

# NEW MEXICO JUNIOR COLLEGE

## BOARD MEETING

Thursday, August 20, 2020  
Ben Alexander Building – Daniels Room  
1:30 pm

### AGENDA

- |   |                |
|---|----------------|
| A. Welcome  | Pat Chappelle  |
| B. Adoption of Agenda   | Pat Chappelle  |
| C. Approval of Minutes of July 16, 2020                                       | Pat Chappelle  |
| D. President's Report   | Kelvin Sharp   |
| E. New Business   |                |
| 1. Monthly Expenditure Reports  | Dan Hardin     |
| 2. Monthly Revenue Report   | Dan Hardin     |
| 3. Oil and Gas Revenue Report   | Dan Hardin     |
| 4. Schedule of Investments  | Dan Hardin     |
| 5. Consideration of Research & Public Service Projects (RPSP) Funding         | Dan Hardin     |
| 6. Consideration of a 135-Mile Rule, Out-of-District Rate                     | Dan Hardin     |
| 7. Consideration of Disposal of Inventory Through Public Auction              | Josh Morgan    |
| 8. Consideration of Adoption of Revised Title IX Policy & Grievance Procedure | Cathy Mitchell |
| F. Public Comments  | Pat Chappelle  |
| • Phone Number (575) 492-2595   |                |
| • Fax Number (575) 492-2559   |                |
| G. Determination of Next Meeting  | Pat Chappelle  |
| H. Adjournment  | Pat Chappelle  |

**NEW MEXICO JUNIOR COLLEGE  
BOARD MEETING  
JULY 16, 2020  
MINUTES**

The New Mexico Junior College Board met on Thursday, July 16, 2020, beginning at 1:35 p.m. in the Ben Alexander Building, Daniels Room. The following members were present: Ms. Patricia Chappelle, Madam Chair; Mr. Ron Black, Secretary; Mr. Travis Glenn; Mr. Manny Gomez; Mrs. Erica Jones; and Mr. Hector Baeza. Ms. Evelyn Rising was absent.

Ms. Chappelle called the meeting to order and welcomed guests attending via livestream due to the current COVID-19 pandemic and the current Public Health Order requiring social distancing. She commented in response to the Governor's order, guidelines of no more than ten people will be allowed in the room and presenters will be invited in one at a time. Ms. Chappelle encouraged the public to participate and provide public comments at the end of the formal agenda to either (575) 492-2595 or by fax to (575) 492-2559.

Upon a motion by Mr. Glenn, seconded by Mr. Gomez, the agenda was unanimously adopted.

A request was made by Mr. Glenn for an amendment of the minutes under the President's Report to read "Lease" rather than "Leaser". Upon a motion by Mr. Gomez, seconded by Mr. Baeza, the Board unanimously approved the minutes of June 25, 2020, as amended.

***Under President's Report,*** Dr. Sharp reported Higher Education Department's final report for the reopening of campuses has been received and noted responses are due on Monday, July 20, 2020. He stated NMJC's plans are to bring students back to campus with face to face classes while adhering to the social distancing guidelines, wearing of masks, and cleaning protocols. In addition, he stated faculty and staff are working to ensure students are prepared for the possibility of enforced online classes. At this time, Dr. Sharp invited Dr. Charley Carroll to provide construction updates of significant projects on campus.

Dr. Charley Carroll reported the Facility Management System, which will allow better control of temperatures on campus, is approximately 15% complete and the Fire Alarm System project is approximately 57% complete with plans of installation to student apartments next summer. The McLean Hall cosmetology renovations, which began in March 2020, are progressing well and are anticipated to be completed by February 2021. Demolition is complete, plumbing is being installed, studded walls are going up, fire suppression lines are moving forward and new duct work in the mechanical room is being constructed. The Caster Activity Center remodel began in June 2020 with demolition currently in process. The remodel is progressing on schedule with a completion date in June 2021. The remodel of the Literacy Alliance Center with new flooring, new countertops and a general facelift is scheduled to be completed in August 2020. Construction of the police academy/bus storage facility began in March 2020 and is scheduled to be completed this week. The new golf building is awaiting a construction permit and is scheduled to begin construction this month. A new LED sign has been installed at the Training & Outreach building. The Watson Hall music department has been moved to the Entertainment & Technology building. Upcoming summer projects are reroofing of the Western Heritage Museum (WHM) and the addition of shade structures across campus. Mr. Glenn asked what issues WHM roof was having. Dr. Carroll responded there have been leaking issues. He stated a better quality roof will replace the original roof and will also assist with the heating and cooling of the museum. Mr. Gomez asked if cooling/heating units will need to be changed. Dr. Carroll responded the museum has an independent system that operates from an enclosed area at ground level. Mr. Gomez asked if the shade structures are part of the Master Plan. Dr. Carroll responded shade structures are a part of the Master Plan. Dr. Sharp noted one of the first shade structures to be installed will be outside of the snack bar area providing an additional area for students to eat while adhering to social distancing.

Dr. Sharp invited Dr. Larry Sanderson to provide a Quarterly Performance Report. Dr. Sanderson reported there has been a change in leadership of the Nursing Program. Mrs. Cammie Armstrong will serve as the Interim Director of the Nursing Program replacing Mrs. Misty Stine whose desire, after considerable consideration, was to return to work in the emergency room. The incoming cohort, beginning in August, will have forty-seven students with orientation scheduled for

July 29 and boot camp scheduled for July 30. Dr. Sanderson announced the first Licensed Practical Nurse class is scheduled for this fall. The current Law Enforcement Academy is scheduled to be completed in August. The next academy, following approximately three weeks later, currently has thirty-one students signed up and several on a waiting list. Coming in the near future, a Security & Firearms Training Simulator will be installed. A Certification by Waiver class with seven students is currently ongoing. The certification will allow students who have taken a law enforcement academy outside the State of New Mexico, but are not certified as law enforcement officers, to take the class to become certified to work for law enforcement agencies in the State of New Mexico. In the near future, it is hopeful a Telecommunications Academy class will be provided. Dr. Sanderson reported the GM instructor in the Automotive Program has retired, therefore the GM classes have been temporarily shelved. There are currently two Ford cohorts with plans to add an additional two cohorts in the next two years. A diesel instructor has been located and diesel classes are expected to begin in the fall. Instructors of “hands on” classes are working on front loading of classes in the event online classes are enforced.

Dr. Sharp invited Mrs. Cathy Mitchell to join Dr. Sanderson in providing the Reopening Plan for the NMJC campus. Dr. Sanderson reiterated face to face classes are planned for the fall. Faculty and staff will continue with COVID-19 screening on a daily basis but noted the campus is currently not in a position to screen all students in the same fashion. Faculty, staff and students will be required to wear masks. Instructors will not be required to wear masks while teaching but will be required to teach within a limited area to maintain the required distancing from students. Classes will be shuffled to maintain physical spacing of students. Mrs. Mitchell reported housing will provide single occupancy bedrooms. Athletes will be grouped together by sport so hallways can be isolated and testing can be done in the event of a COVID-19 case. In addition, quarantine rooms have been identified. Out of state/country students will be quarantined for testing when arriving on campus. The Housing Department has moved to all online forms for students. Thermometers have been included in packets that will be distributed to housing students and all housing students will be asked to monitor their temperatures. On a daily basis, student athletes will be required to monitor their temperature and submit to their coaches online. In the event of a single positive COVID-19 case in a classroom, classes will be relocated for cleaning of the

classroom and the facility area. Faculty are required to maintain a daily class attendance inventory on canvas to assist in effectively identifying where students have been. Mrs. Mitchell noted access to the dining hall has been expanded. The cafeteria will open at designated times to students with meal plans while adhering to the required social distancing. The snack bar area will have “in and out” grab and go meals. Dr. Sanderson noted supplies of wipes will be available to students before and after each class. Cleaning of classrooms between classes will not be possible due to time restraints but in-depth cleaning will be done each evening. In the event of full online classes, economic laptops for students who do not have laptops are being located. In addition, computer labs with proper distancing are being identified. Dr. Sharp added athletic seasons have changed. He noted golf and cross country half marathon will be held in the fall while all other sports will move to spring. He stated further athletic updates will be provided in August. Mr. Gomez asked if there are plans to reduce the number of students enrolling for the fall semester. Dr. Sanderson responded NMJC is able to manage the physical spacing of students, therefore limits to enrollment will not be necessary.

*Under New Business,* Dr. Sharp presented Retirement Resolutions to Gayle B. Abbott for twenty years and nine months of service, Kathy Flores for twenty-five years and eight months of service, Walter F. Journigan for fourteen years and six months of service, Carol M. Marquez for thirty years of service, Peter Mladinic for thirty years of service, Felicitas Munoz for eleven years of service, Ysabella Rascon for fourteen years and eleven months of service, Drew K. Sanders for thirteen years of service, Patricia Youngblood for eighteen years of service, and Cynthia Zambrelli for seventeen years and six months of service. Upon a motion by Mr. Glenn, seconded by Mr. Gomez, the Board unanimously approved the Retirement Resolutions as presented. Dr. Sharp and the Board thanked the retirees for their years of service and dedication to the NMJC students.

Mr. Dan Hardin presented the June 2020 financial reports. Upon a motion by Mr. Gomez, seconded by Mr. Baeza, the Board unanimously approved the Expenditure Report for June 2020. In addition, the Revenue Report, Oil and Gas Revenue Report, and Schedule of Investments Report were reviewed.

Mr. Hardin presented the Fiscal Watch Report for the quarter ending June 30, 2020. Upon a motion by Mr. Glenn, seconded by Mrs. Jones, the Board unanimously approved the report as presented.

Mr. Hardin presented a consideration of an adjustment to the FY 21 budget. He reported following the special session, NMJC's budget was cut in the amount of \$852,100.00. To reduce expenditures, administration requested approval to remove the 4% compensation of \$465,000.00 and delete vacant positions that will not be filled in FY 21 in the amount of \$387,100.00 for a combined amount of \$852,100.00. Mr. Black asked if one time compensations are included in the budget. Mr. Hardin responded the one time compensations are not included in the budget but stated funds are included in capital funds. Mr. Gomez asked how many positions will not be filled in FY 21. Mr. Hardin responded seven positions. Upon a motion by Mr. Glenn, seconded by Mr. Gomez, the Board unanimously approved the FY 21 budget adjustment.

Mr. Hardin presented consideration of a Roof Replacement to Western Heritage Museum. Administration recommended G&G Roofing and Jim Koontz Engineering to design and replace the roof at a total cost of \$499,786.94 and noted funding for this project was approved at the April 16, 2020 board meeting. Upon a motion by Mr. Gomez, seconded by Mrs. Jones, the Board unanimously approved this request. Mr. Glenn asked when the project is scheduled to begin. Mr. Hardin responded the project will begin in September or October, 2020.

Mr. Hardin presented consideration of a Housing Rate Adjustment for FY 21. Mr. Hardin noted in compliance with the social distancing guidelines due to COVID-19, administration recommends all dorm rooms be utilized as single occupancy rooms. In addition, administration recommended the charge for a single occupancy dorm room to be \$825.00 rather than \$1,200.00 per semester, and administration recommended the charge for an apartment bedroom to be \$825.00 with the purchase of a 15 or 19 meal plan. The normal rate of \$1,700.00 would apply without the purchase of a meal plan. Administration requested approval to modify the housing occupancy and rates for FY 21. Mr. Hardin reported this adjustment will impact the FY 21 revenue for housing by approximately \$216,000.00. Upon a motion by Mr. Glenn, seconded by Mr. Gomez, the Board unanimously approved the recommended changes in occupancy and rates.

Ms. Chappelle called for comments from the public. There being none, the next regular board meeting was scheduled for Thursday, August 20, 2020 beginning at 1:30 pm.

Upon a motion by Mr. Gomez, seconded by Mr. Baeza, the board meeting adjourned at 2:58 pm.

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Pat Chappelle, Chair

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Ron Black, Secretary

# NEW MEXICO JUNIOR COLLEGE

Vice President for Finance

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To: **New Mexico Junior College Board Members**  
From: Dan Hardin  
Date: August 14, 2020  
RE: Expenditure and Revenue Reports for July 2020

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July is the first month of the 2020/2021 fiscal year. The total expended for the month of July was \$3,381,989.00, with a year-to-date total of \$24,376,927.00. Normally in July of each fiscal year the amount expended during the month is the same as the year-to-date total. This year is different because the College has so many large capital projects going, the purchase orders that were in place at the end of FY 20 have been rolled over into FY 21. These purchase orders are for the McLean Hall renovation, Caster Activity Center renovation, Fire Alarm Upgrade, Facility Management system upgrade, and Golf Building project. JoeMike Gomez, Purchasing Coordinator, will also set up new purchase orders for FY 21 for the normal recurring monthly expenditures such as the utilities and custodial supplies.

