District of Columbia and the organized U.S. Territories.

Requirements for State Membership in SARA

Applicant
State affirms meeting the requirement
Initial here

Evaluator
State meets the requirement

1. The state is a member of one of the four interstate higher education regional compacts that administer SARA, or has concluded an agreement with such a compact covering SARA activity.

2. The state entity responsible for joining SARA has the legal authority under state law to enter an interstate agreement on behalf of the state and has provided a copy of the statutory or other legal authority documenting this.

3. The state accepts institutional accreditation by an accrediting body recognized by the U.S. Secretary of Education as sufficient, initial evidence of academic quality for approving institutions for participation in SARA.

4. The state considers applications from degree-granting institutions of all sectors (public, private non-profit and private for-profit) on the same basis and approves institutions that meet SARA standards and agree to SARA processes and commitments without differentiating by sector.

5. For private institutions, the state accepts the U.S. Department of Education’s institutional financial responsibility rating of 1.5 or above (or 1.0 -1.49 with additional justification) as indicating sufficient financial stability to qualify for participation in SARA.

Rev. 07/16/2014
Requirements for State Membership in SARA (continued)

Applicant
State affirms meeting the requirement

Evaluator
State meets the requirement

6. The state has a clearly articulated and comprehensive state process for consumer protection in regard to SARA activities, both with respect to initial institutional approval and ongoing oversight, including the resolution of consumer complaints in all sectors, and has provided a copy of the complaint investigation and resolution process to be used to handle all complaints resulting from institutional operations (public and nonpublic) under SARA.

7. The state designates a "portal agency" as defined in SARA policies and standards to coordinate SARA matters for the state and provide a principal point of contact for resolution of student complaints.

NOTE: The designated agency need not itself be responsible for all oversight activities of SARA providers inside the state, but will be the SARA portal for that state.

8. The state agrees that it will work cooperatively with other SARA states, regional compacts and NC-SARA to enable success of the initiative. It will follow up on requests for information or investigations from the SARA member states or any SARA regional or national office, providing such data or reports as are required.

9. The state agrees that it will not impose on an institution operating under SARA from another state any requirements, standards, and procedures other than those set forth in SARA policies and rules. This does not preclude the state from enforcing its laws against nondomestic institutions in subject areas outside those covered by SARA.

10. The state agrees to require each SARA applicant institution to apply for state approval using the standard SARA institutional application and agree to operate under the Interregional Guidelines for the Evaluation of Distance Education developed by the Council of Regional Accrediting Commissions (C-RAC), as summarized in SARA policy S(21)-5.

11. The state agrees to serve as the default forum for any SARA-related complaint filed against an institution approved by the state to participate in SARA. The state’s SARA portal agency is responsible for coordinating any such efforts and is empowered to investigate and resolve complaints that originate outside of the state. All other state agencies and governing boards of SARA participant institutions shall assist as necessary in such investigations and report as needed to the portal agency. State remedies, if any, including refunds or other corrective action, must be available to resolve complaints involving residents of other states.

12. The state agrees to document:
   a) all formal complaints received;
   b) complaint notifications provided to institutions and accrediting agencies;
   c) actions taken that are commensurate with the severity of violations; and
   d) complaint resolutions.
13. The state agrees that it will promptly report complaints and concerns to the institution about which the complaint is lodged, the home state SARA portal agency responsible for any such institution and, if appropriate, the relevant accrediting bodies.

