

This is an amendment to 5.7.37 NMAC Sections 3, 6, 7, 8, 10 and 11 effective 9/12/2023.

5.7.37.3 STATUTORY AUTHORITY: Section 9-25-1 et seq. NMSA 1978 and [~~Chapter 42, Laws of 2022~~] Section 21-21R-1 et seq. NMSA 1978.
[5.7.37.3 NMAC - N, 7/12/2022; A, 9/12/2023]

5.7.37.6 OBJECTIVE:

A. The objective of 5.7.37 NMAC is to provide a level of financial support to ~~[qualified New Mexico students]~~ returning student learners who are enrolled in a workforce certificate program, or an associate or bachelor's degree program at an eligible New Mexico public post-secondary educational institution or tribal college. This level of financial support is intended to help defray the cost of tuition and fees at the public post-secondary educational institution or tribal college where the student is enrolled.

~~[B. — The purpose of 5.7.37 NMAC is to encourage completion of a workforce appropriate certificate, an associate or a bachelor's degree by providing financial support to qualified students enrolled in a minimum of six credit hours and a maximum of eighteen credit hours per fall and spring semester. The scholarship may also be awarded to qualified students enrolled in a minimum of three and a maximum of nine credit hours during the summer semester.~~

~~— [C] B. [A further purpose] The objective of 5.7.37 NMAC is to [encourage recent graduate learners who pursue a post-secondary education in New Mexico to complete a first four-year degree within a maximum of eight semesters or two-year degree within a maximum of four semesters by supplementing but not supplanting the New Mexico legislative lottery tuition scholarship. Returning student learners are encouraged to complete a two-year degree or a four-year degree within the maximum credit hour allowances for the scholarship prescribed in 5.7.37.9 NMAC]~~ provide a level of financial support to recent graduate learners. This level of financial support is intended to defray the cost of tuition and fees during a qualifying semester and summer semesters after any available state and institutional aid has been awarded. Provided sufficient funding exists in the Opportunity Scholarship Fund, the award may be used to supplement, but not supplant, the New Mexico legislative lottery tuition scholarship in an amount not to exceed the cost of tuition and fees for the qualifying semester and summer semesters, and fees for other semesters.

~~[D] C.~~ As it applies to students with disabilities who may require special accommodations, the department, in consultation with the student and the office at the public post-secondary educational institution that serves students with disabilities, shall review the circumstances affecting student eligibility and make accommodations as deemed reasonable and appropriate, based on the student's disability needs. If a New Mexico resident had to leave the state to receive an education pursuant to the federal Individuals with Disabilities Education Act the student shall be eligible for the scholarship if they graduated from an accredited high school in another state and otherwise met the qualifications for a tuition scholarship pursuant to the definition of a qualified student.
[5.7.37.6 NMAC - N, 7/12/2022; A, 9/12/2023]

5.7.37.7 DEFINITIONS:

A. **“Community college”** means a branch community college of a four-year state educational institution, a two-year state educational institution or a community college or technical and vocational institute established pursuant to Chapter 21, Article 13 or 16 NMSA 1978.

B. **“Comprehensive institution”** means eastern New Mexico university, New Mexico Highlands university, northern New Mexico college or western New Mexico university.

C. **“Cumulative grade point average”** includes grades received during fall, spring and summer semesters.

~~[C] D.~~ **“Department”** means the higher education department.

~~[D] E.~~ **“Eligible institution”** means a public post-secondary educational institution or a tribal college that has a current and valid memorandum of understanding as described in Subsection B of 5.7.37.11 NMAC.

~~[E] F.~~ **“Fee” or “Fees”** means:

- (1) mandatory non-tuition charges levied to all students as a condition of enrollment;
- (2) course-specific fees levied in an amount not to exceed fifty dollars (\$50) per credit hour or as otherwise approved by the department on a course-by-course basis; and
- (3) shall not include charges levied for funding of capital projects or charges pledged for repayment of institutional bonds, loans or institutional debt of any type.

