

**TITLE 5 POST-SECONDARY EDUCATION**  
**CHAPTER 7 TUITION AND FINANCIAL AID**  
**PART 20 LEGISLATIVE LOTTERY SCHOLARSHIP PROGRAM**

**5.7.20.1 ISSUING AGENCY:** State of New Mexico Higher Education Department.  
[5.7.20.1 NMAC - Rp, 5.7.20.1 NMAC, 6/25/2024]

**5.7.20.2 SCOPE:** Provisions of 5.7.20 NMAC apply to all state public post-secondary institutions and tribal colleges in the state of New Mexico.  
[5.7.20.2 NMAC - Rp, 5.7.20.2 NMAC, 6/25/2024]

**5.7.20.3 STATUTORY AUTHORITY:** Sections 6-24-1 et seq. NMSA 1978 and Sections 21-21N-1 et seq. NMSA 1978.  
[5.7.20.3 NMAC - Rp, 5.7.20.3 NMAC, 6/25/2024]

**5.7.20.4 DURATION:** Permanent.  
[5.7.20.4 NMAC - Rp, 5.7.20.4 NMAC, 6/25/2024]

**5.7.20.5 EFFECTIVE DATE:** June 25, 2024, unless a later date is cited at the end of a section.  
[5.7.20.5 NMAC - Rp, 5.7.20.5 NMAC, 6/25/2024]

**5.7.20.6 OBJECTIVE:**

**A.** The objective of 5.7.20 NMAC is to provide a level of financial support to qualified New Mexico students who are enrolled full-time 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 at the public post-secondary educational institution or tribal college where the student is enrolled.

**B.** A further purpose of 5.7.20 NMAC is to encourage New Mexico high school students 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 (the number of semesters is so determined as the initial award is not made until the second semester of college enrollment and shall not include summer semesters; provided that in no case shall the award fund more than three summer semesters).

**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 both the definition of “full-time” and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student’s disability needs. In no case shall “full-time” mean fewer than six credit hours per semester during the fall and spring semesters or three credit hours per summer semester, if attending, and in no case shall eligibility extend beyond 14 consecutive program semesters at a four-year institution and seven consecutive program semesters at a two-year institution. 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 legislative lottery scholarship pursuant to the definition of a qualified student in Subsection N of 5.7.20.7 NMAC.

[5.7.20.6 NMAC - Rp, 5.7.20.6 NMAC, 6/25/2024]

**5.7.20.7 DEFINITIONS**

**A.** “**Academic year**” means a consecutive period of three semesters to include fall, spring and summer.

**B.** “**Accelerated program**” means one in which a summer semester is a program requirement and not a student choice; a cohort that requires sequence of courses taken in summer semester.

**C.** “**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, respectively.

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

**E. “Consortium”** means a written agreement between a home institution and one or more host institutions for consideration of combined enrollment for eligibility:

(1) home institution is the institution where the student is enrolled in a degree or certificate seeking program and is receiving lottery scholarship funds;

(2) host institution is the secondary institution where the student is taking part of their program requirements.

**F. “Department”** means the New Mexico higher education department (NMHED).

**G. “Full-time”** means 30 credit hours successfully completed each regular academic year at a research institution, comprehensive institution or tribal institution or 24 successfully credit hours completed per academic year at a community college. For students enrolled through a consortium agreement the minimum credit hour eligibility requirement shall be based on the student’s home institution.

**H. “GPA”** means grade point average.

**I. “Legislative lottery scholarship”** means a scholarship that provides tuition assistance per semester for qualified students awarded from the proceeds of the New Mexico lottery tuition fund to defray all or part of the cost of tuition.

**J. “Non-enrollment”** means a student is not enrolled in a public post-secondary educational institution.

**K. “Probation”** means a period of time that a student fails to meet continuing eligibility for exceptional mitigating circumstances as determined by the lead financial aid officer at the institution; as described in Subsection D of 5.7.20.8 NMAC.

**L. “Program semesters”** means those semesters for which a qualified student may receive a legislative lottery scholarship, which includes the summer semester and excludes the first semester of full-time attendance at a public post-secondary educational institution or tribal college; provided that the first semester cannot be the summer semester.

**M. “Public post-secondary educational institution”** means a four-year state educational institution or a community college.