14. The state has clear and well-documented policies and practices for addressing catastrophic events, as follows:

   a. The state may request assistance from the institution's accreder as the accreder applies its standards under §602.24(c) of Federal requirements for catastrophic events.

   b. In the event of the unanticipated closure of an institution, the state has processes to assure that students receive the services for which they have paid or reasonable financial compensation for those not received. Such assurances may include tuition assurance funds, surety bonds, teach-out provisions or other practices deemed sufficient to protect consumers.

   c. The state requires Institutions to have adequate disaster recovery plans, particularly with respect to the protection of student records, or the state provides such a plan.

   d. A SARA member state agrees to apply its policies and practices for catastrophic events consistently and equally within each sector (public, private non-profit, and private for-profit) to residents of any state.
Portal Agency Designation and Voluntary State Affirmation

State: New Mexico
Portal Agency (principal SARA contact agency): Higher Education Department
Mailing address of Portal Agency: 2048 Galisteo Street, Santa Fe, New Mexico 87505-2100
Web site of Portal Agency (location of state's SARA information): www.nmhed.state.nm.us
Name of staff member in Portal Agency who is principal SARA contact: David Mathews, General Counsel
Phone number of principal SARA contact: 505-476-8402
E-mail for principal SARA contact: David.mathews@state.nm.us

I, the undersigned representative of the State of New Mexico, having the authority to commit the state to the SARA Interstate agreement, agree that the state will abide by SARA requirements as stated above, have provided proof of those requirements needing documentation, and hereby apply for the state's admission to the SARA Interstate agreement.

Signature: David Mathews
Typed name of signatory officer: David Mathews
Date signed: 1 Apr 2015
Title of signatory state officer: General Counsel

1 The principal contact is the person with whom state agencies and regional compacts should communicate about the state's membership in SARA. It is not necessarily the state signatory officer or the person(s) whom institutions and students should contact regarding institutional membership in SARA, student complaints, and other matters regarding the normal discharge of a state's responsibilities under SARA.
Evaluator Recommendation

For a state to join SARA, the evaluator must find that the state agrees to or meets all of the requirements set forth in sections 1-14. If the evaluator finds that the state meets all required standards, the regional SARA director shall recommend approval of the state’s membership to the regional Steering Committee of the compact by signing below.

The evaluator recommends approval of the application to the regional Steering Committee:

☑ Yes   ☐ No

Evaluator comments:

New Mexico lacks provisions for catastrophic events for public institutions. The portland agency has agreed to provide draft rules by May 12, 2015. They also assure no institutional application will be accepted before rules are in place.

Signature of regional compact officer:  

Name of regional compact officer:  John Lopez, PhD

Date signed:  April 20, 2015

Title of signatory regional compact director:  Director, W - SARA

Signature of regional compact president:  

Name of regional compact president:  DAVID A. LONGABECKER

Date signed:  May 15, 2015

If SARA membership is denied by the regional compact, the regional SARA director will provide to the applicant state a written reason for the denial. The state may reapply at any time, having corrected any deficiencies, or may appeal the denial to the National Council for SARA under procedures to be developed by the Council.
5.5. CLOSURE OF PUBLIC INSTITUTIONS:

A. A public postsecondary institution agrees that it will not cease operation within New Mexico without making appropriate provisions for the completion of programs by its students, if and when the institution ceases operations in New Mexico, or if and when the institution makes a substantial change of location within New Mexico.

B. An institution shall notify the department as soon as possible but in no case fewer than 90 calendar days prior to terminating or moving operations in New Mexico and shall present to the department a plan that provides for (a) completion of programs by its students; (b) preservation of student records, as prescribed herein; and (c) identification of the location of a responsible agent for the school for a period of at least one year following closure.

C. Prior to terminating or substantially moving operations in New Mexico, an institution shall arrange with another public or private institution(s) to complete the instruction of any currently enrolled students who will not have completed their programs at the time of closure or move. Such teach-out shall be arranged at no additional cost to the students beyond that originally agreed to by the student.

D. The department may find teach-out arrangements are not feasible for students in one or more programs offered by the institution, in which case the institution shall refund all tuition and fees paid by the students in question for the current period of enrollment and shall provide appropriate transcripts and evaluations to assist students in transferring their work to another institution.