[F] **G.** “**Full time**” means 15 or more credit hours each program semester of the regular academic year at four-year institutions or tribal colleges and 12 or more credit hours each program semester of the regular academic year in two-year institutions for recent graduate learners.

[G] **H.** “**Independent student**” means a student with established financial need and no means of familial support as evidenced by their filing status on the free application for federal student aid or other means of income verification as determined by the institution.

[H] **I.** “**Opportunity scholarship**” means an award to recent graduate learners and returning student learners.

[I] **J.** “**Public post-secondary educational institution**” means a state educational institution or a community college.

[J] **K.** “**Qualified student**” means a recent graduate learner or a returning student learner.

[K] **L.** “**Recent graduate learner**” means a full-time student who does not have a bachelor's, master's or doctoral degree and who graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential while maintaining residency in New Mexico and who either:

(1) within 16 months of graduation or receipt of a high school equivalency credential, was accepted for entrance to and attended an eligible institution; or

(2) within four months of graduation or receipt of a high school equivalency credential, began service in the United States armed forces and, within 16 months of completion of honorable service or medical discharge from the service, attended an eligible institution; and

(3) successfully completed the first semester at an eligible institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment and maintains a cumulative grade point average of 2.5 or higher on a 4.0 scale at an eligible institution.

[L] **M.** “**Research institution**” means New Mexico institute of mining and technology, New Mexico state university and the university of New Mexico.

[M] **N.** “**Returning student learner**” means a student 18 years of age or older who does not otherwise meet the definition of a recent graduate learner, has a high school diploma or who has received a high school equivalency credential and who does not have a bachelor's, master's or doctoral degree, who has been a resident of New Mexico for the preceding 12 consecutive months and who maintains a cumulative grade point average of 2.5 or higher on a 4.0 scale at an eligible institution.

[N] **O.** “**State educational institution**” means an institution of higher education enumerated in Article 12, Section 11 of the constitution of New Mexico.

[O] **P.** “**Tribal college**” means a tribally, federally or congressionally chartered eligible institution located in New Mexico that is accredited by the higher learning commission.

[P] **Q.** “**Tuition**” means mandatory instructional costs paid by or for a qualified student to an eligible institution for coursework.

[Q] **R.** “**Workforce certificate**” means a department-approved, credit-bearing certificate of two years' duration or less where data indicates the certificate is in high demand as determined in consultation with the New Mexico department of workforce solutions.

[5.7.37.7 NMAC - N, 7/12/2022; A, 9/12/2023]

5.7.37.8 STUDENT ELIGIBILITY:

A. A scholarship may be awarded to a student who has met initial eligibility requirements as follows:

(1) has established and maintained New Mexico residency as defined in 5.7.18.9 NMAC

[or], is eligible for a nondiscrimination waiver as defined in Subsection K of 5.7.18.10 NMAC or is an active member of the New Mexico National Guard. All residency requirements for recent graduate learners must be met upon completion of high school, graduation, or receipt of a high school equivalency credential recognized by the state of New Mexico;

(2) has been determined to be a qualified student [~~pursuant to Subsection K or M of 5.7.37.7 NMAC~~];

(3) for a recent graduate learner, is enrolled full time, but not enrolled in more than 18 credit hours in the fall or spring semester;

(4) for a returning student learner, is enrolled in at least six credit hours, but not more than 18 credit hours in the fall or spring semester;

(5) qualified students may enroll in no [~~less~~] fewer than three credit hours, but not more than nine credit hours in the summer semester; and

(6) has met requirements in Paragraphs (1) through (4) of Subsection A of 5.7.37.8 NMAC or students with exceptional mitigating circumstances as determined by the institution's lead financial aid officer; students who are incapable of meeting the requirements specified in Paragraphs (1) through (4) of Subsection A of 5.7.37.8 NMAC due to a documented exceptional mitigating circumstance do not forfeit eligibility for the opportunity scholarship; however, the following requirements shall apply:

(a) the student shall provide documents certifying the nature of the students exceptional mitigating circumstance to the institution's lead financial aid officer at the post-secondary educational institution at which the student is enrolling or will enroll; the institution's lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Paragraphs (1) through (4) of Subsection A of 5.7.37.8 NMAC;

(b) if, in the professional judgment of the institution's lead financial aid officer, the student's exceptional mitigating circumstance is recognized as a valid reason for the student's inability to meet the requirements specified in Paragraphs (1) through (4) of Subsection A of 5.7.37.8 NMAC the student's initial or continuing eligibility for the opportunity scholarship shall be suspended or deferred unless and until such time that the student is capable of meeting the requirements of Paragraphs (1) through (4) Subsection A of 5.7.37.8 NMAC.