In current unrestricted funds for July, expenditures were \$2,039,088.00 for the month. Most of these expenses are the normal monthly payroll and benefit expenditures. You can see the comparison of FY 21 to FY 20 most areas track along with what was expended in July of last year. Internal Services (Computer Services, Motor Pool, & Document Center) have monthly credits posted to these departments.

Restricted funds expended \$218,036 for the month, most of which are normal expenditures for the grants along with student aid for the summer sessions.

As mentioned, the expenditures in the plant funds are for the five major construction projects currently in progress. There is a tremendous amount of activity on campus.

The total expenditures for the month are \$3,381,989.00, with the year-to-date total being \$24,376,927.00

The Current Unrestricted Revenue generated in July 2020 was \$1,922,203.00. This consists of tuition and fees, the allocation from the State, Oil and Gas accrual of \$465,000.00 and auxiliary enterprises revenue. Registration for the FY 21 summer and fall semesters began in April, in August the deferred revenue from the tuition and fees will be posted. The Oil and Gas revenue in July is also different because the Oil and Gas revenue received in July is booked in the prior fiscal year, so the monthly accrual of \$465,000.00 is posted for the Oil and Gas revenue in July. The Oil & Gas report is



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reporting the revenue that goes into FY 20. In July, the College received \$435,634.00 for the month of April 2020 as compared to the \$2,126,830.00 in Oil & Gas revenue received last year for the month of April 2019. There will be two more months of Oil & Gas revenue to be posted in FY 20. The College has been drawing down on GOB and STB funds for the McLean Hall renovation, Fire Alarm upgrade, and Facility Management upgrade.

The investment report shows no activity in the LGIP funds for the month of July with the ending balance remaining at \$40,593,127.00 and \$3,000,000.00 in Lea County State Bank CDARs. Total investments at the end of July is \$43,593,127.00. As of the end of July, the College had \$40,271,949.04 in designated capital projects.

Josh Morgan and other Business Office personnel have been working diligently to get the 19/20 fiscal year end closed and prepare for the upcoming audit. The auditors have been working on the audit remotely, but there is a possibility the auditors will be on campus the week of September 7th. Human Resources, Financial Aid, NMJC Foundation, and the Bookstore staff have also worked hard to provide information for the audit team. We appreciate and thank these folks for their attention to detail, their professionalism, and their timely response to audit team questions.

This is the Financial Report for July 2020.

# NEW MEXICO JUNIOR COLLEGE

## Expenditure Report

### July 2020

8% of Year Completed

Fund	2019-20			2020-21			
	Final Budget	Year-to-Date Expended or Encumbered	Percentage of Budget Expended	Budget	Current Expended or Encumbered	Expended or Encumbered	Percentage of Budget Expended
<b>CURRENT UNRESTRICTED FUND</b>							
<b>Instruction and General:</b>							
Instruction	11,862,407	519,463	4%	10,267,223	413,487	413,487	4%
Academic Support	2,569,083	213,558	8%	2,372,925	212,375	212,375	9%
Student Services	2,207,388	145,181	7%	2,121,047	139,061	139,061	7%
Institutional Support	4,648,321	354,567	8%	4,566,506	328,569	328,569	7%
Operation & Maintenance of Plant	3,988,457	413,601	10%	3,983,813	416,741	416,741	10%
<b>Subtotal - Instruction &amp; General</b>	<b>25,275,656</b>	<b>1,646,370</b>	<b>7%</b>	<b>23,311,514</b>	<b>1,510,233</b>	<b>1,510,233</b>	<b>6%</b>
Research	0	20,648		0	8,782	8,782	
Public Service	50,000	253	1%	50,000	1,012	1,012	2%
Internal Service Departments	189,176	4,280	2%	109,089	1,213	1,213	1%
Student Aid	685,880	64,488	9%	710,880	7,513	7,513	1%
Auxiliary Enterprises	2,722,498	317,114	12%	2,160,172	420,226	420,226	19%
Athletics	2,308,988	126,086	5%	2,267,001	90,109	90,109	4%
<b>Total Current Unrestricted Fund</b>	<b>31,232,198</b>	<b>2,179,239</b>	<b>7%</b>	<b>28,608,656</b>	<b>2,039,088</b>	<b>2,039,088</b>	<b>7%</b>
<b>CURRENT RESTRICTED FUND</b>							
Grants	949,794	45,328	5%	908,797	42,907	42,907	5%
Student Aid	3,862,038	11,588	0%	3,862,038	175,129	175,129	5%
<b>Total Current Restricted Fund</b>	<b>4,811,832</b>	<b>56,916</b>	<b>1%</b>	<b>4,770,835</b>	<b>218,036</b>	<b>218,036</b>	<b>5%</b>
<b>PLANT FUNDS</b>							
Capital Outlay / Bldg. Renewal & Repl.							
Projects from Institutional Funds	26,982,338	918,571	3%	29,729,122	1,101,933	21,971,957	74%
Projects from State GOB Funds	4,764,218		0%	1,702,500			0%
Projects from State STB Funds	0			900,000			0%
Projects from General Fund	938,466			353,400			0%
Projects from Private Funds							0%
Projects from State ER&R	335,000		0%	335,000	13,711	123,562	37%
Projects from State BR&R	598,000		0%	598,000	9,221	24,284	4%
Subtotal - Capital and BR&R	<b>33,618,022</b>	<b>918,571</b>	<b>3%</b>	<b>33,618,022</b>	<b>1,124,865</b>	<b>22,119,803</b>	<b>66%</b>
Debt Service							
Revenue Bonds	0		0%	0			0%
<b>Total Plant Funds</b>	<b>33,618,022</b>	<b>918,571</b>	<b>3%</b>	<b>33,618,022</b>	<b>1,124,865</b>	<b>22,119,803</b>	<b>66%</b>
<b>GRAND TOTAL EXPENDITURES</b>	<b>69,662,052</b>	<b>3,154,726</b>	<b>5%</b>	<b>66,997,513</b>	<b>3,381,989</b>	<b>24,376,927</b>	<b>36%</b>

**NEW MEXICO JUNIOR COLLEGE**  
**Revenue Report**  
**July 2020**

8% of Year Completed

Fund	2019-20			2020-21			
	Final Budget	Year-to-date Revenue	Percentage of Budget Received	Budget	Current Revenue	Year-to-date Revenue	Percentage of Budget Received
<b>CURRENT UNRESTRICTED FUND</b>							
<b>Instruction and General:</b>							
Tuition and Fees	3,931,431	527,979	13%	3,914,806	442,323	442,323	11%
State Appropriations	6,546,216	505,185	8%	5,747,200	535,075	535,075	9%
Advalorem Taxes - Oil and Gas	21,663,449	465,000	2%	7,235,000	465,000	465,000	6%
Advalorem Taxes - Property	10,500,000	0	0%	9,200,000			0%
Interest Income	10,000	0	0%	9,000	53	53	1%
Other Revenues	204,646	39,654	19%	196,418	6,015	6,015	3%
<b>Subtotal - Instruction &amp; General</b>	<b>42,855,742</b>	<b>1,537,818</b>	<b>4%</b>	<b>26,302,424</b>	<b>1,448,466</b>	<b>1,448,466</b>	<b>6%</b>
Research			0%				0%
Public Service			0%				0%
Internal Service Departments	41,148		0%	9,000			0%
Auxiliary Enterprises	3,008,585	357,326	12%	2,846,886	429,112	429,112	15%
Athletics	568,984	47,415	8%	535,500	44,625	44,625	8%
<b>Total Current Unrestricted</b>	<b>46,474,459</b>	<b>1,942,559</b>	<b>4%</b>	<b>29,693,810</b>	<b>1,922,203</b>	<b>1,922,203</b>	<b>6%</b>
<b>CURRENT RESTRICTED FUND</b>							
Grants	949,794		0%	908,797	86,881	86,881	10%
Student Aid	3,862,038	9,193	0%	3,862,038	201,048	201,048	5%
<b>Total Current Restricted</b>	<b>4,811,832</b>	<b>9,193</b>	<b>0%</b>	<b>4,770,835</b>	<b>287,929</b>	<b>287,929</b>	<b>6%</b>
<b>PLANT FUNDS</b>							
Capital Outlay / Bldg. Renewal & Repl.							
Projects from State GOB Funds	4,702,500		0%	1,702,500	216,512	216,512	13%
Projects from State STB Funds	0		0%	900,000			0%
Projects from General Fund	792,000		0%	353,400			0%
Projects from Private Funds			0%				0%
Interest Income (LGIP)	250,000		0%	120,000			0%
<b>Total Plant Funds</b>	<b>5,744,500</b>	<b>0</b>	<b>0%</b>	<b>3,075,900</b>	<b>216,512</b>	<b>216,512</b>	<b>7%</b>
<b>GRAND TOTAL REVENUES</b>	<b>57,030,791</b>	<b>1,951,752</b>	<b>3%</b>	<b>37,540,545</b>	<b>2,426,644</b>	<b>2,426,644</b>	<b>6%</b>

# NEW MEXICO JUNIOR COLLEGE

## Oil and Gas Revenue Report

### June 2020

100% of Year Completed

		OIL		GAS		COMBINED		
Sales	Month of	Price per BBL	Lea County BBLs sold	Price per MCF	Lea County MCF sold	Monthly Revenue	2019-20 Original Budget	Variance Over (Under) Budget
	Distribution							
Actual	July	\$53.17	15,826,651	\$1.87	40,911,285	1,918,511	465,000	1,453,511
Actual	August	\$50.64	16,662,235	\$2.04	44,356,736	2,006,610	465,000	1,541,610
Actual	September	\$53.03	16,418,876	\$2.47	44,032,152	2,064,306	465,000	1,599,306
Actual	October	\$50.96	16,814,474	\$2.64	44,194,264	2,093,101	465,000	1,628,101
Actual	November	\$54.50	17,057,354	\$2.74	44,400,786	2,250,999	465,000	1,785,999
Actual	December	\$57.43	18,261,365	\$2.59	48,541,704	2,521,591	465,000	2,056,591
Actual	January	\$55.29	19,387,803	\$2.14	51,971,329	2,526,222	465,000	2,061,222
Actual	February	\$48.09	18,300,193	\$1.73	47,273,267	2,031,212	465,000	1,566,212
Actual	March	\$27.95	19,621,959	\$0.90	48,326,763	1,265,110	465,000	800,110
Accrual	April	\$13.81	16,783,796	\$0.88	45,483,227	435,634	465,000	(29,366)
Accrual	May					465,000	465,000	0
Accrual	June					465,000	465,000	0
Y.T.D. Production Tax Revenue						20,043,296	5,580,000	14,463,296
Y.T.D. Equipment Tax Revenue						3,963,898	1,655,000	2,308,898
Total Year-to-Date Oil & Gas and Equipment Tax Revenue						<u>24,007,194</u>	<u>7,235,000</u>	<u>16,772,194</u>

Source: New Mexico Taxation and Revenue Department

# NEW MEXICO JUNIOR COLLEGE

## Schedule of Investments

### July 2020

8% of Year Completed

Financial Institution	Amount Invested	Account Number	Interest Rate	Interest Earned
State of New Mexico Local Government Investment Pool	40,593,127	7102-1348	0.340%	13,019
Plus deposits	0			
Less withdrawals	0			
<b>Total LGIP investments</b>	<b>40,593,127</b>			<b>13,019</b>
Lea County State Bank CDAR	<b>3,000,000</b>		2.30%	

Capital Project	7/31/2020
Vehicles	686,920.58
Campus Master Plan	603.45
Law Academy Building	2,414.44
Computer Labs/ITV Upgrade	200,000.00
Campus Vestibules	1,250,000.00
Voc B Airhandler	200,000.00
Technology Upgrade	703,357.72
JASI	9,413.75
WHM South Gallery	266,594.43
Baseball Field	68,305.66
Rodeo Arena	35,232.99
Fire Alarm Upgrade	2,057,983.99
Luminis Software	2,993.00
Landscaping	611,136.29
Smart Classrooms	155,787.61
Campus Signage	634,398.21
Campus Paving	291,198.65
Roof Replacement WHM	500,000.00
Dorm/Apartment Refurbish	93,294.76
Concrete Upgrade	215,870.33
Campus Construction	100,964.92
Oil & Gas Training	89,161.52
Workforce Training & Outreach	250,000.00
Guided Pathways Rob Johnstone	140,000.00
Public Sector	9,227.00
Campus Security	71,520.22
Lumens Software-Distance Learn	5,000.00
Copier Replacement	22,102.47
Non-Recurring Compensation	750,000.00
Athletics	94,836.97
Student Life Programming	20,432.28
Succession Plan	52,014.15
WHM Exhibits	117,870.38
Track Upgrades	152,848.60
Driving Range Upgrades	850,381.34
McLean Hall Renovations	4,355,898.84
Cafeteria Upgrade	71,209.71
Channel 19 Upgrade	6,229.50
Equestrian Center	2,967,069.95
Bob Moran Upgrades	18,992.47
Campus/Hospital Fencing	563,509.84
Turf Replacement	500,000.00
Facilities Management System	1,396,438.95
Busing Support for Recruiting	5,872.30
Caster Upgrades	16,523,535.15
Workforce Training Center	3,000,000.00
Allied Health	149,583.93
Workforce Training Contingency	1,742.69
<b>Total</b>	<b>40,271,949.04</b>