E. If any public institution discontinues its operation, the chief administrative officer shall file with the New Mexico Higher Education Department, the original or legible true copies of all educational records required by the agency. The department may seek a court order to protect and if necessary take possession of the records.

F. The institution agrees to provide students with access to their academic transcripts in perpetuity after a student has departed from the institution. Such records shall be accessible either through the institution, a successor institution, the Higher Education Department or through the New Mexico state records center and archives or a comparable retrieval facility. An institution shall provide access to financial aid transcripts for at least five (5) years after a student has departed from the institution or for whatever period is required by federal law or regulation or by rules of the New Mexico student loan guarantee corporation, whichever is longest.

G. The method by which students and graduates may obtain transcripts shall be described clearly in the institution's catalog or in other documents provided to students.

H. This rule applies to all public institutions in New Mexico, including, but not limited to those institutions that are members of the State Authorization Reciprocity Agreement, also known as “SARA.”
April 10, 2015

Dr. John Lopez
W-SARA
3005 Center Green Drive
Suite 200
Boulder, Colorado 80301-2204

Dear Dr. Lopez:

Enclosed please find the New Mexico application for admission to SARA. We believe our application is complete and all our public schools are accredited by the Higher Learning Commission. The only method we could find to prove membership in WICHE is the February 2 letter from David Longanecker to Dr. Damron, Cabinet Secretary for the New Mexico Higher Education Department. Our authorizing legislation is SB 446, which is enclosed. That legislation is followed by proof that the legislation was signed by Governor Martinez and chaptered after passage by the legislature.

Please do not hesitate to contact the agency if we can furnish any additional information.

Very truly yours,

David Mathews
General Counsel
New Mexico Higher Education Department
April 15, 2015

Dr. John Lopez, Director
Western Interstate Commission for Higher Education (WICHE)
3005 Center Green Dr. #130
Boulder, CO 80301

RE: New Mexico Application and Evaluation Form for State Membership in SARA

Dear Dr. Lopez:

Pursuant to our recent electronic delivery communications, New Mexico Higher Education Department is hereby submitting its application and Evaluation form for State Membership in SARA.

The following is documentation to confirm the requirements are being met for State Membership in SARA.

1. New Mexico is a member of the Western Interstate Commission for Higher Education (WICHE).

2. The 2015 New Mexico legislature passed Senate Bill 446, "An Act Relating to Higher Education; Creating the Interstate Distance Education Act; Authorizing the Higher Education Department to conduct the Interstate Distance Education Program; Exempting from the Out of State Proprietary School Act courses provided under the Interstate Distance Education; making a technical correction in section 21-1-26.1 NMSA 1978 (Being Laws 1980, Chapter 145, Section 2, as amended). This bill was introduced by the New Mexico Higher Education Department. (Attached)

3. New Mexico accepts institutional accreditation by our accrediting body, Higher Learning Commission recognized by the U.S. Secretary of Education as sufficient evidence of academic quality for approving institutions for participation in SARA.

4. New Mexico considers applications from degree-granting institutions of all sectors – public, private non-private and private for profit on the same basis and approves post-secondary institutions that meet SARA standards for participation
and agree to SARA processes and commitments without differentiating by sector.

Dr. John Lopez

Page 2 March 24, 2015

5. New Mexico accepts the U. S. Department’s of Education’s institutional federal financial responsibility rating of 1.5 or above (or 1.0-1.49) with additional justification as indicating sufficient financial stability to qualify for participation in SARA.

6. New Mexico has a clearly articulated and comprehensive state process for consumer protection in regard to SARA activities, both with respect to initial institutional approval and on-going oversight, including the resolution of consumer complaints in all sectors, and has provided a copy of the complaint investigation and resolution process to be used to handle all complaints resulting from institutional operational (public and non-public) under SARA.

7. The New Mexico Higher Education Department (NMHED) is New Mexico’s “portal agency,” as defined in SARA policies and standards to coordinate SARA matters for the State and provide a principal point of contact for resolution of student complaints.