**N. “Qualified student”** means a full-time student who graduated from a public or accredited private New Mexico high school or completed the requirements of a home-based or nonpublic secondary educational program in New Mexico or received a high school equivalency credential recognized by the state of New Mexico while maintaining residency in New Mexico and who either:

(1) within 16 months of graduation or completion of a secondary educational program specified in this subsection, was accepted for entrance to and subsequently enrolled full-time at a public post-secondary educational institution or tribal college without having previously enrolled at a non-qualifying public post-secondary institution or tribal college; or

(2) within four months of graduation or completion of a secondary educational program specified in this subsection, began service in the United States armed forces and within 16 months of completion of honorable service or medical discharge from the service, subsequently enrolled full-time at a public post-secondary educational institution or tribal college without having previously enrolled at a non-qualifying public post-secondary institution or tribal college; and

(3) successfully completed the qualifying semester at a public post-secondary educational institution or tribal college with a GPA of 2.5 or higher on a 4.0 scale during the first semester of and completes twelve or more credit hours.

**O. “Research institution”** means New Mexico institute of mining and technology, New Mexico state university and the university of New Mexico.

**P. “State educational institution”** means an institution of higher education enumerated in Article 12, Section 11 of the Constitution of New Mexico.

**Q. “Summer semester”** means a semester equal to fall or spring semester in duration or intensity.

**R. “Tribal college”** means a tribally, federally or congressionally chartered post-secondary educational institution with a physical campus in New Mexico that is accredited by the higher learning commission. [5.7.20.7 NMAC - Rp, 5.7.20.7 NMAC, 6/25/2024]

#### **5.7.20.8 INITIAL ELIGIBILITY:**

**A.** A scholarship may be awarded to a student in their second semester who has met first semester 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. All residency requirements 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 N of 5.7.20.7 NMAC;

(3) has enrolled in no fewer than twelve credit hours in the fall and spring semesters and between three and nine credit hours for summer semesters; provided that the student is not required to attend summer semesters to maintain eligibility unless required as part of an accelerated program; and further provided that during a summer semester the student may enroll in more than nine credit hours but the legislative lottery scholarship shall be capped at the tuition charged for nine credit hours; and

(4) has met requirements in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 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 (3) of Subsection A of 5.7.20.8 NMAC due to a documented exceptional mitigating circumstance do not forfeit eligibility for the legislative lottery scholarship; however, the following requirements shall apply:

(a) the student shall provide documents certifying the nature of the student's 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 (3) of Subsection A of 5.7.20.8 NMAC; and

(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 (3) of Subsection A of 5.7.20.8 NMAC the student's initial eligibility for the legislative lottery scholarship shall be suspended or deferred unless and until such time that the student is capable of meeting the requirements of Paragraph (4) of Subsection A of 5.7.20.8 NMAC.

**B.** Other provisions regarding initial eligibility.

(1) Students with disabilities or their legal guardian shall obtain a referral from the student services division of the post-secondary educational institution where the student is enrolled that oversees students with special needs requests to change the credit hours to be considered full-time for scholarship eligibility; referrals and any sufficient documentation shall be received no later than 30 days after the student's enrollment start date for their first semester.

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

(3) During the 16 months after graduation from a public or accredited private New Mexico high school or completion of the requirements of a home-based or nonpublic secondary educational program in New Mexico or receipt a high school equivalency credential recognized by the state of New Mexico a student may attend a public post-secondary educational institution or tribal college prior to their qualifying semester less than full-time without affecting future program eligibility. Once a student is enrolled and attends a public post-secondary educational institution or tribal college full-time during the 16 months after graduation from a public or accredited private New Mexico high school or completion of the requirements of a home-based or nonpublic secondary educational program in New Mexico or receipt a high school equivalency credential recognized by the state of New Mexico the student shall be considered to have commenced the qualifying semester and must meet the qualifying semester eligibility requirements within Subsection N of 5.7.20.7 NMAC.