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# NEW MEXICO JUNIOR COLLEGE

Vice President for Finance

5317 Lovington Highway  
Hobbs, NM 88240  
Phone: (575) 492-2770  
Fax: (575) 492-2768

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To: New Mexico Junior College Board members  
From: Dan Hardin  
RE: RPSP  
Date: August 14, 2020

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Board members,

By September 15<sup>th</sup> of each year, New Mexico Junior College must submit to the Higher Education Department (HED) any new or renewal request for funding of the Research & Public Service Projects (RPSP) for the coming fiscal year. The NMJC RPSP FY 21 funding was reduced during the legislative special session. The chart below shows the original funding allocated for FY 21, the modified allocation, and the proposed RPSP funding request for FY 22:

	<b>FY 21</b>	<b>Modified</b>	<b>FY 22</b>
Athletics	\$585,600.00	\$535,500.00	\$585,600.00
Oil & Gas Training Center	\$171,300.00	\$161,000.00	\$171,300.00
Nurse Expansion	\$299,900.00	\$281,900.00	\$299,900.00
Lea County Distance Education Consortium	\$ 29,200.00	\$ 27,400.00	\$ 29,900.00
NMJC Community and Student Radio Station			\$ 50,000.00
<b>Total</b>	<b>\$1,086,700.00</b>	<b>\$1,005,800.00</b>	<b>\$1,136,700.00</b>

The administration is asking for your approval to submit to the Higher Education Department the FY 22 request for continuation of the FY 21 RPSP funding for Athletics, Oil & Gas Training, Nurse Expansion, and Lea County Distance Education Consortium, restoring the funding to the original FY 21 funding level. Also, the administration is asking for your approval to submit a FY 22 RPSP funding request in the amount of \$50,000.00 for the NMJC community and student radio station.

Respectfully,



Dan Hardin

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# NEW MEXICO JUNIOR COLLEGE

Vice President for Finance

5317 Lovington Highway  
Hobbs, NM 88240  
Phone: (575) 492-2770  
Fax: (575) 492-2768

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To: New Mexico Junior College Board  
From: Dan Hardin  
RE: 135-mile rule  
Date: August 14, 2020

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New Mexico Junior College Board members,

A few weeks ago, the Financial Aid department brought up the question about the 135-mile rule for West Texas residents. To give you some history, the New Mexico Administrative Code (NMAC) under Title 5 Chapter 7 Part 18 section 10 F states “Certain Texas residents for the purposes of tuition payment and budget and revenue calculations, the Board of regents of any post-secondary, state educational institution, as defined in Article 12, Section 11 of the constitution of New Mexico (specifically, NMHU, ENMU, NMSU or WNMU), may determine that any Texas resident who resides within a one hundred thirty-five (135) mile radius of that institution may qualify for in-state tuition rates. This rule was put in place in August of 2007. It was the understanding of New Mexico Junior College that it did not apply to the two-year institutions. Because Financial Aid had brought this question up, clarification was asked of the HED (Higher Education Department). At first HED said it did not apply to the two-year schools, but when the question was asked of Dr. Rommel, the Director of Finance and Financial Aid, he gave a different answer. “While the NMAC does still specify that the regents of constitutionally-created institutions may grant these waivers, HED takes a liberal interpretation of state educational institutions to include independent community colleges when it comes to residency and/or eligibility for state aid. It’s due to a quirk in how the Constitution created the original state education institutions – the independents mainly developed by either transforming from vocational schools (like CNM) to community colleges or “branching off” from established branch community college (like San Juan). Moreover, due to the generally broad powers of the elected governing boards, there is no prohibition from independents developing their own in-state tuition policy. In general, tuition waivers specified in statute are interpreted to be “inclusive” rather than “exclusive”.

The New Mexico Junior College out-of-district tuition only rate for FY 21 is \$58.00 per credit hour as compared to the out-of-state tuition only rate of \$70.00 per credit hour. The administration is bringing this proposal to the Board because of the number of students attending New Mexico Junior College from West Texas. If you will remember, when the College is reviewing tuition rates one of the main considerations is the comparison of the out-of-state tuition rate of New Mexico Junior College to the in-district rates for

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Odessa, Midland and South Plains colleges. If New Mexico Junior College could use the 135-mile rule and offer the out-of-district rate to the students of West Texas, then New Mexico Junior College would have a competitive edge on the two-year schools in West Texas. In March when the Board reviewed the coming year tuition and fees there was a chart that showed the in-district tuition and fee rates for the following colleges as compared to the out-of-state tuition and fee rate for New Mexico Junior College;

Midland College	89.00 per credit hour rate for <b>in-district tuition and fees</b>
Odessa College	91.00 per credit hour rate for <b>in-district tuition and fees</b>
South Plains College	93.33 per credit hour rate for <b>in-district tuition and fees</b>
New Mexico Junior College	90.00 per credit hour rate for <b>out-of-state tuition and fees</b>

All of these Colleges offer housing and athletics, but with the 135-mile rule, New Mexico Junior College would be offering students from West Texas a per credit hour rate of \$78.00 for tuition and fees.

Attached is a map that shows how large a 135-mile radius reaches out from New Mexico Junior College. Additionally, there is a map showing the serving districts of Odessa, Midland, Howard, Western, South Plains, and Amarillo Colleges. Also, attached is a listing of cities and zip codes in West Texas that would fall under the 135-mile rule.

The question is how does the College make up the loss of out-of-state tuition revenue if applying the 135-mile rule to the students in West Texas? There has always been a constraint on increasing out-of-state tuition to stay competitive with the in-district rates of the West Texas Colleges. By using the 135-mile rule and based on FY20 numbers, New Mexico Junior College could increase the out-of-state tuition rate by \$5.00 an hour making up the loss of tuition revenue from the 135-mile adoption. Also, there would be a concentrated marketing effort targeting the students within the 135-mile radius of New Mexico Junior College increasing the number of students coming from this area. The administration views this change in strategy as an opportunity to grow the student base from West Texas.

The administration is asking for your approval to offer the New Mexico Junior College out-of-district rate to the students in West Texas within the 135-mile radius of New Mexico Junior College, beginning with the Spring 2021 semester.

Respectfully,



Dan Hardin



# NMJC

New Mexico Junior College

  
Amarillo College

  
SJC

**WESTERN**  
TEXAS COLLEGE

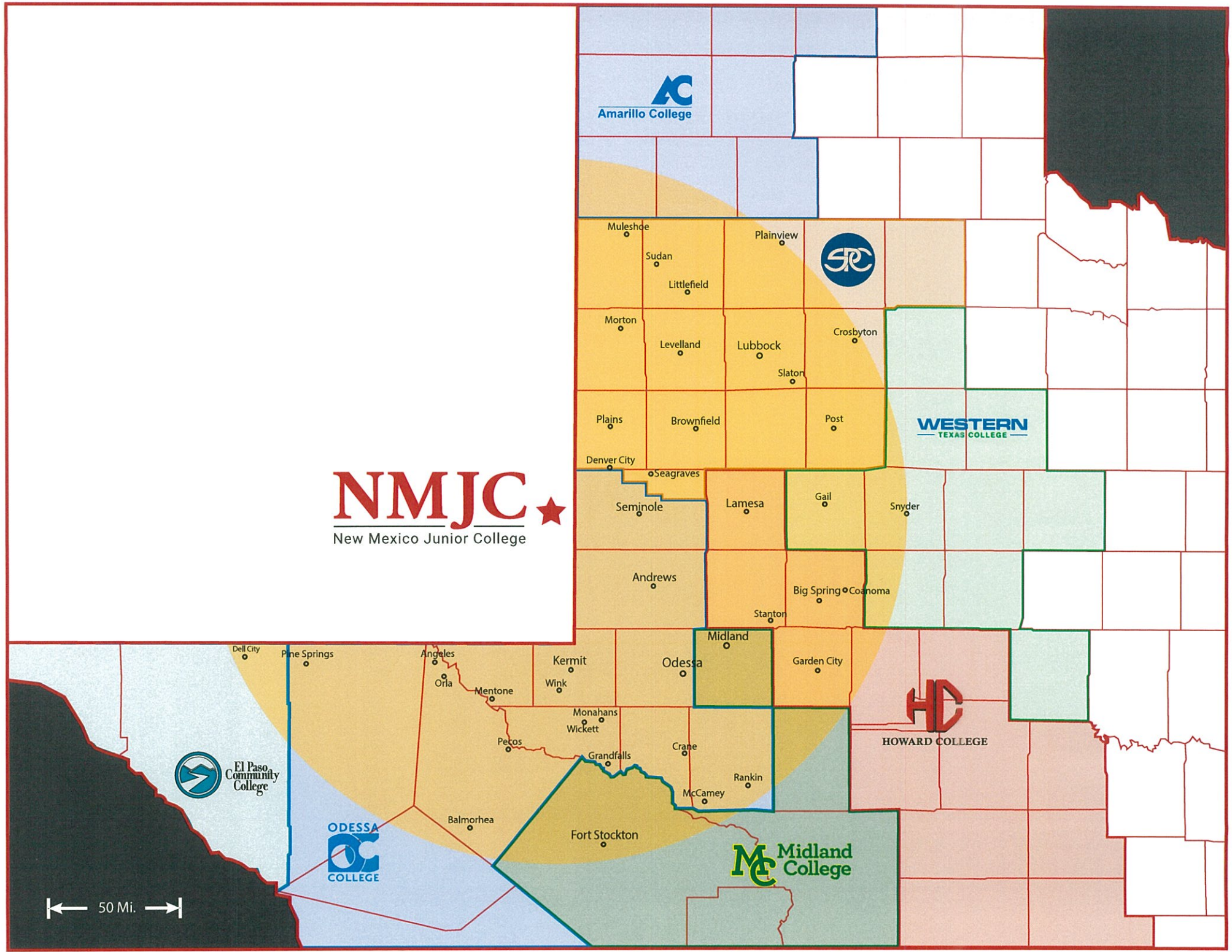
  
HOWARD COLLEGE

  
El Paso  
Community  
College

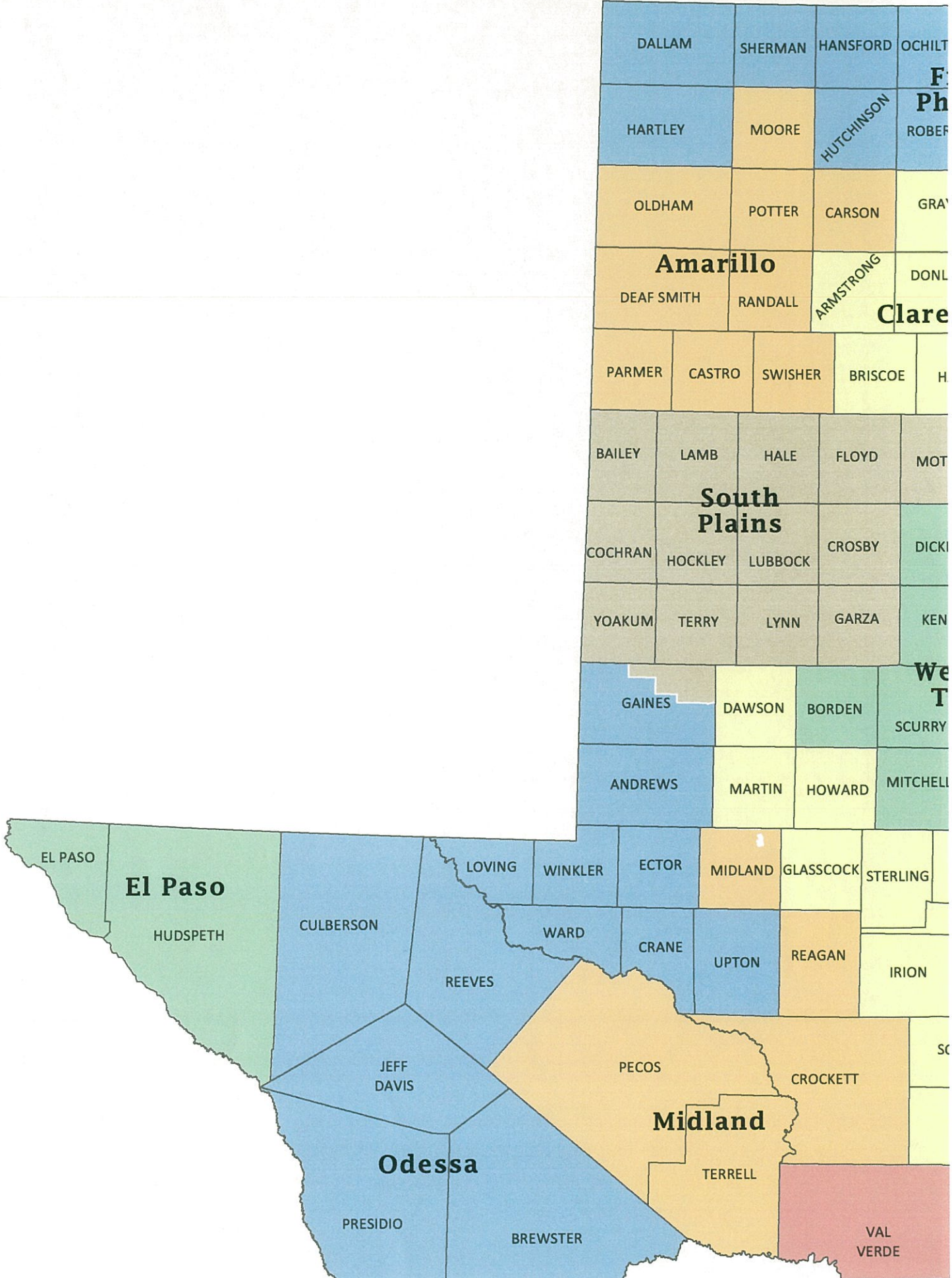
**ODESSA**  
  
COLLEGE

  
Midland  
College

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FY 20 West Texas students within 135 miles of New Mexico Junior College based on Zip codes