8. New Mexico agrees that it will work cooperatively with other SARA states, regional compacts and NC-SARA to enable success of the initiative. New Mexico will follow upon requests for information or investigations from the SARA member states or any SARA regional or national office, providing such data or reports as are required.

9. New Mexico agrees that it will not impose on an institution operating under SARA from another state any requirements, standards, fees or procedures other than those set forth in SARA policies and rules. This does not preclude New Mexico from enforcing its laws against nondomestic institutions in subject areas outside those covered by SARA.

10. New Mexico agrees to require each SARA applicant institution to apply for state approval using the standard SARA institutional application and agree to operate under the interregional Guidelines for the Evaluation of Distance Education developed by the Council of Regional Accrediting Commission (C-RAC), as summarized in SARA policy 5(2)1-9.

11. New Mexico agrees to serve as the default forum for any SARA-related complaint filed against an institution approved by the state to participate in SARA. New Mexico’s SARA’s “portal agency” New Mexico Higher Education Department (NMHED) is responsible for coordinating any such efforts and is empowered to investigate and resolve complaints that originate outside of the state. All other state agencies and governing boards of SARA participant institution shall assist as necessary in such investigation and report as needed to NMHED as (portal agency). New Mexico’s remedies, if any, including
refunds or other corrective action, must be available to resolve complaints involving resident of other states.

Dr. John Lopez       Page 3       March 24, 2015

12. New Mexico agrees to document:

   a) All formal complaints received;
   b) Complaint notification provided to institutions and accrediting agencies;
   c) Actions taken that are commensurate with the severity of violations; and
   d) Complaint resolutions.

13. New Mexico agrees that it will promptly report complaints and concerns to the institutions about which the complaint is lodged, the home state SARA portal agency responsible for such institution and, if appropriate, the relevant accrediting bodies.

14. New Mexico has clear and well documented policies and practices for addressing catastrophic events, as follow:

   a) New Mexico may request assistance from the institution's accreditor as the accreditor applies its standards under § 602.24 (c) of federal requirement for catastrophic.
   b) In the event of the unanticipated closure of an institution, New Mexico has processes to assure that students receive the services for which they have paid on reasonable financial compensation for those not received. Such assurances may include tuition assurance funds, surety bonds, teach-out provisions or other practice deemed sufficient to protect consumers.
   c) New Mexico requires institution to have adequate disaster recovery plans, particularly with respect to the protection of student records, or other practices deemed sufficient to protect consumers.
   d) A SARA member state agrees to apply its policies and practices for catastrophic events consistently and equally within each sector (public, private non-profit, and private for profit) to resident of any state.

Attached to this letter is the Application and Evaluation Form for State Membership in SARA.

Sincerely yours,

[Signature]

David Mathews
General Counsel & Principal SARA Contact

Enclosures
STATE OF NEW MEXICO
HIGHER EDUCATION DEPARTMENT

Susana Martinez
Governor

Dr. Barbara Damron
Cabinet Secretary

To: Dr. John Lopez, WICHE
From: David Mathews, General Counsel, Higher Education Department
Date: April 18, 2015
In Re.: SARA application

The New Mexico Higher Education Department (the “Department”) confirms that it is clearly understood our application to SARA, if approved, will be approved as conditional until such time as the Higher Education Department amends the New Mexico Administrative Code (“the rules”) to provide for a process of dealing with the catastrophic event of a public higher educational institution closing, and any other rule changes that may be deemed necessary by WICHE.

The Department states amendments to the rules are necessary to comply with changes in state statute in accordance with the Program Integrity Rules of 34 C.F.R. 600.9 and hopes to have these and other necessary rule changes in place by July 1, 2015, depending upon publication dates available in the New Mexico Register.

The Department has, on several occasions, taken possession of school records and enforced teach-out agreements when private schools have closed. No public school has ever closed in New Mexico and this was not a situation anticipated in the language of the rules. This will be corrected as quickly as possible.