B. Other provisions regarding initial eligibility.

(1) Students with disabilities who are requesting a reduction of the credit hour requirement shall obtain a referral from the student services division of the public post-secondary educational institution or tribal college where the student is enrolled that oversees students with special needs [~~requests to reduce the credit hours to be considered full time for scholarship eligibility; referrals~~]. Referrals and any sufficient documentation shall be received within 30 days of the start of the student's first semester. The documentation may be reused for the subsequent semesters unless the student is requesting to decrease their approved credit hours. In this case updated documentation shall be required prior to the start of the semester for which the student is enrolling.

(2) Students are encouraged, but are not required, to complete a free application for student aid (FAFSA) for scholarship eligibility.

(3) During the 16 months after high school graduation, completion of the requirements of a home-based or non-public-school primary educational program, or receipt of a high school equivalency credential recognized by the state of New Mexico a recent graduate learner may attend a public post-secondary educational institution or tribal college prior to their initial semester less than-full time without affecting future program eligibility. Once a recent graduate learner is enrolled and attends a public post-secondary educational institution or tribal college full-time during the 16 months after high school graduation, completion of the requirements of a home-based or non-public-school primary educational program, or receipt of high school equivalency credential recognized by the state of New Mexico, the recent graduate learner shall be considered to have commenced the initial semester and must meet the initial semester eligibility requirements within Subsection A of 5.7.37.8 NMAC.

C. Continuing eligibility. Upon satisfaction of the initial eligibility requirements, the scholarship will be re-awarded to a recent graduate learner during the second semester of continuous enrollment and re-awarded to a returning student learner during the second continuous semester of enrollment. A student's continuing eligibility shall be determined on a semester basis.

(1) An opportunity scholarship award may be re-awarded to a student who:

(a) maintains a minimum of a 2.5 cumulative [~~GPA~~] grade point average; a student has the right to request use of the student's cumulative [~~GPA~~] grade point average earned at all New Mexico public post-secondary educational institutions and tribal colleges; and

(b) maintains continuous enrollment and meets earned credit hour criteria as provided in Paragraphs (3) through (5) of Subsection A of 5.7.37.8 NMAC. When a recent graduate learner transfers after completion of the first semester from a two year institution to a four year institution for enrollment during the second or subsequent program semester, a student will have met eligibility requirements, but said student must enroll in 15 credit hours upon transfer to maintain eligibility;

(i) receipt of a transfer transcript for sufficient documentation for eligibility;

(ii) student transfers shall defer to the receiving institution to determine eligibility.

(2) Students with disabilities may be re-awarded the opportunity scholarship under the following conditions:

(a) a referral is obtained for each semester in which a reduction in credit hours is requested;

(b) maintains a minimum of a 2.5 cumulative [GPA] grade point average; and
(c) in no case shall eligibility extend beyond 90 attempted credit hours for completion of an associate degree or 160 attempted credit hours for completion of a bachelor's degree [unless otherwise authorized by the department].

(3) An eligible student [that] who transfers shall continue to be eligible at the receiving institution after receipt of the student's transfer transcript containing eligibility confirmation.

D. Probation. Students who have been determined to be eligible and subsequently have exceptional mitigating circumstances as determined by the institution's lead financial aid officer may be placed on a probationary status under the following conditions:

(1) the student shall provide documents certifying the nature of their exceptional mitigating circumstance to the lead financial aid officer at the post-secondary institution at which the student is enrolling or will enroll;

(2) the lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Subsection A of 5.7.37.8 NMAC; and

(3) a student may receive scholarship funding while on probationary status, however under no circumstances shall the student receive program awards in excess of those prescribed in Subsections A through D of 5.7.37.9 NMAC.