	Zip Code	# Student	Credit Hours	Average SCH	69.00 Out of State	57.00 Out of District	12.00 Difference
Hereford	79045	13	237	18.2	16,353	13,509	2,844
Plainview	79072	2	4	2.0	276	228	48
Brownfield	79316	9	119	13.2	8,217	6,789	1,428
Denver City	79323	45	436	9.7	30,111	24,879	5,232
Lamesa	79331	2	4	2.0	279	231	48
Levelland	79336	5	73	14.6	5,045	4,169	876
Morton	79346	2	41	20.5	2,829	2,337	492
Muleshoe	79347	1	3	3.0	207	171	36
Plains	79355	11	99	9.0	6,834	5,646	1,188
Seagraves	79359	9	52	5.8	3,592	2,968	624
Seminole	79350	2	16	8.0	1,104	912	192
Seminole	79360	92	997	10.8	68,860	56,896	11,964
Tahoka	79373	2	6	3.0	417	345	72
Lubbock	79404	2	33	16.5	2,277	1,881	396
Lubbock	79407	4	74	18.5	5,106	4,218	888
Lubbock	79413	4	75	18.8	5,175	4,275	900
Lubbock	79414	2	21	10.5	1,449	1,197	252
Lubbock	79415	1	4	4.0	280	232	48
Lubbock	79416	1	4	4.0	276	228	48
Lubbock	79423	14	159	11.4	10,978	9,070	1,908
Lubbock	79424	7	71	10.1	4,899	4,047	852
Midland	79705	1	16	16.0	1,104	912	192
Andrews	79714	5	58	11.6	4,012	3,316	696
Odessa	79761	2	41	20.5	2,829	2,337	492
Odessa	79762	1	17	17.0	1,173	969	204
Odessa	79763	2	41	20.5	2,829	2,337	492
Odessa	79765	2	32	16.0	2,208	1,824	384
Odessa	79768	2	33	16.5	2,277	1,881	396
Pecos	79722	2	26	13.0	1,794	1,482	312
		247	2792	11.3	192,790	159,286	33,504

FY 20 Total Out-of-State Tuition revenue	732,987
% of out-of-state tuition revenue generated within the 135 mile radius	26%
FY 20 Total Tuition revenue	2,154,882
% of total tuition revenue generated within the 135 mile radius	9%

FY 20 West Texas students within 135 miles of New Mexico Junior College by city

	# Student	Credit Hours	Average SCH	69.00 Out of State	57.00 Out of District	12.00 Difference
Hereford	13	237	18.2	16,353	13,509	2,844
Plainview	2	4	2.0	276	228	48
Brownfield	9	119	13.2	8,217	6,789	1,428
Denver City	45	436	9.7	30,111	24,879	5,232
Lamesa	2	4	2.0	279	231	48
Levelland	5	73	14.6	5,045	4,169	876
Morton	2	41	20.5	2,829	2,337	492
Muleshoe	1	3	3.0	207	171	36
Plains	11	99	9.0	6,834	5,646	1,188
Seagraves	9	52	5.8	3,592	2,968	624
Seminole	94	1013	10.8	69,964	57,808	12,156
Tahoka	2	6	3.0	417	345	72
Lubbock	35	441	12.6	30,440	25,148	5,292
Midland	1	16	16.0	1,104	912	192
Andrews	5	58	11.6	4,012	3,316	696
Odessa	9	164	18.2	11,316	9,348	1,968
Pecos	2	26	13.0	1,794	1,482	312
	247	2792	11.3	192,790	159,286	33,504

FY 20 Total Out-of-State Tuition revenue 732,987  
 % of out-of-state tuition revenue generated within the 135 mile radius 26%

FY 20 Total Tuition revenue 2,154,882  
 % of total tuition revenue generated within the 135 mile radius 9%



**Tuition & Fee Comparison based on 15 hours**

School	Indistrict per hour	Indistrict Tuition	Indistrict Fee per hr	Indistrict Fees	Indistrict Total	Indistrict Cost per SCH	Out of State NMJC	Per Hr Cost more than NMJC
Amarillo College	47.00	705.00	42.00	630.00	1,335.00	89.00	90.00	(1.00)
Cisco	40.00	600.00	58.00	870.00	1,470.00	98.00	90.00	8.00
Clarendon	51.00	765.00	62.00	930.00	1,695.00	113.00	90.00	23.00
Frank Phillips	47.00	705.00	64.83	972.45	1,677.45	111.83	90.00	21.83
Howard	67.00	1,005.00	22.92	343.80	1,348.80	89.92	90.00	(0.08)
Midland	64.00	960.00	25.00	375.00	1,335.00	89.00	90.00	(1.00)
Odessa	68.00	1,020.00	23.00	345.00	1,365.00	91.00	90.00	1.00
South Plains	29.00	435.00	64.33	964.95	1,399.95	93.33	90.00	3.33
Western Texas	61.00	915.00	32.00	480.00	1,395.00	93.00	90.00	3.00
NMJC	38.00	456.00	18.00	270.00	726.00	56.00		
NMJC proposed increased	<b>39.00</b>	<b>585.00</b>	<b>20.00</b>	<b>300.00</b>	<b>885.00</b>	<b>59.00</b>		

School	Out of district per hour	Out of district Tuition	Out of district Fee per hr	Out of district Fees	Out of district Total	Cost per SCH
Amarillo College	47.00	705.00	85.00	1,275.00	1,980.00	132.00
Cisco	40.00	600.00	98.00	1,470.00	2,070.00	138.00
Clarendon	51.00	765.00	85.00	1,275.00	2,040.00	136.00
Frank Phillips	74.00	1,110.00	64.83	972.45	2,082.45	138.83
Howard	112.00	1,680.00	25.42	381.30	2,061.30	137.42
Midland	116.00	1,740.00	25.00	375.00	2,115.00	141.00
Odessa	118.00	1,770.00	23.00	345.00	2,115.00	141.00
South Plains	85.00	1,275.00	64.33	964.95	2,239.95	149.33
Western Texas	99.00	1,485.00	35.00	525.00	2,010.00	134.00
NMJC	57.00	855.00	18.00	270.00	1,125.00	75.00
NMJC proposed increased	<b>58.00</b>	<b>870.00</b>	<b>20.00</b>	<b>300.00</b>	<b>1,170.00</b>	<b>78.00</b>

School	Out of State per hour	Out of State Tuition	Out of State Fee per hr	Out of State Fees	Out of State Total	Cost per SCH
Amarillo College	108.00	1,620.00	85.00	1,275.00	2,895.00	193.00
Cisco	76.00	1,140.00	98.00	1,470.00	2,610.00	174.00
Clarendon	82.00	1,230.00	85.00	1,275.00	2,505.00	167.00
Frank Phillips	93.00	1,395.00	64.83	972.45	2,367.45	157.83
Howard	159.00	2,385.00	27.08	406.20	2,791.20	186.08
Midland	158.00	2,370.00	25.00	375.00	2,745.00	183.00
Odessa	150.00	2,250.00	23.00	345.00	2,595.00	173.00
South Plains	101.00	1,515.00	64.33	964.95	2,479.95	165.33
Western Texas	137.00	2,055.00	35.00	525.00	2,580.00	172.00
NMJC	69.00	1,035.00	18.00	270.00	1,305.00	87.00
NMJC proposed increased	<b>70.00</b>	<b>1,050.00</b>	<b>20.00</b>	<b>300.00</b>	<b>1,350.00</b>	<b>90.00</b>

In district	<b>39.00</b>
Out of district	<b>58.00</b>
Out of State	<b>70.00</b>
General Usage Fee 2.00 increase	<b>20.00</b>



**TITLE 5            POST-SECONDARY EDUCATION**  
**CHAPTER 7        TUITION AND FINANCIAL AID**  
**PART 18           RESIDENCY FOR TUITION PURPOSES**

**5.7.18.1            ISSUING AGENCY:** State of New Mexico Higher Education Department  
 [5.7.18.1 NMAC - Rp, 5.7.18.1 NMAC, 8/30/2007]

**5.7.18.2            SCOPE:** Provisions of 5.7.18 NMAC apply to all state public postsecondary institutions in the state of New Mexico.  
 [5.7.18.2 NMAC - Rp, 5.7.18.2 NMAC, 8/30/2007]

**5.7.18.3            STATUTORY AUTHORITY:** Section 21-1-4.5 NMSA 1978 and 21-1-3 NMSA 1978.  
 [5.7.18.3 NMAC - Rp, 5.7.18.3 NMAC, 8/30/2007; A, 10/15/2015]

**5.7.18.4            DURATION:** Permanent.  
 [5.7.18.4 NMAC - Rp, 5.7.18.4 NMAC, 8/30/2007]

**5.7.18.5            EFFECTIVE DATE:** August 30, 2007, unless a later date is cited at the end of a section.  
 [5.7.18.5 NMAC - Rp, 5.7.8.5 NMAC, 8/30/2007]

**5.7.18.6            OBJECTIVE:** The objective of 5.7.18 NMAC is to establish a policy for the purpose of determining resident and nonresident tuition classifications for students enrolling at public postsecondary institutions in New Mexico.  
 [5.7.18.6 NMAC - Rp, 5.7.8.6 NMAC, 8/30/2007]

**5.7.18.7            DEFINITIONS:**

**A.            "Armed forces"** means the United States army, navy, air force, marine corps or coast guard.  
**B.            "Department"** means state of New Mexico higher education department.  
**C.            "Dependent minor"** means a person determined to be financially dependent upon a parent or guardian and who has not reached the age of majority (eighteen years of age) or is not an emancipated minor. The legal residence of a dependent minor is that of their parent(s) or custodial parents; or, if both parents are dead, of their legally appointed guardian(s) or of the adult person with whom he or she lives with for more than one-half of the preceding consecutive twelve months. In the event a non-custodial parent is a legal resident of New Mexico as determined in 5.7.18.9 NMAC the dependent minor shall be accorded resident status.

**D.            "Emancipated minor"** means any person sixteen years of age or older shall be regarded as an adult for the purposes of determining residency status for tuition charges, provided they:

(1)            have entered into a valid marriage, whether or not such marriage was terminated by dissolution; or  
 (2)            are on active duty with any of the armed forces of the United States of America; or  
 (3)            are willingly living separate and apart from their parents, guardian or custodian, are managing their own financial affairs and the court finds it in the minors best interest to grant a declaration of emancipation pursuant to Section 32A-21-7 NMSA 1978. Mere absence from parental residence does not prove emancipation.

**E.            "Enrollment"** means the first day of the term or semester for the student.

**F.            "Financially dependent"** means that dependency will be determined according to Section 152 of the 1954 Internal Revenue Code. This includes any person for whom the parent, guardian, or spouse provides at least one-half of their support.

**G.            "General fees"** means a fixed sum charged to students for items not covered by tuition and required of such a proportion of all students that the student who does not pay the charge is an exception. General fees include fees for matriculation, library services, student activities, student union services, student health services, debt service and athletics. An institution may charge fees in addition to general fees that are course-specific or that pertain to a smaller proportion of students.

**H.            "New Mexico resident for tuition purposes"** means a person who is a United States citizen or has established permanent residence in the United States and has satisfied the requirement(s) and regulations of 5.7.18.9 NMAC.