The Department also affirms it will not approve or submit for approval any applications from any public higher education institutions until the above described rule changes are made.
AN ACT


BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 21 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Interstate Distance Education Act"."

SECTION 2. A new section of Chapter 21 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Interstate Distance Education Act:

A. "accreditation" means the status of public recognition that an accrediting agency recognized by the United States department of education pursuant to Title 4 of the federal Higher Education Act of 1965 grants to an institution or educational program that meets the department's established requirements;
B. "complaint" means a formal written assertion that a provision of an agreement pursuant to Subsection B of Section 3 of the Interstate Distance Education Act is being or has been violated;

C. "department" means the higher education department;

D. "distance education" means instruction offered online or through correspondence or interactive video or other means enabling a student in one state to receive instruction from a higher education provider in another state;

E. "higher education" means education or training beyond secondary education;

F. "operate" means providing instruction, marketing, recruiting, tutoring, field experiences and other services for students in support of offering distance education;

G. "physical presence" means the ongoing occupation of a physical location in the state for, or the ongoing maintenance of an administrative office to support, the provision of higher education instruction;

H. "post-secondary educational institution" includes public post-secondary educational institutions and private post-secondary educational institutions;

I. "private post-secondary educational
"institution" means an educational institution that:

(1) operates in the state under the provisions of the Post-Secondary Educational Institution Act;

(2) has a physical presence in the state; and

(3) is not a public post-secondary educational institution;

J. "public post-secondary educational institution" means:

(1) a branch community college of a state educational institution established pursuant to Chapter 21, Article 13 NMSA 1978;

(2) a community college or technical and vocational institute established pursuant to Chapter 21, Article 16 NMSA 1978; and

(3) eastern New Mexico university, western New Mexico university, New Mexico highlands university, northern New Mexico college, the university of New Mexico, New Mexico state university or the New Mexico institute of mining and technology, New Mexico Military Institute; and

K. "state authorization reciprocity agreement" means an agreement, developed by the national council for state authorization reciprocity agreements, that provides uniform standards and parameters for the interstate provision of post-secondary distance education courses and programs."
SECTION 3. A new section of Chapter 21 NMSA 1978 is enacted to read:

"INTERSTATE DISTANCE EDUCATION PROGRAM--AGREEMENT.---

A. The department shall establish a program for facilitating:

   (1) the receipt of distance education by students in the state; and

   (2) the provision of distance education by participating post-secondary educational institutions to students in other states.

B. In furtherance of the provisions of Subsection A of this section, the department may enter into:

   (1) an agreement for the western interstate commission for higher education to administer and the state to participate in a state authorization reciprocity agreement; or

   (2) a reciprocal agreement with another state for the:

      (a) receipt by students in the state of distance education from the other state's institutions that provide higher education instruction and are approved for participation in the reciprocal agreement by the appropriate agency of the other state; and

      (b) provision of distance education by participating post-secondary educational institutions to
students in the other state.

C. The department may terminate an agreement
entered into pursuant to Subsection B of this section
pursuant to the provisions of that agreement or department
rule."

SECTION 4. A new section of Chapter 21 NMSA 1978 is
enacted to read:

"PROGRAM PARTICIPATION BY POST-SECONDARY EDUCATIONAL
INSTITUTIONS--QUALIFICATIONS.--

A. The department shall provide an application
form to allow post-secondary educational institutions to
apply to participate in the interstate distance education
program.

B. The department shall establish qualifications
that an applicant shall demonstrate for acceptance as a
participating post-secondary educational institution. At a
minimum, the department shall require an applicant to provide
documentation showing:

1. compliance with the interregional
guidelines for the evaluation of distance education programs
adopted by the council of regional accrediting commissions;
2. current accreditation; and
3. for private post-secondary educational
institutions, a financial responsibility composite score of
one and five-tenths or greater as assigned by the United
States department of education in its most recent fiscal year report.