E. Petition for reinstatement. A recent graduate learner [that] who loses eligibility for the opportunity scholarship or legislative lottery scholarship pursuant to 5.7.37.12 NMAC or 5.7.20.12 NMAC and has not been approved for a probationary semester may petition for reinstatement of eligibility for the opportunity scholarship as a returning student learner no sooner than two years following the end of the semester when eligibility was lost. A returning student learner [that] who loses eligibility for the opportunity scholarship pursuant to 5.7.37.12 NMAC and has not been approved for a probationary semester may petition for reinstatement of eligibility for the opportunity scholarship as a returning student learner no sooner than two years following the end of the semester when eligibility was lost.

[5.7.37.8 NMAC - N, 7/12/2022; A, 9/12/2023]

5.7.37.10 AMOUNT OF SCHOLARSHIP:

A. To the extent that funds are made available from the fund, the board of regents or governing bodies of public post-secondary educational institutions and tribal colleges shall award tuition scholarships in department approved amounts [to qualified students.] as follows:

(1) for returning student learners an amount not to exceed the cost of tuition and fees for enrollment in at least six credit hours, but not more than 18 credit hours in the fall or spring semester and optional enrollment in no less than three credit hours, but not more than nine credit hours during a summer semester.

(2) for recent graduate learners an amount not to exceed the cost of tuition and fees during a qualifying semester after any available state and institutional aid has been awarded. The scholarship may also be awarded to a recent graduate learner enrolled in no fewer than three credit hours, but not more than nine credit hours during a summer semester. Provided sufficient funding exists in the Opportunity Scholarship Fund the award may be used to supplement, but not supplant the New Mexico legislative lottery tuition scholarship in an amount not to exceed the cost of tuition and fees for the qualifying semester and summer semesters, and fees for other semesters.

B. The method the department will use for calculating the tuition scholarship is as follows:

(1) estimate the total amount available in the opportunity scholarship fund, based on transfers, current year balances, and additional funds made available through legislation;

(2) estimate the number of scholarship recipients for each institution, based on department endorsed institutional projections;

(3) calculate the tuition scholarship for each sector (research, comprehensive, and community college) and tribal college in accordance with Section 21-21N-4 NMSA 1978;

(4) calculate the total amount needed to pay full tuition and fees to all estimated recipients;

(5) compute an award for each scholarship recipient distributed in amounts as follows:

(a) one thousand five hundred dollars (\$1,500) per scholarship per program semester for a student enrolled at a research institution;

(b) one thousand twenty dollars (\$1,020) per scholarship per program semester for a student enrolled at a comprehensive institution or tribal college; and

(c) three hundred-eighty dollars (\$380) per scholarship per program semester for a student enrolled at a community college;

(6) If the total amount available pursuant to Paragraph (3) of Subsection B of 5.7.37.10 NMAC is less than the amount calculated in Paragraph (5) of Subsection B of 5.7.37.10 NMAC, the department shall decrease the scholarship award amounts in a manner that maintains the distribution in the same proportions as provided in Paragraph (5) of Subsection B of 5.7.37.10 NMAC. If the total amount available pursuant to Paragraph (3) of Subsection B of 5.7.37.10 NMAC is more than the amount calculated in Paragraph (5) of Subsection B of 5.7.37.10 NMAC, the department shall increase the scholarship award amounts in a manner that maintains the distribution in the same proportions as provided in Paragraph (5) of Subsection B of 5.7.37.10 NMAC; and

(7) notify institutions of the maximum award by June 1st annually.

C. In no case shall a student receive scholarship awards exceeding the total amount of tuition and fees charged after all other state aid has been applied.

D. Qualified students in their graduating semester shall receive a tuition scholarship proportional to the number of credit hours required to graduate. Students in their graduating semester may enroll in ~~less~~ fewer than six credit hours and maintain eligibility.

E. For qualified students in their first semester, preference shall be given to independent students before other students to the extent funds are available.