**I.            "Nonresident"** means a student who enters and remains in this state principally to enroll in postsecondary education, is presumed to continue to reside outside this state, and such presumption continues in effect until rebutted by clear and convincing evidence of bona fide residence.

**J.            "Tuition"** means the amount of money charged to students for instructional services, which may be charged per term, per course or per credit.

**K.            "Tuition reciprocity participants"** mean any nonresident, undergraduate student participating in a tuition reciprocity agreement. Pursuant to Section 21-1-6 NMSA 1978, these participants are ineligible for residency.

Furthermore, students may not begin to establish residency (i.e., twelve 12-month durational requirement) until discontinuing from such a program. Refer to department negotiated reciprocity agreements for additional detail.

L. **"Veteran"** means any person meeting the definition of veteran as used in the Veterans' Service Department Act and provided in 9-22-3 NMSA.  
[5.7.18.7 NMAC - Rp, 5.7.18.7 NMAC, 8/30/2007; A, 5/30/2008; A, 10/15/2015]

#### 5.7.18.8 DETERMINATION OF RESIDENCY STATUS:

A. **At time of first admission.** A person's residency classification for tuition purposes shall be determined at time of admission and must be completed by the census date of that first enrollment in a given public postsecondary educational institution. A person not meeting the residency requirements shall be classified as a nonresident for purposes of tuition charges. The student's classification at time of admission remains in effect unless the individual is re-admitted to the institution or until the individual petitions to become a New Mexico resident.

B. **Petition for resident tuition classification.** Once determined a nonresident at the time of census date, a student can petition to be classified as a New Mexico resident by completing the "petition for resident tuition classification" form (see Paragraph (3) of Section B of 5.7.18.12 NMAC, procedure to petition for resident tuition classification).  
[5.7.18.8 NMAC - Rp, 5.7.18.10 NMAC, 8/30/2007]

5.7.18.9 **REQUIREMENTS TO ESTABLISH NEW MEXICO RESIDENCY:** To become a legal resident of New Mexico for tuition purposes each of the following requirements must be satisfied.

A. **Twelve (12) month durational requirement.** A person must physically reside in New Mexico for the twelve (12) consecutive months immediately preceding the term for which the resident classification is requested. Exceptions may be granted for student's participating in an internship or student exchange program (excluding those described in 5.7.18.11 NMAC) and not exceeding one (1) semester in duration.

B. **Financial independence requirement.** Only persons who are financially independent may establish residency apart from parents or guardians. A student cannot be approved for residency who is financially dependent upon his or her parents or legal guardians who are nonresidents of New Mexico. Dependency will be determined according to the 1954 Internal Revenue Service Code, Section 152 and is always based on the previous tax year for residency purposes. If under the age of 23 at the time the student applies for residency, a copy of his/her parents' or guardians' 1040 or 1040A U.S. income tax form for the previous tax year is required. If the student is shown to be a dependent on this tax form, he/she will not be considered financially independent or eligible for residency during the current year.

C. **Written declaration of intent requirement.** The student or person must sign a written declaration of intent to relinquish residency in any other state and to establish it in New Mexico.

D. **Overt acts requirement.**  
(1) Overt acts are required to evidence support of the written declaration of intent to establish permanent residency in New Mexico. Any act considered inconsistent with being a New Mexico resident will cause the request for resident classification to be denied. The required overt acts are evidence of any two (2) of the following:  
(a) if the applicant is financially dependent, a copy of the parent or guardians' previous year income tax showing the applicant as a dependent and the parent address as New Mexico; or  
(b) a New Mexico high school transcript issued in the past year confirming attendance at a New Mexico public or private high school within the past twelve (12) months; or  
(c) a transcript from an online high school showing a New Mexico address confirming attendance within the past twelve (12) months; or  
(d) a New Mexico driver's license or ID card with an original date of issue or a renewal date issued prior to the first day of the term or semester; or  
(e) proof of payment of New Mexico state income tax for the previous year; or  
(f) evidence of employment within the state of New Mexico; or  
(g) New Mexico vehicle registration; or  
(h) voter registration in New Mexico; or  
(i) proof of residential property ownership in New Mexico; or  
(j) a rental agreement within New Mexico; or  
(k) utility bills showing the applicant name and a New Mexico address; or  
(l) other evidence which would reasonably support the individual's intent to establish and maintain New Mexico residency.

(2) The department recognizes that there may be circumstances in which a student would not be able to fulfill the requirements of an overt act as listed in this section, such as: 1) individual is physically disabled and does not have a driver's license, or 2) individual is a convicted felon and therefore cannot vote, etc. In instances such as these, the institution will afford the student an opportunity to provide other documentary evidence or reasonable explanation which demonstrates that permanent residency in New Mexico has been established by the student.

E. **Exceptions to the twelve (12) month requirement.** If a student has met the requirements of one (1) of the following exceptions, and is granted residency status, the student shall continue to be classified and reported as a resident



for subsequent, continuing enrollment.

(1) An individual married to a legal resident of New Mexico and providing appropriate evidence shall not be required to complete the twelve 12-month durational requirement but must satisfy all other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

(2) Any person, their spouse and dependents who move to New Mexico or who now live in New Mexico and who provide appropriate evidence that they work in a permanent full-time position or practice a profession or conduct a business full-time in New Mexico, shall not be required to complete the twelve 12-month durational requirement but must satisfy all other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

(3) Any person entering the active service of the United States while a resident of New Mexico and who enters a state institution of postsecondary education in New Mexico after separation from such service may be classified as having been a legal resident in New Mexico during the time spent in the service provided they:

(a) have not while in the service done anything (such as voting in another state) to show abandonment of their New Mexico residency;

(b) have not established residence in some other state subsequent to being separated from service;

(c) return to New Mexico within three (3) years after separation from service with the intention of maintaining this state as their legal residence;

(d) are not a dependent minor with parent(s) or guardian(s) whose place of residence classifies him or her as a nonresident of New Mexico.

(4) Any person, their spouse and dependents, who move to New Mexico for retirement purposes, and who provide appropriate evidence of retirement shall not be required to complete the twelve 12-month durational requirement. They must, however, satisfy the other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

**F. Inconsistent acts.** A person that demonstrates an inconsistent act, such as residing primarily out of state or maintaining a valid out of state driver's license, may be denied residency irrespective of other overt acts that would establish their residency. An officer of the public postsecondary institution shall exercise professional judgement to determine if an inconsistent act should cause the residency petition to be denied.

[5.7.18.9 NMAC - Rp, 5.7.18.11 & 12 NMAC, 8/30/2007; A, 5/30/2008; A, 10/15/2015; A, 11/15/2016]

**5.7.18.10 WAIVERS:** If a student has met the requirement of one of the following waivers, the student shall continue to be considered a non-resident for reporting purposes but will receive the benefit of the in-state tuition rates. In receiving such a waiver, the student does not become eligible for state funded student financial aid, unless the regulations for a particular aid program allow for such eligibility.

**A. American Indian nations, tribes and pueblos.** All out of state members of an American Indian nation, tribe and pueblo, located wholly or partially in New Mexico, regardless of the residence of the member prior to acceptance at a post-secondary educational institution shall be eligible to pay the in-state tuition rate. These include members of the following tribes or pueblos: Navajo Nation, Jicarilla Apache, Mescalero Apache, Taos pueblo, Picuris pueblo, Ohkay Owingeh, Santa Clara pueblo, Nambe pueblo, San Ildefonso pueblo, Pojoaque pueblo, Tesuque pueblo, Cochiti pueblo, Jemez pueblo, Santo Domingo pueblo, San Felipe pueblo, Zia pueblo, Santa Ana pueblo, Sandia pueblo, Isleta pueblo, Laguna pueblo, Acoma pueblo, Zuni pueblo, and the Ute Mountain tribe.

**B. Armed forces.** Any person, their spouse or dependent child, not otherwise entitled to claim residence, who is a member of the armed forces of the United States or armed forces of a foreign country assigned to active duty in the state of New Mexico, will be assessed in-state tuition rates.

(1) Assignment to active duty within New Mexico must be certified by the military person's commanding officer upon the student's initial enrollment. Such students may continue paying resident rates for as long as they attend consecutive semesters at the same institution.

(2) A spouse or child of a veteran of the armed forces is entitled to pay tuition and fees at the rate provided for New Mexico residents; provided that spouse or child is eligible for benefits pursuant to the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal law authorizing educational benefits for a veteran and the dependents of a veteran.

**C. National guard.** Pursuant to Section 20-4-14, NMSA 1978, an active member of the national guard and the member's spouse and children shall be deemed in-state residents for purposes of determining tuition and fees at all state institutions of higher learning.

**D. Part-time students.** During regular academic year semesters, nonresident tuition may be waived, according to the institution's tuition policy, for students (U.S. citizens and foreign nationals) enrolling for no more than six (6) semester hours during a regular term.

**E. Summer session.** During summer sessions, nonresident tuition may be waived according to the institution's tuition policy.

**F. Certain Texas residents.** Pursuant to Section 21-1-3D, NMSA 1978, for the purposes of tuition payment and budget and revenue calculations, the board of regents of any post-secondary, state educational institution, as defined in Article 12, Section 11 of the constitution of New Mexico (specifically, NMHU, ENMU, NMSU, or WNMU), may determine



that any Texas resident who resides within a one hundred thirty-five (135) mile radius of that institution may qualify for in-state tuition rates.

**G. Colorado and Arizona reciprocity.** Tuition reciprocity participants from Colorado and Arizona shall be selected by eligible institutions to pay in-state tuition rates based on criteria set by each eligible institution. The department will notify each eligible institution of the maximum waivers allocated on an annual basis.

**H. Athletic scholarship recipients.** Pursuant to Section 21-1-3E, NMSA 1978, for the purposes of tuition payment and budget and revenue calculations, any student (U.S. citizens and foreign nationals) receiving an athletic scholarship from a post-secondary educational institution set forth in Article 12, Section 11 of the Constitution of New Mexico (specifically, UNM, NMSU, NMHU, ENMU, WNMU, or NNMC) may qualify for in-state tuition rates.

**I. Competitive scholarship recipients.** Any student participating in this program shall be recognized as a competitive scholar and reported as such, unless the student petitions for and is granted residency status.

**J. Graduate assistants,** including research and teaching assistants, employed at least one-fourth time (ten (10) hours weekly), will be assessed in-state tuition rates. To be eligible, students (U.S. citizens and foreign nationals) must be enrolled full-time, as defined in the graduate catalogue of the public postsecondary institution, during regular terms.

**K. Nondiscrimination principle.** Notwithstanding the provisions of Subsection H of 5.7.18.7 NMAC, any tuition or state-funded financial aid that is granted to residents of New Mexico shall also be granted on the same terms to all persons, regardless of immigration status, who have attended a secondary educational institution in New Mexico for at least one (1) year and who have either graduated from a New Mexico high school or received a high school equivalency credential (such as a general educational development GED) in New Mexico. State-funded financial aid programs with an employment component may require U.S citizenship or eligible non-citizen status.

[5.7.18.10 NMAC - Rp, 5.7.18.12 NMAC, 8/30/2007; A, 5/30/2008; A, 10/15/2015]

**5.7.18.11 STUDENT EXCHANGE PROGRAMS:** programs established under the auspices of the western interstate commission on higher education (WICHE). Participating students may not begin to establish residency (i.e., 12-month durational requirement) until discontinuing from such a program.

**A. Western undergraduate exchange (WUE).** Institutions must apply to the WICHE to participate in the WUE program where students in western states may enroll in many two-year and four-year college programs at a reduced tuition level, which is 150 percent of the institution's regular resident tuition

**B. Western regional graduate program (WRGP).** Residents of Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming are eligible to enroll in available graduate programs outside of their home state at resident tuition rates. Students need not meet financial aid criteria. To be included in WRGP, programs must meet the criteria of distinctiveness and quality. Programs are nominated by their institutions, peer reviewed by other graduate institutions in the west, and approved biannually by the student exchange program advisory council, a policy body that represents all participating states.

[5.7.18.11 NMAC - N, 8/30/2007]

**5.7.18.12 ADMINISTRATION OF POLICY:**

**A.** The higher education department shall:

- (1) publish, disseminate, and distribute pamphlets on residency determination; the department assumes responsibility for the publishing, printing, distribution of the residency pamphlets, and other related printed matter;
- (2) develop a standard "petition for change in residency classification;" this standardization petition form for residency for tuition purposes shall be utilized by all postsecondary institutions; similarly, all applications for admission shall require standardized information for the initial residency determination;
- (3) convene an annual meeting to review residency issues; classification officers shall meet at least annually to review and discuss residency cases in order to assure uniformity and fairness in residency determination;
- (4) conduct audits to ascertain compliance with policy; at least a random audit of each postsecondary institution's residency decisions shall take place on an annual basis by members of the department staff;
- (5) annually prepare and disseminate a report of the number and type of exceptions granted, by institution; the report shall include exceptions granted to both U.S. citizens and foreign nationals.