C. An applicant accepted for participation in the interstate distance education program shall enter into a participation agreement with the department."

SECTION 5. A new section of Chapter 21 NMSA 1978 is enacted to read:

"MONITORING--COMPLAINT RESOLUTION--SANCTIONS.--
A. The department shall regularly monitor the compliance of participating post-secondary educational institutions with the Interstate Distance Education Act.

B. Upon the receipt of a complaint about a participating post-secondary educational institution, the department shall timely:

(1) monitor the resolution process and resolution by the post-secondary educational institution and document the resolution; or

(2) investigate the complaint, conduct or coordinate a resolution process appropriate for responding to the complaint and document the resolution.

C. The department may sanction a participating post-secondary educational institution that:

(1) fails to resolve a complaint or comply with the department's efforts to respond to a complaint pursuant to Subsection B of this section; or
(2) violates a provision of the Interstate Distance Education Act or an agreement pursuant to Section 3 of that act.

       D. Sanctions the department may impose include:

       (1) requiring the payment of fees, fine or other monetary remedies; or

       (2) the termination or nonrenewal of the participation agreement entered into pursuant to Subsection C of Section 4 of the Interstate Distance Education Act."

SECTION 6. A new section of Chapter 21 NMSA 1978 is enacted to read:

"RULES--REPORTING.--

       A. The department shall publish rules for conducting the interstate distance education program.

       B. By July 31, 2016 and each subsequent year, the department shall report to the legislative finance committee and the legislative education study committee on the interstate distance education program."

SECTION 7. Section 21-1-26.1 NMSA 1978 (being Laws 1980, Chapter 145, Section 2, as amended) is amended to read:

"21-1-26.1. ADDITIONAL DUTIES.--In addition to the duties imposed upon the higher education department in Chapter 21 NMSA 1978, the department shall perform the same planning and budgeting functions for the university of New Mexico hospital as it performs for other post-secondary
SECTION 8. Section 21-24-3 NMSA 1978 (being Laws 1971, Chapter 304, Section 3, as amended) is amended to read:
"21-24-3. EXCEPTIONS.--The Out-of-State Proprietary School Act does not apply to:

A. courses recognized by the public education department for the purpose of complying with the Compulsory School Attendance Law;

B. courses offered by an employer solely for the employer's employees;

C. courses offered by a nonprofit religious institution relating primarily to religion; and

D. courses offered under a participation agreement pursuant to the provisions of Subsection C of Section 4 of the Interstate Distance Education Act."
2015 Regular Session
SB 446
INTERSTATE DISTANCE EDUCATION ACT

Sponsor: John M. Sapien
Current Location: Chaptered

Actions: (Key to Abbreviations)
(Apr. 2) Ch. 23.

🔗 Introduced 0.14 in.
🔗 SEC Committee Report 1.13 in.
🔗 SJC Committee Report 2.22 in.
🔗 SFC Committee Report 3.21 in.
🔗 Final Senate Vote 4.33 in.
🔗 HEC Committee Report 5.30 in.
🔗 Final House Vote 6.33 in.
🔗 Fiscal Impact Report
🔗 LESC Analysis
🔗 Final Version
21-23-7. Claims; limitations; appeals.
A. Any person having a claim against a college, university or career school registered or licensed by the department or that college’s, university’s or career school’s agents, instructors or other personnel shall first seek resolution of the claim with the college, university or career school; thereafter, a person may file a verified complaint with the department, setting forth the basis of the claim and the name and address of the college, university or career school complained against and any other persons involved or having knowledge of the claim. All claims shall be limited to the amount of tuition actually paid or to any charge or fee received by the college, university or career school or its agents or employees.
B. Upon the receipt of a verified complaint, the department or its authorized employee shall attempt to resolve the claim outlined in the complaint. The department or its authorized employee may convene a hearing and shall give written notice to the college, university or career school and to all persons involved of the hearing and its time, date and place. The notice shall state that the hearing is an informal one for the purpose of determining the facts surrounding the claim and, if the claim is correct, to effect a settlement by persuasion and conciliation.
C. In the event that the party complained against refuses to attend the hearing or effect the settlement of any claim determined by the department to be correct, the department shall invoke its powers to take such action as shall be necessary for the indemnification of the claimant.
D. Any person aggrieved by a department decision rendered subsequent to a claim hearing may appeal to the district court in the judicial district in which the hearing was conducted. The appeal shall be based upon the record established at the claim hearing.