F. Opportunity scholarships may supplement but shall not supplant institutional aid such as three percent or bridge scholarships in the first semester.

G. Opportunity scholarships may be awarded to qualified students ~~[prior to]~~ after institutional aid such as three percent or bridge scholarships in the second semester and beyond.
[5.7.37.10 NMAC - N, 7/12/2022; A, 9/12/2023]

5.7.37.11 ADMINISTRATION OF THE OPPORTUNITY SCHOLARSHIP:

A. Eligible public post-secondary educational institutions and tribal colleges shall:

(1) notify students of their possible eligibility, during their first regular semester of enrollment including transfer students who had the opportunity scholarship at previous institutions;

(2) designate their institution's lead financial aid officer to be responsible for determining initial and continuing student eligibility for the opportunity scholarship under the terms of these rules and regulations;

(3) maintain a listing of each participating student to include, but not be limited to:

(a) social security number as appropriate;

(b) cumulative ~~[GPA]~~ grade point average and completed enrollment hours in prior semesters;

(c) proof of initial and continuing enrollment;

(d) award semester; and

(e) other data fields deemed important by the department;

(4) draw-down files should be submitted to the department for eligible students as defined in 5.7.37.10 NMAC per semester; all fiscal year draw-downs shall be for eligible students enrolled during the same fiscal year;

(5) for students that satisfied the first semester eligibility requirements and seek continuing eligibility consideration, use professional judgment to determine that exceptional mitigating circumstances beyond the students control, for which documentation exists in the student's file; the institutions shall defer to their institutional satisfactory academic progress policy when considering circumstances which include, but are not limited to, consideration for falling below the cumulative ~~[GPA]~~ grade point average requirement or successfully maintaining enrollment as defined in Paragraphs (3) through (5) of Subsection A of 5.7.37.8 NMAC;

(6) provide to the department by April 15 each year the projected enrollment and tuition rates for the following academic year for their institution;

(7) publish the probation policy as defined in Subsection D of 5.7.37.8 NMAC;

(8) encourage consortium agreements, as defined in the code of federal regulations, 34 CFR 6685, in order to facilitate the enrollment of students and to facilitate the student's participation in this program; and

(9) ensure that all available state aids including legislative lottery scholarships are awarded before granting opportunity scholarships; the intent of this provision is that tuition and fee costs shall be paid first for those students eligible for merit-based aid packages funded by three percent scholarships; in those instances when tuition is not fully covered by the merit-based aid package, said student is eligible for the tuition and fee cost differential to be funded by the opportunity scholarship program; nothing in this section requires a public post-secondary educational institution to award a scholarship inconsistent with the criteria established or such scholarship; refer to 5.7.37.10 NMAC for additional provisions.

- B.** The department shall:
- (1)** Enter into a memorandum of understanding on or before June 1st with each eligible institution describing:
 - (a)** the maximum amount of tuition and fees per student that may be paid by the opportunity scholarship fund each fiscal year;
 - (b)** the total amount available to the eligible institution for opportunity scholarships each fiscal year;
 - (c)** the reimbursement of any ~~tuition or fee structures not captured within the definitions of Subsections E and P of 5.7.37.7 NMAC~~ reimbursable costs that exceed tuition and fees; and
 - (d)** eligible workforce certificate programs.
 - (2)** make available to the legislative finance committee and department of finance and administration, by November 1, the following information:
 - (a)** the status of the fund;
 - (b)** scholarship program participation data aggregated for each public post-secondary education institution and tribal college to show:
 - (i)** the number of qualified students who received opportunity scholarships and in the prior 12-month period;
 - (ii)** the total number of qualified students enrolled in the prior 12-month period;
 - (iii)** the amount of tuition scholarships funded by semester and the amount of tuition costs that were not offset by the tuition scholarship by semester; and
 - (iv)** the number of qualified students who graduated with a degree and, for each qualified student, the number of consecutive semesters and nonconsecutive semesters attended prior to graduation.
- [5.7.37.11 NMAC - N, 7/12/2022; A, 9/12/2023]