**B.** Institution of postsecondary education shall:

- (1) designate a classification officer. An officer designated by each state postsecondary educational institution shall be responsible for determining the residence status of students for tuition purposes under the terms of this policy.
  - (a) Such administrators or residency classification officers shall strive for uniformity in applying this policy. A common brochure, "establishing New Mexico residency for in-state tuition classification," shall be utilized by all postsecondary educational institutions.
  - (b) Nothing contained herein precludes a student from contesting the postsecondary institution's decision in the courts.
  - (c) Classification officers may require copies of appropriate legal, personal, business, or family documents in order to make an informed decision on residency. Such documents are considered confidential and are

to be utilized for the residency determination alone.

(2) develop procedures for determining residency; the burden of proving a change of status from nonresident to resident shall be on the applicant in every case by submitting satisfactory evidence thereof to the designated official of the postsecondary educational institution; such evidence shall include:

(a) information demonstrating that the applicant, or their parent or guardian if the applicant is a minor, has been physically present in this state for a period of at least twelve consecutive months immediately preceding the enrollment date on which the change of status is to take effect;

(b) for purposes of determining financial dependency, a signed copy of page 1 of the 1040 or 1040A United States internal revenue service income tax form for the previous year for the applicant's parent(s) or guardian(s) is required (if under age of 23). Such dependency will be determined according to Section 152 of the 1954 Internal Revenue Code;

(3) develop procedure to petition for resident tuition classification; a nonresident student must obtain a "petition for resident tuition classification" from the appropriate postsecondary institutional residency classification officer and file the petition with this officer; all petitions must be filed before the third Friday after the beginning of classes for that term or the institution's census date if different;

(4) develop procedure for appeal; each postsecondary institution shall organize an appeals board for students who feel the residency classification officer has made a wrongful determination; the appeals board shall be the student's last recourse prior to the courts.

[5.7.18.12 NMAC - Rp, 5.7.18.13 NMAC, 8/30/2007]

#### **HISTORY OF 5.7.18 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under:

BEF Rule 910, Residency for Tuition Purposes, filed 2/27/85;

CHE Rule 910, Residency for Tuition Purposes, filed 3/8/90;

CHE Rule 910, Residency for Tuition Purposes, filed 6/29/92;

CHE Rule 910, Residency for Tuition Purposes, filed 12/21/94.

#### **History of Repealed Material:**

5.7.18 NMAC, Residency for Tuition Purposes, filed 8/1/2000, Repealed 8/30/2007.



## Dan Hardin

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**From:** Rommel, Harrison, NMHED <Harrison.Rommel@state.nm.us>  
**Sent:** Monday, July 13, 2020 3:42 PM  
**To:** Garcia, Debbie, NMHED; Dan Hardin  
**Cc:** Advani, Dina, NMHED  
**Subject:** Re: Tuition - NMJC

**\*\*\*CAUTION: This email originated from outside of the NMJC network. Do not click on links or open attachments unless you recognize the sender and know the content is safe.\*\*\***

Hello Dan,

While the NMAC does still specify that the regents of constitutionally-created institutions may grant these waivers, HED takes a liberal interpretation of state educational institutions to include independent community colleges when it comes to residency and/or eligibility for state aid. It's due to a quirk in how the Constitution created the original state education institutions - the independents mainly developed by either transforming from vocational schools (like CNM) to community colleges or "branching off" from established branch community colleges (like San Juan). I don't know the exact history of NMJC - but if you do I'd love to hear it!

Moreover, due to the generally broad powers of the elected governing boards, there is no prohibition from independents developing their own in-state tuition policy. The 1996 amendment to the statutes that included "state education institutions" but not community colleges in the Texas residency radius was likely due to a drafting oversight and not any prohibition for community colleges to charge a discounted rate. In general, tuition waivers specified in statute are interpreted to be "inclusive" rather than "exclusive".

-Harry

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**From:** Debbie Garcia <Debbie.Garcia4@state.nm.us>  
**Date:** Monday, July 13, 2020 at 2:23 PM  
**To:** Dan Hardin <DHardin@nmjc.edu>  
**Cc:** "Rommel, Harrison, NMHED" <Harrison.Rommel@state.nm.us>, "Advani, Dina, NMHED" <Dina.Advani@state.nm.us>  
**Subject:** RE: Tuition - NMJC

Hi Dan,

Interesting, I am not aware that out-of-state tuition waivers for Texas residents within 135 miles has is changed to include two year institutions. Below is the NMAC link that defines all waivers. Certain Texas resident waivers is outlined in 5.7.18.10.F.

Adding Dr Rommel, for his Financial Aid perspective, and Dina Advani, for her DEAR Data perspective, in this response in case they have additional information that can further clarify.

<http://164.64.110.239/nmac/parts/title05/05.007.0018.htm>

# NEW MEXICO JUNIOR COLLEGE BUSINESS OFFICE

5317 Lovington Highway  
Hobbs, NM 88240  
Phone: (575) 492-2769  
Fax: (575) 492-2768

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To: NMJC Board Members  
From: Josh Morgan  
RE: Disposition of Inventory  
Date: August 13, 2020

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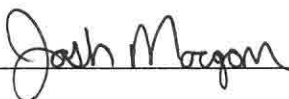
Pursuant to Article 6 ("Sale of Public Property") Section 13-6-1, New Mexico Junior College is requesting to sell at public auction unused inventory. Upon approval by the NMJC Board of Directors, a letter will be sent to the Office of the State Auditor (OSA) and the Higher Education Department (HED) notifying of our intentions to dispose of such inventory at public auction. Pursuant to Paragraph B of Section 13-6-1, New Mexico Junior College will wait 30 days from the notice to OSA and HED to hold the public auction.

Attached is a list of items which will be sent to public auction.

In accordance with State Statute 13-6-1, we hereby approved the disposition of New Mexico Junior College public inventory through sell at public auction.

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Pat Chappelle  
Board Chair  
New Mexico Junior College

  
\_\_\_\_\_  
Josh Morgan  
Accountant/Controller  
New Mexico Junior College

<u>Inventory #</u>	<u>Description</u>	<u>Location Code</u>	<u>Serial Number or VIN</u>	<u>Acquisition Date</u>	<u>Acquired Value</u>
N10261	Extractor & Dryer	WARHOU	175083	10/1/1981	\$6,205.00
N15422	Ice-O-Matic Ice Machine	WARHOU	91808	7/30/1999	\$5,502.55
N15594	Foosball/Soccer Table	WARHOU	No Serial #	2/14/2000	\$1,317.50
N16774	Raceway Panel Workstation	WARHOU	No Serial #	12/18/2001	\$2,731.29
N16871	CAT 2950 48PT	WARHOU	FHK0609Y1F3	5/30/2002	\$4,043.79
N16878	48 Port GBIC Switch	WARHOU	FHK0613X0F8	5/30/2002	\$3,861.63
N16891	CAT 2950 48PT	WARHOU	FHK0616ZO2U	5/30/2002	\$4,324.57
N17109	Waddell Display Case	WARHOU	No Serial #	10/4/2002	\$2,062.55
N17110	Waddell Display Case	WARHOU	300198	10/4/2002	\$2,062.55
N17225	HP LaserJet 4200N	WARHOU	CNBX802938	3/19/2003	\$1,424.00
N17310	Marshal Custom Podium	WARHOU	No Serial #	6/30/2003	\$3,823.53
N17311	Marshal Custom Podium	WARHOU	No Serial #	6/30/2003	\$3,823.53
N17312	Marshal Custom Podium	WARHOU	No Serial #	6/30/2003	\$3,823.53
N17321	Marshal Custom Podium	WARHOU	No Serial #	6/30/2003	\$3,823.53
N17327	Crestron Podium Controller	WARHOU	1089700	7/1/2003	\$1,700.00
N17328	Crestron MP2E Controller	WARHOU	1085326	7/1/2003	\$1,542.00
N17329	Samsung Document Camera	WARHOU	S2080867	7/1/2003	\$2,795.00
N17332	Crestron Podium Controller	WARHOU	1085934	7/1/2003	\$1,700.00
N17333	Crestron MP2E Controller	WARHOU	1085330	7/1/2003	\$1,542.00
N17335	Samsung Document Camera	WARHOU	S2091005	7/1/2003	\$2,795.00
N17337	Crestron Podium Controller	WARHOU	1089685	7/1/2003	\$1,700.00
N17338	Crestron MP2E Controller	WARHOU	1085338	7/1/2003	\$1,542.00
N17340	Samsung Document Camera	WARHOU	S2081081	7/1/2003	\$2,795.00
N17356	Smart Sympodium	WARHOU	2828	7/1/2003	\$2,879.00
N17381	Smart Sympodium	WARHOU	3DFP00423	7/1/2003	\$2,879.00
N17382	Crestron Podium Controller	WARHOU	1095935	7/1/2003	\$1,700.00
N17383	Crestron MP2E Controller	WARHOU	1082969	7/1/2003	\$1,542.00
N17385	Samsung Document Camera	WARHOU	S2080877	7/1/2003	\$2,795.00
N17519	Mitsubishi XD300U Projector	WARHOU	6393	7/1/2003	\$3,400.00
N17521	Mitsubishi XD300U Projector	WARHOU	6389	7/1/2003	\$3,400.00
N17528	Mitsubishi XD300U Projector	WARHOU	6371	7/1/2003	\$3,400.00
N17571	HON Valido 72" Desk	WARHOU	No Serial #	7/30/2003	\$1,019.90
D00668	24 Port GBIC Switch	WARHOU	I05356930001500D05	8/14/2005	\$0.00
N18218	12 Port GBIC Switch	WARHOU	106156931003042D07	8/14/2005	\$2,697.00
N18852	CAT 2950 24PT	WARHOU	FOC1017ZDQP	7/15/2006	\$1,497.00
N18946	HON Valido 72" Desk	WARHOU	CUURKT	8/23/2007	\$3,283.45
N19037	Leather Upholstered Couch	WARHOU	No Serial #	11/15/2007	\$4,914.01
N19017	Extron Media Link	WARHOU	MLC226IPDV	11/29/2007	\$1,698.40
N19019	Samsung Document Camera	WARHOU	T7A00359	11/29/2007	\$2,185.00
N19020	Custom Techline Podium	WARHOU	No Serial #	11/29/2007	\$5,992.79
H10728	HON Valido 72" Desk	WARHOU		8/27/2009	\$1,313.04
H10690	HP Compaq 6730B	WARHOU	CNU9402L0L	12/2/2009	\$1,172.66
H10744	CAT 2960 24PT	WARHOU	FOC1413X519	6/10/2010	\$3,501.43
N19142	Spacesaver: Periodicals	WARHOU	No Serial #	6/30/2010	\$40,319.79
H10864	HP ProBook 6550b	WARHOU	CNU03129SX	8/12/2010	\$1,163.70
H10865	HP ProBook 6550b	WARHOU	CNU03129V1	8/12/2010	\$1,163.70
H10866	HP ProBook 6550b	WARHOU	CNU03129TF	8/12/2010	\$1,163.70
H10868	HP ProBook 6550b	WARHOU	CNU0312956	8/12/2010	\$1,163.70
H10869	HP ProBook 6550b	WARHOU	CNU03129S4	8/12/2010	\$1,163.70
H10870	HP ProBook 6550b	WARHOU	CNU03129V5	8/12/2010	\$1,163.70
H10871	HP ProBook 6550b	WARHOU	CNU03129TK	8/12/2010	\$1,163.70