21-23-6. Registration of colleges and universities; submission of materials.
A. Every college or university operating in New Mexico that is regionally accredited or seeking regional accreditation by an accrediting agency approved by the department shall register with the department.
B. A college or university registering with the department pursuant to this section shall provide curriculum and enrollment information, financial information and all publication materials requested by the department.
C. A college or university registering with the department shall adopt a procedure for the resolution of student complaints.
D. A college's or university's registration is valid for the same period as its grant of regional accreditation from its accrediting agency.

21-23-6.2. Licensure standards; requirements; fee authorization.

A. Every career school and nonregionally accredited college and university operating in the state shall annually apply to the department for licensure. The career school and nonregionally accredited college or university shall apply on forms approved by the department, shall supply all information requested by the department and shall pay an annual licensure fee set by the department.

B. The department or its designee shall consider information submitted by the career school and nonregionally accredited college or university, information from independent accreditation bodies and information gathered during visits to the career school and nonregionally accredited college or university in determining eligibility for licensure.

C. The department shall promulgate and file, in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], rules that:
   (1) require each career school and nonregionally accredited college and university to supply annually information regarding enrollment, program completion by students, employment and other educational placements of students and operating revenue budgets;
   (2) provide standards and methods for the evaluation and appraisal of career schools and nonregionally accredited colleges and universities;
   (3) provide for a tuition refund policy;
   (4) require maintenance of adequate records by each career school and nonregionally accredited college and university and provide reasonable availability of records for inspection;
   (5) regulate the use of deceptive and misleading advertising and determine what information shall be furnished each student prior to enrollment;
   (6) assure that any career school or nonregionally accredited college or university licensed pursuant to the Post-Secondary Educational Institution Act has entered into a teach-out agreement with at least one other private or public institution operating in the state unless the department determines that such an agreement is not feasible;
   (7) provide standards for the award of associate, baccalaureate, master's and doctoral degrees;
   (8) require all degree-granting schools to seek appropriate external accreditation by an agency recognized by the federal department of education as a means of assuring quality instruction;
   (9) name an advisory committee of education providers and consumers, including owners and operators of career schools and nonregionally accredited colleges and universities;
   (10) provide for the maintenance of records for career schools and nonregionally accredited colleges and universities no longer in operation;
   (11) provide standards for the evaluation of the financial stability and ability to meet the commitments of career schools and nonregionally accredited colleges and universities;
   (12) require each career school and nonregionally accredited college and university to adopt a procedure for the resolution of student complaints; and
   (13) establish other requirements necessary to carry out the provisions of the Post-Secondary Educational Institution Act.

D. The department may solicit information pertaining to the financial history and stability of a career school or nonregionally accredited college or university and its owners, including information pertaining to actions of bankruptcy filed within the immediately preceding five years. The department may consider such information in determining eligibility for licensure.

5.100.2 NMAC

5.100.2.25 COMPLAINTS AGAINST THE INSTITUTION:

A. An institution licensed by the department shall have and make available to all students a written 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. a 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.

B. The institution shall maintain adequate records of all complaints and their resolutions for a period of not less than three years.

C. Complaint to the department. A student or other party 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 (3) years of his/her last date of enrollment.