[5.7.20.8 NMAC -Rp, 5.7.20.8 NMAC, 6/25/2024]

**5.7.20.9 CONTINUING ELIGIBILITY:** Upon satisfaction of the qualifying semester eligibility requirements, the scholarship will be awarded to the student beginning with their second semester of enrollment. A student's continuing eligibility shall be determined on a semester basis. A legislative lottery scholarship award may be re-awarded to a student who:

**A.** maintains a minimum of a 2.5 cumulative GPA on a 4.0 scale; provided that a student may request use of the student's cumulative GPA earned at all New Mexico public post-secondary educational institutions and tribal colleges;

**B.** successfully completes thirty credit hours within the academic year if attending a four-year public post-secondary educational institution or a tribal college. The credit hours may be apportioned among fall, spring

and summer semesters, with no fewer than twelve credit hours in the fall and spring semesters and between three and nine credit hours for summer semesters; provided that a student is not required to attend summer semesters to maintain eligibility unless required as part of an accelerated program; and further provided that the student satisfies the credit hour requirement for the academic year; and further provided that credit-hour limits do not apply to the last semester before graduation; or

C. successfully completes twenty-four credit hours within the academic year if attending a two-year public post-secondary educational institution. The credit hours may be apportioned among fall, spring and summer semesters, with no fewer than nine credit hours in the fall and spring semesters and between three and nine credit hours for summer semesters; provided that:

(1) a student is not required to attend summer semesters to maintain eligibility unless required as part of an accelerated program; provided that the student satisfies the credit hour requirement for the academic year; and further provided that credit-hour limits do not apply to the last semester before graduation; and

(2) upon transferring from a two-year public post-secondary educational institution to a four-year public post-secondary educational institution or a tribal college at the start of a fall or spring semester the student has started a new academic year. The following conditions apply for students transferring the scholarship:

(a) a transfer transcript is required for continuation.

(b) student transfers shall defer to the receiving institution to determine continued eligibility; and

(c) an eligible student that transfers shall continue to be eligible at the receiving institution after receipt of the student's transfer transcript containing eligibility confirmation; and

D. continues to meet the requirements for students with disabilities if requesting a reduction in the credit hours to be considered full-time by obtaining a referral from the student services division of the student's post-secondary educational institution where the student is enrolled; provided that referrals and sufficient documentation shall be received no later than 30 days after the student's enrollment start date for the semester.

[5.7.20.9 NMAC – N, 6/25/2024]

**5.7.20.10 PROBATION:** Students who have been determined 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:

A. 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;

B. 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 Paragraph (4) of Subsection A of 5.7.20.8 NMAC; and

C. 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 and B of 5.7.20.11 NMAC.

[5.7.20.10 NMAC – Rp, 5.7.20.11 NMAC, 6/25/2024]

**5.7.20.11 DURATION OF SCHOLARSHIP:**

A. Upon qualification, the student's initial scholarship shall begin with the second semester of enrollment at a public post-secondary educational institution or tribal college. Thereafter, each scholarship is for a period of one semester subject to revocation for failure to maintain eligibility. The scholarship may be renewed on a semester basis until the award recipient has received the legislative lottery scholarship for a maximum of seven fall and spring program semesters and a maximum of three summer semesters, or no more than three and one-half years for a bachelor's degree.

B. An award recipient may use the award at an eligible two-year public post-secondary educational institution until the student receives a maximum of three fall and spring program semesters of scholarship awards or an associate's degree and can continue to use the award at an eligible New Mexico four-year public post-secondary educational institution or tribal college if the student transfers to a four-year public post-secondary educational institution or tribal college without a break in attendance or the semester following receipt of the associate's degree. In no case shall a student receive more than seven program semesters of the award with the exception of students with disabilities.

C. A student may transfer from a four-year public post-secondary educational institution or tribal college to a two-year public post-secondary educational institution, but in no case shall a student receive more than

three program semesters of awards at the two-year institution (including those awarded at the prior public post-secondary educational institution or tribal college) or until the student graduates with an associate degree, whichever is sooner.

**D.** For students with disabilities in no case shall eligibility extend beyond 14 consecutive program semesters at a four-year institution and seven consecutive program semesters at a two-year institution. The maximum number of program semesters shall include no more than three summer semester awards.

**E.** A student who has been previously eligible may request a leave of absence for cooperative education, military obligations, participation in a study abroad program through the home institution or other exceptional mitigating circumstances.