N19214	Spacesaver: Archive Storage	WARHOU	No Serial #	8/13/2010	\$4,583.03
N19215	Spacesaver: Periodicals	WARHOU	No Serial #	8/13/2010	\$4,479.98
H10944	HON Valido 72" Desk	WARHOU	36SQDL	9/14/2010	\$1,807.74
H10948	HON Valido 60" Desk	WARHOU	3F2AS8	9/14/2010	\$1,433.28
N19224	Electrolux Washer/Extractor	WARHOU	00652/0400475	8/22/2011	\$7,400.00
N19228	DVR For Security System	WARHOU	No Serial #	8/26/2011	\$30,822.51
H11260	Dell OptiPlex 790	WARHOU	7JH91R1	10/3/2011	\$1,001.18
H11269	Dell OptiPlex 790	WARHOU	7JH41R1	10/3/2011	\$1,001.18
H11271	Dell OptiPlex 790	WARHOU	7JG81R1	10/3/2011	\$1,001.18
H11272	Dell OptiPlex 790	WARHOU	7JJ81R1	10/3/2011	\$1,001.18
H11273	Dell OptiPlex 790	WARHOU	7JDB1R1	10/3/2011	\$1,001.18
H11274	Dell OptiPlex 790	WARHOU	7JD51R1	10/3/2011	\$1,001.18
H11293	HON Valido 72" Desk	WARHOU	3JE25C	10/3/2011	\$3,701.89
H11438	HON Valido 72" Desk	WARHOU	31DEGH	12/6/2011	\$1,323.40
H11439	HON Valido 72" Desk	WARHOU	38TKWN	12/6/2011	\$2,815.80
H11432	Smart Sympodium	WARHOU	K012DW38A0165	12/13/2011	\$2,306.50
H11498	Lenovo ThinkPad L520	WARHOU	LR-OEMRY	2/23/2012	\$1,489.39
H11597	HP ENVY Pro UltraBook	WARHOU	CND2310D5F	8/16/2012	\$1,056.20
H11685	Dell Latitude E5520	WARHOU	6V6T9T1	9/18/2012	\$1,082.58
H11867	Lenovo ThinkPad L530	WARHOU	R9-WCDVB	1/14/2013	\$1,405.00
H11897	HP ProBook 6570b	WARHOU	5CB3101P9G	5/16/2013	\$1,080.20
H12072	Lenovo ThinkPad X230	WARHOU	PK-134HO	10/3/2013	\$1,606.71
H12114	HON Valido 60" Desk	WARHOU	8QX49F	10/17/2013	\$1,001.00
H12007	HP Compaq 8300 Elite	WARHOU	MXL3340C0X	10/24/2013	\$1,065.89
H12086	HP ProBook 6570b	WARHOU	5CB33209LJ	10/24/2013	\$1,218.66
H12134	HP ProBook 6570b	WARHOU	5CB33707VB	10/24/2013	\$1,342.04
H12135	HP ProBook 6570b	WARHOU	5CB33707V6	10/24/2013	\$1,342.04
H12493	iMac 27"	WARHOU	D25N50YMF8JC	8/11/2014	\$2,473.00
H12538	HP EliteOne 800 AIO	WARHOU	MXL4350YCX	9/11/2014	\$1,120.89
H12543	HP EliteOne 800 AIO	WARHOU	MXL4350YCV	9/11/2014	\$1,120.89
H12547	HP EliteOne 800 AIO	WARHOU	MXL4350YCY	9/11/2014	\$1,120.89
H12565	HP EliteOne 800 AIO	WARHOU	MXL4350YC5	9/11/2014	\$1,120.89
H12566	HP EliteOne 800 AIO	WARHOU	MXL4350YC6	9/11/2014	\$1,120.89
H12591	HP ProBook 650 G1	WARHOU	5CG4411QPY	10/21/2014	\$1,567.30
H12613	HON Valido 72" Desk	WARHOU	8HA1B5	11/5/2014	\$3,987.22
H12666	Lenovo Desktop	WARHOU	MJ01UMX8	2/26/2015	\$1,320.00
H12739	HP ProBook 650	WARHOU	5CG5162XHJ	9/24/2015	\$1,628.00
H12771	HP EliteOne 800 AIO	WARHOU	MXL5431LFM	11/5/2015	\$1,209.09
H12772	HP EliteOne 800 AIO	WARHOU	MXL5431LFJ	11/5/2015	\$1,209.09
H12773	HP EliteOne 800 AIO	WARHOU	MXL5431LFH	11/5/2015	\$1,209.09
H12774	HP EliteOne 800 AIO	WARHOU	MXL5431LFR	11/5/2015	\$1,209.09
H12775	HP EliteOne 800 AIO	WARHOU	MXL5431LFO	11/5/2015	\$1,209.09
H12776	HP EliteOne 800 AIO	WARHOU	MXL5431LFG	11/5/2015	\$1,209.09
H12777	HP EliteOne 800 AIO	WARHOU	MXL5431LFB	11/5/2015	\$1,209.09
H12778	HP EliteOne 800 AIO	WARHOU	MXL5431LFN	11/5/2015	\$1,209.09
H12779	HP EliteOne 800 AIO	WARHOU	MXL5431LFF	11/5/2015	\$1,209.09
H12785	Dell OptiPlex 9020	WARHOU	8814619766	11/9/2015	\$1,461.88
H12821	Lenovo ThinkPad Yoga	WARHOU	MP-12MY72	4/26/2016	\$2,331.00
H12845	HP Z240 Tower	WARHOU	2UA6212ZLR	6/20/2016	\$2,298.75
H12846	HP Z240 Tower	WARHOU	2UA6212ZLS	6/20/2016	\$2,000.75
H13257	Adjustable Tech Bench	WARHOU	No Serial #	9/8/2017	\$2,728.55
H13258	Adjustable Tech Bench	WARHOU	No Serial #	9/8/2017	\$2,728.56

H13259	Adjustable Tech Bench	WARHOU	No Serial #	9/8/2017	\$2,728.56
D00606	HP Probook 4730s	WARHOU	CNU1294N8P	2/28/2018	\$0.00

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# memo

## **New Mexico Junior College**

To: Board of Directors  
From: Scotty Holloman/Cathy Mitchell/Sarah Patterson  
Date: August 17, 2020  
Re: Title IX Policy Update

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The U.S. Department of Education on May 6, 2020 released its Final Rule under Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities receiving federal financial assistance. The Final Rule carries the force and effect of law as of August 14, 2020.

In order to comply with the Final Rule under Title IX, NMJC was required to amend and adopt a revised policy related to Title IX.

It is recommended that the attached policy be adopted to comply with the Final Rule under Title IX of the Education Amendments of 1972. The attached policy is based in large part on the sample policy provided by the Office of Civil Rights of the Department of Education.

## **POLICY**

It is the policy of New Mexico Junior NMJC (NMJC) to provide and maintain a workplace and an educational environment free of, and protected from, sexual harassment and discrimination based on gender.

## **PERTINENT INFORMATION**

[Title IX of the Education Amendments of 1972](#) protects people from discrimination based on sex in education programs or activities which receive federal financial assistance. Title IX states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Discrimination based on sex, including discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. The federal Title IX regulation also prohibits a school from applying any rule related to a student’s parental, family, or marital status that treats students differently based on their sex.

In May of 2020, the U.S. Department of Education released its Final Decision under Title IX of the Education Amendments of 1972. The Final Decision has established protocols for how a NMJC/University must react to an alleged violation, as well as criteria on what constitutes a Title IX violation when it comes to Sexual Harassment.

### **Prohibited Behavior**

New Mexico Junior NMJC does not tolerate and expressly prohibits dating violence, domestic violence, stalking, sexual assault, sexual harassment, sexual abuse, and/or gender-based discrimination at all NMJC owned facilities, sponsored activities, events, and/or programs.

## **DELEGATION OF AUTHORITY**

The President has the responsibility for the overall management of NMJC and delegates the authorization and implementation of this Policy to the Title IX Coordinator for oversight and administration in following the correct protocol and procedures to ensure a fair, transparent process for investigating and adjudicating alleged incidents of sexual harassment or gender-based discrimination.

## **REQUIRED ACTION BY NMJC**

NMJC is on “Notice” once NMJC has actual knowledge of sexual harassment/allegations of sexual harassment or gender-based discrimination and NMJC must respond and act. The information may come from any person, whether it is the alleged victim or a parent, friend, bystander, or NMJC personnel. This information must reach either the Title IX Coordinator or other individuals within NMJC who have authority to institute corrective measures for NMJC to have official Notice.

### **[Report an alleged violation to NMJC](#)**

## DEFINITIONS

**Administrator:** Individual who has authority to implement corrective measures or take disciplinary action if Respondent is found to have violated NMJC policy.

**Advisor:** A person chosen by a party or appointed by NMJC to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

**Complainant:** Individual making the complaint of gender-based discrimination or sexual harassment.

**Consent:** Voluntary, positive agreement between the participants to engage in specific sexual activity.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic/intimate nature with the victim. The existence of such a relationship is based on the reporting party's statement with consideration of the length and the type of relationship, and/or the frequency of interaction between the persons involved in the relationship.

**Decision Maker:** Refers to those who have decision-making and sanctioning authority within the NMJC's Formal Grievance process.

**Domestic Violence:** Violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the survivor shares a child in common, by a person who is cohabitating with or has cohabitated with the survivor as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of New Mexico, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of New Mexico.

**Gender Discrimination:** Discrimination based on sex, including discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. The federal Title IX regulation also prohibits a school from applying any rule related to a student's parental, family, or marital status that treats students differently based on their sex.

**Incapacitation:** Lacking the ability or capacity to have a reasonable understanding of the situation one is in due to lack of sleep, disability, involuntary physical constraint, or consumption of alcohol or drugs.

**Preponderance of the Evidence:** Proof need only show facts are more likely to be than not so.

**Respondent:** Individual against whom the complaint of gender discrimination or sexual harassment is made.

**Retaliation:** An adverse action taken to try to keep someone from opposing a discriminatory practice.

**Sexual Abuse:** Sexual interaction between an adult and a minor, including sexual intercourse or sexual contact.

**Sexual Assault:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

## **Sexual Harassment:**

- Quid Pro Quo harassment – this for that. (This only pertains to an employee that is the Respondent.)
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity.
- Sexual assault, dating violence, domestic violence, or stalking as defined by the Clery Act and Violence Against Women Acts.

**Stalking:** Engaging in a course of conduct directed at a specific person (this includes electronic formats) that would cause a reasonable person to (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

## **AMNESTY for VICTIMS of SEXUAL HARASSMENT**

The NMJC community encourages students to report violations involving sexual misconduct which includes sexual harassment, sexual assault, dating violence, domestic violence, and stalking. Sometimes survivors are hesitant to report to NMJC officials because they fear that they themselves may be charged with policy violations. NMJC will not pursue disciplinary action against students (complainants or witnesses) for disclosure of personal consumption of alcohol or other drugs (underage or illegal) where the disclosure is made in connection with a good faith report or investigation of prohibited conduct and the personal consumption did not place the health, welfare, or safety of any other person(s) at risk.

## **GRIEVANCE PROCEDURES**

### **For alleged violations pertaining to discrimination based on gender:**

1. The complaint may be oral or in writing. A determination will be made to examine if the alleged violation rises to a Title IX infraction by being so severe and pervasive that it excluded someone from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity. If the complaint does not rise to this level, the Title IX Coordinator will address the complaint through normal chain of command procedures to seek a resolution.
2. When a determination is made that the complaint is possible discrimination based on gender, the Title IX Coordinator or designee shall appoint a proper Investigator to the alleged violation determined normally by which Division of NMJC it allegedly took place. Immediate interim actions may take place before the investigation is complete if determined necessary.
3. The Investigator will interview complainant, respondent, and witnesses when relevant. If the interviewee refuses and/or consistently misses scheduled appointments NMJC may proceed with the investigation and/or resolution.
4. The Investigator will write an investigative report summarizing his/her findings and submit the report to the Title IX Coordinator. The Title IX Coordinator will make sure that the report is submitted to the proper Administrator to address the report, and if appropriate implement proper remedies to stop the discrimination.
5. The proper Administrator will decide based off the facts of the investigative report if the respondent is found responsible of the accusations. Sanctions may be imposed or mediation

may take place when it is acceptable to both parties.

6. In all cases, a prompt, fair, and impartial investigation and resolution shall be afforded. Temporary delays are permitted only for good cause.
7. Preponderance of the Evidence will be used to determine if a violation has been committed.
8. In all cases, both complainant and respondent are afforded due process, and have the right to ask for a review from the President if asked for in writing within two working days of the date the findings letter was sent by email. The President's decision will be final.

**For alleged violations pertaining to Sexual Harassment:**

All alleged violations of Sexual Harassment must meet at least one of the bullets defined by the Office of Civil Rights:

- Quid Pro Quo harassment – this for that. (This only pertains to an employee that is the Respondent.)
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity.
- Sexual assault, dating violence, domestic violence, or stalking as defined by the Clery Act and previously the Violence Against Women Acts.

**Sexual Harassment Procedures:**

1. When a Formal Complaint is submitted to the Title IX Coordinator a determination will be made to examine if the alleged violation rises to a Title IX infraction by meeting the above definition of Sexual Harassment. If the complaint does not rise to this level, the Title IX Coordinator will address the complaint through normal chain of command procedures or the student code of conduct to seek a resolution.
2. When a determination is made that the complaint meets the definition of sexual harassment, the Title IX Coordinator or designee shall appoint a trained Title IX Investigator to the alleged violation. Immediate interim actions may take place before the investigation is complete if determined necessary. This may include an emergency removal, no contact orders, or removal/change from campus housing or classes. When issued, the involved parties shall be expected to adhere to the terms of the interim actions. Violations of interim measures shall not be tolerated and shall be addressed immediately. Students who violate such measures shall be subjected to further disciplinary action up to and including suspension and expulsion.
3. Support measures are available to both parties upon request.
4. The Investigator will interview complainant, respondent, and witnesses when relevant. If the interviewee refuses and/or consistently misses scheduled appointments NMJC may proceed with the investigation.
5. The Investigator will write an investigative report and submit the report to the Title IX Coordinator. The Title IX Coordinator will determine if there is evidence to support the case being moved forward to an impartial Decision Maker.
6. The Decision Maker will decide based off the facts of the investigative report and a live hearing where both parties must be present. An advisor of their choice will perform the cross examinations and submit relevant questions (determined by the Decision Maker) to be answered by each party. If the respondent is found responsible of the accusations, then proper sanctions shall be imposed or mediation shall take place when it is acceptable to both parties.
7. NMJC will appoint an advisor to either party if they do not have someone.

