

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Higher Education Department (NMHED or Department) will hold a public rulemaking hearing on May 28, 2026. The hearing will begin at 10:30 AM and will be held via Microsoft Teams and in person at the New Mexico Higher Education Department. The purpose of the hearing is to take public comment regarding the proposed repeal and replacement of **5.3.9 NMAC, CAPITAL BUDGETS - PLANNING AND FUNDING RECOMMENDATIONS**.

Join via Microsoft Teams:

<https://teams.microsoft.com/meet/212517908545?p=IezDf2n5udwZmbtW3q>

Or call in (audio only):

+ 1 (505) 312-4308

Phone Conference ID: 318 337 66#

Purpose:

The purpose of the proposed repeal and replacement of 5.3.9 NMAC is to update and clarify the processes by which the Department reviews, evaluates, and recommends capital outlay projects submitted by public post-secondary educational institutions and tribal colleges. The amendments correct the statutory authority for the rule, expand its applicability to tribal colleges, and incorporate new definitions and review criteria to ensure consistent and transparent administration of capital planning requirements. The proposed changes also implement provisions established by the enactment of House Bill 8 (H.B. 8), 59th Legislature, 1st Session (2026), which created the Higher Education Major Projects Fund to be administered by the Department. The amendments establish procedures, matching requirements, and eligibility standards necessary for the Department to administer the fund and evaluate major capital project requests in accordance with legislative direction. Additional revisions align institutional planning requirements with the Department of Finance and Administration's Infrastructure Capital Improvement Plan guidelines and make technical and editorial updates to improve clarity and readability.

Summary of Proposed Rule:

Significant proposed changes are made throughout the rule to incorporate provisions related to the Higher Education Major Projects Fund. This includes various proposed changes within the 5.3.9 NMAC sections listed below:

5.3.9.2 NMAC, SCOPE

5.3.9.5 NMAC, EFFECTIVE DATE

5.3.9.6 NMAC, OBJECTIVE

5.3.9.8 NMAC, REVIEW CRITERIA

5.3.9.8 NMAC, INSTITUTIONAL FACILITY PLANNING

Additionally, corrections are made to 5.3.9.3 NMAC, STATUTORY AUTHORITY and various definitions are added to the previously reserved section 5.3.9.7 NMAC, DEFINITIONS. Grammatical and stylistic changes are also included.

Details for Obtaining a Copy, Public Hearing and Comments:

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

A public hearing will be held on May 28, 2026 from 10:30 AM until 11:30 AM via Microsoft Teams and in person at the NMHED Office located at **2044 Galisteo Street, Suite 4, Santa Fe, NM 87505**. Any person who is or may be affected by this proposed rule may participate. Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or HigherEd.Info@hed.nm.gov. **Written comments must be received no later than 4:00 p.m. on May 22, 2026**. Please note that any written or verbal comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal and be accessible to the public.

If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-1 et seq. NMSA 1978, Section 21-1-21 NMSA 1978 and Section 21-1-26 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter or auxiliary aid or service to attend or participate in the hearing should contact (505) 476-8411 or email HigherEd.Info@hed.nm.gov ten (10) business days prior to the hearing.