**F.** The student's institutional lead financial aid officer may approve a leave of absence for a period of up to one year if in the lead financial aid officer's professional judgment the student has provided sufficient documentation to justify the leave of absence. Subsequent requests for an additional leave of absence by a student may be considered by the institution's lead financial aid officer in increments not to exceed one year.

**G.** The lead financial aid officer shall, in turn, ensure that the student does not receive program awards in excess of those prescribed in Subsections A and B of 5.7.20.11 NMAC and shall exclude the semesters of "non-enrollment" from the determination of eligible award semesters.

**H.** If a student becomes ineligible for a different state scholarship that is designated for one hundred percent tuition, but satisfies the first semester eligibility requirements and thereafter is eligible for the legislative lottery scholarship, the student may begin receiving the legislative lottery scholarship for the remaining number of semesters of enrollment, not to exceed those prescribed in Subsections A and B of 5.7.20.11 NMAC.

[5.7.20.11 NMAC – Rp, 5.7.20.9 NMAC, 6/25/2024]

#### **5.7.20.12 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 legislative lottery scholarships in department-approved amounts to qualified students.

**B.** In no case shall a student receive a legislative lottery scholarship award exceeding the total amount of tuition charged to the student by the institution for a maximum of 18 credit hours per fall or spring semester or nine credit hours for a summer semester.

**C.** Qualified students in their graduating semester shall receive a legislative lottery scholarship proportional to the number of credit hours required to graduate.

**D.** If the fund does not cover full legislative lottery scholarships, the method the department will use for calculating the legislative lottery scholarship is as follows:

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

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

(3) calculate the legislative lottery 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 to all estimated recipients;

(5) compute an award for each scholarship recipient; and

(6) notify institutions.

[5.7.20.12 NMAC – Rp, 5.7.20.10 NMAC, 6/25/2024]

#### **5.7.20.13 ADMINISTRATION OF THE LEGISLATIVE LOTTERY 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 legislative lottery 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 legislative lottery 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 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 5.7.20.10 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 requirement or successfully maintain full-time enrollment as defined in Subsection G of 5.7.20.7 NMAC;
- (6) provide to the department by April 15 each year the projected enrollment and tuition rates for the following academic year for their appropriate institution as follows: comprehensive, research institution in their second through eighth program semester including qualified students in their fifth through eighth program semesters who transferred from a community college; projected enrollment at each community college at each community college in their second through fourth program semesters;
- (7) publish the probation policy as defined in 5.7.20.10 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;
- (9) each semester, ensure during the qualifying semester all available merit-based aid packages, three percent scholarships, institutional award packages, and state aid are awarded first before granting the New Mexico opportunity scholarship for tuition. If the student does not qualify for any merit-based aid packages, three percent scholarships, institutional award packages or state aid the student may qualify to receive the New Mexico opportunity scholarship for tuition and fees during the qualifying semester at the discretion of the lead financial aid officer.

**B.** The department shall:

- (1) determine the scholarship award pursuant to the provisions of 5.7.20.10 NMAC; all eligible institutions will be notified prior to June 1 annually;
- (2) conduct audits to ascertain compliance with rules and regulations, if, during the audit process, evidence indicates that a student should not have received a legislative lottery scholarship, the department will provide guidance to the institutions for appropriate action;
- (3) 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) legislative lottery scholarship program participation data aggregated for each public postsecondary education institution and tribal college to show:
    - (i) the number of qualified students who received legislative lottery 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 legislative lottery scholarships funded by semester and the amount of tuition costs that were not offset by the legislative lottery 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.

[5.7.20.13 NMAC – Rp, 5.7.20.11 NMAC, 6/25/2024]

**5.7.20.14 TERMINATION OF SCHOLARSHIPS:** A scholarship is terminated upon noncompliance by the award recipient with the legislative lottery scholarship rules, regulations or procedures as promulgated by the department.

[5.7.20.14 NMAC – Rp, 5.7.20.12 NMAC, 6/25/2024]

**HISTORY OF 5.7.20 NMAC:**

5.7.20 NMAC, Legislative Lottery Scholarship Program, filed 8/14/2014 was repealed and replaced by 5.7.20 NMAC, Legislative Lottery Scholarship Program, effective 6/25/2024]

**History of Repealed Material:**

5.7.20 NMAC, Legislative Lottery Scholarship Program, filed 8/1/2000, Repealed 6/25/2024.