D. 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 encourage resolution of the complaint between the student and the institution. The institution shall have thirty (30) 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.

E. In attempting to resolve a verified complaint, the department or its authorized representative may, but is not obliged to, convene a hearing and shall give written notice to the institution and to all persons involved, regarding the time, date, and place of the hearing. Such hearings, if held, shall be informal and for the purpose of determining the facts surrounding the claim and, if the claim is correct, to effect a settlement by persuasion and conciliation.

F. In the event that the party complained against refuses to attend the hearing or effect the settlement of any claim determined by the department to be correct, the department shall invoke its powers to take such action as shall be necessary for the indemnification of the claimant.

[2-27-85, 6-30-92, 7-1-94, 9-30-96, 2-15-00, 5.100.2.25 NMAC - Rn, 5 NMAC 100.2.25, 5-15-01; A, 7/31/05]

http://164.64.110.239/nmac-parts/title05/05.100.0002.htm

4/9/2015
NEW MEXICO HIGHER EDUCATION DEPARTMENT

COMPLAINT FORM

Name: ____________________________________________________________

Last | First | Middle Initial

Address: __________________________________________________________

City | State | Zip

Phone Number:  Home: _____________________________________________

Work: ___________________________________________________________

Cell: ___________________________________________________________

Name and Address of Institution against which you are making a complaint:

Name of Institution: ______________________________________________

Address: _________________________________________________________

City | State | Zip

Indicate which of the following apply to the named institution (may check more than one):

☐ Private  ☐ Public  ☐ In-State (NM)  ☐ Out-of-State  ☐ Distance Learning

Indicate your relationship to institution (check one):

☐ Student  ☐ Faculty  ☐ Other (please specify) ______________________

Have you filed a formal complaint with the institution using its complaint procedure? If yes, please attach all relevant documentation, including any response you received from the institution. If not, what was your reason for not doing so?

☐ Yes  ☐ No
NEW MEXICO HIGHER EDUCATION DEPARTMENT

Program of Study at the Institution: _______________________________
Dates of Attendance: _______________________________
Graduation Date: _______________________________

Indicate which of the following pertain to the nature of your complaint:

☐ Financial Aid                                      ☐ Veterans Affairs
☐ Sexual Misconduct                                 ☐ Fraud/Embezzlement
☐ Discrimination                                    ☐ Unlicensed Activity
☐ Advertising Violation                             ☐ Other
☐ Medical/Disability*

*If the complaint is medical in nature, please complete the HIPAA release form.

Please describe your complaint:

__________________________________________________________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

* Additional pages/documents may be attached if needed. Name attachments here:

__________________________________________________________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

Have you filed a formal complaint with the institution's accrediting agency? If yes, please attach all relevant documentation, including any response you received from the accrediting agency, and describe the outcome.

☐ Yes
☐ No

__________________________________________________________________________________________

__________________________________________________________________________________________

What specific resolution are you seeking from the institution?

__________________________________________________________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________
NEW MEXICO HIGHER EDUCATION DEPARTMENT

I understand that my name and a copy of my complaint may be sent to the appropriate entities, including the institution, in order for the Department to pursue my complaint.

I, ___________________________ Authorize such action by the Department
ACKNOWLEDGEMENT

I affirm that the above statements pertaining to my complaint are accurate and truthful.

_____________________________    __________________________
Signature                          Date

The form MUST BE NOTARIZED in the space below

State of: ______________________  County of: ______________________
Subscribed and sworn to before me on this ________ Day of __________, 20_____
Notary Public: ____________________  Commission Expiration Date: __________

Seal

FOR NMHED USE ONLY

Date complaint received ____________________________
Date complaint mailed to Institution ____________________________
Date response received from Institution ____________________________

Complaint Number:

2048 Galisteo Street, Santa Fe, New Mexico  87505-2100
Office: (505) 476-8400    Facsimile: (505) 476-8453
www.hed.state.nm.us