8. In all cases, a prompt, fair, and impartial investigation and resolution shall be afforded.
9. Preponderance of the Evidence will be used to determine if a violation has been committed.
10. In all cases, both complainant and respondent are afforded due process.
11. Range of Outcomes (this list are examples and are not limited to): expulsion, suspension, disciplinary probation, eviction from housing, removal from a class, educational training, etc.
12. The Title IX Coordinator will meet with the Respondent and Complainant to review the procedures of the actual Hearing and answer any questions.

### **Overarching Principles**

- The grievance process itself won't discriminate against a complainant or respondent on the basis of sex.
- Practices must apply equally to both complainant and respondents - either can be male or female - and won't discriminate as between men and women, notably with respect to credibility determinations.
- The remedies for a complainant have to be designed to restore or preserve equal access to NMJC's education program or activity.
- The NMJC's grievance process ensures an objective evaluation of all relevant evidence-including inculpatory and exculpatory evidence.
- Credibility determinations will not be made on the basis of a person's status as complainant, respondent, or witness.
- Any employee assigned to the grievance will not have any bias or conflict of interest and will be trained.
- NMJC won't be "deliberately indifferent" or "clearly unreasonable" in light of the circumstances.
- The Title IX Coordinator will provide information to the individual that includes: the availability of supportive measures, the right to file a complaint, and how to file a complaint.
- The respondent is presumed not responsible, any findings of responsibility only comes at the conclusion of a grievance.
- All sexual harassment proceedings (student and employee) have the same standard of evidence – NMJC uses Preponderance of Evidence to reach a determination regarding responsibility.
- Grievance procedures will contain a right to an appeal the results and provide information about how to invoke this right. Each party has a right to appeal and will be applied equally.
- It is NOT retaliation for NMJC to punish someone for making a bad faith, materially false statement during a grievance process. NMJC will not draw a conclusion of bad faith based on the outcome of the case.
- NMJC will keep the following records for seven (7) years - the investigation, appeal information, any informal resolution, materials to train and must be posted on the website, and any supportive measures used.
- NMJC will not suppress free speech in response to sexual harassment.
- No information protected by legal privilege, such as the attorney-client privilege, will be used during an investigation unless the person holding the privilege has waived it. NMJC or either party will seek, permit questions about, or allow the introduction of evidence that is protected by a recognized privilege. Individuals can opt to waive their own privileges, if they want, but they don't have to.

### **Formal Complaints**

- A formal complaint is an official document alleging sexual harassment.

- It can be filed by the student or their parent/legal guardian, or the Title IX Coordinator.
- In cases where an alleged victim doesn't file a formal complaint, the Title IX Coordinator might initiate grievance procedures where discipline is appropriate.

### **Discretionary Dismissals**

NMJC **may** dismiss a complaint:

- If the complainant notifies the Title IX Coordinator in writing that he/she wishes to withdraw the formal complaint or some of its allegations.
- If the Respondent is no longer enrolled or employed by NMJC.
- If specific circumstances prevent NMJC from gathering evidence sufficient to reach a determination about the allegations.

### **Mandatory Dismissals**

The NMJC **must** dismiss a complaint:

- That does not describe conduct that meets the definition of sexual harassment.
- That the alleged sexual harassment did not occur in NMJC's educational program or activity.
- That the alleged sexual harassment did not occur in the United States at all.

***\*NMJC may address the complaint under the Student Code of Conduct, even if the alleged conduct is not sexual harassment under Title IX.***

### **Dismissal Procedures**

- Whenever NMJC dismisses a formal complaint, or any allegations in it, NMJC will send a prompt written notice of the dismissal with the reasons to the parties.
- Both parties' have the right to appeal NMJC's decision for dismissal. (See below under "Appeal" section.)

### **Jurisdiction**

Title IX covers sexual harassment that happens at NMJC's education program or activities which includes locations, events, and circumstances where NMJC exercises substantial control over the context of the alleged harassment and the person accused of committing sexual harassment. This also includes any building owned or controlled by a student organization that is officially recognized by NMJC.

### **Written Notice**

- The written notice will contain the actual allegations and facts that would constitute sexual harassment.
- The written notice will contain the presumption of innocence,
- The written notice will contain a statement that the parties are entitled to an advisor of choice.
- The written notice will contain a statement that the parties can request to inspect and review certain evidence.
- The written notice will contain information regarding the Student Code of Conduct and false statements.

## **Supportive Measures**

- Free, individualized services designed to restore or preserve equal access to education, protect safety, or deter sexual harassment.
- A formal complaint does not need to be filed for an individual alleging sexual harassment to receive supportive measures.
- Supportive measures support a student, and they aren't punitive or disciplinary with respect to another student.
- Supportive measures do not reasonably burden any individual.

### **Examples of supportive measures (but not limited to):**

- Counseling
- Extensions of deadlines
- Modifications of work or class schedule
- Campus escort services
- Changes in housing location
- Increased security or monitoring of parts of campus
- Mutual restrictions on contact between individuals

## **Informal Resolution**

Informal resolutions may only be attempted if each party enters the process completely voluntarily. (When an employee is the respondent, there can be no informal resolution.) NMJC will provide a facilitator who is free from conflicts of interest or bias, and who has received special training.

## **Gathering of Evidence**

- NMJC will give both parties specific, equal rights and protections. These apply whether the Complainant filed the formal complaint or whether the Title IX Coordinator began the investigation by signing the formal complaint.
- NMJC will not access a party's personal records if they are maintained by a physician, psychiatrist, psychologist, or other professionals for the purpose of treatment to the party, without consent.
- NMJC will provide an equal opportunity for the parties to have witness and evidence, including expert witnesses, as well as inculpatory or exculpatory evidence.
- NMJC will not restrict the ability of either party to discuss the allegations under investigation, or to gather and present relevant evidence.
- NMJC will provide the same opportunities to the parties to have others present during the grievance proceedings, including access to an advisor of choice for any meeting or hearings.
- NMJC will provide written notice of the date, time, location, participants, and purpose of all hearings, interviews, or other meetings, with sufficient time for the party to prepare.
- NMJC will provide equal opportunities for the parties and their advisors to inspect and review the evidence obtained by NMJC as part of its investigation, if the information is directly related to the allegations raised from the formal complaint.
- NMJC will give parties a meaningful opportunity to respond to the evidence after NMJC has provided it to both parties.



## **Investigative Report**

- After gathering evidence, NMJC will prepare an investigative report on the allegations of the formal complaint.
- NMJC will give ten (10) days to respond to the evidence in writing. If a response is submitted, NMJC will consider that response before finalizing the investigative report.
- The investigative report will then be submitted and circulated to each party at least ten (10) days before any determination of responsibility or hearing.

## **Retaliation**

Any form of retaliation by either party will not be condoned by NMJC and NMJC will take immediate action to rectify the situation and additional disciplinary action may occur, including separation from NMJC. Retaliation includes but is not limited to: intimidation, discrimination, coerce, or threats to either party.

## **Hearings**

- NMJC must hold a live hearing with a Decision Maker to determine Responsibility.
- The parties' advisor of choice will be allowed to cross-examine other parties and witnesses. NMJC will assign an Advisor if either party does not have one and NMJC does not have to provide an attorney.
- No party can ever personally question or cross-examine anyone.
- If any party requests it, the entire hearing must be held with the parties located in separate rooms, with technology enabling everyone to see and hear each other.
- Cross-examination questions must be relevant, and the Decision Maker will decide if a question is relevant before the party or witness has to answer. NMJC will request a list of questions in advance in order to save time during the Hearing.
- A complainant's privacy will be protected by only allowing questions or evidence about prior sexual history in two narrow circumstances: offered to prove that someone other than the respondent committed the alleged conduct and/or concerns of specific incidents of the complainant's sexual behavior with respect to the respondent is offered to prove consent.
- After the Hearing has concluded, the Decision Maker will meet privately to objectively evaluate the relevant evidence and reach a conclusion about whether the respondent is responsible for the alleged sexual harassment using the preponderance of evidence standard.
- The Decision Maker will not be the Title IX Coordinator or Investigator and will be free of conflict of interest or bias towards either party. The Decision Maker will receive special training about how to be impartial and how to decide what evidence is relevant.

## **Determination of Responsibility**

NMJC will send the written determination to the parties simultaneously and will include:

- The portion of NMJC's policies that was violated.
- A description of the procedural steps that were taken by NMJC.
- A findings of fact section.

- A section that draws conclusions after applying the facts to the portion of NMJC's policy that applies.
- A statement and rationale for the ultimate determination of responsibility.
- Any disciplinary sanctions that NMJC will impose on the respondent, and state whether NMJC will provide any remedies to the complainant.
- A statement and rationale for any remedies for the complainant, addressing how those remedies will restore or preserve equal access.
- A statement of NMJC's procedures, a statement that the parties have a right to appeal the initial determination regarding responsibility, and the permissible bases for an appeal.
- Any sanction will be reasonable and proportionate to the severity of the behavior:
  - May consider prior conduct.
  - The role of precedent.
  - May consider attitude, aggravation, mitigation, contrition, etc.
  - May be educational, but safety is primary concern.
  - Remedy for loss or injury to NMJC or persons.
  - Compliant with laws and regulations.
- The Title IX Coordinator is responsible for carrying out the remedies contained in the written decision.

## Appeals

- Each party has the right to Appeal after a mandatory/discretionary dismissal or at the end of the grievance process in writing to the Title IX Coordinator within two (2) working days of the date the letter was sent by the Decision Maker.
- Grounds for an Appeal – a procedural irregularity affected the outcome of the determination; new evidence has been discovered that was not reasonably available at the time of the determination on responsibility or dismissal, a conflict of interest on the part of the Title IX Coordinator, Investigator, Decision Maker, and the conflict of interest affected the outcome, and/or the decision of responsibility or dismissal.
- NMJC will notify the parties in writing and implement appeal procedures equally.
- Both parties will have equal opportunity to submit a written statement supporting or challenging the outcome.
- The Decision Maker who decides the appeal will be free of conflict and unbiased to both parties. This Decision Maker will not have any previous knowledge or relationship to the case.
- After considering the parties written statements and other documentation of the case, the Decision Maker will issue a written decision and send it to both parties simultaneously.
- This determination about whether the respondent is responsible for the sexual harassment allegations or the dismissal becomes final after the appeal

## Notice of Non-discrimination and Equal Opportunity

New Mexico Junior NMJC is dedicated to providing equal opportunities in our employment and learning environments.

NMJC does not discriminate on the basis of race, color, religion, national origin, ancestry, sex (including pregnancy, childbirth, and related medical conditions), sexual orientation (including perceived sexual

orientation), gender identity, marital status, spousal affiliation, disability (physical or mental), serious medical condition, age (40 and older), genetic information or veteran status or any other legally protected categories, classes or characteristics. NMJC is committed to ensuring persons of all these protected classes will have access to NMJC's programs, facilities, and employment.

NMJC has designated a Title IX Coordinator who is responsible for ensuring compliance with Title IX and other state and federal laws addressing sexual and gender-based harassment, including sexual assault, sexual exploitation, sexual intimidation, intimate partner abuse, stalking, and other forms of sexual violence based on sex, gender, sexual orientation, or gender identity.

NMJC recognizes that individuals with disabilities are entitled to access, support and, when appropriate, reasonable accommodation. In compliance with Section 504 and other state and federal laws that prohibit discrimination on the basis of disability in admission, treatment and/or access to its programs and activities. NMJC has designated a Section 504 Coordinator.

***Complaints or concerns regarding equal opportunity, affirmative action, Title IX, and/or Section 504 should be directed to:***

**Cathy Mitchell, Vice President of Student Services**

Title IX Coordinator and Section 504 Coordinator

Ben Alexander Student Learning Center

(575) 492-2761

[cmitchell@nmjc.edu](mailto:cmitchell@nmjc.edu)

***Complaints of discrimination related to employment or personnel should be directed to:***

**Scotty Holloman, Executive Director of Administrative Services**

John Shepherd Administration Building

(575) 492-2791

[sholloman@nmjc.edu](mailto:sholloman@nmjc.edu)

***Complaints may also be filed with the Department of Education Office for Civil Rights, the Equal Employment Opportunity Commission, and/or New Mexico Human Rights Commission.***